

## Title 1

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## CHAPTER 1.01 CODE ADOPTION

### **§ 1.01.010. Recodification and adoption.**

Pursuant to the provisions of Government Code Sections 50022.1 through 50022.8 and 50022.10, there is hereby recodified and adopted the "Carlsbad Municipal Code" as revised, reformatted, indexed, codified, compiled, updated and republished by Quality Code Publishing, together with those secondary codes adopted by reference as authorized by the California State Legislature, save and except those portions of the secondary codes as are deleted, modified or amended by the provisions of the Carlsbad Municipal Code.

(Ord. 1133 § 1, 1971; Ord. CS-289 § 1, 2016)

### **§ 1.01.020. Title—Citation—Reference.**

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

(Ord. 1133 § 2, 1971)

### **§ 1.01.030. Reference applies to amendments.**

Whenever a reference is made to this code as the "Carlsbad Municipal Code" or to any portion thereof, or to any ordinances of the City of Carlsbad, California, that reference shall apply to all amendments, corrections and additions heretofore, now, or hereafter made.

(Ord. 1133 § 3, 1971)

### **§ 1.01.040. Codification authority.**

The Carlsbad Municipal Code consists of all the regulatory, penal, and administrative ordinances of the City of Carlsbad, California, of a general and permanent character, as originally codified pursuant to Government Code Sections 50022.1 through 50022.8, and herein recodified and recompiled pursuant to Government Code Section 50022.10.

(Ord. 1133 § 4, 1971; Ord. CS-289 § 2, 2016)

### **§ 1.01.050. Definitions and construction.**

Unless the context otherwise requires, the following words and phrases where used in the ordinances of the City of Carlsbad shall have the meaning and construction given in this section:

"Across" includes along, in or upon.

"City" means the City of Carlsbad.

"City Council" means the City Council of the City of Carlsbad.

"Code" means the Carlsbad Municipal Code.

"County" means the County of San Diego.

"Ex officio" means by virtue of office.

Gender. The masculine gender includes the feminine and neuter.

"Goods" includes wares and merchandise.

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

"Oath" includes affirmation.

"Operate" or "engage in" includes carry on, keep, conduct, maintain, or cause to be kept or maintained.

"Owner" when pertaining to a building or land shall include any part owner, joint owner, tenant in common, or joint tenant of the whole or part of such building or land.

"Person" means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust, or the manager, lessee, agent, servant, officer, or employee of any of them.

"Sale" includes any sale, exchange, barter or offer for sale. Shall, may.

"Shall" is mandatory, "may" is permissive.

"State" means the State of California.

"Street" includes all streets, highways, public roads, county roads, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, parkways, or other public ways in Carlsbad which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

Tenses. The present tense includes the past and future tenses, and the future tense includes the present tense.

"Tenant" or "occupant" when pertaining to a building or land shall include any person who occupies the whole or part of such building or land, whether alone or with others.

Title of office. The use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City of Carlsbad.

(Ord. 1133 § 5, 1971)

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

Title, chapter, and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this code.

(Ord. 1133 § 6, 1971)

#### **§ 1.01.070. Reference to ordinances.**

Any reference in matters of record to any ordinance designated by number or otherwise, existing prior to the adoption of this code, shall be construed to apply to the corresponding provisions in this code. Pursuant to Government Code Section 50022.8, copies of this code that have been duly certified by the City Clerk shall be received without further proof as prima facie evidence of the provisions of such code in all courts and administrative tribunals of this state. Carlsbad Municipal Code sections cited on signage within the city shall, until updated if and as required, be deemed to be citations to the counterpart sections in the recodified Carlsbad Municipal Code for purposes of notice and enforcement.

(Ord. 1133 § 7, 1971; Ord. CS-289 § 5, 2016)

**§ 1.01.080. Effect of code on past actions and obligations.**

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

(Ord. 1133 § 8, 1971)

**§ 1.01.090. Effective date.**

The Carlsbad Municipal Code shall become effective on the date that the ordinance codified in this chapter becomes effective.

(Ord. 1133 § 9, 1971)

**§ 1.01.100. Severability.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code is declared unconstitutional or without effect by any final judgment or decree of a court of competent jurisdiction, such judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

(Ord. 1133 § 10, 1971; Ord. CS-289 § 6, 2016)

**§ 1.01.110. Limitation on liability.**

Except when otherwise specifically indicated the obligations imposed upon city officers or employees for implementation and enforcement of this code are directory in nature. Nothing in this code shall be construed as limiting or eliminating any defense or immunity from liability for the city or its officers or employees established by the provisions of Title 1, Division 3.6 of the California Government Code or by any other provision of law. Except when otherwise specifically indicated, the manner and timing of enforcement and implementation of this code shall be within the discretion of the City Manager or other designated city officers or employees. Except when otherwise specifically indicated this code shall not be construed to hold the city or any officer or employee of the city responsible for any damage to persons or property by reason of a failure to enforce, implement or execute any of the provisions of this code. Nothing in this code shall be construed to hold the city or any officer or employee of the city responsible for any damage resulting to persons or property by reason of any interpretation of this code by any city officer or employee.

(Ord. 1277 § 1, 1985)

**§ 1.01.120. Continuation of existing law.**

Nothing contained herein is intended to enact any new taxes or to affect any penalty clauses contained in the existing ordinances recodified by this action. The recodification of the Carlsbad Municipal Code is intended by the City Council to be a continuation, without change, of existing ordinances.

(Ord. CS-289 § 3, 2016)

**§ 1.01.130. Effect of recodification.**

The recodification and adoption of the Carlsbad Municipal Code as specified in this chapter shall not affect the following matters:

- A. Actions and proceedings that began before the effective date of the ordinance codified in this chapter.
- B. Civil, criminal and administrative proceedings concerning ordinance violations committed before the effective date of the ordinance codified in this chapter.
- C. The amount of or collection of license, fee, penalty debt, forfeiture or obligation due and unpaid as of the effective date of the ordinance codified in this chapter.
- D. Bonds and cash deposits required to be posted, filed or deposited pursuant to any ordinance, resolution or regulation.

(Ord. CS-289 § 4, 2016)

## CHAPTER 1.08 **PENALTIES**

### **§ 1.08.010. Violations—Penalties.**

#### A. General.

1. Except as otherwise provided in this code, a violation of any provision of this code, or a violation of any permit or license issued under this code, may be charged as an infraction.
2. A violation of any provision in Title 8 or 11 of this code, or any other provision specifically stating a violation is a misdemeanor, may be charged as an infraction or a misdemeanor at the discretion of the City Attorney.
3. Nothing contained in this code abrogates the City Attorney's discretion to reduce any act chargeable as a misdemeanor under this chapter to an infraction if the City Attorney determines the reduction serves the interest of justice.
4. Aiding and abetting. Whenever a provision of this code prohibits any act or omission, the provision also prohibits the causing, permitting, aiding, abetting, suffering, maintaining, or concealing of the act or omission. Any person who causes, permits, aids, abets, suffers, maintains, or conceals the act or omission is guilty of a violation of this code and subject to the punishment prescribed for the act or omission.
5. Separate Violations. Each day during any portion of which a violation of this code is committed, continued, or permitted is a separate offense.
6. A conviction or payment of a fine or penalty for any violation of this code does not excuse or exempt compliance with all provisions of this code, including payment of any tax, fee, or other charge required by this code.
7. Nothing contained in this chapter shall preclude the city from enforcing the provisions of this code through any other legal or equitable remedies, including the administrative remedies contained in Chapter 1.10 and/or the public nuisance abatement procedures in Chapter 6.16 of this code.

#### B. Criminal Penalties.

1. Misdemeanor. Except as otherwise provided in this code, a violation of this code determined to be a misdemeanor is punishable by a fine not exceeding \$1,000.00, imprisonment in county jail for a term not exceeding six months, or both.
2. Infraction.
  - a. A violation of this code determined to be an infraction is punishable by a fine as provided for in California Government Code Section 36900, subdivision (b).
  - b. Notwithstanding any other law, a violation of a local building or safety code determined to be an infraction is punishable by a fine as provided for in California Government Code Section 36900, subdivision (c).
  - c. Notwithstanding any other law, a violation of Chapter 5.60, Short-Term Vacation Rentals, of this code that poses a threat to public health or safety is punishable by a fine as provided for in California Government Code Section 36900, subdivision (d). These enhanced fines

apply to "short-term rentals" and "residential dwellings," as defined in California Government Code Section 36900, subdivision (d)(2) and (d)(3).

- d. A person fined for an infraction under California Government Code Section 36900, subdivision (b)(2), (b)(3), (c)(2), or (c)(3), who meets the requirements of California Government Code Section 36900, subdivision (e), may request a hardship waiver under that subdivision to reduce the amount of the fine.
- 3. In addition to a monetary fine set forth in this subsection B, both conditional sentencing and probation are authorized as sentencing options in accordance with California Penal Code Section 1203, subdivision (a).
- C. Civil Penalties. Any provision of this code may be enforced by a civil suit brought by the city, a civil injunction issued by the superior court, or any other civil legal or equitable remedy. As part of a civil action, the court may assess a civil penalty for each day the violator commits, continues, allows or maintains the violation. Civil penalties may also be issued administratively pursuant to Section 1.10.060 of this code.

(Ord. 1236 § 1, 1980; Ord. 1252 § 1, 1982; Ord. 5064 § 1, 1983; Ord. 6068 § 1, 1983; Ord. 1274 § 1, 1984; Ord. 1278 § 2, 1985; Ord. 5071 § 2, 1986; Ord. 1296 § 1, 1987; Ord. NS-70 § 1, 1989; Ord. NS-394 § 1, 1997; Ord. NS-811 § 4, 2006; Ord. NS-861 § 1, 2007; Ord. CS-090 § 2, 2010; Ord. CS-153 § 7, 2011; Ord. CS-211 § 1, 2013; Ord. CS-323 § 3, 2017; Ord. CS-374 § 2, 2020; Ord. CS-434 § 2, 2022)

#### **§ 1.08.020. Authority of city employee to arrest.**

- A. The City Manager or a deputized city employee is authorized under California Penal Code Section 836.5 to arrest a person without a warrant whenever the employee has reasonable cause to believe the person to be arrested committed a misdemeanor offense in the employee's presence that is a violation of this code or any uncodified city building or zoning ordinance.
  - B. The City Manager may deputize a city employee to exercise the power of arrest described in subsection A of this section if the employee has completed an introductory course of training prescribed by the Commission on Peace Officer Standards and Training pursuant to California Penal Code Section 832. Nothing in this section authorizes a deputized employee to carry a firearm.
- (Ord. 197 § 1, 1992; Ord. NS-370 § 1, 1996; Ord. NS-385 § 1, 1996; Ord. NS-625 § 12, 2002; Ord. CS-105 § 1, 2010; Ord. CS-164 § 14, 2011; Ord. CS-374 § 2, 2020; Ord. CS-434 § 2, 2022)

#### **§ 1.08.030. Authority of police rangers to arrest.**

- A. The City Manager or a deputized police ranger is authorized under California Penal Code Section 836.5 to arrest a person without a warrant whenever the police ranger has reasonable cause to believe the person to be arrested committed a misdemeanor or infraction in the employee's presence that is a violation of any provision of this code or the animal control provisions of the San Diego County Code as adopted by reference in Section 7.08.010(B) of this code.
  - B. The City Manager may deputize a police ranger to exercise the power of arrest described in subsection A of this section if the police ranger has satisfactorily completed an introductory course of training prescribed by the Commission on Peace Officer Standards and Training pursuant to California Penal Code Section 832. Nothing in this section authorizes a deputized police ranger to carry a firearm.
- (Ord. CS-320 § 3, 2017; Ord. CS-374 § 2, 2020; Ord. CS-434 § 2, 2022)

**CHAPTER 1.10  
ADMINISTRATIVE CODE ENFORCEMENT REMEDIES**

**Article I  
General**

**§ 1.10.005. Purpose and intent.**

The enforcement of this code and applicable state codes throughout the city is an important public service and is vital to the protection of the public's health, safety, and quality of life. There is a need for alternative methods of code enforcement, and a comprehensive code enforcement system uses a combination of judicial and administrative remedies to gain compliance with code regulations. There is a need to draft precise regulations that can be effectively applied in judicial and administrative proceedings, and there is a need to establish uniform procedures for administrative enforcement hearings.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.010. Definitions.**

The following definitions apply in interpreting and enforcing this chapter:

"Administrative code enforcement remedies" include administrative abatement, summary abatement, civil penalties, notices of violation, administrative citations, recordation of notices of violation and certificates of noncompliance, and the withholding or revocation of permits as authorized by this code.

"Administrative costs" means the actual costs incurred by the city from first discovery of a violation through the appeal process and until compliance is achieved, including staff time inspecting property, documenting violations, sending notices, and interviewing and responding to witnesses/complaining parties; laboratory, photographic, printing and other expenses incurred to document or establish the existence of a violation; scheduling and processing of any administrative hearing and related actions; and time and resources necessary to prepare for and participate in any appeal hearing. The amount of administrative costs shall not exceed the actual cost incurred in performing inspections and enforcement activity, including permit fees, fines, late charges, and interest.

"Administrative enforcement order" means an administrative hearing officer's written decision and order.

"Administrative hearing officer" means any neutral third party contracted by the city to preside over administrative hearings.

"Administrative penalty" means a monetary fine imposed by the city for acts or omissions determined to violate this code.

"Director" means the director of any city department, including, but not limited to, the Director of Community Development, the Director of Public Works, the Director of Finance, and the Director of Environmental Management.

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

"Notice" means a notice of violation, a notice and order for civil penalties, a notice of ineligibility for land development, a notice of hearing, and any notice and order that may be issued by the city pursuant to this code or any state code.

"Person" means a natural person, firm, association, business, trust, organization, corporation, partnership, company, or other entity, which is recognized by law as the subject of rights or duties.

"Responsible party" means a person in charge of a premises or location, or a person responsible for an event or incident, and includes any of the following:

1. A person who owns a property where a violation exists.
2. A person in charge of or exercising control over a premises where a violation exists.
3. A person renting, leasing, or using a premises where a violation exists.
4. If a person is a minor under the age of 18, the parents or guardians of the minor shall be the responsible party.
5. If a person is a business entity, the manager or on-site supervisor where a violation exists shall be a responsible party.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

#### **§ 1.10.015. Remedies not exclusive.**

The procedures established in this chapter shall be in addition to criminal, civil, or other legal and equitable remedies established by law which may be pursued to address violations of this code or applicable state codes, including cease and desist orders for violations that pose a threat to health, safety, welfare, or the environment. The use of this chapter shall be at the sole discretion of the city.

(Ord. CS-434 § 3, 2022)

#### **§ 1.10.020. General enforcement authority.**

- A. Unless otherwise specified in this code, the City Manager or designee or designated enforcement officer shall have the power to inspect public and private property, and use the judicial and administrative remedies available under this code and state law to enforce any violation of any provision of this code, any permit or license approved pursuant to any provision of this code, any condition of approval of a permit or entitlement granted pursuant to any provision of this code, any required environmental mitigation measure, any term or condition of any city agreement pursuant to a police power, or any order issued by or on behalf of the city or by an administrative hearing officer contracted with the city.
- B. The City Manager or designee or designated enforcement officer shall have the power to issue the following notices, orders, and citations in accordance with the procedures set forth in Section 1.10.040 of this chapter, unless another procedure is specified in this section:
  1. Notice of violation. A notice of violation may be issued to a responsible party pursuant to the procedures of Article I of this chapter.
  2. Administrative citation. An administrative citation may be issued to a responsible party pursuant to the procedures of Article II of this chapter.
  3. Compliance agreement and order. At the discretion of the Code Enforcement Manager and in consultation with the City Attorney, a compliance agreement and order may be executed with a property owner and any responsible party(ies) to ensure ongoing and long-term actions to remedy any violation of this code or other violation as stated in Section 1.10.020(A) of this chapter. The compliance agreement and order may contain a compliance schedule with milestones, penalty payment plans and due dates, action plans, compliance meetings, or other measures necessary to achieve and maintain compliance.

4. Notice of hearing.

- a. The City Manager or designee may issue a notice of nuisance abatement hearing for violations of Chapter 6.16 of this code to a property owner and any additional responsible party pursuant to the procedures in Chapter 6.16 of this code.
- b. For all other violations of this code or other violations as stated in Section 1.10.020(A) of this chapter, a designated enforcement officer may issue a notice of hearing to a property owner and any additional responsible party if cure or abatement of the violation(s) is not achieved by the compliance date provided on the notice, administrative citation, or order, or within three business days of issuance if no date is provided.
- c. The following procedures shall apply when a notice of hearing is issued:
  - i. The city shall file the notice of hearing with the City Clerk's office.
  - ii. The hearing shall be scheduled, noticed, and administered in accordance with Article III of Chapter 1.10 of this code.
  - iii. The person requesting the hearing shall be notified of the time and place set for the hearing at least 10 calendar days prior to the date of the hearing.
  - iv. If the enforcement officer submits an additional written report concerning the violation to the administrative hearing officer at the hearing, then a copy of that report shall also be served on the person requesting the hearing at least five calendar days prior to the date of the hearing.
  - v. Within 15 days of receipt of the notice of hearing, the property owner or responsible party shall pay an advance deposit of the full amount of any administrative penalties owed or file a request for an advance deposit hardship waiver pursuant to Section 1.10.120(F) of this chapter. A failure to comply with the requirements of this provision will not prohibit the city from proceeding with the hearing.

5. Stop work order and stop use order.

- a. Reason for issuance. Without advance written notice, a stop work order or stop use order may be issued to a property owner or responsible party to immediately cease any construction, installation, operation, or activity, or to immediately cease the use of a building, building component, structure, or mechanical device for any of the following reasons:
  - i. There is reasonable cause to believe that the construction, installation, activity, existing condition, or method of operation creates an imminent danger to public safety or health as a result of a violation of this code or of other applicable law.
  - ii. The activity is being performed or conducted by an individual who does not hold the appropriate license, certification, or registration as required by this code or by other applicable law.
  - iii. The construction, installation, activity, or operation has not been approved or has not been issued the appropriate permit as required by this code or by other applicable law.
  - iv. Where a permit has been issued and no imminent danger circumstances defined in

Section 1.10.020(B)(5)(a)(i) of this chapter exist, the City Attorney's office must review the stop work order or stop use order before issuance to ensure the work or use is unlawful.

- b. Issuance of order.
  - i. Unless otherwise specified in this code, a stop work order or stop use order shall be issued only upon the review and approval of the Director of Community Development or designee. This section is not intended to conflict with, override, or interfere with other sections of this code that provide the building official, City Engineer, Director of Public Works, City Planner, or their designee with primary stop work order authority and enforcement responsibility.
  - ii. A stop work order or stop use order shall be in writing and shall be served using the procedures in Section 1.10.040(A)(2) of this chapter, requiring posting and mailing.
  - iii. The stop work order or stop use order shall include at least all of the following:
    - (A) The date and location of the violation(s) and, if applicable, the approximate time the violation(s) were observed.
    - (B) The code section(s) violated and describe how the section(s) were violated.
    - (C) A description of the application and the extent of the order describing the object, component, or activity covered by the order. A stop work order or stop use order issued in relation to the construction of a building may not extend to other activities or portions of a building, structure, building component, or mechanical device that is not directly associated with the reason for the stop work order or stop use order.
    - (D) A description of the action required to correct the violation(s) and a requirement that the corrective action take place immediately.
    - (E) A reference that the stop work order or stop use order shall remain in effect until the enforcement officer or City Manager or designee determines that the conditions of the order are fulfilled, or until the order is rescinded or overturned by the City Manager or designee.
    - (F) The signature of the issuing enforcement officer and the Director of Community Development or designee, or if issued pursuant to another chapter of this code, the signature of the issuing building official, City Engineer, Director of Public Works, City Planner, or their designee. The City Attorney's office must also review any stop work order or stop work order issued pursuant to Section 1.10.020(B)(5)(a)(iv) of this chapter.
    - (G) Instructions for submitting a request to appeal the stop work order or stop use order to the City Manager or designee, consistent with Section 1.10.020(B)(5)(c) of this chapter.
    - (H) A reference to the potential consequences should the property owner or responsible party refuse to immediately comply with the conditions of the stop work order or stop use order, including criminal prosecution; civil injunction; administrative abatement; additional administrative citations; an administrative

hearing requested by the city to resolve the violations; suspension, revocation, or stay of issuance of municipal permits or other city authorizations; recordation of notices of violation, certificates of noncompliance, or notices of ineligibility for land development; bonding requirements; and referral to other enforcement authorities.

- iv. The city may post a sign or notice to the public regarding the issuance of a stop work order or stop use order. The sign or notice shall be posted in a conspicuous location and shall remain where posted until the enforcement officer or City Manager determines that the conditions of the order are fulfilled, or until the order is rescinded or overturned by the City Manager.
  - v. The property owner or responsible party must furnish to the city any additional information, investigations and reports necessary to resolve the stop work order or stop use order conditions. The property owner or responsible party must pay for all expenses associated with furnishing these items, as well as any additional staff time to resolve the stop work order or stop use order conditions.
  - vi. Any person who continues or allows prohibited work or a prohibited use after a stop work order or stop use order has been issued by the city, or who removes a stop work order or stop use order posted by the city, is in violation of the stop work order or stop use order. This offense will be treated as a violation of this code and may be prosecuted as an infraction or misdemeanor at the discretion of the City Attorney. The city may use any other available legal or equitable remedy to recover any penalties, costs, fees, and obtain compliance with the stop work order or stop use order, as provided in this code or other applicable law.
- c. Appeal of stop work order or stop use order to the City Manager or designee.
- i. The recipient of a stop work order or stop use order or any person who is adversely affected by the order may request to appeal the order to the City Manager or designee within 30 calendar days of posting of the order.
  - ii. A request to appeal a stop work order or stop use order shall be in writing and shall include a statement of the specific reasons why the person believes that the issuance of the order is incorrect or inappropriate. Request to appeal forms may be obtained from the city's website, the code enforcement division, or the department or division specified on the stop work order or stop use order.
  - iii. The request to appeal shall be filed with the department or division specified on the stop work order or stop use order.
  - iv. Hearing on appeal and decision of City Manager or designee.
    - (A) The City Manager or designee shall set a date, time, and location for the appeal hearing on a date no later than 10 business days after the request to appeal has been filed, unless the parties stipulate to a later date.
    - (B) At the hearing, the party contesting the stop work order or stop use order shall have an opportunity to testify and to present evidence concerning the stop work order or stop use order. Formal rules of evidence shall not apply during the hearing.

- (C) Any city-issued notices, administrative citations, and additional report(s) submitted by an enforcement officer shall constitute *prima facie* evidence of the respective facts contained in those documents.
- (D) The City Manager or designee may continue the hearing and request additional information from the enforcement officer, the recipient of the stop work order or stop use order, or the property owner prior to issuing a written decision.
- (E) The failure of any person requesting to appeal a stop work order or stop use order to appear at any scheduled appeal hearing shall result in the dismissal of the appeal and a failure to exhaust administrative remedies.
- (F) The failure of any person to file a request for appeal in accordance with the provisions of this section shall constitute a waiver of the person's rights to an administrative determination of the merits of the stop work order or stop use order. If no request for appeal is filed, the stop work order or stop use order shall be deemed a final order.
- (G) The City Manager or designee shall issue a written decision within five business days following an appeal hearing of a stop work order or stop use order. The written decision shall include information about appeal rights and procedures if the decision adversely affects the person requesting the appeal.

d. Administrative review hearing.

- i. A person adversely affected by the decision of the City Manager or designee under Section 1.10.020(B)(5)(c) of this chapter concerning a stop work order or stop use order may file an appeal of the decision to be reviewed by an administrative hearing officer, in accordance with the procedures of Section 1.10.120 of this chapter and Article III of Chapter 1.10 of this code.
- ii. A request for a hearing to review the decision of the City Manager or designee regarding a stop work order or stop use order shall include a statement of the specific reasons why the person believes the decision is incorrect or inappropriate.
- iii. A request for a hearing to review the decision of the City Manager or designee regarding a stop work order or stop use order shall be denied if the request is received more than 30 calendar days after issuance of the decision.
- iv. An administrative hearing to review the decision of the City Manager or designee regarding a stop work order or stop use order shall be governed by the provisions of Section 1.10.120 and Article III of Chapter 1.10 of this code.

7. Notice of intent to determine ineligibility for land development.

- a. Any person who fails to perform construction, grading, building, or other work in accordance with a city-issued permit or who performs construction, grading, building, or other work in violation of applicable provisions of this code, a city-issued permit or order, conditions of approval, or other regulatory requirements, along with the property owner, may be served a notice of intent to determine ineligibility for land development, which prohibits the continuation of development or construction activities on the property where the violation occurred.

- b. The notice of intent required by this section must:
    - i. Be served on the responsible party and property owner personally, or posted on the property and mailed by certified mail and first-class mail to the address shown on the most recent tax assessment roll;
    - ii. State the city's intent to record a notice of ineligibility for land development against the property;
    - iii. Fix a location, time, and date, not less than 15 calendar days after delivery of the notice, at which an administrative hearing will occur; and
    - iv. Explain that during the hearing the responsible party and property owner may submit written or oral comments or reasons why a notice of ineligibility should not be recorded.
  - c. The ineligibility hearing must:
    - i. Be held at the appointed time, or at a time agreed to by all parties;
    - ii. Provide the responsible party and property owner an opportunity to present written or oral comments or reasons why a notice of ineligibility should not be recorded against the property;
    - iii. Result in a determination of whether a violation occurred, whether it has been remedied, and whether to record a notice of ineligibility for land development; and
    - iv. Comply with the hearing requirements of this chapter to the extent those requirements do not conflict with the requirements of this section.
  - d. A notice of ineligibility for land development that is recorded in accordance with this section remains in effect until the enforcement officer records a release of notice of ineligibility for land development. A release of notice of ineligibility for land development may be recorded when the responsible party implements all required plans and best management practices (if applicable) and remedies all noncompliant site conditions as described in the notice of ineligibility for land development. During the effective dates of any notice of ineligibility recorded in accordance with this section, no application for a building permit, administrative permit, site plan, use permit, variance, tentative parcel map, tentative map, parcel map, final map, or any other permit for the development of the property on which the violation occurred will be approved.
  - e. This remedy is not intended to conflict with any other notices that may be recorded against a property for violations of this code.
8. Bonding requirement. A responsible party may be required to post a bond or other security instrument to assure the correction of a violation of any provision of this code or other violation as stated in Section 1.10.020(A) of this chapter.
  9. Referral to other enforcement authorities. Where required or appropriate, violations of this code or other violations as stated in Section 1.10.020(A) of this chapter may be referred to agencies having authority over the action constituting a violation.
- C. Each type of notice, order, or citation authorized by this code may be issued alone, or it may be combined with any other type of notice, order, or citation.

D. The City Manager may establish rules and procedures necessary to implement the provisions of this chapter.

E. This section is not intended to replace or override any enforcement powers that are provided to other designated city employees in this code or in any other applicable law.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

#### **§ 1.10.025. Procedural compliance.**

Failure to comply with any procedural requirement of this chapter, to receive any notice, decision, or order specified in this chapter, or to receive any copy required to be provided by this chapter does not affect the validity of proceedings conducted under this chapter unless the responsible person is denied constitutional due process by the failure.

(Ord. CS-434 § 3, 2022)

#### **§ 1.10.030. Notice of violation.**

An enforcement officer may issue a notice of violation to a responsible party in response to any violation of any provision of this code, any permit or license approved pursuant to any provision of this code, any required environmental mitigation measure, any term or condition of any city agreement pursuant to a police power, or any order issued by or on behalf of the city or by an administrative hearing officer contracted with the city. The notice of violation shall include the following information:

- A. The name of the record owner of the property.
- B. Street address.
- C. The code section(s), provision(s), condition(s), or term(s) violated.
- D. A description of how the property's condition violates the applicable code section(s), provision(s), condition(s), or term(s).
- E. A description of necessary corrections to bring the property into compliance.
- F. A reasonable deadline or specific date to correct the violations listed in the notice of violation.
- G. If the notice of violation is issued for a public nuisance under Chapter 6.16 of this code, an advisement that the responsible party has 10 calendar days from the date of mailing of the notice of violation to file an appeal, or 10 calendar days from the date of personal service of the notice of violation if served using this method.
- H. A reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline, including criminal prosecution; civil injunction; administrative abatement; administrative citations; an administrative hearing requested by the city to resolve the violations; suspension, revocation, or stay of issuance of municipal permits or other city authorizations; recordation of notices of violation, certificates of noncompliance, or notices of ineligibility for land development; bonding requirements; and referral to other enforcement authorities.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

#### **§ 1.10.040. Service of notices, orders, and citations.**

- A. Except for an initial notice of violation, whenever a notice, order, or administrative citation is required

to be given under this code for enforcement purposes, the notice, order, or administrative citation shall be served on a responsible party by any of the following methods unless different provisions are otherwise specifically stated to apply:

1. Personal service.
  2. Posting the notice, order, or administrative citation conspicuously on or in front of the property that is the subject of the violation and subsequently mailing a copy to a responsible party in the manner described in subsection (A)(3) of this section. The form of the posted notice, order, or administrative citation shall be approved by the City Attorney or designee.
  3. Certified mail, postage prepaid, return receipt requested to the property address and any other mailing address(es) on file with the county tax collector and the county assessor. The city may, but is not required to, provide this form of notice to any other known address for a responsible party.
    - a. Simultaneous to service by certified mail, the same notice, order, or administrative citation may also be sent by regular mail to the property address(es) on file with the county tax collector and the county assessor.
    - b. If a notice, order, or administrative citation sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to any regular mailing. However, if the notice, order, or administrative citation sent by both regular mail and certified mail are returned, the notice, order, or administrative citation must be served pursuant to subsection (A)(1) or (A)(2) of this section.
    - c. Service by certified or regular mail in the manner described in this subsection is effective on the date of mailing.
- B. The failure of a responsible party to receive any notice, order, or administrative citation served in accordance with this chapter shall not affect the validity of any proceedings taken under this code.
- C. The notice requirements in this section do not apply to initial notices of violation, which may be sent by regular mail to the property address(es) on file with the county tax collector and the county assessor. Service of a notice of violation by regular mail is effective on the date of mailing.
- D. If a responsible party is not an individual, the enforcement officer shall attempt to identify the property owner and issue the property owner the notice, order, or administrative citation. If the enforcement officer can only identify the manager or on-site supervisor of the property, the notice, order, or administrative citation may be issued in the name of the property owner and served upon the manager or on-site supervisor in the manner provided in this chapter. A copy of the notice, order, or administrative citation shall also be mailed to the property owner in the manner prescribed by this section.
- E. If the property that is the subject of a violation is owned by a corporation, notices and administrative citations may be served by certified mail to the registered agent for the corporation.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

#### **§ 1.10.050. Notice of pending administrative enforcement action.**

- A. For purposes of this chapter the enforcement officer may have a notice recorded with the County Recorder's office against a property that is the subject of a pending administrative enforcement action with the city.

B. The notice of the pending administrative enforcement action shall be on a form approved by the City Attorney or designee and shall describe the nature of the administrative enforcement action, the owner's assessor's parcel number, the parcel's legal description, a copy of the latest notice of violation, and the governing code section(s).

C. Notification Letter.

1. Prior to recording the notice of pending administrative enforcement action, the enforcement officer shall serve a notification letter on the responsible party and property owner stating that the notice of pending administrative enforcement action will be recorded unless a request for hearing form is filed pursuant to the procedures outlined in Section 1.10.120 of this chapter, except that the time to file the request for hearing form is 10 calendar days from the date of mailing of the notification letter.
2. The notification letter shall be served on the responsible party and property owner pursuant to any of the methods of service set forth in Section 1.10.040 of this chapter. The enforcement officer may also send a courtesy copy of the letter to any other party with an interest in the property.
3. If a request for hearing form is not received by the city within 10 calendar days of the date of mailing of the notification letter, the enforcement officer may record the notice of pending administrative enforcement action if the code violations remain. The failure of any person to file a request for hearing form in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of pending administrative enforcement action.

D. Hearing Prior to Recordation of Notice of Pending Administrative Enforcement Action.

1. Any hearing conducted upon receipt of a request for hearing form shall follow the procedures set forth in Section 1.10.120 and Article III of this chapter.
  2. The purpose of the hearing is for the responsible party or property owner to state any reasons why a notice of pending administrative enforcement action should not be recorded. The administrative enforcement officer shall only consider evidence that is relevant to the following issues:
    - a. Whether the conditions listed in the notice of pending administrative enforcement action violate the Carlsbad Municipal Code or applicable state codes, or whether the conditions constitute any other violation as described in Section 1.10.020(A) of this chapter; and
    - b. Whether the enforcement officer afforded the responsible party and property owner with due process by adhering to the notification procedures specified in this section.
  3. If the administrative hearing officer affirms the enforcement officer's decision to record the notice of pending administrative enforcement action, the enforcement officer may record the notice.
  4. If the administrative hearing officer determines that recordation is improper, the administrative hearing officer shall invalidate the enforcement officer's decision to record the notice of pending administrative enforcement action.
- E. A copy of the recorded notice of pending administrative enforcement action shall be served on the property owner and responsible party pursuant to any of the methods of service set forth in Section

1.10.040 of this chapter.

- F. Prohibition Against Issuance of Multiple Permits. The city may withhold permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure: (1) if a request for hearing prior to recordation of notice of pending administrative enforcement action has not been timely filed and the notice is subsequently recorded; or (2) after an administrative hearing officer affirms the enforcement officer's decision to record a notice of pending administrative enforcement action and the notice is subsequently recorded. The city may withhold permits until a certificate of compliance or notice of release has been issued by the enforcement officer. The city may not withhold permits which are necessary to obtain a certificate of compliance or notice of release, or which are necessary to correct serious health and safety violations.
- G. Upon final resolution of the pending administrative enforcement action, including the correction of all violations and payment of all outstanding penalties, costs, and fees, the enforcement officer shall have a certificate of compliance or notice of release filed with the County Recorder's office releasing the property from the notice of pending administrative enforcement action. The certificate of compliance or notice of release shall be on a form approved by the City Attorney or designee.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

#### **§ 1.10.055. Administrative costs.**

- A. In addition to the assessment of any administrative penalties, the enforcement officer is authorized to assess administrative costs against a responsible party, as provided for in California Government Code Section 54988.
- B. The city shall provide a responsible party and the property owner with written notice of assessment of administrative costs on a form approved by the City Attorney or designee, which shall include:
  - 1. The basis for the administrative costs;
  - 2. The code section(s) of the underlying administrative enforcement action;
  - 3. A statement that the property owner has 45 calendar days after such notice is issued to pay the administrative costs, after which time the property may be subject to a proposed lien;
  - 4. A statement that the property owner has an opportunity to appear before the Planning Commission and be heard regarding whether the proposed lien should become a lien and the lien amount.
- C. The notice of assessment of administrative costs shall be mailed using the service by mail procedures in Section 1.10.040 of this chapter.
- D. If the property owner elects to appear before the Planning Commission and be heard regarding whether the proposed lien should become a lien and the lien amount, the Planning Commission shall conduct a hearing. Written notice of the hearing shall be provided to the property owner by mail at least 10 calendar days in advance of the hearing. After the hearing, the Planning Commission shall make a written recommendation to the City Council. The recommendation shall include factual findings based on the evidence introduced at the hearing.
- E. The City Council may adopt the Planning Commission's recommendation or direct the matter be set for a new hearing before the City Council. Written notice of the new hearing shall be provided to the property owner by mail at least 10 calendar days in advance of the hearing.

- F. If the City Council determines that the proposed lien shall become a lien, the City Council may have a notice of lien recorded with the County Recorder. The lien shall attach upon recordation and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice of lien shall include the record owner or possessor of the property, the last known address of the record owner or possessor, the date upon which the lien was created against the property, and a description of the real property subject to the lien and the amount of the lien.
- G. The failure of any person with a financial interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding civil penalties.
- H. All administrative costs assessed are cumulative. If a responsible party fails to correct the violation(s), or has the same, similar, repeated, or continuing violation(s), subsequent administrative costs may be assessed.
- I. Payment of administrative costs does not excuse the failure of a responsible party to correct the violation(s) and does not bar further enforcement action by the city.
- J. The correction of a violation does not excuse the failure of a responsible party to pay any outstanding administrative costs.

(Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

### **§ 1.10.060. Civil penalties.**

- A. Declaration of Purpose. The City Council finds that there is a need for alternative methods of code enforcement. The administrative assessment of civil penalties along with an administrative hearing procedure is a necessary alternative method of code enforcement, in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of this code and applicable state codes.
- B. Authority.
1. Any person violating any provision of this code or applicable state code, any permit or license approved pursuant to any provision of this code, any condition of approval of a permit or entitlement granted pursuant to any provision of this code, any required environmental mitigation measure, any term or condition of any city agreement pursuant to a police power, or any order issued by or on behalf of the city or by an administrative hearing officer contracted with the city may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in this section.
  2. Each day a violation as described in Section 1.10.060(B)(1) of this chapter exists constitutes a separate and distinct violation.
  3. Civil penalties may be directly assessed by means of a notice and order issued by any director or imposed, affirmed, or modified by an administrative hearing officer.
  4. Civil penalties shall be assessed at a daily rate determined by a director or administrative hearing officer pursuant to the criteria listed in Section 1.10.060(D)(3) of this chapter. The maximum rate shall be \$2,500.00 per violation. The maximum amount of civil penalties shall not exceed \$400,000.00 per parcel or structure for any related series of violations, exclusive of administrative costs.
- C. Procedures—Notice and Order.

1. Whenever a director determines that a violation as described in Section 1.10.060(B)(1) of this chapter has occurred or continues to exist, a written civil penalties notice and order may be issued to the responsible party.
  2. The notice and order shall list all applicable sections violated and describe how each section is or has been violated.
  3. The notice and order shall refer to the dates and locations of the violations.
  4. The notice and order shall describe the remedial action required to permanently correct outstanding violations and establish time frames for completion.
  5. The notice and order shall establish a daily amount of civil penalties. A director shall determine the daily amount of civil penalties pursuant to the criteria in Section 1.10.060(D)(3) of this chapter.
  6. The notice and order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the notice and order until the violations are corrected.
  7. If a director determines that the violations are continuing, the notice and order shall demand that the responsible party cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate city department(s) or division(s).
  8. The notice and order shall enumerate any other consequences should the responsible party fail to comply with the terms and deadlines as prescribed in the notice and order.
  9. The notice and order shall explain the responsible party's right to appeal in accordance with Section 1.10.020 of this chapter and shall follow the appeal procedures set forth in Section 1.10.120 and Article III of this chapter. Unless contested, the notice and order shall be final and be enforced pursuant to this section.
  10. The notice and order shall be served upon the responsible party by any one of the methods of service provided in Section 1.10.040 of this chapter.
  11. The notice and order shall identify the factors used by a director in determining the duration and the daily amount of civil penalties.
  12. More than one notice and order may be issued against the same responsible party if it encompasses different dates or different violations.
- D. Determination of Civil Penalties.
1. In determining the date when civil penalties start to accrue, a director or administrative hearing officer may consider the date when the department or division first discovered the violations as evidenced by the issuance of a notice of violation or any other written correspondence.
  2. The assessment of civil penalties shall end when all action required by the notice and order has been completed.
  3. In determining the amount of the civil penalty to be assessed at a daily rate, a director or administrative hearing officer may consider some or all of the following factors:

- a. The duration of the violation.
  - b. The frequency or recurrence of the violation.
  - c. The nature and seriousness of the violation.
  - d. The history of the violation.
  - e. Whether the offense impacted environmentally sensitive lands, a historical resource, or a designated historical resource as defined throughout this code.
  - f. The willfulness of the responsible party's misconduct.
  - g. The responsible party's conduct after issuance of the notice and order.
  - h. The good faith effort by the responsible party to comply.
  - i. The economic impact of the penalty on the responsible party.
  - j. The impact of the violation on the community.
  - k. Any other factors that justice may require.
4. The City Manager may establish a penalty schedule for a director and administrative hearing officer to use as a guideline in determining the amount of civil penalties in appropriate cases. The City Manager may also establish procedures for the use of this penalty schedule.
- E. Failure to Comply With Director's Notice and Order. When the responsible party fails to comply with the terms of the notice and order, a director shall schedule a civil penalties hearing in accordance with the administrative hearing procedures contained in Article III of Chapter 1.10 of this code, to the extent those procedures do not conflict with the requirements of this section. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines, or failure to refrain from continuing violations as described in Section 1.10.060(B)(1) of this chapter.
- F. Civil Penalties Hearing.
1. The procedures for a civil penalties hearing are the same as the hearing procedures set forth in Article III of Chapter 1.10 of this code.
  2. The administrative hearing officer shall only consider evidence that is relevant to the following issues:
    - a. Whether the responsible party has caused or maintained a violation as described in Section 1.10.060(B)(1) of this chapter which existed on the dates specified in the notice and order.
    - b. If a notice and order was issued by a director, whether the amount of civil penalties assessed by the director pursuant to the procedures and criteria outlined in this section was reasonable.
- G. Administrative Enforcement Order.
1. Once all evidence and testimony are completed, the administrative hearing officer shall issue an administrative enforcement order which affirms or rejects the director's notice and order or which modifies the daily rate or duration of the civil penalties depending upon the review of the

- evidence. The administrative hearing officer may increase or decrease the total amount of civil penalties and costs that are assessed by the director's notice and order.
2. The administrative hearing officer may issue an administrative enforcement order that requires the responsible party to cease and desist from committing the specified violations and to make specified corrections.
  3. As part of the administrative enforcement order, the administrative hearing officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the responsible party's ability to complete compliance by specified deadlines.
  4. The administrative hearing officer may issue an administrative enforcement order that imposes additional civil penalties that will continue to be assessed until the responsible party complies with the administrative enforcement order and corrects the violation.
  5. The administrative hearing officer may schedule subsequent review hearings as necessary or as requested by a party to the hearing to ensure compliance with the administrative enforcement order.
- H. Failure to Comply With the Administrative Enforcement Order. The failure of a responsible party to comply with the terms and deadlines set forth in the administrative enforcement order will trigger the enforcement provisions set forth in Section 1.10.130(C) of this chapter. If the civil penalties were initially imposed pursuant to a notice and order, the director shall monitor the violations and determine compliance.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**Article II**  
**Administrative Citations and Appeals**

**§ 1.10.070. Administrative citations.**

- A. An enforcement officer may issue an administrative citation to any responsible party in response to any violation of any provision of this code, any permit or license approved pursuant to any provision of this code; any condition of approval of a permit or entitlement granted pursuant to any provision of this code, any required environmental mitigation measure, any term or condition of any city agreement pursuant to a police power, or any order issued by or on behalf of the city or by an administrative hearing officer contracted with the city.
- B. A continuing violation of the violations specified in subsection (A) above constitutes a separate and distinct violation each day the violation exists.
- C. Administrative penalties shall be assessed by means of an administrative citation issued by an enforcement officer and shall be payable directly to the city.
- D. Administrative penalties shall be collected in accordance with the procedures specified in this chapter.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.080. Administrative citation procedures.**

- A. Upon discovering a violation of this code, an enforcement officer may issue and serve an administrative citation to a responsible party in the manner prescribed in this chapter. The administrative citation shall be issued on a form approved by the City Attorney or designee.
- B. A responsible party shall be provided a notice of violation prior to the issuance of an administrative citation, except in the event of certain violations related to the illegal cultivation of cannabis, as governed by California Government Code Section 53069.4(a)(2)(B).
- C. A second or subsequent notice of violation does not need to be issued to the same responsible party prior to the issuance of an administrative citation if a notice of violation for the same, similar, repeated, or continuing violation was previously issued.
- D. Failure to comply with any portion of a notice of violation may result in the issuance of an administrative citation.
- E. If an administrative citation is served by personal service, the enforcement officer shall attempt to obtain the signature of the responsible party to whom the administrative citation is being issued. If the responsible party refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and any subsequent proceedings.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.090. Contents of administrative citation.**

An administrative citation shall:

- A. Document the date and location of the violation(s) and, if applicable, the approximate time the violation(s) were observed.
- B. Document the code section(s), provision(s), condition(s), or term(s) violated and describe what action

or absence of action resulted in the violation.

- C. Describe the action required to correct the violation(s).
- D. Require the responsible party to correct the violation(s) by a reasonable compliance date to be provided by the enforcement officer and explain the consequences of failure to correct the violation(s).
- E. If a violation is continuing in nature, demand the responsible party cease and desist from further action causing the violation(s) and commence and complete all action to correct the outstanding violation(s).
- F. State the amount of the administrative penalty imposed for the violation(s).
- G. Explain how the administrative penalty shall be paid, the time period by which it shall be paid and the consequences of the failure to timely pay it.
- H. Indicate the responsible party has 30 calendar days from the date of issuance of the administrative citation to appeal the citation, including any administrative penalty imposed.
- I. Contain the signature of the issuing enforcement officer and the signature of the responsible party, if the responsible party was personally served and signed the administrative citation, as provided in this chapter.
- J. Contain a reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline, including criminal prosecution; civil injunction; administrative abatement; additional administrative citations; an administrative hearing requested by the city to resolve the violations; suspension, revocation, or stay of issuance of municipal permits, or other city authorizations; recordation of notices of violation, certificates of noncompliance, or other notices of ineligibility for land development; bonding requirements; and referral to other enforcement authorities.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

#### **§ 1.10.100. Administrative penalties assessed.**

- A. The amount of administrative penalty assessed shall be as authorized in California Government Code Sections 36900, subdivisions (b)-(d), 36901, and 53069.4, subdivision (a)(1).
- B. All administrative penalties assessed are cumulative. If a responsible party fails to correct the violation(s), or has the same, similar, repeated, or continuing violation(s), subsequent administrative penalties may be issued.
- C. All administrative penalties assessed shall be payable to the city within 30 calendar days from the date of the administrative citation.
- D. All administrative penalties paid under this section shall be refunded if it is determined, after a hearing, the person charged in the administrative citation was not responsible for the violation(s) or there were no violation(s) as charged in the administrative citation.
- E. Payment of administrative penalties shall not excuse the failure of any responsible party to correct the violation(s) nor shall it bar further enforcement action by the city.
- F. The correction of a violation does not excuse the failure of a responsible party to pay any outstanding administrative penalties.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.110. Failure to pay administrative penalties; late fees.**

- A. The failure of any person to pay an administrative penalty or late fee within the time specified on the administrative citation or other notice without the filing of an appeal as provided in this chapter will result in the assessment of an additional late fee. The amount of the late fee is 25% of the total amount of the administrative penalty and will be assessed independent of whether the violation has been corrected.
- B. The failure of any person to pay an administrative penalty or late fee assessed within the time specified on the administrative citation or other notice constitutes a debt to the city. The city may file a civil action and/or pursue any other legal remedy to collect the debt.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.115. Transfer of ownership.**

- A. It is unlawful for the owner of any real property or structure who has an outstanding notice of violation, order, or administrative citation related to the real property or structure to sell, transfer, mortgage, lease, or otherwise dispose of the real property or structure to another until: (1) the corrective action has been completed and all penalties, costs, and late fees have been paid; or (2) until the owner furnishes the grantee, transferee, mortgagee, or lessee a true copy of any notice, order, or administrative citation and furnishes an enforcement officer a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of the notice, order, or administrative citation and either: (a) fully accepting the responsibility without condition for making the corrections or repairs required by the notice, order, or administrative citation; or (b) stating the grantee, transferee, mortgagee, or lessee intends to timely challenge the notice, order, or administrative citation. The transfer of ownership in violation of this section shall not abrogate the transfer.
- B. Any property owner and any responsible party shall be jointly and severally liable for any financial obligations as a result of any city actions and proceedings involving the property, even if the property is subsequently transferred, exchanged, sold, inherited, or gifted, to ensure the continuity of the city's business and administration of its laws. These financial obligations may include administrative penalties, late fees, and administrative costs as defined in this chapter; civil fines and penalties; and criminal fines and penalties. The city may use any legal means to enforce the collection of these financial obligations, including referral to collections agencies and the Franchise Tax Board.
- C. If the property is exchanged, sold, inherited, or gifted, the obligation to correct any such violations against the property shall then be the responsibility of the purchaser, transferee, or lessee of interest, who shall be bound by the obligation to correct without further notice.

(Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.120. Appeal of notice, order, or administrative citation.**

- A. A recipient of an administrative citation or an unfavorable decision of the City Manager or designee related to a stop work order or stop use order may contest the citation or decision on a stop work order or a stop use order by completing all required request for hearing forms and returning them to the code enforcement division or other department or division specified on the administrative citation or decision on a stop work order or a stop use order within 30 calendar days from the date the administrative citation or decision was issued, together with an advance deposit of the full amount of

administrative penalties or notice that a request for an advance deposit hardship waiver has been filed pursuant to subsection F of this section. If the deadline to appeal falls on a weekend or city holiday, then the deadline is extended to the next regular business day.

- B. A recipient of a notice of violation for a public nuisance under Chapter 6.16 of this code or a notice and order for civil penalties has 10 calendar days from the date of mailing of the notice, or 10 calendar days from the date of personal service of the notice if served using this method, to submit a request for hearing form to the code enforcement division or other department or division specified on the notice. If the deadline to appeal falls on a weekend or city holiday, then the deadline is extended to the next regular business day. A notice of violation for any other offense besides a public nuisance under Chapter 6.16 of this code is not appealable until an administrative citation has been issued for that offense.
- C. Request for hearing forms may be obtained from the city's website, the code enforcement division, or the department or division specified on the notice, administrative citation, or decision on a stop work order or a stop use order.
- D. The person requesting the hearing shall be notified of the time and place set for the hearing at least 10 calendar days prior to the date of the hearing.
- E. If the enforcement officer submits an additional written report concerning the notice, administrative citation, or decision on a stop work order or a stop use order to the administrative hearing officer at the hearing, then a copy of that report shall also be served on the person requesting the hearing at least five calendar days prior to the date of the hearing.
- F. Advance Deposit Hardship Waiver for Appeal of Administrative Citations.
  1. A responsible party who intends to request a hearing to contest an administrative citation, and who is financially unable to make the advance deposit of the full amount of any administrative penalty, may file a request for an advance deposit hardship waiver, to be considered by the finance department designee.
  2. The advance deposit hardship waiver request shall be filed with the code enforcement division or other department or division specified on the administrative citation within 10 calendar days of the date the administrative citation was served. The waiver request shall be filed using the advance deposit hardship waiver application form, which shall be available on the city's website or from the code enforcement division.
  3. The requirement of depositing the full amount of the administrative penalties shall be stayed unless or until the finance department designee makes a determination not to issue the advance deposit hardship waiver.
  4. The finance department designee may issue an advance deposit hardship waiver up to the full amount of any administrative penalty only if the responsible party submits to the finance department designee a sworn declaration, together with relevant supporting documents or materials, demonstrating to the satisfaction of the finance department designee:
    - a. The responsible party has made a bona fide effort to comply with the code violated; and
    - b. Depositing the full amount of the required payment in advance of the hearing would result in an undue financial burden.
  5. If the finance department designee determines not to issue an advance deposit hardship waiver,

the responsible party shall remit the full amount of the administrative penalty to the code enforcement division or other department or division specified on the administrative citation within 10 calendar days of the date of the finance department designee's determination.

6. The finance department designee shall issue a written determination listing the reasons for the determination to issue or not to issue the advance deposit hardship waiver. The written determination of the finance department shall be final and non-appealable.
7. The written determination of the finance department designee shall be served upon the person who applied for the advance deposit hardship waiver by regular U.S. mail or any other method reasonably likely to reach the applicant, including electronic mail and facsimile.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**Article III**  
**Administrative Hearings**

**§ 1.10.130. Administrative hearing procedures.**

Administrative hearings shall be conducted in accordance with this chapter and any administrative orders promulgated by the City Manager.

**A. Administrative Hearing Procedures.**

1. No hearing to contest an administrative citation before an administrative hearing officer shall be scheduled unless the full amount of administrative penalties has been deposited in advance or an advance deposit hardship waiver has been issued.
2. A hearing before the administrative hearing officer shall be set for a date not less than 15 calendar days and not more than 60 calendar days from the date the request for hearing is filed and the city receives a deposit of the full amount of administrative penalties or an advanced deposit hardship waiver is issued.
3. An appeal or request for an administrative hearing upon receipt of a notice of violation for a public nuisance, a notice and order for civil penalties, a decision of the City Manager or designee on a stop work order or stop use order appeal, or a notice of hearing, and any accompanying administrative citation(s) may be consolidated and heard on the same date.
4. Notice of the administrative hearing shall be served on the responsible party(ies) by the city in the manner prescribed by Section 1.10.040 of this chapter.
5. The failure of any person with an interest in the property, or other responsible party, to receive a properly addressed notice of hearing, served pursuant to Section 1.10.040 of this chapter, shall not affect the validity of any proceedings under this chapter.
6. The failure of any recipient of a notice of violation for public nuisance, notice and order for civil penalties, stop work order or stop use order, an administrative citation, or a notice of hearing to appear at any scheduled hearing shall result in an adjudication of the notice, order, or administrative citation, a forfeiture of any penalties, late fees, and other costs, and a failure by the recipient to exhaust administrative remedies.
7. At the hearing, the party contesting the notice, order, or administrative citation shall have an opportunity to testify and to present evidence concerning the notice, order, or administrative citation. Formal rules of evidence shall not apply during an administrative hearing.
8. Any city-issued notices, administrative citations, and additional report(s) submitted by an enforcement officer shall constitute *prima facie* evidence of the respective facts contained in those documents.
9. The administrative hearing officer may continue the hearing and request additional information from the enforcement officer, the recipient of the notice, order, or administrative citation, or the property owner prior to issuing an administrative enforcement order.
10. Failure of a person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the person's rights to an administrative determination of the merits of the notice, order, or administrative citation and the amount of any administrative penalties or late fees. If no appeal is filed, the citation shall be deemed a final administrative order.

B. Administrative Hearing Officer's Order.

1. After considering all relevant testimony and evidence submitted at the hearing, the administrative hearing officer shall issue a written administrative enforcement order that upholds, modifies, or dismisses the notice, stop work order or stop use order, or administrative citation. The administrative enforcement order shall list the reasons for the decision and shall be supported by substantial evidence in the record. The administrative enforcement order shall provide the timeframe for any future compliance dates or payment due dates and otherwise comply with the requirements of any administrative orders promulgated by the City Manager.
2. As part of the administrative enforcement order, the administrative hearing officer may:
  - a. Reduce, waive, or modify the administrative penalties or late fees assessed by the citation, in an amount consistent with the provisions of this chapter and Chapter 1.08. The total administrative penalty shall not exceed \$100,000.00 exclusive of administrative costs.
  - b. Impose, sustain, or modify civil penalties, consistent with the procedures in Section 1.10.060 of this chapter. The total civil penalty shall not exceed \$400,000.00 exclusive of administrative costs.
  - c. Impose conditions and deadlines to correct the violations or require payment of any outstanding penalties or late fees.
  - d. Assess reasonable administrative costs incurred by the city as defined in Section 1.10.010 of this chapter.
3. In determining the amount of an administrative penalty, civil penalty, late fee, or administrative costs, or in determining conditions and deadlines to correct violations or make payments, the administrative hearing officer shall consider all relevant evidence and the following factors:
  - a. The duration of the violation.
  - b. The frequency or recurrence of the violation.
  - c. The nature and seriousness of the violation.
  - d. The history of the violation.
  - e. Whether the offense impacted environmentally sensitive lands, a historical resource, or a designated historical resource as defined throughout this code.
  - f. The willfulness of the responsible party's misconduct.
  - g. The responsible party's conduct after issuance of the notice, citation, or stop work order or stop use order.
  - h. The good faith effort by the responsible party to comply.
  - i. The economic impact of the penalty on the responsible party.
  - j. The impact of the violation upon the community.
  - k. Any other factors that justice may require.
4. The employment, performance evaluation, compensation, and benefits of the administrative

hearing officer shall not be directly or indirectly conditioned upon the amount of the administrative citation penalties, civil penalties, late fees, or administrative costs upheld by the administrative hearing officer.

5. If the administrative hearing officer determines that the notice, stop work order or stop use order, and/or administrative citation should be upheld, then any administrative penalty amount(s) on deposit with the city shall be retained by the city.
  6. If the administrative hearing officer determines the notice, stop work order or stop use order, and/or administrative citation should be upheld, and the civil penalties have not been paid and/or the administrative penalties have not been deposited pursuant to an advance deposit hardship waiver, the administrative hearing officer shall set forth in the administrative enforcement order a payment schedule for the administrative penalties, civil penalties, and any costs imposed.
  7. If the administrative hearing officer determines the notice, stop work order or stop use order, and/or administrative citation should be dismissed and civil penalties were paid or administrative penalties were deposited with the city, then the city shall promptly refund the amount of the paid or deposited penalties together with interest at the average rate earned on the city's investment portfolio for the period of time the penalties were held by the city.
  8. The administrative hearing officer shall serve their administrative enforcement order on all parties to the hearing within 14 calendar days of the last hearing date by regular U.S. mail or any other method reasonably likely to reach the recipient, including, but not limited to, electronic mail or facsimile.
  9. The administrative enforcement order constitutes a final decision, effective on the date of mailing. The administrative enforcement order must contain the following statement: "The administrative enforcement order of the hearing officer is final and binding. Judicial review of this administrative enforcement order is subject to the provisions and time limits set forth in California Government Code Section 53069.4."
  10. If the administrative enforcement order finds in favor of the city, the City Clerk's office shall cause a copy of the administrative enforcement order to be recorded against the affected property with the County Recorder's office.
  11. If the Code Enforcement Manager determines that compliance has been achieved after the recording of an administrative enforcement order, the Code Enforcement Manager shall direct the assigned enforcement officer to issue and record a certificate of compliance against the affected property.
- C. Failure to Comply With Administrative Enforcement Order.
1. Upon issuance of an administrative enforcement order, the enforcement officer shall monitor the violations and determine compliance.
  2. It is unlawful for a party to an administrative hearing, who has been served with a copy of the administrative enforcement order pursuant to this chapter, to fail to comply with the order. The city may treat such failure as a violation of this code and use all available legal or equitable remedies to recover any penalties, costs, fees, and obtain compliance with the administrative enforcement order.
- D. Right to Judicial Review. The recipient of the notice of violation or administrative citation may obtain judicial review of a final administrative decision by filing an appeal under California Government

Code Section 53069.4, subdivision (b). If no appeal of the final administrative decision is filed within the time period set forth in California Government Code Section 53069.4, the final administrative decision shall be deemed confirmed.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

**§ 1.10.140. Additional rules and procedures for administrative hearing officers and administrative hearings.**

- A. The City Manager shall establish rules and procedures pursuant to Section 1.10.020(D) of this chapter as are necessary to identify a pool of qualified persons capable of acting as administrative hearing officers.
- B. Administrative hearing officers presiding at administrative hearings shall be appointed and compensated by the city. The City Manager shall develop policies and procedures relating to the employment and compensation of administrative hearing officers.
- C. Any person designated to serve as an administrative hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of an administrative hearing officer shall be established by the City Manager under Section 1.10.020(D) of this chapter.

(Ord. NS-591 § 1, 2001; Ord. CS-375 § 2, 2020; Ord. CS-434 § 3, 2022)

## CHAPTER 1.12 ELECTIONS

### **§ 1.12.010. Candidate's filing fee.**

- A. Upon the filing of nomination papers, or upon the filing of supplemental nomination papers, a candidate for elective office must pay a filing fee of \$25.00 to the City Clerk, which shall be deposited into the general fund.
- B. In lieu of paying the filing fee in subsection A, a candidate may submit a petition under California Elections Code Section 8106.

(Ord. 1161 § 1, 1973; Ord. 1175 § 1, 1975; Ord. NS-448 § 1, 1998; Ord. CS-394 § 2, 2021)

### **§ 1.12.020. Date for general municipal election.**

The general municipal election for the city shall be held on the same day as the statewide general election.  
(Ord. 1242 § 1, 1982; Ord. 1259 § 1, 1982; Ord. NS-448 § 2, 1998; Ord. CS-394 § 2, 2021)

### **§ 1.12.030. Mail ballot elections.**

- A. The City Council may conduct the following elections or proceedings wholly by mail ballot:
  1. An election to approve a special tax under Article XIII C of the California Constitution.
  2. An election to approve a property-related fee or charge under Article XIII D of the California Constitution.
  3. An assessment ballot proceeding under Article XIII D of the California Constitution; however, the proceeding shall be denominated an "assessment ballot proceeding" and ballots shall be denominated "assessment ballots."
- B. The City Council shall determine whether an election or proceeding described in subsection A will be conducted wholly by mail ballot at the time the City Council calls the election.
- C. An election under this section shall be held on a mail ballot election date established in California Elections Code Section 1500.
- D. An election under this section shall be conducted in accordance with any special provisions adopted by the resolution of the City Council calling the election and with the applicable provisions for mail ballot elections in California Elections Code Section 4100 et seq.

(Ord. CS-394 § 2, 2021)

### **§ 1.12.040. Governing law absent code provisions.**

Except as provided in this code, city elections shall be governed by the applicable provisions of the California Government Code and California Elections Code.

(Ord. CS-394 § 2, 2021)

### **§ 1.12.050. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or

circumstances not similarly situated.

(Ord. CS-394 § 2, 2021)

**CHAPTER 1.13  
ELECTION CAMPAIGN DISCLOSURES**

**§ 1.13.010. Purpose and intent.**

- A. This chapter supplements the provisions of the Political Reform Act of 1974 (Act; Cal. Gov. Code, Section 81000 et seq.) and its implementing regulations (Cal. Code of Regs., Title 2, Section 18110 et seq.) by:
  - 1. Providing for online filing of campaign statements, reports and other documents (campaign statements); and
  - 2. Requiring additional campaign disclosures in city elections to ensure the city's voters will be fully informed about the receipts and expenditures of candidates and committees prior to the elections.
- B. The City Council finds the online filing system will operate securely and effectively and will not unduly burden filers.
- C. The City Council further finds this chapter is enacted in recognition of the City Council's authority under California Government Code Sections 81009.5 and 81013 to impose additional campaign disclosure requirements that apply only to city elections and do not prevent a person from complying with the Act.

(Ord. 1276 § 1, 1985; Ord. NS-671 § 1, 2003; Ord. CS-395 § 2, 2021)

**§ 1.13.020. Definitions.**

The words and phrases used in this chapter have the same meaning as defined in the Act.  
(Ord. 1276 § 1, 1985; Ord. CS-395 § 2, 2021)

**§ 1.13.025. Contributions—Disclosure.**

- A. No person shall knowingly accept any contribution or loan in excess of \$100.00 without obtaining the name, address, occupation, employer's name, or if self-employed, the name of the business of the person making the contribution or loan.
- B. No person shall make a contribution or loan for any other person under an assumed name or under the name of any other person.
- C. Contributions or loans, not to exceed a total of \$100.00 from any one person or source, are permitted to be retained by a candidate or any committee, including a committee supporting or opposing the passage of a measure, when received from anonymous sources or from persons who do not consent to having their name made known. Any such amount in excess of \$100.00 shall be turned over to the City Clerk and deposited into the city's treasury within 10 days of receipt of the contribution.
- D. Any candidate or committee that is required to file a campaign statement for a city election under the Act shall, in addition to the information otherwise required, list the name, address, occupation, name of employer, or if self-employed, the name of the business, and amount contributed or loaned by each person who has contributed or loaned a cumulative amount in excess of \$100.00.

(Ord. 1281 § 1, 1985; Ord. NS-671 § 2, 2003; Ord. CS-395 § 2, 2021)

**§ 1.13.026. Online filing of campaign statements.**

- A. Any elected officer, candidate, committee or other person who is required to file campaign statements with the City Clerk under California Government Code Section 84100 et seq., and who received contributions and made expenditures totaling \$2,000.00 or more in a calendar year, must file such statements using the City Clerk's online system.
- B. When an original campaign statement is required to be filed with the Secretary of State and a copy of the statement is required to be filed with the City Clerk, the copy may be, but is not required to be, filed using the City Clerk's online system.
- C. If a campaign statement is filed under this chapter using the City Clerk's online system, the statement does not have to be filed with the City Clerk in paper format.
- D. The City Clerk may establish and amend procedures for using the City Clerk's online system as necessary to accomplish the following:
  - 1. Ensure the online system complies with the requirements in California Government Code Section 84615, including containing a procedure allowing filers to comply with the obligation in California Government Code Section 81004 for campaign statements to be signed under penalty of perjury.
  - 2. Meet the purpose and intent of this chapter and comply with other applicable laws.
  - 3. Ensure the integrity of the data transmitted and include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.
  - 4. Enable filers to complete and submit filings free of charge.
- E. An online filing under this chapter will only be accepted if it is made in the standardized record format developed by the California Secretary of State under California Government Code Section 84602, subdivision (a)(2), and is compatible with the Secretary of State's system for receiving an online or electronic filing.
- F. If a campaign statement is not required to be filed using the City Clerk's online system, or if the City Clerk's online system is not capable of accepting a particular type of statement, the statement must be filed with the City Clerk in paper format. The City Clerk must post copies of documents filed in paper format to the Internet within the time periods and subject to the requirements specified in subsection J.
- G. The City Clerk must provide a person who files a campaign statement using the City Clerk's online system with an electronic confirmation notifying the filer the statement was received. The confirmation must include the date and time the City Clerk received the statement and the method by which the filer may view and print the data received.
- H. The filing date of a campaign statement filed using the City Clerk's online system is the date the City Clerk received the statement.
- I. The City Clerk must make all data filed available on the Internet in an easily understood format that provides the greatest public access. The data must be made available free of charge and as soon as possible after receipt. 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 number required to be disclosed by the filer. The City Clerk must make a complete, unredacted copy of a filed campaign statement available to any person upon request.

- J. The City Clerk must post a copy of a document filed in paper format to the Internet within 72 hours of the applicable filing deadline. If the final day of the 72-hour period is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday. The Internet posting must otherwise comply with the requirements of subsection I. The posted document must remain available for four years from the date of the election associated with the filing.
- K. The City Clerk's office must maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online campaign statement filed under this chapter, which will serve as the official version of the record for purposes of audits and any other legal purpose. After data has been maintained for at least 10 years, the City Clerk may archive it in a secure format.  
(Ord. CS-258 § 2, 2014; Ord. CS-395 § 2, 2021)

**§ 1.13.040. Penalties and enforcement.**

Violations of this chapter are subject to the enforcement and penalty provisions of California Government Code Sections 91000-91014. Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor. The San Diego County District Attorney is the civil and criminal prosecutor for this chapter.

(Ord. 1276 § 1, 1985; Ord. CS-395 § 2, 2021)

**§ 1.13.050. Rules of construction.**

The provisions of this chapter must be construed liberally in order to accomplish the intent and purposes of this chapter and the Act.

(Ord. 1276 § 1, 1985; Ord. CS-395 § 2, 2021)

**§ 1.13.060. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter or the application of this chapter to persons or circumstances not similarly situated.

(Ord. CS-395 § 2, 2021)

**CHAPTER 1.14  
DISQUALIFICATION FOR CONFLICT OF INTEREST**

**§ 1.14.010. Purpose and intent.**

- A. This chapter supplements the provisions of the Political Reform Act of 1974 (Act; California Government Code, Section 81000 et seq.) and its implementing regulations (Regulations; California Code of Regulations, Title 2, Section 18110 et seq.) by imposing a stricter standard for determining whether a governmental decision will have a material financial effect on a public official's interest in real property.
- B. The City Council further finds that this chapter is enacted in recognition of the City Council's authority under California Government Code Section 81013 to impose additional requirements regarding conflicts of interest and that the additional requirements imposed by this chapter do not prevent a person from complying with the act.

(Ord. NS-38 § 1, 1988; Ord. CS-433 § 2, 2022)

**§ 1.14.020. Definitions.**

The words and phrases used in this chapter have the same meaning as defined in the act.

(Ord. NS-38 § 1, 1988; Ord. CS-433 § 2, 2022)

**§ 1.14.030. Conflict of interest—Materiality standard: financial interest in real property.**

- A. Section 87100 of the act prohibits a public official from making, participating in making, or attempting to use the official's position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest. Section 87103 provides that an official has a "financial interest" within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's interests as identified and distinguishable from the decision's effect on the public generally.
- B. The City Council has determined it is reasonably foreseeable that a decision will have a material financial effect on a public official's interest in real property if the decision involves real property with a property line located within 600 feet or less of the official's property. This is a stricter standard than the 500 feet set forth in Regulation 18702.2(a)(7).
- C. Except as modified by this section, all public officials and designated employees in the city shall comply in all respects and with all provisions of the act and the regulations related to identifying a conflict of interest based on the material financial effect of a public official's interest in real property.

(Ord. NS-38 § 1, 1988; Ord. NS-575 § 1, 2001; Ord. CS-433 § 2, 2022)

**§ 1.14.040. Penalties and enforcement.**

Violations of this chapter are subject to the enforcement and penalty provisions of California Government Code Sections 91000-91014. Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor. The San Diego County District Attorney is the civil and criminal prosecutor for this chapter.

(Ord. NS-38 § 1, 1988; Ord. CS-433 § 2, 2022)

**§ 1.14.050. Rules of construction.**

The provisions of this chapter shall be construed liberally in order to accomplish the intent and purposes of

this chapter and the act.

(Ord. NS-38 § 1, 1988; Ord. CS-433 § 2, 2022)

**§ 1.14.060. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter or the application of this chapter to persons or circumstances not similarly situated.

(Ord. CS-433 § 2, 2022)

## CHAPTER 1.15 CAMPAIGN CONTRIBUTION LIMITS

### **§ 1.15.010. Purpose and intent.**

California Government Code Section 85702.5, subdivision (a), authorizes the City Council to adopt campaign contribution limits applicable to elective city offices. In providing this authorization, the State Legislature found that in cities without campaign contribution limits, candidates for elective city offices often receive contributions exceeding the limits for a state senate campaign, even though most cities contain far fewer people than the average state senate district. The Legislature further found that in cities without campaign contribution limits, candidates for elective city offices sometimes raise 40% or more of their total campaign funds from a single contributor and that allowing unlimited contributions to candidates for elective city offices creates the risk and perception elective city officials are beholden to their contributors and will act in the best interest of their contributors at the expense of the people.

It is the purpose and intent of the City Council in enacting this chapter:

- A. To preserve an orderly political forum in which individuals may express themselves effectively;
- B. To place realistic and enforceable limits on the amounts of money that may be contributed to campaigns for elective city offices; and
- C. To prevent corruption and avoid the appearance of corruption by regulating campaign contributions to candidates for elective city offices.

(Ord. CS-396 § 2, 2021)

### **§ 1.15.020. Definitions.**

The words and phrases used in this chapter have the same meaning as defined in the Political Reform Act of 1974, California Government Code Section 81000 et seq., as it now exists or may subsequently be amended.

(Ord. CS-396 § 2, 2021)

### **§ 1.15.030. Cash contributions prohibited.**

No candidate for city elective office shall accept a cash contribution of \$100.00 or more. All such contributions must be made by check. A candidate is required to make a copy of each such check received.

A cash contribution will not be deemed received if it is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, is spent or deposited, it will not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, it will not be deemed received if it is returned to the contributor within 48 hours of receipt.

(Ord. NS-58 § 1, 1989; Ord. NS-671 § 4, 2003; Ord. NS-800 § 1, 2006; Ord. CS-396 § 2, 2021)

### **§ 1.15.040. Campaign contribution limits.**

- A. A person shall not make to a candidate for City Council, and a candidate for City Council shall not accept from a person, a contribution totaling more than \$1,000.00 per election.
- B. A person shall not make to a candidate for Mayor, City Treasurer or City Clerk and a candidate for Mayor, City Treasurer or City Clerk shall not accept from a person, a contribution totaling more than

\$3,300.00 per election.

- C. The City Clerk shall adjust the contribution limitations provisions in subsections A and B in January of every odd-numbered year to reflect any increase or decrease in the California Consumer Price Index for All Urban Consumers (CPI-U) for the San Diego region. Those adjustments shall be calculated based on the total change in the CPI-U, San Diego region, since the last adjustment was made and shall be rounded to the nearest \$100.00. The City Clerk shall post the adjusted contribution limit to the city's website.

(Ord. CS-396 § 2, 2021; Ord. CS-443 § 2, 2023)

#### **§ 1.15.050. Candidate contributions.**

A candidate for elective city office or a committee controlled by that candidate shall not make a contribution to any other candidate for elective city office in excess of the limits set forth in Section 1.15.040.

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.060. Transfer of funds between a candidate's controlled committees.**

A candidate for elective city office may transfer campaign funds from one of the candidate's controlled committees to the candidate's controlled committee for elective city office, provided all of the following requirements are met:

- A. The candidate establishes a new campaign account into which funds will be transferred. The candidate may not re-designate an existing campaign account.
- B. The transferred contributions are attributed to specific contributors to the campaign contribution account from which they were transferred. Contributions must be allocated and attributed to each specific contributor on either a "first in, first out" or "last in, first out" basis. For purposes of this section, the terms "first in, first out" and "last in, first out" have the following meanings:
1. "First in, first out" means the campaign funds being transferred are attributed to the transferring committee's contributors in chronological order beginning with the earliest of its contributors or, if there has been a prior transfer, beginning with the earliest contributor for which unattributed contributions remain.
  2. "Last in, first out" means that campaign funds being transferred are attributed to the transferring committee's contributors in reverse chronological order beginning with the most recent of the committee's contributors or, if there has been a prior transfer, beginning with the most recent contributor for which unattributed contributions remain.
- C. The transferred contributions, when aggregated with all other contributions from and transfers attributable to the same contributor, do not exceed the amount that the contributor could have contributed to the candidate, or the controlled committee of the candidate, under Section 1.15.040.

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.070. Loans.**

- A. A candidate for elective city office shall not personally loan to the candidate's campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds \$10,000.00. A candidate shall not charge interest on any loan the candidate made to the candidate's campaign.

B. The provisions of this section apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.080. Recall measures.**

A. Notwithstanding any other provision of this chapter, an elected city officer may establish a committee to oppose the qualification of a recall measure and the recall election. This committee may be established when the elected city officer receives a notice of intent to recall under California Elections Code Section 11021. An elected city officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contribution limits set forth in this chapter.

B. After the failure of a recall petition or after the recall election, the committee formed by the elected city officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in California Government Code Section 89519, subdivision (b).

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.090. Post-election contributions.**

A contribution for an election may be accepted by a candidate for elective city office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.100. Carry-over contributions from one election to another for the same city office.**

Notwithstanding Section 1.15.060, a candidate for elective city office may carry over contributions raised in connection with one election for elective city office to pay campaign expenditures incurred in connection with a subsequent election for the same elective city office.

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.110. Violations.**

Violations of this chapter are subject to the enforcement and penalty provisions of California Government Code Sections 91000-91014. Any person who knowingly or willfully violates any provisions of this chapter is guilty of a misdemeanor. The San Diego County District Attorney is the civil and criminal prosecutor for this chapter.

(Ord. CS-396 § 2, 2021)

#### **§ 1.15.120. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-396 § 2, 2021)

**CHAPTER 1.16**  
**TIME LIMITS FOR JUDICIAL REVIEW**

**§ 1.16.010. Time limits for judicial review.**

- A. Judicial review of any decision of the city or of any commission, board, officer, or agent of the city may be had pursuant to Code of Civil Procedure, Section 1094.5, only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.
- B. Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for the reconsideration of the decision, or for a written decision or written findings supporting the decision, in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date that it is announced. If the decision is not announced at the close of the hearing, the date, the time, and the place of the announcement of the decision shall be announced at the hearing. If there is a provision for reconsideration, the decision is final for the purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision, the decision is final for the purposes of this section on the date that reconsideration is rejected. If there is a provision for a written decision or written findings, the decision is final for the purposes of this section upon the date it is mailed by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing to the party seeking the writ. Subdivision (a) of Section 1013 of the California Code of Civil Procedure does not apply to extend the time, following deposit in the mail of the decision or findings, within which a petition shall be filed.
- C. The complete record of the proceedings shall be prepared by the city or its commission, board, officer or agent which made the decision and shall be delivered to the party requesting such record within 190 days after he or she has filed a written request therefor. A request for the preparation of the record of the proceedings shall be filed with the person designated in the final decision. Such person shall, within 10 days of such request, notify the party of the estimated cost of the preparation of the requested record. The party requesting such record shall, within 10 days of such notification, deposit with the person designated in the decision an amount sufficient to cover the estimated cost. If during the preparation of the record it appears that additional costs will be incurred, the party requesting such record may be notified and, if requested, shall deposit such additional amounts before the record will be completed. If the cost of the preparation of the record exceeds the amount deposited, the party requesting such record shall pay this additional amount. If the amount deposited exceeds the cost, the difference shall be returned to the party requesting such record. Upon receiving the required deposit, the person designated in the decision shall promptly prepare such record in accordance with the request. Such record shall include the transcript of the proceedings; all pleadings; all notices and orders; any proposed decision by a hearing officer; the final decision; all admitted exhibits; all rejected exhibits in the possession of the city or its commission, board, officer or agent; all written evidence; and any other papers in the case.
- D. If the party files a request for the record as specified in subsection C of this section within 10 days after the date the decision becomes final as provided in subsection B of this section, the time within which a petition pursuant to Code of Civil Procedure, Section 1094.5, may be filed shall be extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party or the party's attorney of record, if the party has one.
- E. As used in this section, "decision" means any adjudicatory administrative decision made, after hearing, suspending, demoting or dismissing an officer or employee, revoking or denying an application for a permit, license, or other entitlement, imposing a civil or administrative penalty, fine,

charge, or cost or denying an application for any retirement benefit or allowance.

- F. In making a final decision as defined in subsection E of this section, the city shall provide notice to the party that the time within which judicial review must be sought is governed by this section. Upon giving notice of any decision subject to this section, the person responsible to issue such decision shall include in the decision a statement substantially as follows:

The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings accompanied by the required deposit in an amount sufficient to cover the estimated cost of preparation of such record, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party, or the party's attorney of record, if the party has one. A written request for the preparation of the record of the proceedings shall be filed with \_\_\_\_\_,

(name and address of designated person)

As used in this section, "party" means an officer or employee who has been suspended, demoted or dismissed; a person whose permit or license or other entitlement has been revoked or suspended or whose application for a permit or license or other entitlement has been denied; or a person whose application for a retirement benefit or allowance has been denied.

(Ord. 1203 § 1, 1977; Ord. NS-218 § 1, 1992; Ord. NS-327 § 1, 1995; Ord. NS-839 §§ 1—3, 2007)

#### **§ 1.16.020. Additional time limits for commencement of court proceedings.**

Except as otherwise provided in Section 1.16.010 of this code, Sections 65860, 66020, 66021, 66022, 66024 and 66499.37 of the Government Code and Sections 21167 and 30801 of the Public Resources Code of the state, any legally permitted court action or proceeding to attack, review, set aside, void, annul or seek damages or compensation for any city decision or action taken pursuant to this code shall not be maintained by any person unless such action or proceeding is commenced and service of summons is effected within 30 days after the date of such decision or action. Thereafter all persons are barred from commencing or prosecuting any such action or proceeding or asserting any defense of invalidity or unreasonableness of such decision, proceeding, determination or actions taken. For the purpose of this section, the terms "decision," "determination," "action taken" and "action taken pursuant to this code" shall include administrative adjudicatory, legislative, discretionary, executive and ministerial decisions, determinations, proceedings or other action taken or authorized by this code. This section shall not expand the scope of judicial review and shall prevail over any conflicting provision and any other applicable law relating to the subject.

(Ord. 1216 § 1, 1979; Ord. NS-839 § 4, 2007)

## CHAPTER 1.20 MEETINGS

### **§ 1.20.010. Policies applicable to all meetings.**

- A. Meetings of the City Council, city boards and commissions, and other legislative bodies of the city will be held according to the requirements of the Ralph M. Brown Act (California Government Code Section 54950 et seq., referred to in this code as the "Brown Act") and this chapter. Terms defined in the Brown Act have the same meaning when used in this chapter.
- B. Meetings will be open and public, except for closed sessions held as authorized by the Brown Act.
- C. When a meeting is in session, council members, city officers and employees, and members of the public are expected to observe good order and decorum, and to not by conversation or otherwise, improperly delay or interrupt the proceedings or refuse to obey the lawful directives of the presiding officer.
- D. The city is committed to maintaining safe and orderly meetings, free from intimidation, harassment and disruption. Public participation is encouraged provided that participants abide by the rules of conduct and procedure established by this chapter. The City Council finds and declares it is important to remember that no one has a constitutional right to disrupt a public meeting by attempting to impose their own voice or actions in a manner that is loud, boisterous or unruly where such conduct is substantially disruptive of the meeting itself and continues after the presiding officer has requested the person or persons to stop. The issue in such cases is not about the content of speech, unless the content itself violates the law, but rather with the extent of disruption caused to the meeting itself by the manner and conduct of the disrupter's actions. Therefore, to promote civic engagement, orderly deliberation and efficient conduct of city business, the following general rules of conduct apply to all city meetings:
  1. Interactions among all meeting participants will be conducted in a mutually respectful manner rather than an insulting, demeaning, intimidating or offensive manner.
  2. Conduct that disrupts, disturbs, impedes, or renders infeasible the orderly conduct of business will not be tolerated. This conduct includes failing to comply with reasonable and lawful regulations adopted by the City Council and engaging in behavior that constitutes use of force or a true threat of force under Section 54957.95 of the Brown Act.
  3. Individuals who continue to disrupt, disturb, impede or render infeasible the orderly conduct of a meeting may be removed from the meeting under Section 54957.9 of the Brown Act after the presiding officer has directed the person to cease the disrupting behavior and warned that continued disrupting behavior may result in removal from the meeting. If a meeting is willfully interrupted by a group or groups of persons and order cannot be restored by the removal of those individuals, the presiding officer, subject to objection by a majority of council members in attendance, may order the meeting room cleared and the meeting may continue as provided in Section 54957.9 of the Brown Act.
  4. Weapons and any object that may be used to inflict serious bodily injury are prohibited at city meetings except those lawfully in the possession of authorized city personnel.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

### **§ 1.20.020. Regular, special and emergency City Council meetings.**

- A. Regular City Council meetings will be held on the dates and at the times established by City Council resolution. Regular City Council meetings will be held at City Hall in the City Council Chamber, unless a different location has been designated by the Mayor or action of the City Council. If the Mayor, a majority of the City Council, City Manager, Fire Chief, Police Chief or building official determines that the Council Chamber is unsafe for a meeting due to an emergency, regular meetings may be held for the duration of the emergency at a location designated on the agenda or other notice of the meeting.
- B. Special City Council meetings may be called by the Mayor, a majority of the City Council, the City Manager or the City Attorney. Notice of a special meeting must be given and posted as provided in Section 54956 of the Brown Act. The notice must include the date, time and location of the meeting, and a brief statement of the business to be transacted or discussed. For special meetings, public comments can be made on agendized items only. No other business may be transacted or discussed at the meeting. A special meeting regarding the salaries, salary schedules or compensation paid in the form of fringe benefits, of the City Manager, City Attorney, any department head or other executive level employee is prohibited; however, special meetings to discuss the city's budget are permitted.
- C. During emergency situations, meetings may be held as provided in Section 54956.5 of the Brown Act.
- D. City Council meetings may be held concurrently as meetings of the legislative body of any public agency the governing body of which is comprised of the members of the City Council. When a concurrent meeting is held, the presiding officer or City Clerk will commence the meeting with the announcement required by Section 54952.3 of the Brown Act. The agenda shall include the information required by Section 54952.3 on the agenda for a meeting, and the oral announcement may be made by reference to that information. As used in this chapter, City Council also means the legislative body of any public agency the governing body of which is comprised of the members of the City Council.
- E. The City Clerk services staff and City Manager are authorized and directed to prepare, deliver and post meeting notices.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.030. Adjournment of meetings.**

Meetings may be adjourned to a time and place stated in the notice of adjournment and as provided by law. The presiding officer may adjourn any meeting without need for a motion and absent the objection of a majority of the quorum. Once adjourned, a meeting may not be reconvened, except at the time and place stated in the notice of adjournment. A regular meeting may not be adjourned to a date beyond the next regular meeting. The City Clerk services staff and City Manager are authorized and directed to prepare, deliver and post notices of adjournment. A notice of adjournment is not required when a meeting is adjourned without specification of the time and date when it will be reconvened.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.040. Quorum.**

A quorum necessary for the transaction of business at a meeting of the City Council exists whenever a majority of the City Council are present. A meeting may be adjourned for lack of a quorum by the presiding officer or, in the absence of a presiding officer, any member of the City Council or the City Clerk. A council member disqualified from participation in a matter due to a conflict of interest will not be counted toward achieving a quorum as to that matter. If a disqualification due to a conflict of interest results in the

lack of a quorum, consideration of the matter will be deferred until either a quorum of non-disqualified council members is present, or a quorum is determined as defined in and subject to the regulations of the Fair Political Practices Commission.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.050. Confidentiality of closed sessions.**

The privilege of confidentiality of closed sessions is held by the City Council. No person may disclose any information communicated during a closed session. This prohibition does not apply to:

- A. Disclosures expressly authorized by action taken by a majority of the City Council;
- B. Reports of action taken in closed session;
- C. Disclosures expressly authorized or required by law; or
- D. Confidential disclosures to a council member, city employee or other person authorized to attend a closed session without loss of the privilege of confidentiality.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.060. City Council agenda.**

- A. The City Clerk, under direction of the City Manager, will prepare an agenda for each City Council meeting. The agenda for a special or emergency meeting may be combined with the notice of the meeting.
- B. An agenda will contain the following information:
  1. The date, time and location of the meeting;
  2. The order of business and a brief general description of each item of business to be transacted or discussed at the meeting, including a brief statement of the specific action requested or recommended to be taken by the City Council;
  3. A description of each closed session matter substantially in the manner authorized by Section 54954.5 of the Brown Act;
  4. Information relating to special services available to persons with disabilities to permit those persons to participate in the meeting.

An agenda may contain other information relating to the conduct of the meeting, time limits for public participation, rules of decorum, presentation of materials and other similar matters.

- C. The City Manager is responsible for scheduling matters for consideration by the City Council based on established City Council priorities, the city's business and governmental needs, and the requirements of applicable law. Items of business may be placed on the agenda by any council member, the City Manager or the City Attorney, or by City Council action. City Council-originated items must be submitted to the City Manager not less than seven days before the date of the City Council meeting at which the member desires the item to appear on the agenda. Nothing in this section precludes a council member from requesting City Council action to place an item on the agenda for a future meeting.
- D. The City Clerk services staff is authorized and directed to post agendas in accordance with applicable law, including posting on the city's website. The City Clerk services staff is also authorized and

directed to mail agendas to persons and organizations who have filed a request for a mailing of agendas. The agenda may be made available and delivered in electronic format.

E. The agenda for regular meetings will be based on the following order of business:

1. Call to order;
2. Roll call;
3. Announcement of concurrent meetings;
4. Pledge of allegiance;
5. Approval of minutes;
6. Presentations;
7. Public report of any action taken in closed session;
8. Public comment on matters not listed on the agenda;
9. Consent calendar;
10. Board and commission member appointments;
11. Ordinances for introduction;
12. Ordinances for adoption;
13. Public hearings;
14. Departmental and City Manager reports;
15. City Council commentary and requests for consideration of matters;
16. Public comment (continuation);
17. Announcements;
18. City Manager comments;
19. City Attorney comments;
20. City Clerk comments;
21. Adjournment.

F. When a meeting is a concurrent meeting of the City Council and the legislative body of any public agency the governing body of which is comprised of the members of the City Council, action will be deemed to have been taken by the appropriate legislative body with jurisdiction over the matter.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.070. Agenda packet.**

A. The City Manager is responsible for all staff reports and other documents relevant to each item of business placed on an agenda by the City Manager or by City Council action. The City Attorney is responsible for all staff reports and other documents relevant to each item of business placed on the

agenda by the City Attorney. For matters placed on the agenda by a council member, the council member may provide information or other documents relevant to the item so that staff can prepare a brief report on the council member's behalf. The City Manager or City Attorney may provide a report or recommendation relating to a matter placed on the agenda by a council member. Staff reports and other documents relevant to items of business, including reports and other documents provided by a council member with respect to an item placed on the agenda by that council member, must be delivered to the City Clerk by the deadline established by the City Manager. The City Clerk services staff, under the direction of the City Manager, is responsible for compiling the reports and other documents and for preparing an agenda packet.

- B. Staff reports, ordinances, resolutions and contract documents must be prepared or approved by the City Attorney before delivery to the City Clerk services staff for inclusion in the agenda packet. Nothing in this chapter is intended to preclude the City Council from orally amending any ordinance, resolution, contract, or other document presented to it prior to final action at a meeting.
- C. Correspondence, including electronic mail, relating to an item of business on an agenda received by the City Clerk before 5:00 p.m. of the Wednesday preceding a regular meeting will be included as part of the agenda packet materials for that item; correspondence received later may be included in the agenda packet in any manner or may be delivered to the City Council by different means.
- D. The agenda packet for a regular meeting will be made available to the council members not later than the Friday preceding the meeting. The agenda packet will be available to the public at the office of the City Clerk and posted on the city's website on the same day that it is delivered to the council members. An agenda packet for a special or emergency meeting may be delivered to the City Council and made available to the public at the meeting. The City Clerk services staff is also authorized and directed to mail agenda packets to persons and organizations who have filed a request for a mailing of agenda packets and have paid the fee in the amount established by the city for that service. Agenda packets may be made available and delivered in electronic format.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.080. Minutes.**

- A. The City Clerk services staff is responsible for the minutes of all City Council meetings. The minutes will be a record of each particular type of business transacted, summary action not a verbatim transcript of the proceedings. The minutes may include the names of persons addressing the City Council, the title of the subject matter to which their remarks related and whether they spoke in support of or in opposition to such matter. The City Clerk services staff will include in the minutes of the meeting a council member's statement on a matter upon request made by that council member at the time the statement is made. Any council member may have the reasons for his or her support for or dissent from any action of the City Council entered in the minutes by making a request in substantially the following manner: "I would like the minutes to show that I [support] [am opposed to] this action for the following reasons..." or "For the record..."
- B. The City Clerk services staff will prepare proposed minutes and present them to the City Council for approval.
- C. The minutes may be approved without reading if the City Clerk services staff has included the proposed minutes in the agenda packet. The minutes will be read before approval upon motion approved by the City Council. Proposed amendments to the minutes as submitted by the City Clerk services staff must be verified by the City Clerk services staff prior to approval by the City Council. Following approval, minutes of meetings will be permanently kept in a format or medium suitable for

storage of permanent public records.  
(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.090. Recordings of meetings.**

- A. All City Council meetings are recorded as an aid in the preparation of minutes and posted on the city's website for public access. Recordings will be retained in accordance with the city's adopted Records Retention Schedule unless a longer retention is required by the City Council, the City Manager or the City Attorney.
- B. If any person desires to have a matter reported by a stenographer, such person may employ one directly at the person's expense. The City Manager may make reasonable accommodations to ensure that the stenographer is seated at a position at the meeting to facilitate accurate reporting.
- C. Any person may film, videotape, photograph or audio tape a City Council meeting in the absence of a reasonable finding by the presiding officer that the recording cannot continue without noise, illumination or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings. Meetings may be televised by any person if it can be accomplished without noise, illumination or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.100. Role of the presiding officer.**

- A. The presiding officer is the Mayor, or in the Mayor's absence, the Mayor pro tem. In the absence of both the Mayor and Mayor pro tem, the presiding officer will be selected from among the council members constituting the quorum for the meeting. In the absence of the Mayor and Mayor pro tem, the City Clerk shall call the City Council meeting to order, and a temporary presiding officer shall be elected by the council members present. Upon the arrival of the Mayor or the Mayor pro tem, the temporary presiding officer shall relinquish the chair at the conclusion of the business then before the City Council.
- B. The presiding officer will endeavor to conduct the meeting in an orderly, even-handed and businesslike manner and in substantially the order and manner provided on the agenda. Council members should have a full and equal opportunity to ask questions and express their opinions and fully deliberate on each item before action is taken. Once the presiding officer calls for final comments on the item, each council member shall have up to three minutes to deliver their concluding remarks related to the item prior to initiation of a City Council vote on the item.
- C. The presiding officer may move, second, debate and vote from the chair. The presiding officer is not deprived of any of the rights and privileges of a council member due to acting as presiding officer. The presiding officer, or such person as the presiding officer may designate, may verbally restate each question immediately prior to calling for the vote.
- D. The presiding officer is responsible for the maintenance of order and decorum at all meetings. The presiding officer will decide all matters of order and procedure under this chapter, subject to the right of any council member to request a ruling by the quorum and the question shall be, "Shall the decision of the presiding officer be sustained?" Requests for a ruling by the quorum require a second and will be promptly considered. A majority vote of the quorum will conclusively determine the question.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.110. Commencement of meetings.**

At the time set for each regular meeting, each member of the City Council, the City Manager, City Clerk, City Attorney and such department heads or others as have been requested to be present shall take their regular places in the City Council Chamber or other set meeting location. The presiding officer will call the meeting to order. Before proceeding with the business of the City Council, the City Clerk will call the roll of the council members and the names of the council members present will be entered in the minutes. If the meeting is a concurrent meeting of the City Council and one or more legislative bodies of a public agency for which the City Council is the governing body, the Mayor or the presiding officer will also make the announcement required by law.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.120. Consent calendar.**

An agenda may contain a consent calendar of items grouped together for action by single motion and without discussion when the items are considered by the City Manager to be routine, noncontroversial or in the nature of housekeeping matters. The actions recommended or requested by the City Manager will be included in summary form in the agenda description of each consent calendar item. Before accepting a motion to approve the consent calendar, the presiding officer will ask if any council member, city officer or employee, or member of the public desires to be heard on one or more consent items. In that event, the presiding officer will defer action on the particular matter or matters as part of the regular agenda in any order deemed appropriate. A council member may record a negative vote or an abstention on a consent calendar item without removing the item for discussion by so stating prior to the vote on the motion to approve the consent calendar. A request from the public to discuss an item on the consent calendar must be filed with the City Clerk in writing prior to the commencement of City Council consideration of the consent calendar. The City Clerk services staff is directed to include on an agenda containing a consent calendar, a statement of this requirement along with a summary of the procedure for consideration of consent calendar items.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.130. General rules of procedure.**

- A. Every council member, city officer or employee, or any other person desiring to speak during a City Council meeting must first gain recognition by the presiding officer. Following recognition by the presiding officer, speakers must confine their remarks to the question or matter under consideration, avoiding reference to character and indecorous language.
- B. Every council member wanting to question the city staff will address the questions to the City Manager or the City Attorney, who shall be entitled either to answer the inquiry or to designate a member of his or her staff for that purpose. Members of the public desiring to ask a question regarding an item on the agenda must do so only when public comment regarding the item is permitted. Questions from a member of the public must be directed to the presiding officer, who may refer the question to any member of the City Council, the City Manager or the City Attorney as the presiding officer deems appropriate.
- C. Once a council member, city officer or employee, or other person has been recognized and allowed to speak by the presiding officer, the person will be allowed to conclude his or her remarks without interruption, except an interruption by the presiding officer to preserve order, subject to applicable time limits. A council member seeking to raise a point of order or personal privilege must first gain recognition from the presiding officer. If a council member while speaking is called to order, the council member shall cease speaking until the question of order is determined, and if determined to

be in order, the council member may proceed. If interrupted by the presiding officer, city officers and employees and members of the public must cease speaking until further authorization by the presiding officer.

- D. The right of a council member to address the City Council on a question of personal privilege is limited to cases in which the council member's integrity, character or motives are questioned or where the welfare of the City Council is concerned. A council member raising a point of personal privilege may interrupt another council member who has the floor only if the presiding officer recognizes the privilege.
- E. A council member who wishes to terminate discussion of a motion may call for the question. If the call is seconded, the presiding officer shall ask for a vote. If the call carries, the council shall then vote on the motion without further discussion.
- F. Voting will be conducted using the voting system installed in the City Council Chamber, unless the City Council dispenses with use of the voting system or the system is not functioning. If the voting light system is not used, voting will be by voice vote or other system by which the vote of each council member is made known to the public. Secret ballots are prohibited.
- G. Every council member should vote unless disqualified due to a conflict of interest. A council member who abstains from voting acknowledges that a majority of the quorum may decide the question voted upon; however, ordinances, resolutions, orders for franchise or payments of money or adoption or amendment of a specific or general plan require the affirmative vote of a majority of the City Council (i.e., three affirmative votes).
- H. For matters that may be decided by a majority of the quorum, tie votes constitute "no action," and the matter voted upon remains before the City Council and is subject to further City Council consideration. If the presiding officer determines the City Council is unable to take action on a matter during a meeting because of a tie vote, the City Clerk services staff shall place the item on the next regular meeting of the City Council for further consideration. For matters requiring approval by affirmative vote of a majority of the City Council, any vote of less than the required number of affirmative votes results in denial of the action, unless a member of the City Council who did not vote in the affirmative requests that the matter remain open for further consideration. For matters involving development applications before the City Council because of a recommendation or appeal from the Planning Commission, if a final decision of the City Council is not reached within 60 days of the date of the first meeting at which the matter is considered, the matter will be deemed denied. During this 60-day period, any council member may make a written request that the matter be restored to the City Council's agenda.
- I. A council member may change his or her vote immediately following the announcement of the result of a vote on a matter by the presiding officer and before the next item of business. Except in the case of a tie vote, a council member who publicly announces that he or she is abstaining from voting on a particular matter may not withdraw the abstention.
- J. A motion to reconsider any action taken by the City Council may be made only at the meeting at which the action was taken, including a recessed or adjourned session of the meeting and by a council member who voted with the prevailing side. Consideration of action to rescind, repeal, cancel or otherwise nullify prior City Council action is in order at any subsequent meeting of the City Council, subject to placement of the matter on the agenda in the same manner as any new item of business. The effect of such action will operate prospectively and not retroactively and will not operate to adversely affect individual rights which may have been vested in the interim without notice and an opportunity to be heard having been given to the affected party or parties.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.140. Public participation.**

- A. Members of the public may address the City Council on items of business listed on an agenda of any meeting. Persons desiring to address the City Council regarding any item on the agenda, including an item listed on the consent calendar or items noticed for a public hearing, must submit a request to speak to the City Clerk before the item is called by the presiding officer. The presiding officer, with the consent of the majority of the quorum, may allow a person who has not filed such a request to address the City Council.
- B. At regular meetings, including adjourned regular meetings, members of the public may address the City Council on items not appearing on the agenda during the portion of the agenda set aside for this purpose. The total amount of time set aside for this purpose at the beginning of the meeting will not exceed 15 minutes; additional time will be set aside at the end of the meeting. Persons addressing the City Council must confine their remarks to matters within the subject matter jurisdiction of the City Council or a public agency for which the City Council serves as the governing body. Persons desiring to address the City Council on items not appearing on the agenda must submit a request to speak to the City Clerk before public comment is called. The presiding officer, with the consent of the majority of the quorum, may allow a person who has not filed such a request to address the City Council. Group time and presentations requiring the use of audiovisual equipment will not be permitted during public comment on matters not appearing on the agenda.
- C. The City Clerk will organize speaker slips pertaining to each agenda item in the order received and persons will be invited to address the City Council based on that order. Upon direction of the presiding officer, the names will be called by the City Clerk.
- D. Members of the public will address the City Council from the podium provided for that purpose. Each member of the public will be permitted to speak for up to three minutes, unless the presiding officer has announced a shorter duration at the commencement of the item under consideration. A shorter duration may be set when the presiding officer or a majority of the quorum determine that the length and duration of public comments on a matter would be unduly burdensome and prevent or frustrate the City Council from reaching a timely decision on the matter. Persons must confine their remarks to the agenda item under consideration. A speaker may not yield time to another speaker.
- E. After the presiding officer has closed the public input portion of an agenda item, no member of the public may address the City Council without first being recognized by the presiding officer and securing permission to do so by a majority vote of the quorum.
- F. To facilitate organized presentations, a group of persons may submit a request to speak as a group for items listed on the agenda only. Groups must select one single member to speak on behalf of that group. The group representative must identify the group and list not fewer than three additional members of the group who will simultaneously turn in their own individual speaker cards and be present during the meeting at which the presentation is made. The presentation on behalf of the group may not exceed 10 minutes unless additional time is authorized by a majority of the quorum.
- G. For items listed on the agenda, members of the public will generally be invited to speak following the staff presentation, if any, and before City Council discussion of the item. For items removed from the consent calendar at the request of a member of the public, the presiding officer may invite the speaker to address the City Council and may defer or waive presentation of a staff report.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.150. Use of city equipment.**

Persons desiring to use city information system or communication equipment for presentation of information to the City Council must make arrangements in advance with the City Manager. The City Manager may establish reasonable rules regarding format, security, time for submission and other similar matters. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. (Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.160. Conduct of public hearings.**

- A. The provisions of this section apply to matters listed on the agenda as public hearing items. Except as otherwise provided in this section, all of the provisions of this chapter apply to matters listed as public hearing items.
- B. Public hearings will be noticed to begin at the time the City Council convenes, unless otherwise determined by the City Manager or directed by the City Council in which case the notice of public hearing and agenda may state a different time. Public hearings may commence any time after the noticed commencement time and in any order determined by the City Council. Meetings may be adjourned when necessary or convenient to complete a public hearing or schedule of public hearings.
- C. All documents intended by the city to be part of the record of the public hearing and any correspondence received by the city pertaining to the subject matter of the public hearing will be available at the office of the City Clerk at least 24 hours prior to commencement of the public hearing. This provision does not preclude the submission by any person of supplemental or additional information during the public hearing.
- D. The applicant will be permitted 10 minutes to make a presentation, not including time to respond to questions by members of the City Council, and five minutes to respond to comments by members of the public. As used in this section, the applicant includes any person or entity whose rights or interests are directly the subject matter of the public hearing.
- E. The order of the hearing will be as follows unless otherwise required by law or agreed upon by the city and the applicant:
  1. Presentation of staff and/or Planning Commission report;
  2. Questions from the City Council;
  3. Presentation by the applicant, if any;
  4. Comments by members of the public;
  5. Response by staff or applicant to facts or issues raised by public comments;
  6. City Council discussion and action.
- F. The presiding officer may set longer time limits than otherwise allowed by this chapter for adequate presentation of testimony and evidence to provide a fair hearing. The decision of the presiding officer may be appealed to the City Council and determined by a majority of the quorum.
- G. Any person, other than a member of the City Council, who wishes to direct question(s) to an opposing witness shall submit such question(s) to the presiding officer, who will ask the question(s) to the witness. The presiding officer may at his or her discretion restrict the number and nature of any

questions asked pursuant to this section.

- H. Before commencement of City Council discussion and action, the presiding officer may order closed the public input portion of the public hearing, at which time no further evidence, either oral or written, will be accepted by the City Council except in response to a question by a council member; provided, however, that this rule may be relaxed by the presiding officer where it appears that good cause exists to hear further evidence concerning the matter which is the subject of the public hearing. Following completion of questions by council members, the presiding officer may order the public hearing closed. A public hearing once closed cannot be reopened on the date set for hearing unless the presiding officer determines that all persons who were present when the public hearing closed are still present. Nothing in this section, however, is intended to prevent or prohibit the reopening of a public hearing at any subsequent meeting, provided notice is first given in the manner required for the initial public hearing.
- I. A public hearing may be continued to a date certain any time before the closing of the public hearing in order to permit presentation of additional written or oral evidence, or return the matter to the Planning Commission for further consideration. The presiding officer will publicly announce the date, time and place that the public hearing will reconvene, and further evidence will be taken, and the announcement constitutes sufficient notice to the public of the date, time, and place of the continued public hearing. If the matter is returned to the Planning Commission for further consideration, the presiding officer must publicly announce the matter has been returned to the Planning Commission for consideration and may announce the date, time and place of the continued public hearing to receive the further report by the Planning Commission. If the presiding officer announces the date, time and place of the continued hearing, the clerk will post a notice of continuance in the same manner as for posting notices of an adjourned meeting; however, no further public notice is required. If the presiding officer does not announce the date, time and place for continuance of the matter following return to the Planning Commission, the public hearing will be noticed in the same manner as for the initial public hearing.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.170. Decision following a public hearing.**

- A. A decision may be made at any time following the close of a public hearing. The City Council may adopt a resolution or ordinance recommended by staff and presented as part of the agenda packet or may indicate its intended decision and instruct the City Attorney to return with the resolution or ordinance necessary to effect the decision. For decisions that include a quasi-judicial determination, the City Council may adopt the resolution or ordinance, as presented or as may be amended by the City Council, if it determines that the findings contained in the document are supported by the evidence presented at the hearing and the decision is supported by the findings. The City Council's decision is not final until adoption of the documents.
- B. A council member who was absent from all or a part of a public hearing shall not participate in a decision on the matter unless the council member has examined all the evidence, including listening to a recording of the oral testimony or reviewing a videotape or other electronic medium of the proceedings and represents that he or she has a full understanding of the matter.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.180. Application to administrative hearings—Disclosure of ex parte communications.**

- A. The procedures for the conduct of public hearings will apply to any quasi-judicial administrative hearing conducted by the City Council except as provided in Section 1.20.190.

B. During the public hearing for a quasi-judicial matter and as required by City Council Policy No. 92, council members must verbally disclose all ex parte communications concerning the subject of the public hearing. Such disclosure shall include a brief statement describing the name and content of the communication. As used in this section, ex parte communications are substantive, individual oral or written communications concerning quasi-judicial matters that occur outside of a noticed public hearing. Ex parte communications include site visits or investigations made by a council member. The presiding officer will request disclosure of ex parte communications from all council members before the time for receipt of public comment.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.190. Application of procedures required by law.**

Whenever the requirements of this code or other law require that hearings regarding a particular matter be conducted pursuant to a specific procedure, the provisions of the law establishing the requirements shall prevail over this chapter to the extent of any inconsistency. Specific rules of procedure for an administrative hearing established by official action of the City Council, upon recommendation of the City Attorney, will prevail over the provisions of this chapter to the extent of any inconsistency with respect to that hearing and other hearings of a similar nature.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.200. Evidence—Record of proceedings.**

- A. A decision of the City Council may be based on any relevant evidence provided to the City Council for its consideration of an item and accepted into the record of the proceedings by the presiding officer or made a part of the record of the proceedings pursuant to this section. In addition to oral presentations and documents presented at a meeting, the City Council may consider any adopted general plan, specific plan, ordinance, resolution or other record of official action of the city, and facts of common, general knowledge. The rules of evidence as established by law for judicial proceedings in the State of California are not applicable to proceedings of the City Council and any credible, relevant evidence appropriate to afford a full presentation of the facts necessary or convenient for judicious consideration of the matter which is the subject of the City Council's consideration may be presented at the discretion of the presiding officer. Failure of the presiding officer to strictly enforce rules of evidence or to reject matters that may be irrelevant or immaterial does not affect the validity of the hearing. Any procedural errors that do not materially affect the substantial rights of the parties will be disregarded. Rulings of the presiding officer are subject to change by the City Council in the same manner as any other procedural order.
- B. All materials included in the agenda packet for a meeting are evidence and part of the record of the proceedings for the agenda item to which they pertain. It is not necessary for materials included in the agenda packet to be read in full or referenced at the meeting; however, the staff may present a summary of the information as part of the staff presentation or upon request of the presiding officer. In addition, any of the following may be presented to the City Council during the meeting and, if presented, are evidence and part of the record:
  1. Exhibits and documents not included in the agenda packet that are used during the presentation by city staff or persons addressing the City Council and are provided to the City Council;
  2. Maps and displays used at the meeting; provided that, whenever practicable, they shall be displayed in full view of the participants and the audience;
  3. All written communications and petitions concerning an item presented at a meeting if the

presiding officer grants a request for inclusion in the record; however, reading of communications and petitions is not required and will generally be permitted only upon authorization by the presiding officer; and

4. Information obtained outside the City Council Chamber, such as a view of the site, provided the information, to the extent it is relied upon in a quasi-judicial matter, is disclosed for the record.
- C. The City Clerk services staff will retain the agenda packet, exhibits, reports, maps and other physical evidence placed before the City Council as public records. Such records may be released by the City Clerk services staff with the approval of the City Attorney. Items that are large, perishable, bulky or otherwise difficult to store may be returned to the person submitting the item provided that the City Clerk services staff retains a photographic, video or digital record of the item. The City Clerk services staff may make and retain photographic, video or digital records of proceedings of meetings subject to the same requirements applicable to other public records of the city.
- D. Whenever any law requires that testimony be presented to the City Council under oath or affirmation, the presiding officer or the City Clerk services staff may administer the oath or affirmation.  
(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.210. Subpoenas.**

The City Council may order the City Clerk to issue, and the Chief of Police or representative to serve, subpoenas for any witnesses or records necessary for the production of evidence at any duly scheduled public hearing or quasi-judicial administrative proceeding.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

#### **§ 1.20.220. Enforcement of decorum.**

- A. The Police Chief or such member of the police department as the chief, or authorized agent, may designate, is the sergeant-at-arms of the City Council. The sergeant-at-arms is required to be available to respond to all meetings immediately upon call, and will attend meetings at the request of the Mayor, City Manager or majority of the City Council. The sergeant-at-arms is responsible for enforcing the orders of the presiding officer given for the purpose of maintaining order and decorum at the City Council meetings. The sergeant-at-arms may, at any time, request assistance from other members of the police department to accomplish that purpose. The City Council may require the presiding officer to enforce the rules upon approval of a motion by any council member.
- B. Any person, including any member of the City Council or city staff, who by voice or conduct engages in disrupting conduct prohibited by Section 1.20.010(D) of this chapter or otherwise disrupts a City Council meeting by failing to comply with the rules established by this chapter or any applicable ethics ordinance adopted by the City Council, and continues to do so after the presiding officer has directed the person to stop, commits an offense punishable as an infraction.
- C. Any person arrested under subsection B of this section and who returns to the same meeting and again violates the provisions of subsection B of this section commits an offence punishable as a misdemeanor.
- D. Any person previously convicted under subsection B of this section who again violates the provisions of subsection B of this section commits an offence punishable as a misdemeanor.  
(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.230. Motions.**

A motion is the formal statement of a proposal or question to the City Council for consideration and action. Every council member has the right to present a motion. A motion may be made at any time during consideration of a matter on the agenda; however, the presiding officer may defer recognizing a motion until after presentation of a report of staff, public comment and questions by members. It is not necessary for a motion to be pending for deliberation of a matter on the agenda. If a motion is properly made, the presiding officer will call for a second. No further action is required on a motion that does not receive a second. If a motion contains two or more divisible propositions, the presiding officer may divide it and call for a separate vote on each proposition. A motion once made and seconded may not be withdrawn by the maker without the consent of the second. The presiding officer may, and upon request of any council member will, restate a motion before a vote; provided, however, that the presiding officer may request the restatement be made by the City Clerk or City Attorney.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.240. Rules relating to motions.**

- A. When a main motion is pending, no other motion may be entertained except the following which shall have precedence, one over the other, in the following order:
  1. Adjourn;
  2. Recess;
  3. Defer;
  4. Call the question;
  5. Limit or extend debate;
  6. Refer to commission, committee, or staff;
  7. Amend;
  8. Continue;
  9. Main motion.
- B. A motion may not repeat a motion made previously at the same meeting unless there has been some intervening City Council action or discussion. A motion may not be made if a motion to call the question is pending, and if the question has been called, until after the vote on the question. A motion may not be made while a vote is being taken. A motion may not be made to interrupt a council member while speaking. A motion regarding a point of order or to direct the presiding officer to enforce a provision of this chapter may be made at any time.
- C. The purpose and salient criteria of the motions listed in subsection A are as follows:
  1. Motion to adjourn:

Purpose. To terminate a meeting.  
Debatable or Amendable. No, except a motion to adjourn to another date, time, or place is debatable and amendable as to the date, time and place to which the meeting is to be adjourned.
  2. Motion to recess:

Purpose. To permit an interlude in the meeting and to set a definite time for continuing the meeting. Debatable or Amendable. Yes, but restricted as to time or duration of recess.

3. Motion to defer:

Purpose. To set aside, on a temporary basis, a pending main motion; provided that, it may be taken up again for consideration during the current meeting or at the next regular meeting. A motion to defer is also known as a motion to table.

Debatable or Amendable. It is debatable but not amendable.

4. Motion to call the question:

Purpose. To prevent or stop discussion on the pending question or questions and to bring such question or questions to vote immediately. If the motion passes, a vote shall be taken on the pending motion or motions.

Debatable or Amendable. No.

5. Motion to limit or extend debate:

Purpose. To limit or determine the time that will be devoted to discussion of a pending motion or to extend or remove limitations already imposed on its discussion.

Debatable or Amendable. Debate and amendments are restricted to duration of the proposed limit or extension.

6. Motion to refer to commission, committee or staff:

Purpose. To refer the question before the City Council to a commission, committee or city staff for the purpose of investigating or studying the proposal and making a report back to the City Council. If the motion fails, discussion or vote on the question resumes.

Debatable or Amendable. Yes.

7. Motion to amend:

Purpose. To modify or change a motion that is being considered. An amendment may be in any of the following forms: to "add" or "insert" certain words or phrases; to "strike out certain words or phrases and to add others"; to "replace" certain words, phrases or actions on the same subject matter as the one pending; to "divide the question" into two or more questions to allow for a separate vote on particular points. A motion to amend shall relate to the subject of the main motion. A motion to amend, including a motion to substitute an entire motion for the one pending, shall not be used to change the nature of the main motion; for example, a motion to replace the word "approve" with the word "disapprove" is prohibited where the nature of the main motion is changed. If a motion to amend passes, then the main motion should be voted on as amended.

Debatable or Amendable. It is debatable if the main motion to which it applies is debatable. It is amendable, but a motion to amend an amendment is not further amendable.

8. Motion to continue:

Purpose. To prevent further discussion and voting on the main motion until a future date or event. If the motion fails, discussion and voting on the main motion resumes. If it passes, the

subject of the main motion shall not be brought up again until the specified date or event.

Debatable or Amendable. It is debatable and amendable; however, amendments are limited to the date or event.

9. Main motion:

Purpose. The primary proposal or question before the City Council for discussion and decision.

Debatable or Amendable. Yes.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.250. City Council action.**

City Council action will be taken by motions approved by vote of council members. Action required by law to be taken by resolution or ordinance may be taken upon approval by the required number of affirmative votes of a motion to approve or adopt the resolution or ordinance. Action not requiring adoption of a resolution or ordinance, including providing direction or authorization to a city officer or employee, may be taken by motion recorded in the minutes of the meeting.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.260. Resolutions.**

Whenever feasible, resolutions implementing a staff recommendation will be included in the agenda packet. Resolutions will be prepared or approved by the City Attorney before submission to the City Council. It is not necessary to read the resolution by title or in full, provided it is identified by the presiding officer. Where a particular resolution has not been prepared in advance, a motion may direct the City Attorney to prepare the document and return it to the City Council. When necessary, a resolution may be presented verbally in motion form together with instructions for written preparation. Upon execution of such a resolution, it shall become an official action of the City Council.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.270. Ordinances.**

All ordinances will be prepared or approved by the City Attorney before submission to the City Council. The City Attorney will not prepare an ordinance unless directed by the City Council or City Manager or on the City Attorney's own initiative.

Ordinances will be adopted according to the procedure established by statute. As permitted by Government Code Section 36934, and unless otherwise directed by the City Council, a reading of the title or the ordinance shall not be required if the title is included on the published agenda and a copy of the full ordinance is made available to the public online and in print at the meeting prior to its introduction or passage.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.280. Correction of documents.**

The City Clerk services staff, with the consent of the City Attorney, is authorized to correct any typographical or other technical or clerical error in any document approved by the City Council. Upon correction, the corrected document may be executed in the manner required of the original and, when properly executed, will replace the original document, to be effective as of the date of the original document, and to be retained in the files of the City Clerk.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.290. Failure to observe procedures—Waiver.**

The provisions of this chapter are adopted to expedite the transaction of the business of the City Council in an orderly fashion and are deemed to be procedural only. The failure to strictly observe such rules shall not affect the jurisdiction of the City Council or invalidate any action taken at a meeting that is otherwise held in conformity with law. Nothing in this section shall preclude the presiding officer or City Council from taking any action to cure a violation or alleged violation of the provisions of this chapter or other applicable law governing the conduct of City Council meetings. Nothing in this section precludes the City Council from correcting a violation or alleged violation of the Brown Act according to the provisions of that Act.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.300. Limitation on liability.**

The procedural provisions of this chapter are directory in nature and shall not be deemed to create a mandatory duty, the breach of which could result in liability to the city or to any city officer or employee pursuant to state statute or other law.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.310. Appeals procedure.**

Where no specific appeals procedure is established by this code for any decision of a city commission, committee or official that substantially affects the rights, duties or privileges of an aggrieved person, such decision may be appealed to the City Council by filing a written notice of appeal with the City Clerk services staff within 10 calendar days of the date of the decision. Fees for filing an appeal shall be established by resolution of the City Council. The City Manager will place the matter on an agenda for City Council consideration in the manner provided in Section 1.20.060 and provide notice to the aggrieved person of the date, time and place of the meeting at which the matter will be considered. The aggrieved person will be permitted five minutes to make a presentation to the City Council, but otherwise, the procedures applicable to items not scheduled for public hearing will apply. The decision of the City Council regarding the matter is final.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

**§ 1.20.320. Correspondence addressed to the City Council.**

The City Manager is authorized to open and examine all written communications addressed to the City Council, except correspondence addressed to an individual council member. An individual council member may authorize the City Manager to open and examine correspondence addressed to that council member. The City Manager is authorized to take appropriate administrative action to address constituent concerns consistent with existing city policy. Matters requiring City Council action may be placed on the agenda by the City Manager in the manner provided in this chapter. On a weekly basis, the City Manager will provide the Mayor and council members with correspondence received and a report of any administrative action taken. Correspondence relating to an item on the agenda for a City Council meeting will be provided to the City Clerk services staff for inclusion in the agenda packet. The City Manager's office and City Clerk's office will coordinate on mail received by the City Clerk's office to effectively accomplish the purposes of this section.

(Ord. CS-329 § 3, 2018; Ord. CS-459 § 2, 2023)

## CHAPTER 1.24 EXPENDITURE LIMITATION

### **§ 1.24.010. Purpose and intent.**

The acquisition and/or development of real estate by the city has profound financial impacts upon the budget of the city and upon the tax burden imposed upon the taxpayers.

The city's financial resources have become more constrained as a result of the passage of recent constitutional amendments such as Proposition 13 and the Gann Initiative Spending Limitation, thereby increasing the significance and importance of decisions by the city to spend large amounts of money to purchase or develop real property.

In the absence of the provisions of this chapter requiring voter approval for major land acquisition or development projects by the city these decisions are often made without adequate public review and comment in the context of an overall capital improvements program.

It is the intent of this chapter to provide the citizens and taxpayers of Carlsbad with an opportunity to express directly their preference by vote prior to major city expenditures for the purchase or development of land.

It is not the intent of this chapter to interfere with the normal day-to-day administration of the city or with routine ongoing capital expenditures.

(Ord. 1255 § 1, 1982)

### **§ 1.24.020. Definitions.**

For purposes of this chapter, the following words and phrases shall have the following definitions:

"City funds" mean City of Carlsbad general fund moneys; federal general revenue sharing moneys and all other moneys, but shall not include categorical federal and state grants available to the city for specific purposes. City funds shall not include special assessments.

"Effective date" means the date on which the proposed ordinance codified in this chapter was adopted by the City Council or was passed by the voters at the polls, whichever occurs first.

"Improvement to real property" means the actual physical construction of improvements on real property owned, leased, or controlled by the city, or the modification, enlargement, or alteration of existing improvements on such property.

"Real property acquisition" means the purchase or lease of any real property, improved or unimproved, within or without the corporate limits of the city to be paid for in whole or in part by city funds.

(Ord. 1255 § 1, 1982)

### **§ 1.24.030. Vote required.**

The city shall make no real property acquisition and/or no improvement to real property the cost of which exceeds one million dollars in city funds, unless the proposed acquisition and/or improvement project and the cost in city funds is first placed upon the ballot and approved by a majority of the voters voting thereon at an election. A project may not be separated into parts or phases so as to avoid the effects of this chapter.  
(Ord. 1255 § 1, 1982)

**§ 1.24.040. Determination of cost.**

In determining whether or not the cost in city funds of a proposed real property acquisition or improvement to real property exceeds one million dollars, the following costs shall be included:

- A. The purchase price of the real estate, including improvements, or the present value of a lease, as appropriate;
- B. The contract price of the improvements;
- C. All preliminary studies and reports directly related to the acquisition or improvement, including, but not limited to, environmental impact reports, architectural renderings, soils analyses, engineering work, and the like;
- D. Finance cost, if any.

(Ord. 1255 § 1, 1982)

**§ 1.24.050. Guidelines.**

The City Council may adopt reasonable guidelines to implement this chapter following notice and public hearing.

(Ord. 1255 § 1, 1982)

**§ 1.24.060. Exemption for certain projects.**

This chapter shall not apply to any real property acquisition or improvement to real property which has obtained a vested right as of the effective date of the ordinance codified in this chapter. For purposes of this chapter, a "vested right" shall have been obtained if each of the following is met:

- A. The proposed project has received its final discretionary approval; and
- B. Substantial expenditures have been made in good faith reliance on the final discretionary approval; and
- C. Substantial construction has been commenced in good faith reliance on the final discretionary approval, where construction is contemplated.

Whether or not a vested right has been obtained in a particular case is a question of fact to be determined on a case-by-case basis by the City Council following notice and public hearing.

(Ord. 1255 § 1, 1982)

**§ 1.24.070. Amendment or repeal.**

This chapter may be amended or repealed only by a majority of the voters voting at an election thereon.

(Ord. 1255 § 1, 1982)

## GENERAL PROVISIONS

**Title 2****ADMINISTRATION AND PERSONNEL**

Chapter 2.04 <b>ELECTED OFFICIALS</b>		Chapter 2.12 <b>CITY MANAGER</b>
Chapter 2.08 <b>OFFICERS—EMPLOYEES GENERALLY</b>		Chapter 2.14 <b>CITY ATTORNEY</b>
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## CHAPTER 2.04 ELECTED OFFICIALS

### **§ 2.04.010. Compensation—Mayor and City Council.**

- A. The monthly compensation of City Council Members is increased from \$2,264.18 to \$2,354.75 upon the effective date of the ordinance codified in this section. Adjustments to City Council compensation shall not exceed the amount established by the San Diego Regional Consumer Price Index. Adjustments to City Council compensation must be made or permanently waived by ordinance in January of each year. The City Council is prohibited from enacting retroactive increases for years in which a salary increase was waived.
- B. The Mayor shall receive compensation of \$100.00 in addition to the compensation the Mayor receives as a City Council Member under subsection A of this section.
- C. The compensation established by this section is exclusive of any amounts payable to each member of the City Council as reimbursement for actual and necessary expenses incurred in the performance of official duties for the city.

(Ord. 1095-A § 1; Ord. 1188 § 1, 1976; Ord. 1207 § 1, 1978; Ord. 1213 § 1, 1979; Ord. 1227 § 1, 1980; Ord. 1243 § 1, 1982; Ord. 1272 § 1, 1984; Ord. 1289 § 1, 1986; Ord. 1293 § 1, 1987; Ord. NS-28 § 1, 1988; Ord. NS-122 § 1, 1990; Ord. NS-363 § 1, 1996; Ord. NS-442 § 1, 1998; Ord. NS-528 § 1, 2000; Ord. NS-615 § 1, 2001; Ord. NS-689 § 1, 2004; Ord. NS-792 § 1, 2006; Ord. NS-858 § 1, 2007; Ord. CS-024 § I, 2009; Ord. CS-269 § I, 2015; Ord. CS-340 § 2, 2018; Ord. CS-391 § 4, 2021; Ord. CS-414 § 1, 2022; Ord. CS-444 § 1, 2023; Ord. CS-463, 1/30/2024)

### **§ 2.04.020. Compensation—City Clerk and City Treasurer.**

- A. The compensation of the City Clerk and City Treasurer is increased from \$1,141.69 to \$1,187.36 per month, payable biweekly. In January of each year, when the City Council considers compensation adjustments under section 2.04.010(A), the City Council shall consider whether to adjust the compensation for the City Clerk and City Treasurer. Adjustments to the compensation for the City Clerk and City Treasurer shall not exceed the amount established by the San Diego Regional Consumer Price Index. The City Council may not enact retroactive increases for years in which a salary increase was not approved.
- B. In addition to the compensation the City Clerk and City Treasurer receive under subsection A of this section, the City Clerk and City Treasurer shall receive an automobile allowance as established by resolution of the City Council.

(Ord. CS-391 § 4, 2021; Ord. CS-435 § 2, 2022; Ord. CS-445 § 1, 2023; Ord. CS-464, 1/30/2024)

### **§ 2.04.025. Benefits—Elected officials.**

The city shall make available to each elected official the same benefit programs available to unrepresented management employees for retirement, health and welfare. Amounts provided to elected officials for retirement, health and welfare, or payments made to elected officials in lieu of receiving such benefits, shall not be included for purposes of determining compensation under Section 2.04.010 or 2.04.020.

(Ord. CS-429 § 2, 2022)

### **§ 2.04.030. Duties of Mayor.**

- A. The Mayor is a City Council Member with all the powers and duties of a City Council Member. The

Mayor may make or second motions and otherwise participate fully in the workings of the City Council. The Mayor shall vote on all questions. Whenever the vote is taken by means of a roll call, the Mayor's name shall be called last.

B. The Mayor shall sign:

1. All warrants drawn on the city treasury.
2. All written contracts and conveyances made or entered into by the city for which the City Council is the awarding authority as specified in Chapter 3.28.
3. All instruments requiring the city seal. The City Council may by ordinance authorize other officers of the city to sign such documents if the Mayor and Mayor Pro Tempore are both absent or unable to act.

C. The Mayor shall be the official head of the city for all ceremonial purposes, and shall perform all other duties as may be prescribed by resolution or ordinance.

D. Notwithstanding subsection (B)(2) of this section, the City Council may by ordinance or resolution authorize the City Manager or designee to sign any written contract or conveyance on behalf of the city.

(Ord. CS-391 § 4, 2021; Ord. CS-462, 12/12/2023)

#### **§ 2.04.040. Eligibility for office.**

A. To be eligible to hold office as Mayor, City Council Member, City Clerk or City Treasurer, a person must be an elector of the city at the time nomination papers are issued and must not have been convicted of a felony or other crime rendering the person ineligible under state law to hold public office.

B. To be eligible to become a candidate for the office of City Clerk, a person must meet one of the following minimum criteria at the time nomination papers are issued:

1. The person must have obtained the designation of Certified Municipal Clerk from the International Institute of Municipal Clerks.
2. The person must have two years of full-time, salaried work experience in either business administration or public administration and possesses a bachelor's degree from an accredited college or university.

C. To be eligible to become a candidate for the office of City Treasurer, a person must meet the following minimum criteria at the time nomination papers are issued:

1. The person must have a four-year college degree majoring in business administration, public administration, accounting, finance or economics.
2. The person must have four years of financial work experience.
3. In lieu of the work experience required in the preceding subsection (C)(2), the person may have one of the following:
  - a. A valid certificate from the California State Board of Accountancy to practice as a Certified Public Accountant;

- b. A valid Chartered Financial Analyst credential or a Certificate in Investment Performance Management from the CFA Institute;
  - c. A valid Certified Investment Management Analyst certification from the Investments & Wealth Institute; or
  - d. A valid Certified California Municipal Treasurer designation from the California Municipal Treasurers Association.
- D. Notwithstanding California Government Code Section 53227 or any successor statute regulating the eligibility of a local agency employee to serve on the local agency's legislative body, the Mayor or a City Council Member may simultaneously serve, without compensation, as a city volunteer subject to all applicable federal and state laws, municipal ordinances and rules and regulations, including conflict of interest and ethics laws, ordinances, rules and regulations.

(Ord. CS-023 § 1, 2009; Ord. CS-391 § 4, 2021; Ord. CS-462, 12/12/2023)

#### **§ 2.04.050. At-large election of Mayor, City Clerk, and City Treasurer.**

The Mayor, City Clerk, and City Treasurer shall be elected by the voters of the city at large. The persons elected as Mayor, City Clerk, and City Treasurer shall hold office for a term of four years from the first Tuesday following election and until a successor is elected, qualified and sworn into office.

(Ord. CS-391 § 4, 2021)

#### **§ 2.04.060. By-district election of City Council Members.**

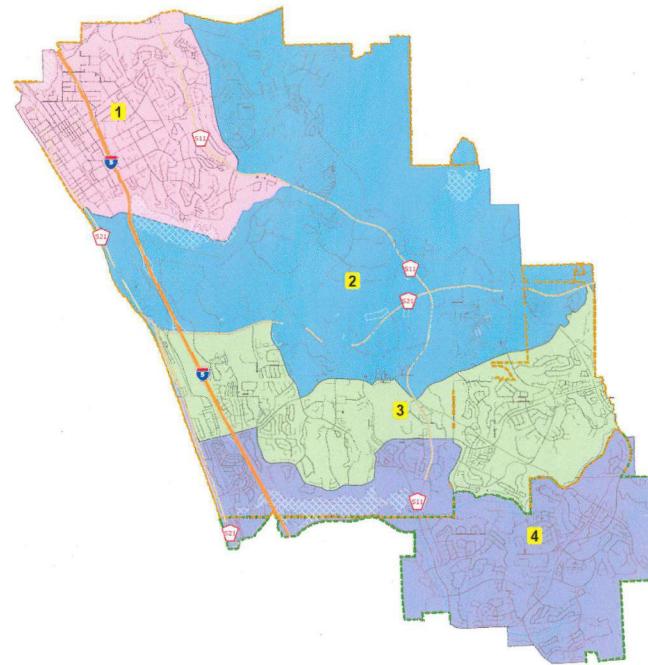
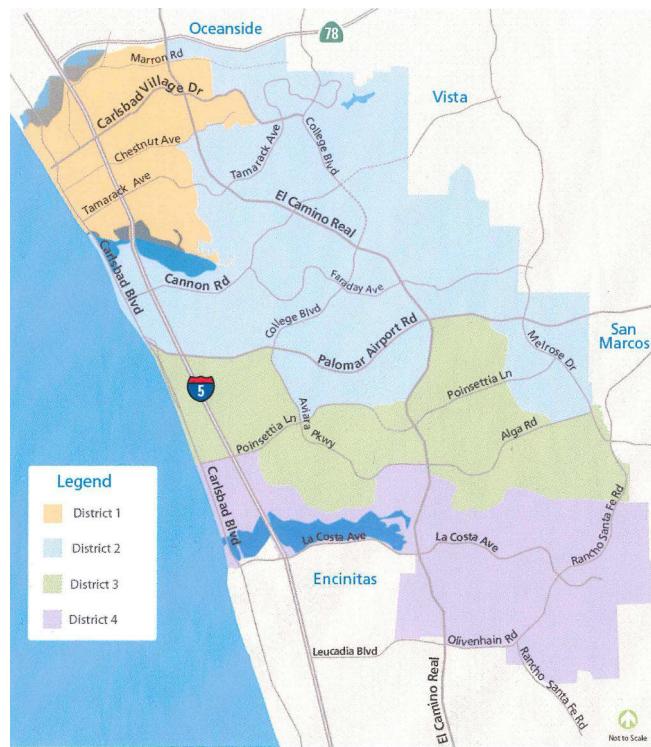
Pursuant to California Government Code Section 34886 and the schedule established in Section 2.04.080, City Council Members shall be elected on a by-district basis from four single-member council districts. The city's by-district electoral system shall be conducted in accordance with California Government Code Section 34871, subdivision (c).

(Ord. CS-322 § 2, 2017; Ord. CS-391 § 4, 2021)

#### **§ 2.04.070. Establishment of council districts.**

- A. Pursuant to Section 2.04.060, City Council Members shall be elected on a by-district basis, as that term is defined in California Government Code Section 34871, subdivision (c), from the four council districts.
  - 1. For City Council elections beginning in November 2022:
    - a. Council District 1 shall comprise all that portion of the city reflected on Figure A.
    - b. Council District 2 shall comprise all that portion of the city reflected on Figure B.
    - c. Council District 3 shall comprise all that portion of the city reflected on Figure A.
    - d. Council District 4 shall comprise all that portion of the city reflected on Figure B.
  - 2. For City Council elections beginning in November 2024 and continuing in effect until amended or repealed:
    - a. Council District 1 shall comprise all that portion of the city reflected on Figure A.
    - b. Council District 2 shall comprise all that portion of the city reflected on Figure A.

- c. Council District 3 shall comprise all that portion of the city reflected on Figure A.
- d. Council District 4 shall comprise all that portion of the city reflected on Figure A.

**Figure A****Figure B**

- B. Members of the City Council, excluding the Mayor, shall be elected in the electoral districts established by this section and subsequently reapportioned pursuant to applicable state and federal

law.

- C. Notwithstanding any other provision of this chapter, the City Council Member elected to represent a council district must reside in the district and be a registered voter in the district, and any candidate for City Council must live in, and be a registered voter in, the council district in which the candidate seeks election at the time nomination papers are issued, pursuant to California Government Code Section 34882 and California Elections Code Section 10227. Termination of residency in a council district by a City Council Member shall create an immediate vacancy for that council district unless a substitute residence within the district is established within 30 days after the termination of residency. (Ord. CS-322 § 2, 2017; Ord. CS-391 § 4, 2021; Ord. CS-418 § 2, 2022)

#### **§ 2.04.080. Council district election schedule.**

Except as otherwise required by Section 2.04.110, the City Council Members shall be elected in Council Districts 1 and 3 beginning at the General Municipal Election in November 2018, and every four years thereafter, as such Council Districts shall be amended. City Council members shall be elected from Council Districts 2 and 4 beginning at the General Municipal Election in November 2020, and every four years thereafter, as such council districts shall be amended.

(Ord. CS-322 § 2, 2017; Ord. CS-391 § 4, 2021)

#### **§ 2.04.090. Selection and duties of Mayor pro tempore.**

The City Council shall meet on the first Tuesday after the certification of the General Municipal Election results, or as soon thereafter as reasonably practicable, and choose one of its members as Mayor pro tempore. If the Mayor is absent or unable to act, the Mayor pro tempore shall serve as Mayor until the Mayor returns or is able to act. While serving as Mayor pursuant to this section, the Mayor pro tempore shall have all of the powers and duties of the Mayor.

(Ord. CS-391 § 4, 2021)

#### **§ 2.04.100. Reorganization of the City Council.**

As soon as reasonably practicable after a new City Council Member is sworn into office, or at the first regularly scheduled City Council meeting of the calendar year, the City Council shall appoint individual members of the City Council to boards, commissions, committees or other bodies as the City Council may find necessary for its effective functioning. These appointments shall be made by the Mayor subject to the approval of the City Council.

(Ord. 1258 § 1, 1982; Ord. NS-563 § 1, 2000; Ord. CS-391 § 4, 2021)

#### **§ 2.04.110. Vacancies in office.**

##### A. Declaration of Vacancy.

1. Vacancies. The office of an elected official becomes vacant upon death, resignation, or forfeiture or removal from office on any ground provided by law.
2. Forfeiture. In addition to any other ground provided by law, an elected official forfeits office if the elected official:
  - a. Lacks at any time during the elected official's term of office any qualification for the office prescribed by the city charter, this code or other applicable law; or
  - b. Accepts or retains any other elective public office.

3. Declaration of Vacancy. If a vacancy occurs, the City Council shall declare the existence of the vacancy or anticipated vacancy as soon as practicable. The date of the vacancy shall be determined as:

- a. In the case of a resignation, the effective date specified in the letter of resignation or, if no effective date is specified, the date upon which the letter of resignation is delivered to the City Clerk.
- b. In the case of election to another office, the date on which the elected official is sworn into the other office.
- c. If subsections (A)(3)(a) and (A)(3)(b) of this section do not apply, the date of the declaration of vacancy by the City Council.

B. Filling of Vacancy by Appointment.

1. If a vacancy is declared by the City Council with one year or less remaining in the term from the date of the declaration of vacancy, the City Council shall within 45 days appoint a person to fill the vacancy. A person appointed to fill a vacant office must meet the eligibility requirements for the office.
2. The City Council shall use good faith and best efforts to reach agreement on an appointment. If the City Council is unable to make an appointment within 45 days of the declaration of vacancy, the office shall remain vacant for the remainder of the term.
3. For a vacancy created by a City Council Member resigning from office, the resigning City Council Member may not cast a vote on the appointment.
4. In the event the City Council makes an appointment, the appointee office holder shall hold office until a successor is elected. Any person appointed by the City Council to fill the office of a council member or Mayor may not seek election to that same office until one year after the end of the appointed term.

C. Filling of Vacancy by Election. If a vacancy declared by the City Council occurs with 25 months or more remaining in the term from the date of the declaration of vacancy, the City Council shall fill the vacancy by calling a special election to be held on the next established election date not less than 114 days after the declaration of vacancy.

D. Filling of Vacancy by Appointment or Election.

1. If a vacancy is declared by the City Council with more than one year but less than 25 months remaining in the term from the date of the declaration of vacancy, the City Council may either appoint a person to fill the vacancy under subsection B of this section or call a special election to fill the vacancy under subsection C of this section.
2. The City Council shall determine whether to fill the vacancy by appointment or by special election within 14 days of the declaration of vacancy.
3. If the City Council determines to fill the vacancy by appointment and is unable to make an appointment within 45 days of the City Council declaring a vacancy, the City Council shall call a special election under subsection C of this section.

E. Notwithstanding any other provision in this section, if an appointment would result in a majority of the City Council Members being appointed, the City Council may not fill the vacancy by

appointment; rather: (1) where the vacancy is for a remaining term of one year or less, the office shall remain vacant; and (2) where the vacancy is for a remaining term of more than one year but less than 25 months, the City Council shall call a special election under subsection C of this section to fill the vacancy.

- F. Notwithstanding any other provision in this section, if the vacancy is in the office of City Clerk and there is less than 16 months remaining in the term from the date of the declaration of vacancy, the City Council may choose not to fill the vacancy by either appointment or by calling a special election and the office shall remain vacant for the remainder of the term.

(Ord. 1253 § 1, 1982; Ord. NS-223 § 1, 1993; Ord. NS-256 § 1, 1993; Ord. NS-529 § 1, 2000; Ord. NS-836, 2007; Ord. CS-044 § 1, 2009; Ord. CS-100 § 1, 2010; Ord. CS-391 § 4, 2021; Ord. CS-400 § 2, 2021)

**CHAPTER 2.08  
OFFICERS—EMPLOYEES GENERALLY**

**§ 2.08.035. Definition of City Engineer.**

The term "City Engineer" as used in this code is defined as the "Transportation Director," or designee, and is the person authorized to perform the functions of the City Engineer as defined in California Government Code Section 66416.5.

(Ord. CS-164 § 4, 2011; Ord. CS-389 § 2, 2021)

**§ 2.08.036. Definition of Deputy City Engineer.**

The term "Deputy City Engineer" as used in this code is defined as a licensed, registered professional engineer in the State of California who has been designated by the City Engineer to perform duties delegated to the Deputy City Engineer.

(Ord. CS-389 § 3, 2021)

**§ 2.08.037. Definition of district engineer.**

The term "district engineer" as used in this code is defined as a licensed, registered professional engineer in the State of California who has been authorized to perform district engineer duties for Carlsbad Municipal Water District matters.

(Ord. CS-389 § 3, 2021)

**§ 2.08.040. Officers' and employees' bonds.**

- A. Wherever individual bonds are required for specified officers or employees of the city, they may be provided in the form of a master official bond applicable to all other city officers and employees.
- B. The City Clerk, City Treasurer and Finance Director shall provide honesty and faithful discharge bonds regarding the duties imposed on their offices, in the amount recommended by the City Attorney pursuant to Government Code Section 36518 and as set forth in a resolution adopted by the City Council.
- C. The Finance Director is authorized and directed to pay the premium annually for any official bonds authorized or required by this section.

(Ord. 1005 § 3; Ord. 1009 § 1; Ord. 1239 § 1, 1981; Ord. NS-510 § 1, 1999)

**§ 2.08.050. Location of city offices—Office hours.**

The office for the conduct of business of the City Clerk, City Treasurer and Community and Economic Development Director shall be located in such place as the City Council by resolution may establish. Such resolution shall be passed at least two weeks in advance of any change and to be published once in a legal newspaper of general circulation of the city. Such office shall be kept open for the transaction of official business between the hours of 8:00 a.m. and 5:00 p.m., Saturdays, Sundays and legal holidays excluded.

(Ord. 1005 § 3; Ord. 1261 § 1, 1983; Ord. NS-676 § 1, 2003; Ord. CS-164 §§ 1, 14, 2011)

**§ 2.08.060. Vacation accrual, sick leave accrual and holiday pay.**

- A. Regular employees will accrue vacation and sick leave and be paid for city-recognized holidays in accordance with the memorandum of understanding applicable to them, as it may from time to time be amended by the parties to it and approved by resolution of the City Council.

B. Management employees will accrue vacation and sick leave and be paid for city-recognized holidays in accordance with the management compensation plan, as it may from time to time be amended by resolution of the City Council.

C. Hourly and temporary employees will not accrue vacation and sick leave or be paid for city-recognized holidays.

(Ord. NS-793 § 1, 2006)

**§ 2.08.070. Acceptance of state aid for training peace officers.**

The city declares that it desires to qualify to receive aid from the state under the provisions of Chapter 1 of Title 4, Part 4 of the California Penal Code. Pursuant to Section 13522 of such Chapter 1, the city while receiving aid from the state pursuant to such Chapter 1 will adhere to the standards for recruitment and training established by the commission on peace officer standards and training.

(Ord. 3052 §§ 1, 2)

**§ 2.08.100. Delegation of authority to accept donations.**

The City Manager shall have authority on behalf of the city to accept donations to the city in an amount or of a value of up to \$5,000.00. The City Manager shall use the gift or may sell it and use the proceeds in accordance with the donor's intent. If there is no such intent, the money shall be added to the city's contingency account. Each month the City Manager shall send to the City Council a report of all donations that have been accepted.

(Ord. 1295 § 1, 1987; Ord. CS-221, 2013)

## CHAPTER 2.12 CITY MANAGER

### **§ 2.12.005. Office created—Appointment.**

The office of the City Manager is created and established. The City Manager shall be appointed by the City Council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the City Council.

(Ord. 1040 § 1; Ord. 1088 § 1; Ord. 1156 § 1, 1973)

### **§ 2.12.010. Residency requirements.**

Residence in the city at the time of appointment of a City Manager shall not be required as a condition of the appointment, but within 180 days after reporting for work, the City Manager must become a resident of the city unless the City Council approves his or her residence outside the city.

(Ord. 1040 § 2; Ord. 1156 § 2, 1973)

### **§ 2.12.015. Eligibility of councilmembers for position.**

No member of the City Council shall be eligible for appointment as City Manager until one year has elapsed after such council member has ceased to be a member of the City Council.

(Ord. 1040 § 2; Ord. 1156 § 3, 1973)

### **§ 2.12.025. Manager pro tempore—Acting City Manager.**

The Assistant City Manager shall serve as Manager Pro Tempore during any temporary absence or disability of the City Manager. In the event there is no Assistant City Manager, the City Manager, by filing a written notice with the City Clerk, shall designate another qualified city employee to exercise the powers and perform the duties of the City Manager during the City Manager's temporary absence or disability. In the event the City Manager's absence or disability extends beyond a two-month period, the City Council may, after the two-month period, appoint an acting City Manager. Notwithstanding the aforementioned provisions of this section, the City Manager may, by filing a written notice with the City Clerk, designate a qualified city employee to exercise the powers and perform the duties of the City Manager during the City Manager's temporary absence of a period less than two months.

(Ord. 1040 § 4; Ord. 1156 § 5, 1973; Ord. CS-309 § 3, 2016; Ord. CS-403 § 2, 2021)

### **§ 2.12.030. Compensation.**

The City Manager shall receive such compensation as the City Council shall from time to time determine.

In addition, the City Manager shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her official duties.

On termination of employment of the City Manager by reason of involuntary removal from service other than for wilful misconduct in office, the City Manager shall receive cash severance pay in a lump sum equal to one month's pay for each of the first three years of continuous service or fraction thereof as City Manager, not to exceed a total of three months' pay, such pay to be computed at the highest salary received by the City Manager during his or her service with the city. Involuntary removal from service shall include reduction in pay not applicable to all employees of the city.

(Ord. 1040 § 5; Ord. 1156 § 6, 1973)

**§ 2.12.035. Powers and duties.**

The City Manager shall be the administrative head of the government of the city under the direction and control of the City Council except as otherwise provided in this chapter. The City Manager shall be responsible for the efficient administration of all the affairs of the city which are under his or her control. In addition to the City Manager's general powers as administrative head, and not as a limitation thereon, it shall be the City Manager's duty, and he or she shall have the powers set forth in the following subsections.

- A. Law Enforcement. It shall be the duty of the City Manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the City Council are faithfully observed.
- B. Authority Over Employees. It shall be the duty of the City Manager, and he or she shall have the authority to control, order, and give directions to all heads of departments and to subordinate officers and employees of the city under his or her jurisdiction through their department heads.
- C. Power of Appointment and Removal. It shall be the duty of the City Manager to appoint, discipline, remove, promote and demote any and all officers and employees of the city, except the City Clerk, City Treasurer and City Attorney, and as provided in Section 2.44.050 of this title, subject to all applicable personnel ordinances, rules and regulations.
- D. Administrative Reorganization of Offices. It shall be the duty and responsibility of the City Manager to conduct studies and effect such administrative reorganization of offices, positions or units under his or her direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business.
- E. Ordinances. It shall be the duty of the City Manager and he or she shall recommend to the City Council for adoption such policies, measures and ordinances as the City Manager deems necessary or expedient for the health, safety or welfare of the community.
- F. Attendance at Council Meetings. It shall be the duty of the City Manager to attend all meetings of the City Council unless at the City Manager's request he or she is excused therefrom by the Mayor individually or the City Council, except when his or her removal is under consideration. The City Manager may take part in all matters coming before the council.
- G. Financial Reports. It shall be the duty of the City Manager to keep the City Council at all times fully advised as to the financial conditions and needs of the city and make such recommendations as the City Manager may deem desirable.
- H. Budget and Salary Plan. It shall be the duty of the City Manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the City Council, with a message describing important features thereof, and be responsible for its administration after adoption.
- I. Expenditure Control and Purchasing. It shall be the duty of the City Manager to see that no expenditures shall be submitted or recommended to the City Council except on approval of the City Manager or authorized representative. The City Manager, or authorized representative, shall be responsible for the purchase of all supplies, materials and equipment for all the departments or divisions of the city for which funds are provided in the annual budget, and prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- J. Investigations and Complaints. It shall be the duty of the City Manager 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 of the city; further, it shall be the duty of the City Manager to investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city.

- K. Public Buildings and City Property. It shall be the duty of the City Manager, and he or she shall exercise general supervision over all public buildings, public parks and all other public property, equipment and supplies, which are under the control and jurisdiction of the City Council.
- L. Additional Duties. It shall be the duty of the City Manager to perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution or other official action of the City Council.

The City Manager shall also act as the Executive Manager for the Municipal Water District. The Executive Manager shall be the administrative head for the water district and report directly to the Board of Directors.

(Ord. 1040 § 6; Ord. 1156 § 7, 1973; Ord. NS-160 § 1, 1991; Ord. NS-793 § 2, 2006)

#### **§ 2.12.040. Delegation of powers and duties.**

Unless otherwise prohibited by state law or a provision of a resolution or ordinance adopted by the City Council, all duties and powers granted to or imposed upon the City Manager may be delegated by the City Manager to other officers, department heads or management employees of the city as the City Manager deems appropriate.

(Ord. NS-793 § 3, 2006)

#### **§ 2.12.110. Council-Manager relations.**

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 member thereof shall give orders or instructions to any subordinates of the City Manager. The City Manager shall take his or her orders and instructions from the City Council only when sitting in a duly convened meeting of the City Council and no individual councilmember shall give any orders or instructions to the City Manager; however, any councilmember may, as an individual, request pertinent information on municipal affairs and citizen complaints from the City Manager and from department heads through the City Manager. These requests will be answered promptly.

(Ord. 1040 § 21; Ord. 1156 § 9, 1973)

#### **§ 2.12.115. Departmental cooperation.**

It shall be the duty of all subordinate officers and the City Clerk, City Treasurer and City Attorney to assist the City Manager in administering the affairs of the city efficiently, economically and harmoniously.

(Ord. 1040 § 22; Ord. 1156 § 10, 1973)

#### **§ 2.12.125. Attendance at Commission meetings.<sup>1</sup>**

The City Manager may attend any and all meetings of the Planning Commission, Parks and Recreation Commission, Harbor Commission, Library Commission, Traffic and Mobility Commission and any other commissions, boards or committees created by the City Council, upon the City Manager's own volition or

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1. Editor's Note: As to meetings of the Library Commission, see Section 2.16.025 of this code; as to meetings of the Planning Commission, see Section 2.24.040; as to meetings of the Parks and Recreation Commission, see Section 2.36.060.

upon direction of the City Council. At such meetings which the City Manager attends, he or she shall be heard by such commissions, boards or committees as to all matters upon which the City Manager wishes to address the members thereof, and he or she shall inform the members as to the status of any matter being considered by the City Council, and the City Manager shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the City Council.

(Ord. 1040 § 24; Ord. 1156 § 12, 1973; Ord. CS-356 § 2, 2019)

#### **§ 2.12.130. Removal of City Manager.**

The removal of the City Manager shall be effected only by a majority vote of the whole City Council as then constituted, convened in a regular council meeting. In case of the City Manager's intended removal by the City Council, the City Manager shall be furnished with a written notice citing the council's action to remove him or her at least 30 days before the effective date of his or her removal. If the City Manager so requests, the City Council shall provide in writing reasons for the removal, which shall be provided the City Manager within seven days after the receipt of such request from the City Manager, and at least 15 days prior to the effective date of such removal. After furnishing the City Manager with written notice of removal, the City Council may suspend him or her from duty, but his or her compensation shall continue until the date of his or her removal has been established by action of the council. The removal of the City Manager is subject to the following subsections:

- A. Hearing. Within seven days after the delivery to the City Manager of such notice of intention to remove, the City Manager may, by written notification to the City Clerk, request a hearing before the City Council. Thereafter, the City Council shall fix a time for the hearing which shall be held at its usual meeting place, but before the expiration of the 30-day period, at which the City Manager shall appear and be heard, with or without counsel.
- B. Suspension Pending Hearing. 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 action of the council passed subsequent to the aforesaid hearing.
- C. Discretion of Council. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Manager to present to the City Council his or her grounds of opposition to his or her removal prior to its action.

(Ord. 1040 § 25; Ord. 1156 § 13, 1973)

#### **§ 2.12.135. Limitation on removal.**

Notwithstanding the provision of Section 2.12.130, the City Manager shall not be removed from office, other than for misconduct in office, during or within a period of 90 days next succeeding any general municipal election held in the city at which election a member of the City Council is elected or when a new City Councilmember is appointed. The purpose of this provision is to allow any newly elected or appointed member of the City Council or a reorganized City Council to observe the actions and ability of the City Manager in the performance of the powers and duties of the City Manager's office. After the expiration of the 90-day period, the provisions of Section 2.12.130 as to the removal of the City Manager shall apply and be effective.

(Ord. 1040 § 26; Ord. 1088 § 3; Ord. 1156 § 14, 1973)

#### **§ 2.12.140. Agreements on employment.**

Nothing in this chapter shall be construed as a limitation on the power or authority of the City Council to

enter into any supplemental agreement with the City Manager delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter.

(Ord. 1156 § 15, 1973)

**§ 2.12.145. Resignation.**

The City Manager shall provide written notice, in the event of his or her resignation, to the City Council at least 30 days prior to his or her termination date. The City Council may waive this provision at their sole discretion.

(Ord. 1156 § 16, 1973)

## CHAPTER 2.14 CITY ATTORNEY

### **§ 2.14.010. Office created.**

The office of the City Attorney is created and established.

(Ord. 1212 § 1, 1978)

### **§ 2.14.020. Appointment—Qualifications.**

The City Attorney shall be appointed by the City Council wholly on the basis of his or her legal ability and experience, particularly in the municipal law field. The City Attorney shall be an attorney-at-law licensed to practice law in the state.

(Ord. 1212 § 1, 1978)

### **§ 2.14.030. Eligibility of council members for position.**

No member of the City Council shall be eligible for appointment as City Attorney until one year has elapsed after such council member has ceased to be a member of the City Council.

(Ord. 1212 § 1, 1978)

### **§ 2.14.040. Compensation.**

The City Attorney shall receive such compensation as the City Council shall from time to time determine.

In addition, the City Attorney shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her official duties.

On termination of employment of the City Attorney by reason of involuntary removal from service other than for wilful misconduct in office, the City Attorney shall receive cash severance pay in a lump sum equal to one month's pay for each of the first three years of continuous service or fraction thereof as City Attorney, not to exceed a total of three months' pay, such pay to be computed at the highest salary received by the City Attorney during his or her service with the city. Involuntary removal from service shall include reduction in pay not applicable to all employees of the city.

(Ord. 1212 § 1, 1978)

### **§ 2.14.050. Powers and duties.**

The City Attorney shall be the chief legal officer of the city under the direction and control of the City Council. The City Attorney will also act as the legal counsel for the municipal water district (district), and report directly to the Board of Directors. Except as otherwise provided in this chapter, the City Attorney shall have the following responsibilities for both the city and district:

- A. Advise the City Council, its committees, its various boards and commissions or any city officer, when requested, upon all legal questions arising in the conduct of city business;
- B. Prepare or revise ordinances or resolutions when so requested by the City Council or by the City Manager;
- C. Make recommendations for ordinances, resolutions or other documents or procedures affecting the legal position of the city;

- D. Give his or her opinion upon any legal matter or question submitted to him or her by the City Council, any board or commission of the city, the City Manager, or any other city officer;
- E. Attend all City Council meetings, unless excused by the City Council, for the purpose of giving the City Council any legal advice requested by its members;
- F. Attend such meetings of other boards and commissions of the city as he or she shall deem necessary and proper or as the City Council may direct;
- G. Prepare for execution, or approve as to form, all contracts and instruments to which the city is a party, and approve as to form and for filing all bonds and insurance policies submitted to the city;
- H. Make the following reports:
  - 1. Immediately report the outcome of any litigation in which the city has an interest to the City Manager and the City Council;
  - 2. Make an annual report to the City Manager and the City Council as of July 31st of each year of all pending litigation in which the city has an interest and the condition thereof and of the state of his or her office;
- I. Enforce city laws and regulations through office hearings and court proceedings, both civil and criminal;
- J. Review and analyze all state and federal legislation affecting the city;
- K. Appear on behalf of the city before such legislative committees and regulatory agencies as the City Council may direct;
- L. Represent the city in all legal actions to which the city is a party and for which other arrangements for legal counsel have not been made;
- M. Perform such other duties as may be imposed by statute, by any ordinance of the city or by other action of the City Council;
- N. Deliver all records, documents and property of every description in his or her possession belonging to the City Attorney's office or to the city to his or her successor in office.

(Ord. 1212 § 1, 1978; Ord. NS-160 § 2, 1991)

#### **§ 2.14.060. Council-City Attorney relations.**

The City Attorney shall take his or her orders and instructions from the City Council only when sitting in a duly convened meeting of the City Council, and no individual council member shall give any orders or instructions to the City Attorney. However, any council member may, as an individual, request pertinent information on municipal affairs from the City Attorney. These requests will be answered promptly.

(Ord. 1212 § 1, 1978)

#### **§ 2.14.070. Departmental cooperation.**

It shall be the duty of all subordinate officers and the City Clerk, City Treasurer and City Manager to assist the City Attorney in carrying out the functions of his or her office.

(Ord. 1212 § 1, 1978)

**§ 2.14.080. Removal of City Attorney.**

The removal of the City Attorney shall be effected only by a majority vote of the whole City Council as then constituted, convened in a regular council meeting. In case of the City Attorney's intended removal by the City Council, the City Attorney shall be furnished with a written notice citing the council's action to remove him or her at least 30 days before the effective date of his or her removal. If the City Attorney so requests, the City Council shall provide in writing reasons for the removal, which shall be provided the City Attorney within seven days after the receipt of such request from the City Attorney, and at least 15 days prior to the effective date of such removal. After furnishing the City Attorney with written notice of removal, the City Council may suspend him or her from duty, but the City Attorney's compensation shall continue until the date of his or her removal has been established by action of the council. The removal of the City Attorney is subject to the following subsections:

- A. Hearing. Within seven days after the delivery to the City Attorney of such notice of intention to remove, the City Attorney may, by written notification to the City Clerk, request a hearing before the City Council. Thereafter, the City Council shall fix a time for the hearing which shall be held at its usual meeting place, but before the expiration of the 30-day period, at which the City Attorney shall appear and be heard, with or without counsel.
- B. Suspension Pending Hearing. After furnishing the City Attorney with written notice of intended removal, the City Council may suspend him or her from duty, but the City Attorney's compensation shall continue until his or her removal by action of the council passed subsequent to the aforesaid hearing.
- C. Discretion of Council. In removing the City Attorney, 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 Attorney to present to the City Council his or her grounds of opposition to his or her removal prior to its action.

(Ord. 1212 § 1, 1978)

**§ 2.14.090. Limitation on removal.**

Notwithstanding the provision of Section 2.14.080, the City Attorney shall not be removed from office, other than for misconduct in office, during or within a period of 90 days next succeeding any general or special municipal election held in the city, at which election a member of the City Council is elected or when a new City Council Member is appointed. The purpose of this provision is to allow any newly elected or appointed member of the City Council or a reorganized City Council to observe the actions and ability of the City Attorney in the performance of the powers and duties of his or her office. After the expiration of this 90-day period, the provisions of Section 2.14.080 as to the removal of the City Attorney shall apply and be effective.

(Ord. 1212 § 1, 1978)

**§ 2.14.100. Agreements on employment.**

Nothing in this chapter shall be construed as a limitation on the power or authority of the City Council to enter into any supplemental agreement with the City Attorney delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter.

(Ord. 1212 § 1, 1978)

**§ 2.14.110. Resignation.**

The City Attorney shall provide written notice, in the event of his or her resignation, to the City Council at least 30 days prior to his or her termination date. The City Council may waive this provision at its sole discretion.

(Ord. 1212 § 1, 1978)

**§ 2.14.120. Management and control of office.**

The City Attorney shall have the management and control over his or her office subject to all applicable personnel ordinances, rules and regulations.

(Ord. 1212 § 1, 1978; Ord. NS-793 § 4, 2006)

**§ 2.14.130. Employment of special counsel.**

Whenever the City Council deems it to be in the best interests of the city, it may employ special counsel to handle particular legal matters of the city, upon such terms as the City Council shall deem proper.

(Ord. 1212 § 1, 1978)

**§ 2.14.140. Limitation upon private practice.**

The City Attorney shall not engage in the private practice of law without the consent of the City Council, and then only upon such conditions as the City Council may impose.

(Ord. 1212 § 1, 1978)

## CHAPTER 2.15 BOARDS AND COMMISSIONS

### **§ 2.15.010. Applicability of provisions.**

The general provisions of this chapter apply to all boards and commissions, except as otherwise specifically provided in the Charter or in the ordinance or resolution authorizing a specific board or commission. In the event of an inconsistency between the general provisions contained in this ordinance and the provisions contained in a specific enabling ordinance or resolution, the specific ordinance or resolution shall control. (Ord. CS-337 § 3, 2018)

### **§ 2.15.020. General functions, powers, and duties.**

- A. Each board or commission shall have the functions, powers, and duties as are granted to or bestowed upon it by this chapter, by ordinance or by resolution of the City Council.
- B. The City Council may, at any time, change the powers, functions and duties of any board or commission in any manner and to any extent as the City Council deems necessary.
- C. Each board or commission shall provide to the City Council for its approval an annual work plan of activities to be undertaken and a subsequent report of its accomplishments. If any board or commission seeks to amend its work plan prior to the annual approval date, then the board or commission may vote to submit the amendment to the City Council for approval and may also request a joint meeting if the board or commission deems it necessary to discuss the proposed amendments.
- D. Each board or commission will provide periodic written reports to the City Council which should include:
  1. Recent activities of the board or commission;
  2. Attendance at the board or commission's meetings;
  3. Any ad hoc subcommittees which the board or commission has formed;
  4. Any proposed amendments to the board or commission's work plan; and
  5. Any matters which the board or commission wishes to bring to the attention of the City Council or to have placed on a future City Council agenda.
- E. Each board or commission may organize ad hoc subcommittees of a limited duration to advise the board or commission concerning its functions and duties.
- F. Each board or commission shall do such other things as may from time to time be requested or approved by the City Council.
- G. Each board or commission shall meet in accordance with its approved regular meeting schedule, unless a meeting(s) is cancelled by the chair or the majority of the board or commission for a lack of agenda items, and each board or commission shall be subject to the Ralph M. Brown Act, Government Code Section 54950 et seq.
- H. All board or commission meetings shall be held in the City Council Chambers unless another public meeting room has been approved by the City Clerk.
- I. The City Manager shall designate a city employee as a liaison for each board or commission.

(Ord. CS-337 § 3, 2018)

**§ 2.15.030. Board and commission membership—Qualifications.**

- A. In addition to any qualifications or limitations imposed by law or contained in the authorizing ordinance or resolution for any specific board or commission, members of the boards and commission must meet the following minimum qualifications:
  - 1. Resident of the City of Carlsbad and a registered voter.
  - 2. Not currently an officer of or employed by the City of Carlsbad.
  - 3. Not currently a sole proprietor under contract with the city, or a consultant or employee of an entity under contract with the city, performing work that relates to the powers or duties of the board or commission.
  - 4. Not currently an officer, director, owner or principal of an entity under contract with the City of Carlsbad to perform work that relates to the powers or duties of the board or commission.
  - 5. Appointment would not violate any term limits applicable to the position sought.
- B. The City Council may consider, in its discretion, the following additional criteria in appointing members to the boards and commission:
  - 1. Prior participation in the Citizen's Academy.
  - 2. Recent experience and/or understanding of municipal government.
  - 3. Knowledge of subject matter governed by the board or commission.
  - 4. Ability to fairly and impartially represent community interests.
  - 5. Experience on other boards, commissions or committees.
  - 6. Geographical diversity of the membership of the board or commission.

(Ord. CS-337 § 3, 2018; Ord. CS-442 § 2, 2022)

**§ 2.15.040. Local appointments list.**

The City Clerk shall compile and publish a local appointments list in accordance with Government Code Section 54970 et seq.

(Ord. CS-337 § 3, 2018)

**§ 2.15.050. Appointments.**

- A. Appointments to the Planning Commission, Parks and Recreation Commission, Community-Police Engagement Commission, and traffic safety and mobility commission shall be made by the following process:
  - 1. The Mayor and each council member shall nominate one individual to serve on each of the commissions for a term coinciding with the term of the council member making the appointment. The Mayor shall nominate two additional individuals to serve on each of the Planning Commission, Parks and Recreation Commission, and traffic safety and mobility commission. All nominations shall be subject to ratification by a majority vote of the City

Council. If a nominee is not approved by a majority vote of the City Council, the council member making the nomination may nominate another individual at the same or a subsequent meeting. In the event that a member of the City Council does not make any nomination within 45 days of the date the council member is sworn into office or within 60 days of the occurrence of a vacancy, the appointment will be made by the Mayor with the approval of the City Council.

2. Although each member of the City Council elected by a district shall use his or her best efforts to appoint individuals residing in that district to these commissions, members of the City Council may appoint individuals not residing in their districts in their discretion in order to ensure that the most interested and qualified individuals serve on the commissions.
- B. Appointments to all other city boards and commissions shall be made by the Mayor with the approval of the City Council.

(Ord. CS-337 § 3, 2018; Ord. CS-342 § 2, 2018; Ord. CS-356 § 2, 2019; Ord. CS-441 § 2, 2022; Ord. CS-451 § 2, 2023)

#### **§ 2.15.060. Term.**

- A. Members of boards or commissions shall serve for a term of four years, unless otherwise specified in this chapter. Such members shall be eligible for reappointment at the expiration of their first term for one additional four-year term. The City Council will specify the effective date of the appointment.
- B. Unless otherwise specified in this chapter, members who are appointed to serve unexpired terms due to an unplanned vacancy shall serve to the end of the former incumbent's term.
- C. Except as otherwise specified in this chapter, a member may be appointed to serve a term of less than four years if the council determines that it is in the best interest of the board or commission that a member serve a shorter term in order to provide for appropriate staggered terms to preserve a continuity of membership on the board or commission.
- D. Except as otherwise specified in this chapter, if a member has been appointed to serve a term of less than two years, the member may be reappointed to serve on the same board or commission for up to two consecutive additional terms.

(Ord. CS-337 § 3, 2018)

#### **§ 2.15.070. Vacancies, removal and attendance.**

- A. Members of the city's boards, commissions and committees shall serve until reappointed or until the member's successor has been appointed, qualified and seated. If a vacancy occurs other than by the expiration of a term, the vacancy shall be filled in the same manner as the original appointment.
- B. Appointees to all of the city's boards and commissions shall serve at the pleasure of the City Council. Any member of a city board or commission may be removed at any time, with or without cause, by the affirmative vote of three members of the City Council.
- C. Any member of a city board or commission will forfeit their seat on the board or commission if the member no longer meets the qualifications specified in Section 2.15.030(A)(1)–(4).
- D. To assure participation of board and commission members, attendance by the members of the boards and commissions at all regularly scheduled and special meetings of the boards and commissions shall be recorded, and such record shall be provided annually to the City Council for review. A board or commission member may be removed by the affirmative vote of three members of the City Council

due to the member's absence from three consecutive regular meetings or from 25% of the duly scheduled meetings of the board or commission within any fiscal year, except in the case of absences due to illness or by permission of the board or commission as documented by the board or commission liaison.

(Ord. CS-337 § 3, 2018; Ord. CS-442 § 3, 2022)

**§ 2.15.080. Chair and vice chair.**

- A. Each board or commission shall appoint one of its members as chair to serve for a term of one year.
- B. The chair shall preside at all meetings of the board or commission.
- C. Each board or commission may also appoint one of its members as a vice chair to serve in the place and stead of the chair during the chair's absence.
- D. The chair and vice chair shall be subject to removal at any time, for any or no reason, by a majority vote of the board or commission.

(Ord. CS-337 § 3, 2018)

**§ 2.15.090. Procedural rules and regulations.**

All boards and commissions shall conduct their meetings pursuant to the rules contained in Carlsbad Municipal Code Chapter 1.20 and any additional rules and regulations developed by the City Clerk working in conjunction with the board or commission.

(Ord. CS-337 § 3, 2018)

**§ 2.15.100. Quorum.**

Unless otherwise specifically provided in this chapter, a majority of the total number of members of the board or commission shall be necessary to constitute a quorum for a board or commission to take action.

(Ord. CS-337 § 3, 2018)

**§ 2.15.110. Relationship with city departments and staff liaisons.**

So far as is practicable, and subject to approval of the City Manager, the services of the various city departments shall be made available by the heads of each department to the board or commission, to the extent it is necessary to enable it to perform its functions, powers, and duties.

Staff liaisons are generally responsible for accurate meeting notices and record keeping, communicating between the board or commission and other city staff, assisting the committee in executing the council approved work plan, gathering public input, assisting the board or commission in staying focused on noticed agenda items and maintaining a positive work relationship with the board or commission.

The liaisons do not work "for" or "at the direction" of the board or commission. Instead, the liaisons are professionals who work for the City Manager and with the boards and commissions to develop information and recommendations for the City Council within the scope of an approved work plan.

(Ord. CS-337 § 3, 2018)

**§ 2.15.120. Members—Compensation.**

Unless specifically appropriated and approved by the City Council, all members of the city's boards, commissions and committees shall serve without compensation.

(Ord. CS-337 § 3, 2018)

**CHAPTER 2.16  
BOARD OF LIBRARY TRUSTEES**

**§ 2.16.005. Created.**

The Board of Library Trustees is created to manage the city library.

(Ord. NS-169 § 7, 1991; Ord. CS-036 § 1, 2009)

**§ 2.16.010. Membership—Appointment—Terms.**

The Board of Library Trustees shall consist of five members, appointed by the Mayor with the approval of the City Council. The trustee shall serve a four-year term. Trustees may serve no more than two complete terms. If a vacancy occurs as a result of a trustee leaving the Board before the end of the trustee's term, the successor shall serve for the remaining term of his or her predecessor.

(Ord. NS-176 § 7, 1991; Ord. CS-036 § 1, 2009)

**§ 2.16.025. Monthly meetings.**

Boards of library trustees shall meet at least once a month at such times and places as they may fix by resolution.

(Ord. 1072 § 6; Ord. CS-036 § 1, 2009)

**§ 2.16.030. Special meetings.**

Special meetings may be called at any time by three trustees, by written notice served upon each member at least three hours before the time specified for the proposed meeting.

(Ord. 1072 § 7; Ord. CS-036 § 1, 2009)

**§ 2.16.035. Quorum.**

A majority of the Board shall constitute a quorum for the transaction of business.

(Ord. 1072 § 8; Ord. CS-036 § 1, 2009)

**§ 2.16.040. President.**

The Board shall appoint one of its members president, who shall serve for one year and until his or her successor is appointed, and in his or her absence, shall select a president pro tempore. The president shall serve as chair of the Board, and in his or her absence, the president pro tempore shall serve as vice-chair of the Board.

(Ord. 1072 § 9; Ord. CS-036 § 1, 2009)

**§ 2.16.045. Record of proceedings.**

The Board of Library Trustees shall cause a proper record of its proceedings to be kept.

(Ord. 1072 § 10; Ord. CS-036 § 1, 2009)

**§ 2.16.050. Rules, regulations and bylaws for the administration of the Board.**

The Board of Library Trustees may make and enforce all rules, regulations and bylaws necessary for the administration of the Board of Library Trustees and all property belonging thereto.

(Ord. 1072 § 11; Ord. CS-036 § 1, 2009; Ord. CS-174 § 2, 2012)

**§ 2.16.055. Administration of trusts—Receipt, holding and disposal of property.**

Subject to City Council approval, the Board of Library Trustees may administer any trust declared or created for the benefit of the library, and receive by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

(Ord. 1072 § 12; Ord. CS-036 § 1, 2009)

**§ 2.16.060. Recommendations to City Council.**

The Board of Library Trustees may make recommendations to the City Council and advise the City Council in matters pertaining to the following:

- A. The duties and powers of the librarian and other library employees;
- B. The number of employees;
- C. The purchase of equipment, real estate and buildings;
- D. The advisability and desirability of facilities of the city library;
- E. The amounts of moneys required to operate the library;
- F. Policies related to the administration of the city library.

(Ord. 1072 § 13; Ord. CS-036 § 1, 2009; Ord. CS-174 § 3, 2012)

**§ 2.16.070. Purchase of real property—Erection or rental and equipment of buildings or rooms.**

Subject to City Council approval, the Board of Library Trustees shall have the authority to purchase real property, and erect or rent and equip, such buildings or rooms as may be necessary, providing they have sufficient funds in the "library trust fund" provided for in Section 3.24.020.

(Ord. 1072 § 15; Ord. CS-036 § 1, 2009)

**§ 2.16.075. State publications.**

The Board of Library Trustees may request the appropriate state officials to furnish the library with copies of any and all reports, laws and other publications of the state not otherwise disposed of by law.

(Ord. 1072 § 16; Ord. CS-036 § 1, 2009)

**§ 2.16.080. Borrowing library materials.**

The Board of Library Trustees shall authorize the library and cultural arts director to borrow library materials from, lend library materials to, and exchange library materials with other libraries, and may allow residents and nonresidents to borrow library materials upon such condition as the Board may prescribe.

(Ord. 1072 § 17; Ord. CS-036 § 1, 2009; Ord. CS-164 § 16, 2011)

**§ 2.16.085. Incidental powers of Board.**

The Board of Library Trustees may do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. The Board of Library Trustees shall further have the power to promulgate and adopt rules and regulations pertaining to the city library.

(Ord. 1072 § 18; Ord. CS-036 § 1, 2009; Ord. CS-174 § 4, 2012)

**§ 2.16.090. Annual report.**

The Board of Library Trustees, or if there is no Board of trustees, then the Library and Cultural Arts Director shall, on or before September 30, in each year, report to the legislative body of the municipality and to the state librarian on the condition of the library, for the year ending the 30th day of June preceding. The reports shall, in addition to other matters deemed expedient by the Board of Trustees or Library and Cultural Arts Director, contain such statistical and other information as is deemed desirable by the state librarian. For this purpose, the state librarian may send to the several Boards of Trustees or Library and Cultural Arts Director instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

(Ord. 1072 § 19; Ord. CS-036 § 1, 2009; Ord. CS-164 § 16, 2011)

**§ 2.16.095. Safety, preservation and application of funds not payable into library trust fund.**

If payment into the library trust fund or other fund is inconsistent with the conditions or terms of any gift, devise or bequest, the Board of Library Trustees shall provide for the safety and preservation of the funds, and the application thereof to the use of the library in accordance with the terms and conditions of the gift, devise or bequest.

(Ord. 1072 § 22; Ord. CS-036 § 1, 2009)

**§ 2.16.105. Free use of library by residents and nonresident taxpayers—Exclusions.**

Every city library established pursuant to this chapter shall be forever free to the residents and nonresident taxpayers of the municipality, subject always to such rules and regulations as may be made by the Board of Library Trustees. Any person who violates any rule or regulation may be fined or excluded from the privileges of the library.

(Ord. 1072 § 24; Ord. CS-036 § 1, 2009)

**§ 2.16.110. Contracts for lending books with neighboring municipalities or county—Compensation.**

The Board of Library Trustees and the legislative body of any neighboring municipality or the Board of Supervisors of the county in which the public library is situated, may contract for lending the books of the library to residents of the county or neighboring municipality, upon a reasonable compensation to be paid by the county or neighboring municipality.

(Ord. 1072 § 25; Ord. CS-036 § 1, 2009)

**§ 2.16.115. Title to property.**

The title to all property acquired for the purposes of the library, when not inconsistent with the terms of its acquisition, or otherwise designated, vests in the municipality in which the library is situated, and in the name of the municipal corporation may be sued for and defended by action at law or otherwise. The City Council may authorize title to any property acquired for the purposes of the library to be vested in the Board of Library Trustees.

(Ord. 1072 § 26; Ord. 1076 § 1; Ord. CS-036 § 1, 2009)

**CHAPTER 2.18  
CARLSBAD ARTS COMMISSION**

**§ 2.18.010. Created.**

The Carlsbad Arts Commission is created as an advisory body to the City Council.  
(Ord. CS-124 § 2, 2011; Ord. CS-446 § 2, 2023)

**§ 2.18.020. Purpose.**

The purpose of the Carlsbad Arts Commission is to advise the City Council on arts and culture related matters and implementation of the arts element of the Carlsbad General Plan.  
(Ord. CS-124 § 3, 2011; Ord. CS-268 § 1, 2015; Ord. CS-446 § 2, 2023)

**§ 2.18.030. Membership.**

The Carlsbad Arts Commission shall consist of seven members on staggered terms appointed pursuant to Section 2.15.050(B).  
(Ord. CS-124 § 4, 2011; Ord. CS-446 § 2, 2023)

**§ 2.18.100. Powers and duties generally.**

The Carlsbad Arts Commission shall:

- A. Encourage and advocate for the arts;
- B. Provide assistance and guidance to the cultural arts office regarding arts programming, public art and arts-related educational programming;
- C. Make recommendations to the City Council regarding policies related to arts programming, public art and arts-related educational programming;
- D. Provide a forum for citizen concerns regarding art issues;
- E. Provide financial assistance whenever feasible to groups or individuals who provide public arts programming to the citizens;
- F. Make recommendations to the City Council for the planning and development of new or augmented arts facilities as may be needed;
- G. Make recommendations to the City Council regarding all works of art to be acquired by the city, either by purchase, gift or otherwise, and their proposed locations;
- H. Make recommendations to the City Council regarding the conservation, restoration, relocation or disposition of works of art in the city's possession;
- I. Determine a method or methods of recommending the selection and commissioning of artists with respect to the design, execution and placement of works of art for which appropriations have been made, and pursuant to such method or methods, recommend to the City Council selection of artists by contract for such purposes.

(Ord. CS-124 § 11, 2011; Ord. CS-446 § 2, 2023)

**§ 2.18.110. Appropriations for arts.**

- A. All city departments shall include in all estimates of necessary expenditures and all requests for authorizations or appropriations for construction projects, an amount for works of art equal to at least one percent of the total cost of any such construction project as estimated in the city's capital improvement program for the year in which such estimate or request is made. If there are legal restrictions on the source of funding with respect to any particular project which precludes art as an object of expenditure of funds, the amount of funds so restricted shall be excluded from the total project cost in making the required estimate.
- B. The City Council may make appropriations for works of art in connection with construction projects as provided in this chapter.
- C. "Construction project" means any of the following:
1. Construction, reconstruction, or renovation in excess of \$500,000.00, involving any publicly owned, leased, or operated facility including any plant, building, structure, utility system, real property, streets and highways, or other public work improvement.
  2. Street or streetscape improvement projects other than street repair or reconstruction. In the case of streetscape and right-of-way enhancement projects, streetscape means an improvement to a public right-of-way, including a sidewalk, tree, light fixture, sign, and furniture. Some funding sources, such as sources restricted to "transportation purposes" or "direct construction costs" may prohibit formula-based expenditures for art. Thus, one percent for art will not be collected from those sources. However, the City Council may provide funding for public art for street or streetscape improvements from general fund revenues on a case-by-case basis.
  3. In the case of a publicly owned utility system, "construction project" shall include only the construction, erection, and improvement, of dams, reservoirs, and power plants.
- D. For the purposes of the art in public places program, "construction project" does not mean any of the following maintenance work:
1. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility (see Section 2.18.110(C)(1)) for its intended purposes.
  2. Resurfacing of streets and highways.
  3. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
  4. Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, and power plants.
- E. Annually, the administrative services branch of the City of Carlsbad will verify the one percent for public art allocation for all eligible capital improvement program projects has been included in the budgeted amounts for City Council approval. As an alternative, where funding for eligible projects is restricted and cannot be used for public art, the City Council may appropriate one percent for art funding from the general capital construction fund or the general fund. The funds for art allocations may be used for projects located at the direct site of the capital improvement program project, or pooled for other future public art projects identified by the Cultural Arts Manager and Carlsbad Arts Commission. The park in lieu fee funded one percent for art allocations must be used for artwork at a park within the same quadrant where the fee was paid.
- F. Any funds realized from the disposition of objects in the city's art in public places collection shall be

used for the benefit of the city's art in public places collection; specifically, for the purposes of acquiring, restoring and refurbishing public art. Notwithstanding the preceding sentence, the City Council shall have the discretion to appropriate any funds realized from the disposition of objects in the city's art in public places collection for other purposes.

(Ord. CS-124 § 12, 2011; Ord. CS-268 § 3, 2015; Ord. CS-446 § 2, 2023)

**§ 2.18.120. Selection and placement of works of art.**

- A. The selection of artists, commissioning of artworks, acceptance of donated artworks, and placement of works of art shall be governed by the art in public places program as developed and adopted by the Carlsbad Arts Commission and the City Council.
- B. The Carlsbad Arts Commission shall have the power to promulgate and adopt rules and regulations pertaining to the art in public places program.

(Ord. CS-124 § 13, 2011; Ord. CS-268 § 4, 2015; Ord. CS-446 § 2, 2023)

**§ 2.18.130. No delegation of legislative authority.**

Nothing in this chapter shall be construed as restricting any of the powers of the City Council, or as a delegation to the Carlsbad Arts Commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest requires the establishment of a Carlsbad Arts Commission to act in a purely advisory capacity to the City Council for the purposes enumerated in this chapter. Any power herein delegated to the Carlsbad Arts Commission to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority.

(Ord. CS-124 § 14, 2011; Ord. CS-446 § 2, 2023)

## CHAPTER 2.24 PLANNING COMMISSION

### **§ 2.24.010. Created.**

Pursuant to Section 65100 of the California Government Code a Planning Commission for the city is created and established.

(Ord. 1020 § 1; Ord. CS-040 § I, 2009; Ord. CS-367 § 2, 2019)

### **§ 2.24.020. Composition—Appointment.**

The Planning Commission shall consist of seven members to be appointed pursuant to Section 2.15.050, and of three ex officio members who shall be the City Engineer, the City Attorney and the City Planner. For the purposes of the Planning Commission Membership, "City Engineer" means the City Engineer or Deputy City Engineer, land development engineering.

(Ord. 1020 § 2; Ord. 1157 § 1, 1973; Ord. 1200 § 1, 1977; Ord. 1256 § 1, 1982; Ord. NS-676 §§ 1, 2, 2003; Ord. CS-040 § I, 2009; Ord. CS-164 §§ 10, 14, 2011; Ord. CS-367 § 2, 2019; Ord. CS-389 § 4, 2021)

### **§ 2.24.030. Duties.**

In addition to the duties specified by this chapter, the Planning Commission shall perform the duties and have all the rights, powers and privileges specified and provided for by city or state law.

(Ord. 1020 § 6; Ord. 9424 § 1, 1975; Ord. CS-040 § I, 2009; Ord. CS-333 § 1, 2018; Ord. CS-367 § 2, 2019)

### **§ 2.24.040. General plan conformance—Time for or waiver of report.**

A. The Planning Commission shall not be required to report as to conformity with the general plan regarding real property acquired by dedication or otherwise for street, square, park or other public purposes, the disposition of real property, vacated or abandoned streets, and the construction or authorization of a public building or structure. The City Council shall make a finding of consistency with the general plan when approving any of the above.

B. The Planning Commission shall not be required to make a general plan consistency finding for the list of proposed public works recommended for planning, initiation or construction during the ensuing fiscal year for the city's capital improvement program. The City Council shall make the general plan consistency finding when approving the city's annual capital improvement program or any amendments thereto.

(Ord. 9424 § 2, 1975; Ord. CS-040 § I, 2009; Ord. CS-071 § 1, 2009; Ord. CS-367 § 2, 2019)

## CHAPTER 2.28 TRAFFIC SAFETY AND MOBILITY COMMISSION

### **§ 2.28.010. Created.**

A traffic safety and mobility commission for the city is established.

(Ord. 1106 § 1, 1968; Ord. 1262, 1983; Ord. NS-169 § 4, 1991; Ord. CS-214, 2013; Ord. CS-356 § 2, 2019; Ord. CS-451 § 3, 2023)

### **§ 2.28.020. Membership.**

The traffic safety and mobility commission shall consist of seven members appointed pursuant to Section 2.15.050(A).

(Ord. CS-451 § 3, 2023)

### **§ 2.28.050. Duties.**

It shall be the duty of the traffic safety and mobility commission to study matters concerning mobility and traffic safety, including implementation of the General Plan Mobility Element, and to make written recommendations to the City Council and Planning Commission regarding measures that should be taken to promote mobility and traffic safety within the city as follows:

- A. Review staff studies and reports, and make recommendations to the City Council and Planning Commission on mobility and traffic safety matters, including, but not limited to, those related to pedestrian, bicycle, vehicular, and transit modes of travel, and parking and school safety;
- B. Provide a public forum to review community input regarding mobility and traffic safety matters, including, but not limited to, those related to pedestrian, bicycle, vehicular, and transit modes of travel, and parking and school safety;
- C. Review and provide recommendations for revision to the city codes and plans on mobility and traffic safety matters, including, but not limited to, pedestrian, bicycle, vehicular, and transit modes of travel, and parking and school safety.

(Ord. 1106 § 5, 1968; Ord. 1262, 1983; Ord. NS-9 § 1, 1988; Ord. CS-214, 2013; Ord. CS-356 § 2, 2019; Ord. CS-451 § 3, 2023)

### **§ 2.28.060. Powers delegated to commission to be advisory.**

Nothing in this chapter shall be construed as restricting any of the powers of the City Council, or as a delegation to the traffic safety and mobility commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience and welfare require the appointment of a traffic safety and mobility commission to act in a purely advisory capacity to the City Council for the purposes enumerated. Any power herein delegated to the commission to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority.

(Ord. CS-451 § 3, 2023)

**CHAPTER 2.30  
COMMUNITY-POLICE ENGAGEMENT COMMISSION**

**§ 2.30.010. Created.**

A Community-Police Engagement Commission is created.

(Ord. CS-441 § 3, 2022)

**§ 2.30.020. Purpose.**

The purpose of the Commission is to provide a cooperative and collaborative forum for the community and police leadership to learn and discuss the challenges of modern-day policing and provide a community perspective about public safety challenges. The Commission will work collaboratively with the Police Chief to provide advice, support, and recommendations relating to current or newly considered policies and programs with an overarching goal of building trust and fostering strong police-community relations.

The Commission shall have no authority to direct the conduct of any department, including the police department, to review or advise upon personnel matters related to individual peace officers or to review confidential peace officer personnel files. It is not the purpose of this Commission to review or comment upon items staff will present to the City Council, unless the item is referred to the Commission by the City Council or City Manager.

(Ord. CS-441 § 3, 2022)

**§ 2.30.030. Membership—Term—Qualification.**

The Community-Police Engagement Commission shall consist of five members to be appointed pursuant to Section 2.15.050(A) with staggered terms as provided in Section 2.15.060. In addition to those qualifications provided by Section 2.15.030, the City Council may consider the following additional criteria in appointing members to the Commission:

1. A demonstrated ability to be open minded, impartial, objective, and unbiased;
2. An absence of any real or perceived bias, prejudice, or conflict of interest;
3. A record of community involvement;
4. An ability to build constructive working relationships and communicate effectively with diverse groups;
5. A demonstrated commitment to the purpose of the Commission with an eye toward fostering positive police-community relationships;
6. Attendance at the Carlsbad Citizens Police Academy.

Persons with ongoing litigation against the city related to police matters shall be ineligible to serve on the Commission. In addition, current Carlsbad Police Department employees and their parents or children are ineligible to serve on the Commission.

(Ord. CS-441 § 3, 2022)

**§ 2.30.040. Training.**

- A. Following appointment to the Commission, members shall receive training on the following:

1. The authority and responsibilities associated with their role as a Commission member;
  2. City policies and legal requirements governing Commission meetings; and
  3. Carlsbad Police Department policies, procedures, and practices.
- B. In addition, as soon as reasonably practical, ideally within the first six months of their appointment, Commission members shall attend or observe the following:
1. Police officer use of force training, including defensive tactics and scenario-based training;
  2. Police officer implicit bias training;
  3. Police officer training related to interaction with people in mental health crisis;
  4. At least two ride-alongs with the Carlsbad Police Department, one of which should be with the homeless outreach team; and
  5. A presentation from the city's homeless services coordinator.

(Ord. CS-441 § 3, 2022)

#### **§ 2.30.050. Meetings.**

The Community-Police Engagement Commission shall establish a regular time and place of meetings and shall hold not less than one meeting per quarter. The majority of the appointed members shall constitute a quorum for the purpose of transacting the business of the Commission.

Each regular meeting agenda shall include an item allowing the Police Chief or designee to provide a police department update, including a report on any notable past or upcoming events the police department is planning for and relevant data, such as crime analysis and police response data.

(Ord. CS-441 § 3, 2022)

#### **§ 2.30.060. Duties.**

The Commission's duties are to:

1. Promote productive communication and interaction between the City of Carlsbad Police Department and community;
2. Provide a forum for police leadership to inform the Commission and public of police initiatives, challenges, and data relating to police activity;
3. Educate the community and receive community feedback regarding policing standards and expectations;
4. Create additional community access to public safety information;
5. Recommend changes or improvements to Carlsbad Police Department policies, procedures or training;
6. Review new or proposed Carlsbad Police Department programs to evaluate how those programs might impact the Carlsbad community, including disenfranchised and marginalized communities;
7. Provide a forum for presentations by police leadership on matters that receive high media interest or come to the attention of the Commission.

(Ord. CS-441 § 3, 2022)

**§ 2.30.080. Powers delegated to Commission to be advisory.**

Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the City Council, or as a delegation to the Community-Police Engagement Commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience and welfare require the appointment of a Community-Police Engagement Commission to act in a purely advisory capacity to the City Council for the purposes enumerated. Any power herein delegated to the Commission to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority.

(Ord. CS-441 § 3, 2022)

## CHAPTER 2.34 BEACH PRESERVATION COMMISSION

### **§ 2.34.010. Created.**

A Beach Preservation Commission for the city is established.

(Ord. CS-452 § 2, 2023)

### **§ 2.34.020. Membership.**

The Beach Preservation Commission shall consist of seven members appointed pursuant to Section 2.15.050(B).

(Ord. CS-452 § 2, 2023)

### **§ 2.34.030. Duties.**

The Beach Preservation Commission shall investigate, research, and make recommendations to the City Council and the City Manager on general coastal topics, studies, and programs, including, but not limited to, the following:

- A. Protecting and enhancing the shoreline (e.g., littoral cells, and sea level rise);
- B. Preventing beach erosion; and
- C. Preserving and maintaining beaches for the safety and optimum enjoyment of the public.

(Ord. CS-452 § 2, 2023)

### **§ 2.34.040. Powers delegated to Commission to be advisory.**

Nothing in this chapter shall be construed as restricting any of the powers of the City Council, or as a delegation to the Beach Preservation Commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience and welfare require the appointment of a Beach Preservation Commission to act in a purely advisory capacity to the City Council for the purposes enumerated. Any power herein delegated to the Commission to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority.

(Ord. CS-452 § 2, 2023)

**CHAPTER 2.36  
PARKS AND RECREATION COMMISSION**

**§ 2.36.010. Created.**

A Parks and Recreation Commission for the city is created.

(Ord. 1025 § 1; Ord. CS-453 § 2, 2023)

**§ 2.36.020. Membership.**

The Parks and Recreation Commission shall consist of seven members appointed pursuant to Section 2.15.050(A).

(Ord. 1025 § 2; Ord. CS-453 § 2, 2023)

**§ 2.36.070. Duties.**

The Parks and Recreation Commission shall:

- A. Make recommendations to the City Council and advise the City Council in matters pertaining to the creation, operation, maintenance, management and control of community recreation programs, playgrounds and recreation activities and facilities.
- B. Advise and make recommendations to the City Council on matters pertaining to planting, trimming, pruning, and care of all trees, shrubs or plants and the removal of all objectionable trees, shrubs and plants in any city park.
- C. Review all tree-related issues and make recommendations to the City Council regarding the needs of the city with respect to its tree planting, replacement, maintenance and preservation programs.
- D. Make recommendations to the City Council on policies, regulations and ordinances pertaining to the care and protection of public trees and the selection of specific species of trees for planting along city streets, including the development of a community forest management plan for the city.
- E. In accordance with Section 11.12.150 of this code, hear appeals from decisions of the City Manager acting through the Parks and Recreation Director or designee, regarding the planting or removal of street trees.
- F. Adopt rules and regulations pertaining to the cutting, trimming, pruning, planting, removal or interference with any tree, shrub or plant upon any street, park, boulevard, alley or public place of the city.

(Ord. 1025 §§ 7, 9; Ord. NS-547 §§ 1, 2, 2000; Ord. CS-072 § 1, 2009; Ord. CS-453 § 2, 2023)

**§ 2.36.090. Funds—Disposition of money.**

- A. Funds Generally. The Parks and Recreation Commission is authorized to and may receive donations, gifts, legacies, endowments or bequests made to the city or to the commission for or on behalf of the city for the acquisition of parks and recreation facilities and the construction, maintenance and operation of any of the foregoing facilities, subject to the approval of the City Council.
- B. Gifts Paid to City Treasurer. All donations, gifts, legacies, endowments or bequests received by the Commission shall be turned over to the City Treasurer, and shall be kept in a special fund to be designated as the Parks and Recreation Fund.

- C. Parks and Recreation Fund. The City Council shall establish a fund to be known as the "Parks and Recreation Fund." There shall be deposited to and expended from this fund all fees or moneys received by the Commission, including the proceeds from all gifts, legacies or bequests as set forth in subsection B and including the proceeds of other sources managed or controlled by the Commission and derived by it in connection with the operation of the public recreational activities and facilities under its jurisdiction. All moneys in the fund shall be used for the promotion, supervision and operation of public recreation, and not otherwise, and if not used during any current year shall accumulate in the Parks and Recreation Fund.
- D. Carrillo Ranch Trust. A special trust fund is hereby established to receive and hold donations of money, artifacts, and memorabilia for the Carrillo Ranch. Proposed donations shall be referred to the Parks and Recreation Commission for a recommendation before acceptance by the City Council. All donations accepted in the trust must be used exclusively for purposes relating to the development, operation, and maintenance of the Carrillo Ranch.

(Ord. 1025 § 10; Ord. NS-113 § 1, 1990; Ord. CS-453 § 2, 2023)

**§ 2.36.110. Powers delegated to Commission to be advisory.**

Nothing in this chapter shall be construed as restricting any of the powers of the City Council, or as a delegation to the Parks and Recreation Commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience and welfare require the appointment of a Parks and Recreation Commission to act in a purely advisory capacity to the City Council for the purposes enumerated. Any power herein delegated to the Commission to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority.

(Ord. 1025 § 12; Ord. CS-453 § 2, 2023)

## CHAPTER 2.38 SENIOR COMMISSION

### **§ 2.38.010. Created.**

A Senior Commission of the city is created.

(Ord. 1282 § 1, 1985; Ord. NS-45 § 1, 1988; Ord. CS-454 § 2, 2023)

### **§ 2.38.020. Membership.**

The Senior Commission shall consist of five members appointed pursuant to Section 2.15.050(B).

(Ord. 1282 § 1, 1985; Ord. NS-45 § 1, 1988; Ord. NS-169 § 5, 1991; Ord. CS-454 § 2, 2023)

### **§ 2.38.040. Duties.**

The Senior Commission shall make recommendations to the City Council and advise the City Council on the special needs and concerns of seniors, including the creation, operation, maintenance, management and control of senior programs, activities and facilities.

(Ord. 1282 § 1, 1985; Ord. NS-45 § 1, 1988; Ord. CS-454 § 2, 2023)

### **§ 2.38.050. Funds—Disposition of money.**

The Senior Commission is authorized to receive donations, gifts, legacies, endowments or bequests made to the city or to the Commission for or on behalf of the city, subject to the approval of the City Council. All donations, gifts, legacies, endowments or bequests so received by the Commission shall be turned over to the City Treasurer and shall be kept in a special fund to be designated as the "Senior Fund." All moneys in the fund shall be used for promotion, supervision and operation of senior programs. No moneys in the fund shall be spent without prior authorization of the City Council.

(Ord. 1282 § 1, 1985; Ord. NS-45 § 1, 1988; Ord. CS-454 § 2, 2023)

### **§ 2.38.060. Powers delegated to Commission to be advisory.**

Nothing in this chapter shall be construed as restricting any of the powers of the City Council, or as a delegation to the Senior Commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience and welfare require the appointment of a Senior Commission to act in a purely advisory capacity to the City Council for the purposes enumerated. Any power herein delegated to the Commission to adopt rules and regulations shall not be construed as a delegation of legislative authority but purely a delegation of administrative authority.

(Ord. 1282 § 1, 1985; Ord. NS-45 § 1, 1988; Ord. CS-454 § 2, 2023)

## CHAPTER 2.40 HOUSING COMMISSION

### **§ 2.40.010. Created.**

Pursuant to Section 34291 of the California Health and Safety Code, a Housing Commission is created as an advisory body to the City Council and Community Development Commission.  
(Ord. NS-467 § 1, 1999; Ord. CS-199 § 1, 2013; Ord. CS-455 § 2, 2023)

### **§ 2.40.020. Membership.**

The Housing Commission shall consist of five members appointed pursuant to Section 2.15.050(B).

In addition to the qualifications outlined in Section 2.15.030, two members of the Housing Commission shall be tenants assisted by the Carlsbad Housing Authority, one of which shall be at least 62 years of age. The remaining three members shall, to the extent possible, have experience and expertise within one or more of the following areas: development, construction, real estate, social services, housing advocacy, planning, architecture or finance. To the extent possible, the Commission members shall be representative of the four districts of the city. If a tenant member ceases to be a tenant assisted by the Housing Authority, or if any Commission member moves out of the City of Carlsbad, that member will forfeit their seat and the vacancy will be filled according to the procedures in Section 2.15.070.

(Ord. NS-467 § 1, 1999; Ord. CS-455 § 2, 2023)

### **§ 2.40.060. Duties.**

- A. The Housing Commission shall advise and make recommendations to the Community Development Commission (the governing body of the Carlsbad Housing Authority) and/or the City Council on the following matters:
  1. Establishment of or amendments to affordable housing programs, policies and regulations;
  2. Adoption of or amendments to the Housing Element of the General Plan, and related strategies or programs;
  3. Review of project concept and affordability objectives of off-site combined projects as defined by Chapter 21.85 of this code and located outside of the master plan area, specific plan area or subdivision which has the inclusionary housing requirement;
  4. Requests for financial assistance and/or incentives for the development of affordable housing projects;
  5. Requests to sell affordable housing credits for alternative methods to satisfy an inclusionary housing obligation;
  6. Establishment of or amendments to programs and services that aim to prevent, reduce and manage homelessness in the City of Carlsbad;
  7. Other special assignments as requested by the Community Development Commission or City Council as related to the development of affordable housing, community development and homelessness programs, or regional and state policies and legislation.
- B. The Commission shall annually report to the City Council on the status and progress of affordable housing and homelessness programs.

(Ord. NS-467 § 1, 1999; Ord. CS-199 § 1, 2013; Ord. CS-371 § 2, 2020; Ord. CS-455 § 2, 2023)

**§ 2.40.080. Relocation appeals Board.**

Pursuant to Government Code Section 7266, the Housing Commission is designated as the Relocation Appeals Board for the City of Carlsbad and the Carlsbad Municipal Water District to hear and determine (subject to appeal to the appropriate governing body) complaints regarding relocation and compliance with applicable local, state and federal relocation assistance laws and regulations.

(Ord. NS-574 § 1, 2001; Ord. CS-455 § 2, 2023)

## CHAPTER 2.42 HISTORIC PRESERVATION COMMISSION

### **§ 2.42.010. Created.**

A Historic Preservation Commission of the city is created.

(Ord. NS-433 § 1, 1997; Ord. CS-438 § 2, 2022)

### **§ 2.42.020. Membership.**

Membership on the Historic Preservation Commission shall consist of five regular members appointed pursuant to Section 2.15.050(B), and one non-voting, ex officio representative from the Planning Commission.

(Ord. NS-433 § 1, 1997; Ord. CS-438 § 2, 2022)

### **§ 2.42.040. Duties.**

Duties of the Historic Preservation Commission are as follows:

- A. The Commission shall act in an advisory capacity to the City Council, Planning Commission, and Housing Commission in all matters relating to the identification, protection, retention, and preservation of historic resources within the city.
- B. It shall be the responsibility of the Commission to provide advice to the City Council on the following matters:
  1. The designation of historic resources and historic districts;
  2. Recommending properties of historical significance for listing in the National Register of Historic Places or the California Register of Historical Resources;
  3. Different ways to increase the public's understanding of and involvement in historic preservation programs including the promotion and dissemination of public information, education, and interpretive programs pertaining to historical areas and sites;
  4. Cooperation with local, county, state, and federal governments in pursuit of the objectives of historic preservation;
  5. The approval, conditional approval, or denial of preservation benefits and incentives; and
  6. Any other matter necessary to identify or protect historical resources.
- C. The Commission shall be responsible for:
  1. Investigating and reporting to the City Council on the use of various federal, state, local, or private funding sources available to promote historic preservation in the city;
  2. Rendering advice and guidance, upon the request of the property owner or occupant, on any matter related to historic, cultural or architectural resources;
  3. As part of the environmental review of development projects affecting historic buildings or structures, as identified in the environmental study, the Commission may review and comment upon the adequacy of the environmental document during the public review period under the California Environmental Quality Act or the National Environmental Policy Act. Absent a

request for an extension of the public review period, the Commission's failure to comment within the advertised public review period shall indicate that the Commission has no comment to make; and

4. Performing any other functions that may be designated by the City Council.  
(Ord. NS-433 § 1, 1997; Ord. CS-438 § 2, 2022)

## CHAPTER 2.44 PERSONNEL

### **§ 2.44.010. Adoption of personnel merit—System for classified service.**

In order to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness as determined by competitive test; and to provide a reasonable degree of security for qualified employees, the following personnel merit system is adopted for positions in the classified service.

(Ord. 1120 § 1, 1970; Ord. NS-793 § 8, 2006)

### **§ 2.44.020. Personnel officer.**

The City Manager will be the personnel officer. The City Manager may delegate any of the powers and duties conferred upon him or her as personnel officer under this chapter to any other officer or employee of the city or may recommend that such powers and duties be performed under contract as provided in Section 2.44.140. The personnel officer will:

- A. Administer all provisions of this chapter and of the personnel rules not specifically reserved to the council;
- B. Prepare and recommend to the council, revisions and amendments to the personnel rules. The City Attorney will approve the legality of such revisions and amendments prior to their submission to the council;
- C. Prepare or cause to be prepared a position classification plan, including class specifications, and revisions of the plan. For classifications in the classified service, the plan, and any revisions thereof, will become effective upon approval by the council; for classifications not in the classified service, the plan, and any revisions thereof, will become effective upon approval by the personnel officer;
- D. Prepare or cause to be prepared, a plan of compensation, and any subsequent revisions to it, covering all classifications in the classified service. The plan, and any revisions thereof, will become effective upon approval by the council;
- E. Publish or post notices of examinations for positions in the classified service; receive applications; conduct and score examinations and certify to the appointing power a list of all persons eligible for appointment to the appropriate position in the classified service.

(Ord. 1120 § 2, 1970; Ord. NS-793 §§ 5, 6, 7, 9, 10, 2006; Ord. CS-336 § 2, 2018)

### **§ 2.44.030. City service.**

The provisions of this chapter will apply to all offices, positions and employees in the service of the city, except:

- A. Elective officers;
- B. Members of appointive boards, commissions and committees;
- C. Persons engaged under contract to supply expert, professional or technical services for a definite period of time;
- D. Volunteer personnel who receive no regular compensation from the city;

- E. City Manager;
- F. City Attorney;
- G. All positions listed on the management salary range schedule;
- H. All positions listed on the part-time salary range schedule;
- I. All positions listed on the non-management unclassified salary range schedule;
- J. Emergency employees who are hired to meet the immediate requirements of any emergency condition, such as extraordinary fire, flood or earthquake which threatens life or property;
- K. Hourly employees, other than those listed elsewhere in this section, who are expected to or do work less than 1,000 hours in any one fiscal year; and
- L. Temporary positions which are authorized by the City Council and are of limited duration.  
(Ord. 1120 § 3, 1970; Ord. 1166 § 1, 1974; Ord. 1186 § 1, 1975; Ord. 1196 § 1, 1976; Ord. 1211 § 1, 1978; Ord. 1219 § 1, 1979; Ord. 1225 § 1, 1979; Ord. 1261 § 3, 1983; Ord. NS-93 § 1, 1989; Ord. NS-159 § 1, 1991; Ord. NS-793 § 5, 2006; Ord. CS-404 § 2, 2021)

#### **§ 2.44.035. Volunteers and contractors.**

The provisions of this chapter do not apply to and are not intended to confer any employment rights or benefits on volunteers or persons under contract to supply expert, professional, technical or other services for the city.

(Ord. NS-793 § 12, 2006)

#### **§ 2.44.040. Rule adoption and amendment.**

Personnel rules, prepared by the personnel officer subject to this chapter and to revisions by the council, will be adopted, and may be amended from time to time, by resolution of the council. The rules will establish specific procedures and regulations governing the following phases of the personnel system:

- A. Preparation, installation, revision, and maintenance of a position classification plan covering all positions in the classified service, including employment standards and qualifications for each class;
- B. Preparation, revision, and administration of a plan of compensation directly correlated with the position classification plan, providing a rate or range of pay for each class;
- C. Public announcement of all tests and the acceptance of applications for employment;
- D. Preparation and conduct of tests and the establishment and use of resulting employment lists containing names of persons eligible for appointment;
- E. Certification and appointment of persons from employment lists, and making of part-time, temporary, and emergency appointments;
- F. Evaluation of employees during the probationary period;
- G. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees in the classified service;
- H. Separation of employees from the classified service;

- I. Standardization of hours of work, attendance and leave regulations, working conditions, and the development of employees' morale, welfare and training;
- J. Suitable provision for orderly and equitable presentations to the City Manager and to the City Council by employees relating to general conditions of employment, including the establishment of appeals procedures;
- K. The establishment of adequate personnel records;
- L. The provision of a grievance procedure for classified employees.

(Ord. 1120 § 4, 1970; Ord. 1130 § 1, 1971; Ord. 1182 § 1, 1975; Ord. NS-793 §§ 5, 6, 2006)

#### **§ 2.44.050. Appointments.**

- A. Appointments to vacant positions in the classified service will be made in accordance with the personnel rules. Appointments and promotions will be based on merit and fitness to be ascertained so far as practicable by competitive examinations. Examinations will be used and conducted to aid in the selection of qualified employees, and will consist of recognized selection techniques such as achievement aptitude tests and other written tests, personal interviews, performance tests, physical agility tests, evaluations of daily work performance, or any combination of these, which will, in the opinion of the personnel officer, test fairly the qualifications of candidates. Physical and medical tests may be given as a part of any examination when otherwise permitted by state and federal law. In any examination, the personnel officer may include, in addition to competitive tests, a qualifying test or tests, and set minimum standards therefor.
- B. Appointments of department heads and other employees who are not part of the classified service will be made by the City Manager, except as otherwise provided in this title.
- C. Notwithstanding the above, the City Attorney will have appointing power for vacant positions in the City Attorney's office.
- D. Department heads may appoint and remove officers and employees in their respective departments or areas of supervision, upon written authorization of the City Manager and subject to the applicable provisions of this chapter and the personnel rules.

(Ord. 1120 § 5, 1970; Ord. 1211 § 2, 1978; Ord. NS-93 § 2, 1989; Ord. NS-793 §§ 5, 6, 13, 2006)

#### **§ 2.44.060. Probationary period.**

- A. All regular appointments, including promotional appointments, will be for a probationary period of not less than six months except as otherwise indicated. During the probationary period, the employee may be rejected at any time without the right of appeal or hearing. For newly employed uniformed police and fire personnel, the minimum probationary period will be not less than one full year.
- B. An employee rejected during the probationary period from a position to which the employee has been promoted will be reinstated to the position from which such employee has been promoted, unless the employee is dismissed from the classified service as provided in this chapter and the rules.
- C. An employee in the classified service promoted or transferred to a position not included in the classified service will be reinstated to the position from which the employee was promoted or transferred if, within six months after such promotion or transfer, action is taken to reject or dismiss the employee, unless the employee is discharged in the manner provided in this chapter and the personnel rules for positions in the classified service.

(Ord. 1120 § 6, 1970; Ord. NS-793 §§ 5, 6, 7, 14, 2006)

**§ 2.44.070. Status of present employees.**

Any person holding a position included in the classified service who, on the effective date of the ordinance codified in this chapter will have served continuously in such position, or in some other position in the classified service, for a period equal to the probationary period prescribed in the rules for his or her class, will assume regular status in the classified service in the position held on such effective date without qualifying test, and will thereafter be subject in all respects to the provisions of the ordinance codified in this chapter and the personnel rules.

Any other persons holding positions in the classified service will be regarded as probationers who are serving out the balance of their probationary periods as prescribed in the rules before obtaining regular status. The probationary period will be computed from the first day of the first full calendar month after date of appointment or employment.

(Ord. 1120 § 7, 1970; Ord. NS-793 §§ 5, 6, 2006)

**§ 2.44.080. Applicability of rules to certain exempt positions.**

The provisions of the personnel rules relating to the attendance and leaves will apply to the incumbents of full-time exempt positions.

(Ord. 1120 § 8, 1970; Ord. NS-793 § 5, 2006)

**§ 2.44.090. Abolition of position.**

Whenever in the judgment of the City Manager it becomes necessary in the interest of economy or because the necessity for the position or employment involved no longer exists, then the City Manager may abolish any position or employment in the classified service and layoff, demote, or transfer an employee holding such position or employment without filing written charges and without the right of appeal.

The names of probationary and permanent employees laid off will be placed upon reemployment lists for classes which, in the opinion of the personnel officer, require basically the same qualifications and duties and responsibilities of those of the class of position from which layoff was made.

Names of persons laid off will be placed upon reemployment lists in order of their continuous cumulative time and will remain on such lists for a period of one year unless reemployed sooner.

(Ord. 1120 § 10, 1970; Ord. NS-793 §§ 5, 6, 7, 2006)

**§ 2.44.095. Right of appeal.**

Any employee in the classified service will have the right to appeal to a hearing officer any disciplinary action or alleged violation of this chapter or the personnel rules, except in those instances where the right of appeal is specifically prohibited by this chapter or the personnel rules.

(Ord. 1179 § 1, 1975; Ord. NS-793 §§ 5, 15, 2006; Ord. NS-883 § 4, 2008)

**§ 2.44.100. Political activity.**

Any person holding an office or employed in the city will conform to the pertinent provisions of state law.  
(Ord. 1120 § 11, 1970; Ord. NS-793 §§ 5, 16, 2006)

**§ 2.44.110. Political activities not affected.**

This chapter does not prevent any officer or employee from:

- A. Becoming or continuing to be a member of a political club or organization;
- B. Attending a political meeting;
- C. Enjoying entire freedom from all interference in casting his or her vote;
- D. Seeking signatures to any initiative or referendum petition directly affecting his or her rates of pay, hours of work, retirement, or other working conditions;
- E. Distributing badges, pamphlets, dodgers, or handbills, or other participation in any campaign in connection with such petition, provided such activities are not carried on during hours of work or when dressed in the uniform required in any department of the city government. The violation of this provision constitutes grounds for discharge.

(Ord. 1120 § 12, 1970; Ord. NS-793 § 18, 2006)

**§ 2.44.120. Discrimination.**

All employees and applicants for employment in the city will not be subject to discrimination or harassment on any basis protected by state or federal law.

(Ord. 1120 § 13, 1970; Ord. NS-793 §§ 5, 6, 19, 2006)

**§ 2.44.130. Solicitation of contributions.**

No officer, agent, or employee, under the government of the city, and no candidate for any city office will, 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 whatsoever, from anyone on the employment lists or holding any position under the provisions of this chapter.

No officer or employee in the city service will, directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution, whether voluntary or involuntary, for any purpose affecting his or her working conditions, from any person other than an officer or employee in the city service.

(Ord. 1120 § 14, 1970; Ord. NS-793 §§ 5, 7, 2006)

**§ 2.44.140. Right to contract for special service.**

The City Manager will consider and make recommendations to the City Council regarding the extent to which the city should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The council may contract with any qualified person or agency for the performance of all or any of the following responsibilities and duties imposed by this chapter:

- A. The preparation of personnel rules and subsequent revisions and amendments thereof;
- B. The preparation of a position classification plan, and subsequent revisions and amendments thereof;
- C. The preparation of a plan of compensation, and subsequent revisions and amendments thereof;

- D. The preparation, conduct, and grading of competitive tests;
- E. Special and technical services of advisory or informational character on matters relating to personnel administration.

(Ord. 1120 § 15, 1970; Ord. NS-793 § 5, 2006)

**§ 2.44.150. Appropriation of funds.**

The council will appropriate such funds as are necessary to carry out the provisions of this chapter.  
(Ord. 1120 § 16, 1970; Ord. NS-793 § 5, 2006)

## CHAPTER 2.48 EMPLOYER-EMPLOYEE RELATIONS

**Note: Prior ordinance history: Ord. Nos. 1181, 1199, 1206, 1225, 1231, 1238, 1246, 1250, 1261, NS-117, NS-159, NS-291, and NS-676.**

### **§ 2.48.010. Title.**

The ordinance codified in this chapter will be known as the employer-employee relations ordinance of the city.

(Ord. NS-793 § 17, 2006)

### **§ 2.48.020. Statement of purpose.**

The purpose of this chapter is to implement Chapter 10, Division 4, Title 1 of the Government Code of the state (Sections 3500, et seq.) captioned "Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the city and its employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment.

(Ord. NS-793 § 20, 2006)

### **§ 2.48.030. Rules and regulations.**

The City Council may adopt such rules and regulations necessary or convenient to implement the provisions of this chapter and Chapter 10, Division 4, Title 1 of the Government Code of the state.

(Ord. NS-793 § 21, 2006)

### **§ 2.48.040. Construction.**

- A. Nothing in this chapter will be construed to deny any person or employee the rights granted by federal or state laws.
- B. The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, will not be modified or restricted by this chapter.
- C. The provisions of this chapter are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the state (Sections 3500, et seq.).

(Ord. NS-793 § 22, 2006)

### **§ 2.48.050. Severability.**

If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter or the application of such provision to persons or circumstances other than those as to which it is held invalid will not be affected thereby.

(Ord. NS-793 § 23, 2006)

**CHAPTER 2.52  
ACCESS TO CRIMINAL RECORDS**

**§ 2.52.010. Criminal conduct—Ineligibility for license and permits—Authorized access to records.**

Whenever any section of this code requires disqualification from any permit or license issued pursuant to this code because of the conviction, including pleas of guilty or nolo contendere, of a felony or a misdemeanor, then, pursuant to Section 11105 of the Penal Code of the State of California, the following officers of the city are authorized to have access to, and to utilize, State Summary Criminal History Information when needed to assist them in fulfilling the licensing or permit issuing duties set forth in this code:

- A. City Council;
- B. Chief of police;
- C. City Clerk;
- D. City Attorney;
- E. Assistant City Attorney;
- F. City Manager;
- G. Any other person designated by the chapter of this code which establishes the disqualification.  
(Ord. 1214 § 1, 1979)

**§ 2.52.020. Criminal conduct—Ineligibility for employment—Authorized access to records.**

Whenever any section of this code or any resolution of the City Council requires disqualification from any position of employment by the city, then, pursuant to Section 11105 of the California Penal Code, the following officers of the city are authorized to have access to, and to utilize, State Summary Criminal History Information when needed to assist them in fulfilling employment duties set forth in this code or by such resolution:

- A. City Council;
- B. City Manager;
- C. Personnel Director;
- D. City Attorney;
- E. Assistant City Attorney;
- F. Any other officer or employee of the city to whom the City Manager has delegated any of the powers and duties conferred upon him or her as personnel officer.  
(Ord. 1214 § 1, 1979)

**ADMINISTRATION AND PERSONNEL**

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<b>§ 3.40.100.</b>	<b>Notice of public hearing.</b>	<b>§ 3.40.150.</b>	<b>Payment of the reimbursement fee.</b>
<b>§ 3.40.110.</b>	<b>Public hearing and establishment of reimbursement fee.</b>	<b>§ 3.40.160.</b>	<b>Establishment of funds and use of reimbursement fees.</b>
<b>§ 3.40.120.</b>	<b>Adjustment of the reimbursement fee to reflect actual costs.</b>	<b>§ 3.40.170.</b>	<b>Use of Chapter in combination with use of bond financing prohibited.</b>

## CHAPTER 3.04 TAXES—ASSESSMENT AND COLLECTION

### **§ 3.04.010. Transfer of city tax function to county.**

The duties of assessment and tax collection shall be transferred to and shall be performed by the county assessor and the county tax collector, respectively.

(Ord. 1010 § 1)

### **§ 3.04.020. Payment of tax moneys to city.**

All taxes levied and collected by the county for the city shall be paid by warrant of the county auditor to the City Treasurer subject to Section 3.04.030.

(Ord. 1010 § 3)

### **§ 3.04.030. Cost of collection.**

The county auditor is authorized to deduct the cost of collection of city taxes. The amount of the cost of collection shall be determined by the Board of Supervisors; provided, however, that in no event shall the cost of collection exceed one percent for collecting the first \$25,000.00 of taxes, and not more than one-quarter percent for all taxes collected over \$25,000.00.

(Ord. 1010 § 4)

### **§ 3.04.040. Transfer of authority to City Clerk.**

All duties and powers authorized by general statutes of the state or by ordinances of the city that would have vested in the office of city assessor, other than the assessing of property within the city, shall be transferred to and shall be performed by the City Clerk.

(Ord. 1010 § 5)

### **§ 3.04.050. Transfer of authority to Chief of Police.**

All duties and powers authorized by general statutes of the state or by ordinances of the city that would have vested in the office of city tax collector, other than the collection of taxes, shall be transferred to and shall be performed by the Chief of Police.

(Ord. 1010 § 6)

## CHAPTER 3.08 UNIFORM SALES AND USE TAXES

### **§ 3.08.010. Short title.**

This chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance."  
(Ord. 1160 § 1, 1973)

### **§ 3.08.020. Rate.**

The rate of sales tax and use tax imposed by this chapter shall be one percent.  
(Ord. 1160 § 1, 1973)

### **§ 3.08.030. Operative date.**

This chapter shall be operative on January 1, 1974.  
(Ord. 1160 § 1, 1973)

### **§ 3.08.040. Purpose.**

The City Council declares that the ordinance codified herein 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 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 adopts 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. 1160 § 1, 1973)

### **§ 3.08.050. 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 the sales and use tax ordinance codified herein; provided, that if this city has not 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 herein.

(Ord. 1160 § 1, 1973)

**§ 3.08.060. 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 3.08.020 of this code 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. 1160 § 1, 1973)

**§ 3.08.070. 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/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. 1160 § 1, 1973)

**§ 3.08.080. 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 the city at the rate stated in Section 3.08.020 of this code 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. 1160 § 2, 1973)

**§ 3.08.090. 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. 1160 § 2, 1973)

**§ 3.08.100. 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 provisions of that code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203.

(Ord. 1160 § 2, 1973)

**§ 3.08.110. 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. 1160 § 2, 1973)

**§ 3.08.120. 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. 1160 § 2, 1973; Ord. 1267 § 1, 1983)

**§ 3.08.130. 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 chapter.
- C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.
- D. The storage, use, or other consumption of tangible personal property purchased by operators of

waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property 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. 1160 § 2, 1973; Ord. 1267 § 1, 1983)

#### **§ 3.08.140. Application of provisions relating to exclusions and exemptions.**

- A. Section 3.08.120 shall be operative January 1, 1984.
- B. Section 3.08.130 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. 1160 § 2, 1973; Ord. 1267 § 1, 1983)

#### **§ 3.08.150. 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. 1160 § 2, 1973)

#### **§ 3.08.160. 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. 1160 § 2, 1973)

#### **§ 3.08.170. Penalties.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$500.00 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

(Ord. 1160 § 2, 1973)

**§ 3.08.180. Severability.**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Ord. 1160 § 2, 1973)

## CHAPTER 3.12 TRANSIENT OCCUPANCY TAX

### **§ 3.12.010. Short title.**

This chapter shall be known as the uniform transient occupancy tax regulations of the city.

(Ord. 1087 § 1)

### **§ 3.12.020. Definitions.**

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

"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, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof. Hotel shall also include a private campground where only a site and accompanying facilities are rented;

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

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his or her principal. 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" 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 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 of nature, without any deduction therefrom whatsoever;

"Tax Administrator" means the City Finance Director;

"Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.

(Ord. 1087 § 2; Ord. 1269 §§ 1—3, 1984; Ord. 1275 § 1, 1985; Ord. 1287 §§ 1, 2, 1986)

### **§ 3.12.030. Imposition—Amount—Where payable.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of nine percent of the rent charged by the operator. After January 1, 1990, the tax shall be 10% for such rent. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the

operator or to the city. The transient shall pay the tax to the operator of the hotel at the time 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. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

(Ord. 1087 § 3; Ord. 1113 § 1, 1969; Ord. 1190 § 1, 1976; Ord. NS-8 § 1, 1988; Ord. NS-52 § 1, 1989)

#### **§ 3.12.040. 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 the tax provided in this chapter;
- B. Any federal or state officer or employee when on official business;
- C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax Administrator.

(Ord. 1087 § 4)

#### **§ 3.12.050. Operator's 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. If the operator collects the rent but fails to collect the tax imposed by this chapter for any reason, the city shall require the operator to pay such tax. 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. A duplicate of this receipt shall be kept by the operator in accordance with Section 3.12.110. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. Each operator shall account monthly, for taxable rents and for taxes collected. Each operator shall notify the Tax Administrator within 10 days upon the cessation of business for any reason and shall make his or her books and records available for audit.

(Ord. 1087 § 5; Ord. 1275 § 2, 1985)

#### **§ 3.12.060. Transient occupancy registration certificate.**

Within 30 days after August 20, 1964, or within 30 days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the Tax Administrator and obtain from him or her a "transient occupancy registration certificate" to be at all times posted in a conspicuous place on the premises. Such certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;

D. This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the uniform transient occupancy tax chapter by registering with the Tax Administrator for the purpose of collecting from transients the transient occupancy tax and remitting such 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 without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or officer of this city. It is unlawful to operate a hotel in the city without a currently valid certificate.

(Ord. 1087 § 6; Ord. 1285 § 1, 1985)

**§ 3.12.070. Remitting and reporting.**

- A. All operators shall remit monthly the full amount of taxes collected on the appropriate return form provided by the Tax Administrator and a return shall be filed quarterly.
- B. Returns filed quarterly and taxes remitted monthly and actually received by the Tax Administrator on or before the last day of the following month shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by Section 3.12.080.
- C. Each operator reporting on a calendar quarter basis shall, on or before the last day of the month following the close of each calendar quarter, make a return to the Tax Administrator on forms provided, of the total taxable rents charged and the amount of tax collected for the quarter, remittances made for each of the first two months of the calendar quarter, and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due shall be remitted to the Tax Administrator.
- D. The Tax Administrator may establish shorter reporting periods for any certificate holder if the Tax Administrator deems it necessary in order to insure collection of the tax and he or she may require further information in the return.
- E. Any operator required to report on other than a calendar quarter basis shall, on or before the same day of the next month following the close of such reporting period, or on the last day of the next month if no corresponding day exists, make a return to the Tax Administrator on forms provided, or the total taxable rents charged and the amount of tax collected for the quarter, remittances made during the approved reporting period, and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due shall be remitted to the Tax Administrator.
- F. Each operator, upon cessation of business for any reason, shall, on or before the same day of the next month following the cessation of business or on the last day of the month if no corresponding day exists, make a return to the Tax Administrator on forms provided of the total taxable rents charged, the amount of tax collected for the reporting period, remittances made, if any, and the balance of the tax due. At the time the return is filed the full amount of the balance of the tax due, if any, shall be remitted to the Tax Administrator. Returns filed and taxes remitted and actually received by the Tax Administrator on or before the same day of the next month following the cessation of business, or on the last day of the next month if no corresponding day exists, shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by Section 3.12.080.
- G. All taxes collected by operator pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the Tax Administrator.

(Ord. 1087 § 7; Ord. 1275 § 3, 1985)

**§ 3.12.072. Duty of successor of operator.**

If an operator who is liable for any tax or penalties under this chapter sells or otherwise disposes of his or her business, the operator's successor shall notify the Tax Administrator of the date of sale and withhold a sufficient portion of the purchase price to equal the amount of such tax or penalty until the selling operator produces a receipt from the Tax Administrator showing that the tax or penalty has been paid or a tax clearance certificate from the Tax Administrator stating that no tax or penalty is due. If the seller does not present a receipt or tax clearance certificate within 30 days after such successor commences to conduct business, the successor shall deposit the withheld amount with the Tax Administrator pending settlement of the account of the seller.

(Ord. 1275 § 4, 1985)

**§ 3.12.074. Liability of successor for failure to withhold—Notice of amount due.**

If the successor to the business fails to withhold a portion of the purchase price as required, he or she shall be liable for the payment of the amount required to be withheld. Within 30 days after receiving a written request from the successor for a tax clearance certificate, stating that no tax or penalty is due, the Tax Administrator shall either issue the certificate or mail notice to the successor at his or her address as it appears on the records of the Tax Administrator of the estimated amount of the tax and penalty that must be paid as a condition of issuing the certificate.

(Ord. 1275 § 4, 1985)

**§ 3.12.080. Penalties for failure to remit tax when due.**

- A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of 10% 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 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the 10% penalty first imposed.
- C. Audit Deficiency. If, upon audit by the city, an operator is found to be deficient in his or her return or remittance, or both, the Tax Administrator shall immediately invoice the operator for the amount of the net deficiency plus a penalty of 10% of the net deficiency. If the operator fails or refuses to pay the deficient amount and applicable penalties within 14 days of the date of the invoice, an additional penalty shall be imposed at the rate of one percent per day of the net deficiency, not to exceed 10%.
- D. 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.
- E. 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 and one-half 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.
- F. 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.
- G. Revocation. In addition to the other penalties provided by this section, if an operator is delinquent in any way more than one time in any 12-month period the Tax Administrator may revoke the operator's

transient occupancy registration certificate.  
(Ord. 1087 § 8; Ord. 1275 § 5, 1985; Ord. 1285 § 1, 1985)

#### **§ 3.12.090. Failure to collect—Penalties—Hearing.**

If any operator shall fail or refuse to collect such tax and to make, within the time provided in this chapter, any report and remittance of such or any portion thereof required by this chapter, the Tax Administrator shall proceed in such a manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Tax Administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator 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 such notice why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in Section 3.12.100.

(Ord. 1087 § 9)

#### **§ 3.12.100. 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 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 1087 § 10)

#### **§ 3.12.110. Records to be kept for a period of three years.**

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.

(Ord. 1087 § 11)

#### **§ 3.12.120. Refunds.**

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has

been erroneously or illegally collected or received by the city under this chapter it may be refunded as provided in subsections B and C of this section provided a claim in writing thereof, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

- B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.
- C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.
- D. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.
- E. It shall be a condition that, prior to the filing of any lawsuit, of any kind whatsoever, including a claim for refund of taxes, injunction or writ of mandate or other equitable process, the payment of all taxes, interest and penalties as determined by the City Council shall be required to be paid as a condition to seeking such judicial review of any tax liability. In addition, no such legal action shall be proper unless all of the administrative remedies provided by this chapter shall have first been exhausted.

(Ord. 1087 § 12; Ord. CS-081 § 1, 2010)

#### **§ 3.12.130. 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 and payable through the operator. Any such tax, collected by an operator, which has not been paid to the city, shall be deemed funds held in trust for the account of the city which are due and payable by the operator to the city pursuant to the provisions of this chapter. Any person owing money to the city under the provisions of the chapter shall be liable to an action brought in the name of the city for the recovery of such amount plus attorney's fees and costs.

(Ord. 1087 § 13; Ord. 1275 § 6, 1985)

#### **§ 3.12.140. Violations.**

Any operator who fails to remit any tax collected pursuant to this chapter shall be subject to prosecution under Section 424 of the Penal Code of the State of California. Any person violating any of the other provisions of this chapter shall be guilty of a misdemeanor and shall be punishable as provided in Section 1.08.010.

(Ord. 1087 § 14; Ord. 1275 § 6, 1985)

#### **§ 3.12.160. Revocation of certificate.**

Whenever any operator fails to comply with any provision of this chapter relating to occupancy tax or any

rule or regulation of the Tax Administrator relating to occupancy tax prescribed and adopted under this chapter, the Tax Administrator upon hearing, after giving the operator 10 days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her certificate should not be revoked, may suspend or revoke the certificate held by the operator. The Tax Administrator shall give the operator written notice of the suspension or revocation of his or her certificate. The notice required in this section may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The Tax Administrator shall not issue a new certificate after a revocation unless he or she is satisfied that the former holder of the certificate will comply with the provisions of this chapter relating to the occupancy tax and regulations of the Tax Administrator.

(Ord. 1285 § 3, 1985)

#### **§ 3.12.170. Closure of hotel without certificate.**

During any period of time during which a certificate has not been issued or is suspended, revoked or otherwise not validly in effect, the Tax Administrator may require that the hotel be closed.

(Ord. 1285 § 3, 1985)

#### **§ 3.12.180. Recording notice of lien.**

If any amount required to be remitted or paid to the city under this chapter is not remitted or paid when due, the Tax Administrator may, within three years after the amount is due, file for record in the office of the County Recorder a notice of lien 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 remitted and paid. From the time of the filing for record, the amount required to be remitted together with penalties and interest constitutes a lien upon all real property in the county owned by the operator or afterwards and before the lien expires acquired by him or her. 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 notice of lien unless sooner released or otherwise discharged.

(Ord. 1285 § 3, 1985)

#### **§ 3.12.190. Priority and lien of tax.**

A. 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:

1. Whenever the person is insolvent;
2. Whenever the person makes a voluntary assignment of his or her assets;
3. Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased;
4. Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter are levied upon by process 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.

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

(Ord. 1285 § 3, 1985)

**§ 3.12.200. Warrant for collection of tax.**

At any time within three years after any operator is delinquent in the remittance or payment of any amount herein required to be remitted or paid or within three years after the last recording of a notice of lien under Section 3.12.180, 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 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. The Tax Administrator, and not the court, shall approve the fees for publication in a newspaper.

(Ord. 1285 § 3, 1985)

**§ 3.12.210. Seizure and sale.**

At any time within three years after any operator is delinquent in the remittance or 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 provision of the Code of Civil Procedure.

(Ord. 1285 § 3, 1985)

**§ 3.12.220. Withhold notice.**

If any person or operator is delinquent in the remittance or payment of the amount required to be remitted or paid by him or her or in the event a determination has been made against him or her for the remittance of tax and payment of the penalty, the city may, within three years after the tax obligation became due, give notice thereof personally or by registered mail to all persons, including the state or any political subdivision thereof, having in their possession or under their control any credits or other personal property belonging to the taxpayer. After receiving the withholding notice, the person so notified shall make no disposition of the taxpayer's credits, other personal property or debts until the city consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever expires earlier. All persons, upon receipt of said notice, shall advise the city immediately of all such credits, other personal property or debts in their possession, under their control or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of the bank, to be effective the notice shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. If any person so notified makes transfer or disposition of the property or debts required to be held hereunder during the effective period of the notice to withhold, he or she shall be liable to the city to the extent of the value of the release up to the amount of the indebtedness owed by the taxpayer to the city.

(Ord. 1285 § 3, 1985)

## CHAPTER 3.16 DOCUMENTARY STAMP TAX

### **§ 3.16.010. Short title—Adoption.**

This chapter shall be known as the real property transfer tax ordinance of the City of Carlsbad. 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. 1105 § 1, 1967)

### **§ 3.16.020. Imposition—Rates.**

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or 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 \$100.00, a tax at the rate of 27.5 cents for each \$500.00 or fractional part thereof.

(Ord. 1105 § 1, 1967)

### **§ 3.16.030. Payment of tax by whom.**

Any tax imposed pursuant to Section 3.16.020, shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose benefit the same is made, signed or issued.

(Ord. 1105 § 3, 1967)

### **§ 3.16.040. Not applicable to instruments in writing to secure debts.**

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

(Ord. 1105 § 4, 1967)

### **§ 3.16.050. United States agencies exempt.**

Any deed, instrument or writing to which the United States or any agency 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. 1105 § 5, 1967; Ord. 1118 § 1, 1970)

### **§ 3.16.060. Conveyances to make effective 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. Confirmed under the Federal Bankruptcy Act, as amended;
- B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in 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.

Subsections 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. 1105 § 6, 1967)

**§ 3.16.070. Conveyances to make effective order of 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 of 1954; but only if:

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

(Ord. 1105 § 7, 1967)

**§ 3.16.080. Partnerships.**

- 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 termination.

(Ord. 1105 § 8, 1967)

**§ 3.16.081. Conveyances in lieu of foreclosure.**

Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure.

Consideration, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on the deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

(Ord. 1296 § 3, 1987)

**§ 3.16.082. Conveyances between spouses.**

- A. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.
- B. In order to qualify for the exemption provided in subsection A of this section, the deed, instrument, or other writing shall include a written recital, signed by either spouse, stating that the deed, instrument, or other writing is entitled to the exemption.

(Ord. 1296 § 3, 1987)

**§ 3.16.090. 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. 1105 § 9, 1967)

**§ 3.16.100. 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. 1105 § 10, 1967)

**CHAPTER 3.20  
SPECIAL GAS TAX STREET IMPROVEMENT FUND**

**§ 3.20.010. Created.**

There is created in the city treasury a special fund to be known as the "special gas tax street improvement fund," pursuant to the provisions of Section 2113 of the Streets and Highways Code, with particular reference to the amendments made thereto by Chapter 5.42, Statutes of 1935.

(Ord. 7010 § 1)

**§ 3.20.020. Moneys to be paid into fund.**

All moneys received by the city from the state under the provisions of such sections of the Streets and Highways Code shall be paid into the fund created by the preceding section.

(Ord. 7010 § 2)

**§ 3.20.030. Expenditure of moneys in fund.**

All moneys in the special gas tax street improvement fund shall be expended exclusively for the purposes authorized by, and subject to the provisions of Sections 2107, 2107.1, 2107.2, 2107.4, 2111, 2112, 2113, 2113.5, 2114, 2114.5, 2115 and 2116 of the Streets and Highways Code.

(Ord. 7010 § 3)

**CHAPTER 3.24  
LIBRARY TRUST FUND**

**§ 3.24.020. Trust fund.**

The revenue derived from all money acquired by gift, devise, bequest and moneys transferred to such fund by the City Council, but specifically excepting money derived from the city tax levy, other than funds transferred by the City Council to the library trust fund for the purpose of the library, shall be apportioned to a fund to be designated the "library trust fund," and shall be applied for the purpose authorized in Chapter 2.16.

(Ord. 1072 § 21; Ord. CS-036 § 1, 2009)

## CHAPTER 3.28 PURCHASING

### **§ 3.28.010. Title.**

This chapter shall be known and may be cited and referred to as the "Purchasing Ordinance of the City of Carlsbad."

(Ord. CS-002 § 2, 2008)

### **§ 3.28.020. Purpose.**

The purposes of this chapter are to define a uniform system for the purchase of supplies, services and equipment by the city, to provide for the fair and equitable treatment of all persons involved in the purchasing process, to obtain the highest possible value in exchange for public funds and to safeguard the quality and integrity of the purchasing system.

(Ord. CS-002 § 2, 2008)

### **§ 3.28.030. Definitions.**

For the purposes of this chapter, the following definitions apply:

"Awarding authority" means the entity who has the power to legally assign work, accept bids and bind the city to a contract.

"Best value" means the best value to the city based on all factors that may include the following:

1. Cost;
2. The ability, capacity and skill of a contractor to perform a contract or provide the supplies, services or equipment required;
3. The ability of a contractor to provide the supplies, services or equipment promptly or within the time specified without delay or interferences;
4. The character, integrity, reputation, judgment, experience and efficiency of a contractor;
5. The quality of a contractor's performance on previous purchases/services with the city; and
6. The ability of a contractor to provide future maintenance, repairs, parts and services for the use of the goods and services purchased.

"Bid, contract or proposal documents" means the documents, including their attachments and addenda, which set forth instructions to bidders or proposers and which are disseminated for the purpose of soliciting bids or proposals.

"Capital outlay item" means fixed asset equipment with a monetary value that meets or exceeds an amount established by the Finance Director.

"City Director of Public Works" means the Director of Public Works or the Deputy City Manager of the public works branch of the City of Carlsbad.

"City Traffic Engineer" has the same meaning as set forth in Carlsbad Municipal Code Section 10.08.060, as it may be amended from time to time.

"Construction projects" or "construction" means those public projects defined in California Public Contract Code Section 22002(c).

"Contract" is synonymous to "agreement" and, regardless of which term is used, it means an agreement between the city and one or more other parties for the purchase or disposition of goods, services, professional services, and/or construction projects.

"Contractor" includes vendor and means any business entity/party that has entered into a contract with the city for the provision or disposition of goods, services, professional services, and/or construction projects.

"End user" means the City of Carlsbad and includes, any city department/division requesting goods, services, professional services, and/or construction projects.

"Fixed asset equipment" means equipment of a permanent nature that has a useful life of more than one year and meets or exceeds a monetary value established by the Finance Director.

"Goods" means articles or items that are moveable at the time of sale, including, but not limited to, equipment, supplies and/or materials.

"Procurement" or "procure" means the acquisition of goods, services, professional services, or construction projects by the city, including, but not limited to, purchasing, renting or leasing, and all functions and procedures pertaining to such acquisitions.

"Professional services" means the procurement of services that involve the exercise of professional discretion and independent judgment based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Such professional services include, but are not limited to, services provided by appraisers, architects, engineers, instructors, insurance advisors, physicians and/or other specialized consultants. Professional services includes, but is not limited to, those professionals as defined in California Government Code Section 4526. Professional services does not include attorney/legal services.

"Purchasing officer" means the person(s) responsible for the procurement of goods, services, professional services, and/or construction projects in accordance with the provisions of this chapter. The person(s) designated, in writing, by the City Manager as the purchasing officer of the city, or an individual specifically authorized by the purchasing officer to act on his or her behalf.

"Responsible bidder" means a bidder determined by the awarding authority:

1. To have the ability, capacity, experience and skill to provide the goods, services, professional services, and/or construction projects in accordance with bid specifications, and if applicable;
2. To have the ability to provide the goods, services, professional services, and/or construction projects promptly, or within the time specified, and if applicable;
3. To have equipment, facilities and resources of such capacity and location to enable the bidder to provide the required goods, services, professional services, and/or construction projects, and if applicable;
4. To be able to provide future maintenance, repair, parts and service for the use of the goods and/or construction projects purchased, and if applicable;
5. To have a record of satisfactory performance under prior contracts with the city or other purchasers where such bidder has previously been awarded such contract.

"Responsive bidder" means a bidder determined by the awarding authority to have submitted a complete bid or proposal which conforms in all material respects to the requirements of the bid, contract, or other proposal documents.

"Services" means work performed, or labor, time and effort expended, by the contractor.

"Specifications" means the description of the physical and/or functional characteristics or of the nature of the required goods, services, professional services, and/or construction projects.

"Surplus personal property" means goods that are owned by the city and which are no longer needed or which are obsolete or unserviceable, or property that is a by-product (e.g., scrap metal, used tires and oil, etc.).

"UPCCAA" means Uniform Public Construction Cost Accounting Act. (California Public Contract Code Section 22000, et seq.)

(Ord. CS-002 § 2, 2008; Ord. CS-361 § 2, 2019)

**§ 3.28.040. Procurement and disposition responsibilities.**

A. End User. The end user shall:

1. Identify its procurement needs and the availability of funding;
2. Submit to the purchasing officer specifications for the required goods, services, professional services, and/or construction projects;
3. Participate in the evaluation of bids and proposals; and
4. Inspect goods delivered, services performed, professional services rendered, and/or construction projects to determine conformity with the requirements set forth in the bid or proposal documents and with contractual obligations, and authorize payments for conforming goods, services, professional services, and/or construction projects.

B. Purchasing Officer. The purchasing officer shall be responsible for the procurement of goods, services, professional services, and/or construction projects for the city in accordance with the provisions of this chapter. Except as provided for herein, no procurement shall be made contrary to the provisions of this chapter. Any agreement or contract for the purchase of goods, services, professional services, and/or construction projects made contrary to the provisions of this chapter shall be void and any claim or demand against the city based thereon shall be invalid. The purchasing officer shall:

1. Prepare and recommend to the City Manager operational procedures and forms for the procurement of goods, services, professional services, and/or construction projects in cooperation with the end users and for the disposal of surplus personal property;
2. Procure or supervise the procurement of all goods, services, professional services, and/or construction projects needed in coordination with end users;
3. Process the contracts awarded administratively and/or by City Council;
4. Whenever possible, establish standardized specifications and consolidation of requirements for goods and/or services required by two or more end users; and
5. Sell or otherwise dispose of surplus personal property, and lost and unclaimed property held by the city's police department.

C. City Manager. The City Manager shall be the awarding authority for:

1. All procurement of goods for which the cost to the city is \$100,000.00 or less;
2. All contracts for services and professional services of \$100,000.00 or less per agreement year;

3. All construction project contracts less than the formal bidding threshold established by the UPCCAA;
4. Any change order, amendment or extension to an existing contract which when added to the contract amount, including prior change orders, is within the authority granted in subsections (C)(1) through (C)(3) above;
5. Any construction project change order up to the dollar amount equal to the contingency amount set when the underlying contract was awarded;
6. Any construction project change order in which the total amount of the original contract and all amendments and change orders are less than the formal bidding threshold established by the UPCCAA;
7. Any change order or amendment to a non-construction project contract awarded by the City Council in an amount up to 25% of the original contract amount, including the total of all amendments and change orders, up to a limit of \$100,000.00 per agreement year;
8. Any extensions to a contract awarded by the City Council as delegated in the contract or the approving resolution;
9. The City Manager shall approve alternate procurement methods, if appropriate, for use on an experimental basis, and recommend to the City Council additions, deletions or modifications to the city's procurement methods;
10. The City Manager shall have the authority to delegate the awarding of contracts, amendments and change orders for goods, services, professional services, and/or construction projects as set forth in this chapter by memorandum or by administrative order;
11. Each month the City Manager shall send to the City Council a report of all contracts that have been awarded over the formal bidding requirement.

D. City Council. The City Council shall be the awarding authority for:

1. Any procurement of goods, services and/or professional services costing more than \$100,000.00 per agreement year;
2. Any construction project contract at or above the formal bidding threshold established by the UPCCAA;
3. Any change order or amendment that exceeds the City Manager's authority.

E. City Attorney. The City Attorney shall be the awarding authority for the procurement of legal services, regardless of the dollar amount, up to the amount of appropriations available.

(Ord. CS-002 § 2, 2008)

**§ 3.28.050. Procurement of goods.**

- A. Small Procurements. Procurements of goods where the total cost of goods are \$30,000.00 or less in any one transaction, shall be made using simplified and cost effective operational procedures and forms approved by the City Manager. The use of formal or informal bids is not required, but is considered the best management practice. The small procurement limit shall be reviewed and adjusted annually per the procedures set forth in subsection (C)(1) of this section. Procurement requirements shall not be divided so as to constitute several small procurements under this subsection.

B. Informal Bidding for Goods.

1. Informal bidding procedure shall be utilized:
  - a. When the anticipated cost of the goods to be purchased is less than the dollar amount established for formal bidding for goods in subsection (C)(1) herein; or
  - b. When no bids are received pursuant to the formal bid procedures established; or
  - c. When all bids received substantially exceed the city's estimated costs, as determined by the purchasing officer through the formal bidding procedure.
  - d. The City Council may designate types or classes of procurements costing more than the dollar amount established for formal bidding in subsection (C)(1) herein; which may be purchased through the use of informal bidding procedures whenever the City Council finds that use of the informal bidding procedure is advantageous to the city consistent with applicable law.
2. The informal bidding procedure shall be as follows:
  - a. Bids shall be obtained by written or oral request.
  - b. When possible, a minimum of three bidders should be solicited.
  - c. Best value criteria, if used, must be determined before bids/quotes are published or distributed to potential bidders/suppliers.
  - d. Responses shall be in writing, and may be transmitted by facsimile, by mail, electronically over the Internet, or by any other means of delivery as described in the bid documents.
  - e. The award shall be based on best value to the city or the lowest bid submitted by a responsive bidder, as determined by the purchasing officer, and shall be awarded by the City Manager.

C. Formal Bidding for Goods.

1. Formal bidding procedures shall be utilized when the anticipated cost of the goods is greater than \$30,000.00 per agreement year. The bid limit shall be reviewed annually and adjusted in response to the San Diego—All Urban Consumers Consumer Price Index. The purchasing officer shall calculate the effect of the cumulative change in the index to \$30,000.00 beginning in fiscal year 2009. Adjustment to the bid limit will be made in \$5,000.00 increments whenever the calculated value exceeds a previously set bid limit by more than \$2,500.00. The bid limit adjustment will be made effective at the beginning of a fiscal year by memorandum from the purchasing officer.
2. Procurement requirements shall not be divided so as to avoid the formal bidding requirements.
3. The formal bidding procedures shall be as follows:
  - a. The purchasing officer, or designee, shall issue a notice inviting bids using one or more methods designed to provide reasonable public notice in a manner which will permit current information to be disseminated widely. The notice shall include:
    - i. Instruction to bidders;

- ii. Specifications describing the required goods;
  - iii. Bid forms and schedules;
  - iv. Any required bond forms;
  - v. General contract provisions;
  - vi. The time on or before which bids will be received;
  - vii. Where and with whom bids shall be filed;
  - viii. The date, time and place where and when bids will be publicly opened;
  - ix. Statement of bidders exceptions.
- b. The sealed formal bids shall be received by the purchasing officer, or designee, at a time, date and place designated in the bid documents. Formal bids, timely received, will be publicly opened by the purchasing officer, or designee, and the aggregate bid pricing shall be read aloud.
  - c. Any person or entity with whom the city has contracted to prepare or assist in the preparation of bid or proposal documents is ineligible to submit a bid or proposal for the provision of the goods so specified in the notice inviting bids or proposals.
  - d. Formal bids received after the deadline for receipt of bids shall not be accepted by the city and shall be returned to the bidder unopened, unless opening is necessary for identification purposes. The purchasing officer, or designee, shall submit written notification to the bidder whose bid was received after the deadline stating what the deadline was, when the bid was actually received and that the bid is being returned because it was received after the deadline.
- 4. If no bids are received or if no bids meet the requirements as specified in the solicitation documents, the purchasing officer may reissue the solicitation using the informal bidding procedures, negotiate a contract based upon the solicitation, without further complying with this section or the city may cease the procurement.
  - 5. If two or more bids are received with the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council, or the City Manager if the procurement is under \$100,000.00, may exercise sound discretion and accept the bid it chooses.
  - 6. In considering formal bids for goods, the awarding authority may waive minor defects or irregularities, provided that the irregularities do not affect the bid amount or give a particular bidder an advantage over others.
  - 7. All bids shall be deemed rejected if no City Council or City Manager action is taken on the bids or proposals within 90 days after the bids have been received and opened, unless bidders agree to extend a bid's effective date upon request by the city.
- D. Additional Responsibilities and Authorities.
- 1. The city shall have the authority to require a performance bond in such amount as it finds reasonably necessary to protect the best interests of the city consistent with applicable law. If

the city requires a performance bond, the amount of the bond shall be described in the notice inviting bids and bid proposal documents.

2. All contracts may be awarded based on the best value for the city. Best value criteria, if used, must be determined before bids/quotes are published or distributed to potential bidders/suppliers.
  3. The City Manager shall be the awarding authority for procurement of goods for which the cost to the city is \$100,000.00 per agreement year or less.
  4. The City Council shall be the awarding authority for procurement of goods for which the cost to the city is more than \$100,000.00 per agreement year and have not been previously approved as capital outlay items in the budget process.
- E. The city's goods procurement practice prohibits unlawful activity, including, but not limited to, rebates, kickbacks, or other unlawful consideration. No city employee shall participate in the selection process if that employee has a relationship with a person or business entity seeking a contract with the city that would subject that employee to the prohibition of Government Code Section 87100. (Conflicts of Interest).

(Ord. CS-002 § 2, 2008; Ord. CS-307 §§ 3—5, 2016)

#### **§ 3.28.060. Procurement of professional services and services.**

##### **A. Professional Services Procurement.**

1. Request for proposals should be used when professional services are needed. The selection of professional services for, private architectural, landscape architectural, engineering, environmental, land surveying or construction project management firms should be based on the professional qualifications necessary for the satisfactory performance of the professional services required, on demonstrated competence, and on a fair and reasonable price consistent with Government Code Section 4526.
2. Procurements of professional services where the total cost of services are \$30,000.00 or less per agreement year shall be made using simplified and cost effective operational procedures and forms approved by the City Manager. If the cost of needed professional services is expected to exceed \$30,000.00 per agreement year, at least three proposals should be solicited for the professional service needed whenever possible. The purchasing officer may waive the requirements for solicitation of multiple proposals if only one individual or firm can reasonably provide the professional services, and it is in the best interest of the city to waive the requirement.

##### **B. Small Procurements of Services.** Procurements of services where the total cost of services are \$30,000.00 or less in any one transaction, shall be made using simplified and cost effective operational procedures approved by the City Manager and forms approved by the City Manager. The use of formal or informal bids is not required, but is considered the best management practice. The small procurement limit shall be reviewed and adjusted annually per the procedures set forth in Section 3.28.050(C)(1). Procurement of services requirements shall not be divided so as to constitute several small procurements under this subsection.

##### **C. Informal Bidding for Services.**

1. Informal bidding procedure, as set forth in Section 3.28.050(B)(2) may be utilized:

- a. When no bids are received pursuant to the formal bid procedures established; or
- b. The City Council may designate types or classes of procurements costing more than the dollar amount established for formal bidding in subsection (D)(1) herein; which may be purchased through the use of informal bidding procedures whenever the City Council finds that use of the informal bidding procedure is advantageous to the city consistent with applicable law.

D. Formal Bidding for Services.

1. Formal bidding procedures shall be utilized when the anticipated cost of the services is greater than \$30,000.00 per agreement year. The bid limit shall be reviewed annually and adjusted in response to the San Diego—All Urban Consumers Consumer Price Index. The purchasing officer shall calculate the effect of the cumulative change in the index to \$30,000.00 beginning in fiscal year 2009. Adjustment to the bid limit will be made in \$5,000 increments whenever the calculated value exceeds a previously set bid limit by more than \$2,500.00. The bid limit adjustment will be made effective at the beginning of a fiscal year by memorandum from the purchasing officer.
  2. Procurement requirements shall not be divided so as to avoid the formal bidding requirements.
  3. The formal bidding procedures and requirements shall be as set forth in Section 3.28.050(C) and (D).
  4. The City Manager shall be the awarding authority for procurement of services and professional services for which the cost to the city is \$100,000.00 or less per agreement year.
  5. The City Council shall be the awarding authority for procurement of services and professional services for which the cost to the city is more than \$100,000.00 per agreement year.
- E. The city's services and professional services procurement practice prohibits unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. No city employee shall participate in the selection process if that employee has a relationship with a person or business entity seeking a contract with the city that would subject that employee to the prohibition of Government Code Section 87100. (Conflicts of Interest).

(Ord. CS-002 § 2, 2008; Ord. CS-307 §§ 6, 7, 2016)

**§ 3.28.070. Competitive negotiations for goods, services, and professional services.**

- A. The purchasing officer may authorize the solicitation of services and/or professional services other than those listed in Section 3.28.060, and the purchase of highly specialized goods by competitive negotiations when:
1. The cost of the goods, services and/or professional services is greater than the dollar amount established for formal bidding in Section 3.28.050(C)(1) and Section 3.28.060(D)(1); and
  2. The goods are such that suitable technical or performance specifications are not readily available; or
  3. The city is not able to develop descriptive specifications; or
  4. Requesting proposals for the particular service or goods to be procured would be more advantageous to the city.

- B. Whenever possible, at least three proposals shall be received and the award will be based on the proposal that is determined to be most advantageous to the city, taking into consideration price and the evaluation criteria set forth in the request for proposal. Competitive negotiations are not intended to be used for the purpose of avoiding the bidding procedure set forth in this chapter.
- C. The City Manager or designee shall award contracts for goods and/or services less than \$100,000.00 per agreement year.
- D. The City Council shall award contracts for goods and/or services over \$100,000.00 per agreement year.

(Ord. CS-002 § 2, 2008)

#### **§ 3.28.080. Construction projects.**

Except where specifically exempted from such laws by ordinance of the City Council, contracts for construction projects in the city shall be governed by applicable state laws including the California Public Contract Code, Division 2, Part 1, and Division 2, Part 3, the Local Agency Public Construction Act, which includes the adoption by the city of the alternative provisions of the Uniform Public Construction Cost Accounting Act for use in the city. Contracts for construction projects shall also be governed by the current edition of the standard specifications for public works construction and the latest supplement thereto, adopted by the Greenbook Committee of the Public Works Standards, Inc., except as otherwise provided by the City Council or the City Manager if the contract is within his or her authority.

- A. Construction projects less than the amount specified in Section 22032(a) of the California Public Contract Code may be performed by city employees by force account, by negotiated contract or by purchase order.
- B. Construction projects less than the amount specified in Section 22032(b) of the California Public Contract Code may be let to contract by informal procedures set forth in this section.
- C. Construction projects of more than the amount specified in Section 22032(c) of the California Public Contract Code shall be let by formal bidding procedure.
- D. It shall be unlawful to split or separate work or projects into smaller work orders on projects for the purpose of evading the provisions of this chapter.
- E. The City Council shall adopt plans and specifications for all construction projects to be formally bid when the value exceeds the limits established by the UPCCAA.
- F. The city Traffic Engineer, or another professional civil engineer licensed by the State of California that is designated by City Council resolution, shall review and approve plans and specifications for all traffic control devices included in construction projects not adopted by City Council pursuant to subsection E of this section.
- G. The city Director of Public Works, or another professional civil engineer licensed by the State of California that is designated by City Council resolution, shall review and approve plans and specifications for all construction projects not adopted by City Council pursuant to subsection E of this section, except for plans and specifications reviewed and approved pursuant to subsection F of this section.
- H. The informal bidding for construction projects procedures shall include the following procedures:
1. The purchasing officer or designee shall develop a list of qualified contractors eligible to submit

bids on informal contracts awarded by the city. The list shall be organized in accordance with the license classifications of the contractor's state license board.

2. The purchasing officer or designee shall mail notice inviting informal bids to all contractors on the list of qualified contractors and construction trade journals not less than 10 calendar days before bids are due.
3. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, the time, date and place for the submission of bids, and whether or not the project will require the payment of prevailing wages.
4. When the awarding authority deems feasible, bid documents may be transmitted and/or received over the internet.
5. The awarding authority may in its sole discretion reject any or all bids presented and waive any minor irregularity or informality in such bids. The contract shall be awarded to the lowest responsive, responsible bidder. If no bids are received through the informal procedure, the project may be performed by city employees, by force account or negotiated contract without further complying with this section.
6. The City Manager or designee shall award all informal contracts.

I. The formal bidding procedures for construction projects shall include the following:

1. The purchasing officer, or delegate, shall mail notice inviting formal bids for construction projects to construction trade journals at least 15 calendar days before the bid opening date. The notice inviting formal bids shall be published at least 14 calendar days before the bid opening date in a newspaper of general circulation in the city. In addition to the newspaper, the notice inviting formal bids may be advertised in any manner which will permit the information to be widely disseminated.
2. When the awarding authority deems feasible, bid documents may be transmitted and/or received over the internet.
3. The awarding authority may waive any minor irregularity or informality in such bids or may, in its sole discretion, reject all bids presented.
4. The contract shall be awarded to the lowest responsive, responsible bidder.
5. If no bids are received through the formal procedure, the project may be performed by city employees, by force account or negotiated contract without further complying with this section.
6. The City Council shall award all formal contracts.

(Ord. CS-002 § 2, 2008; Ord. CS-307 § 8, 2016; Ord. CS-361 § 3, 2019)

**§ 3.28.085. Design-build contracts.**

Section 100 of the Charter of the City of Carlsbad provides that the City Council shall have full power and authority to adopt laws with respect to municipal affairs. Section 404 provides that the City Council shall have the power to establish procedures and regulations for contracts for the construction of public improvements. As an alternative to the bidding process set forth in this chapter and the California Public Contract Code, and when recommended by the City Manager in writing, there is hereby established a design build procurement and contracting approach.

A. Purpose and Intent. The purpose of this section is to provide definitions and guidelines for the award, use, and evaluation of design-build contracts.

B. Definitions. For the purposes of this section, the following definitions apply:

"Design-build" means a public works contract procurement method in which both the design and construction of a project are procured from a single entity.

"Design-build entity" means a natural person, partnership, joint venture, corporation, business association or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed.

"Design-build entity member" includes any person who provides licensed contracting, architectural, or engineering services.

C. Design-Build Procurement. For purposes of this section only, prior to procuring a design-build public works contract, the city shall prepare a request for proposal setting forth the scope of the project that may include, but is not limited to, the size, type, and desired design character of the buildings and site, and performance specifications. The performance specifications shall describe the quality of materials, equipment, and workmanship, preliminary plans or building layouts and other information deemed necessary to adequately describe the city's needs. The performance specifications shall be prepared by a design professional who is duly licensed and registered in California.

D. Competitive Prequalification and Selection Process. The city may establish a competitive prequalification and selection process for design-build entities that specifies the prequalification criteria, as well as recommends the manner in which the winning entity will be selected.

E. Prequalification Criteria. Prequalification may be limited to consideration of all or any of the following criteria supplied by a design-build entity:

1. Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.
2. Submission of documentation establishing that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, building type, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.
3. If the design-build entity is a partnership, limited partnership, joint venture or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract.
4. Submission of a proposed project management plan establishing that the design-build entity has the experience, competence, and capacity needed to effectively complete the project.
5. Submission of evidence establishing that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement assuring the city that the design-build entity has the capacity to complete the project.
6. Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.
7. Information concerning any debarment, disqualification, or removal of the design-build entity

from a federal, state, or local government public works project. Any instance in which the design-build entity or any member submitted a bid on a public works project and were found to be non-responsive, or were found by the awarding body not to be a responsible member.

8. Provision of a declaration providing detail for the past five years concerning all of the following:
    - a. Civil or criminal violations of the Occupational Safety and Health Act against any member of the design-build entity.
    - b. Civil or criminal violations of the contractors' state license law against any member of the design-build entity.
    - c. Any conviction of any member of the design-build entity of submitting a false or fraudulent claim to a public agency.
    - d. Civil or criminal violations of federal or state law governing the payment of wages, benefits, or personal income tax withholding, or of Federal Insurance Contributions Act (FICA) withholding requirements, state disability insurance withholding, or unemployment insurance payment requirements against any member of the design-build entity. For purposes of this subsection only, violations by a design-build entity member, as an employer shall be deemed applicable, unless it is shown that the design-build entity member, in his or her capacity as an employer, had knowledge of a subcontractor's violations or failed to comply with the conditions set forth in Section 1775(b) of the State Labor Code.
    - e. Civil or criminal violations of federal or state law against any design-build entity member governing equal opportunity employment, contracting or subcontracting.
    - f. Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity in which the claim, settlement, or judgment exceeds \$50,000.00.
  9. The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.
- F. Selection Method. The awarding authority shall select one of the following methods as the process to be used for the selection of the winning entity:
1. A design-build competition based on performance, specifications, and criteria set forth by the awarding authority in the request for proposals.
    - a. Criteria used in this form of evaluation of proposals may include, but not be limited to, items such as proposed design approach, initial and/or life-cycle costs, project features, financing, quality, capacity, schedule, and operational and functional performance of the facility. However, any criteria and methods used to evaluate proposals shall be limited to those contained in the request for design-build proposals.
    - b. Any architectural firms, engineering firms, specialty consultants, or individuals retained by the city to assist in the development of criteria or preparation of the request for proposals shall not be eligible to participate in the competition with any design-build

entity.

- c. Award shall be made to the design-build entity whose proposal is judged as providing best value meeting the interests of the city and meeting the objectives of the project.
2. A design-build competition based on program requirements, performance specifications, and a preliminary design or combination thereof set forth by the awarding authority in the request for proposals. Limited drawings and specifications detailing the requirements of the project may accompany the request for proposals.
  - a. The awarding authority shall establish technical criteria and methodology, including price, to evaluate proposals and shall describe the criteria and methodology of evaluation and selection in the request for design-build proposals.
  - b. Any architectural firms, engineering firms, specialty consultants, or individuals retained by the city to assist in the preparation of the preliminary design or request for proposals shall not be eligible to participate in the competition with any design-build entity.
  - c. Award shall be made to the design-build entity on the basis of the technical criteria and methodology, including price, whose proposal is judged as providing best value in meeting the interests of the city and meeting the objectives of the project.
3. A design-build competition based on program requirements and a detailed scope of work, including any preliminary design drawings and specifications set forth by the awarding authority in the request for proposals.
  - a. Any architectural firms, engineering firms, specialty consultants, or individuals retained by the city to assist in the preparation of the preliminary design or request for proposals shall not be eligible to participate in the competition with any design-build entity.
  - b. Award shall be made on the basis of the lowest responsible and reliable bid.

G. Work Listing. The city recognizes that the design-build entity is charged with performing both design and construction. Because a design-build contract may be awarded prior to the completion of the design, it is often impracticable for the design-build entity to list all subcontractors at the time of the award.

1. It is the intent of the city to establish a clear process for the selection and award of subcontracts entered into pursuant to this division in a manner that retains protection for subcontractors while enabling design-build project to be administered in an efficient fashion.
2. All of the following requirements shall apply to subcontractors, licensed by the state, that are employed on design-build projects undertaken pursuant to this section.
  - a. The design-build entity in each design-build proposal shall specify the construction trades or types of subcontractors that may be named as members of the design-build entity at the time of award. In selecting the trades that may be identified as members of the design-build entity, the design-build entity shall identify the trades deemed essential in the design considerations of the project. All subcontractors that are listed at the time of award shall be afforded the protection of all applicable laws.
  - b. All subcontracts that were not listed by the design-build entity at the time of award in accordance with subsection (G)(2)(a) shall be performed and awarded by the design-build

entity, in accordance with a bidding process set forth in the request for proposals.  
(Ord. CS-046 § 1, 2009)

**§ 3.28.087. Job order contracts.**

Section 100 of the Charter of the City of Carlsbad provides that the City Council shall have full power and authority to adopt laws with respect to municipal affairs. Section 404 provides that the City Council shall have the power to establish procedures and regulations for contracts for the construction of public improvements. As an alternative to the bidding process set forth in this chapter and the California Public Contract Code, and when recommended by the City Manager in writing, there is hereby established a job order procurement and contracting approach.

A. Purpose and Intent. The purpose of this section is to provide definitions and guidelines for the award, use, and evaluation of job order contracts.

B. Definitions. For the purposes of this section, the following definitions apply:

"Job order contract" means a construction contract for minor or recurring construction tasks, including repair, with a firm, fixed price, and indefinite quantity awarded on a unit price basis for all necessary labor, materials, and equipment.

"Task order" means an authorization to perform construction work under a job order contract.

C. Job Order Procurement.

1. Except as specifically set forth in this section, job order contracts are subject to Section 3.28.080.

2. Job order contracts shall have a term no longer than five years, including all modifications.

3. The advertisement for bids and specifications shall contain a maximum dollar amount of the job order contract not to exceed \$1,000,000.00. Any cumulative change orders to a job order contract shall not result in a contract exceeding \$1,000,000.00.

4. The advertisement for bids and specifications shall include unit prices and detailed technical specifications for each construction task to be performed under the job order contract.

5. Contractors submitting bids on a job order contract shall state in their bids an adjustment on a percentage basis either increasing or decreasing the unit prices for all construction tasks set forth in the bid documents.

D. Issuance of Task Orders.

1. Each task order shall include a detailed scope of work and time certain for completion of work. The task order price shall be no more than the sum of the applicable unit prices with the bid adjustment factor.

2. The City Manager or designee shall have authority to issue task orders less than the dollar amount specified in Section 3.28.080(B).

(Ord. CS-307 § 2, 2016)

**§ 3.28.090. Execution of change orders and amendments.**

A. No amendment to an agreement or contract shall be made without the issuance of a written change

order or amendment, and no payment for any such change or amendment shall be made unless a written change order or amendment has first been approved and executed in accordance with this section designating in advance the work to be done and the amount of additional compensation to be paid.

- B. The City Council may by resolution authorize the City Manager or designee to approve change orders on a project to an amount it determines appropriate for a large, complex project.  
(Ord. CS-002 § 2, 2008; Ord. CS-307 § 9, 2016)

#### **§ 3.28.100. Cooperative purchasing.**

The purchasing officer shall have the authority to join with other public or quasi-public agencies in cooperative purchasing plans or programs for the purchase of goods and/or services by contract, arrangement or agreement as allowed by law and as determined by the purchasing officer to be in the city's best interest. The purchasing officer may buy directly from a vendor at a price established by another public agency when the other agency has made their purchase in a competitive manner.

(Ord. CS-002 § 2, 2008)

#### **§ 3.28.110. Exemptions.**

The following procurements, contracts or transactions are exempted, as determined by the awarding authority, from the provisions of this chapter:

- A. Emergency procurements for construction, goods or services;
- B. Goods, services and/or professional services that can be reasonably obtained from only a single source;
- C. Items required matching or being compatible with other goods, furnishings, materials or equipment previously purchased by the city;
- D. Goods, furnishings, types of materials or equipment that have been standardized for the city by the City Manager or by the City Council;
- E. Utility services and related charges;
- F. Goods, services and/or professional services obtained from or through agreement with any governmental, public or quasi-public agency;
- G. Real property leases or purchases and related title and escrow fees;
- H. Insurance and bonds;
- I. Advertising in magazines, newspapers or other media;
- J. Works of art, entertainment or performers;
- K. Library collection materials or services or other books or periodicals;
- L. Membership dues, conventions, training, travel arrangements including hotels, car rentals and airfare;
- M. Surplus personal property owned by another government, public or quasi-public entity;
- N. Situations where solicitations of bids or proposals for goods, services and/or professional services

would be, in the discretion of the awarding authority, impractical, unavailing, impossible, or not in the best interests of the city.

(Ord. CS-002 § 2, 2008)

**§ 3.28.120. Emergencies.**

In cases of emergency, as determined by the City Council, including, but not limited to, states of emergency defined in Government Code Section 8558, as may be amended from time to time, when repair or replacements are necessary to permit the continued conduct of the operation or services of a public agency or to avoid danger to life or property, the City Manager may then proceed at once to replace or repair any public facility or infrastructure and/or procure the necessary goods and/or services adopting the plans, specifications, or working details giving notice of bids to let contracts. Emergency work may be completed by day labor under the direction of the City Manager, or by contractor, or a combination of the two. The City Manager is delegated the power to declare a public emergency subject to confirmation by the City Council, by a four-fifths vote at its next regular meeting following the City Manager declaring a public emergency.

(Ord. CS-002 § 2, 2008)

**§ 3.28.140. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause or phrase contained in it irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

(Ord. CS-002 § 2, 2008)

## CHAPTER 3.29 DISPOSAL OF SURPLUS CITY PROPERTY

**Note: Prior ordinance history: Ord. Nos. 1198, NS-154, and NS-310.**

### **§ 3.29.010. Duty to report surplus supplies and equipment.**

All departments shall supply to the purchasing officer, at such times and in such forms as prescribed, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out or otherwise surplus to the needs of the city. The purchasing officer shall have authority to exchange for or trade in such property on new supplies and equipment in accordance with this chapter.

(Ord. NS-613 § 2, 2001)

### **§ 3.29.020. Disposal required.**

The purchasing officer shall determine if any surplus supplies or equipment can be used by any other agency in the city. If such supplies or equipment cannot be used or are unsuitable for city use, the purchasing officer shall, in the manner provided in this chapter, dispose of such supplies and equipment that cannot be exchanged for or traded in on new supplies or equipment.

(Ord. NS-613 § 2, 2001)

### **§ 3.29.030. Authority.**

The purchasing officer is authorized to sell or dispose of surplus personal property having a salvage value in the open market by public auction, through electronic auctions or sales including Internet-based market places, by consignment, by competitive sealed bids, by negotiated sale to other public or quasi-public agencies or by exchange or trade in for new goods.

If the surplus property which is not required for city use has an estimated value of more than the amount established as the City Manager's authority for awarding procurement contracts for goods and services, the City Manager shall dispose of the property as provided by resolution of the City Council.

(Ord. NS-613 § 2, 2001)

### **§ 3.29.040. Property with no salvage value or unable to be sold.**

Surplus property that is determined to be "unable to be sold" or items having no estimated or appraisal value, may be disposed of by the purchasing officer in any manner deemed appropriate, keeping full records of such disposition.

(Ord. NS-613 § 2, 2001)

### **§ 3.29.050. Records.**

The purchasing officer shall provide regular reports to the City Manager which indicate surplus property disposed of, the method of disposal, and the amounts recovered from such disposal efforts. The City Manager shall send to the City Council regular reports of all surplus property that has been disposed of, including the amounts received for the sale of surplus property.

(Ord. NS-613 § 2, 2001)

**§ 3.29.060. Donations.**

In addition to the methods of disposal listed in Section 3.29.030, the City Manager may authorize the disposal of surplus property through donation of such property to a governmental, public or quasi-public agency, charitable or non-profit organization. Upon approval in advance, in writing by the City Manager, surplus personal property may be donated to governmental, public or quasi-public agencies, charitable or non-profit organizations.

(Ord. NS-613 § 2, 2001)

**§ 3.29.070. Proceeds of sale.**

Proceeds from the sale of surplus personal property shall be deposited into the appropriate fund, as determined by the Finance Director.

(Ord. NS-613 § 2, 2001)

**§ 3.29.080. City personnel prohibited.**

No city officer or employee shall purchase surplus city property sold in accordance with this chapter.

(Ord. NS-613 § 2, 2001)

**CHAPTER 3.30  
LOST AND UNCLAIMED PROPERTY**

**§ 3.30.010. Lost property.**

All lost property in the possession of any city personnel shall be placed in the custody of the police department to be held and disposed of in accordance with this chapter.

(Ord. 1198 § 1, 1976)

**§ 3.30.020. Retention authorized—Tagging required.**

- A. All lost and unclaimed property, including bicycles, in the possession of the police department shall be held by the department for a period of at least three months. Lost and unclaimed animals shall be turned over to the San Diego County animal regulation department. Lost and unclaimed perishable property shall be held by the department for at least 24 hours.
- B. All lost and unclaimed property in the possession of the department shall be tagged showing the date and circumstances of its acquisition by the department.

(Ord. 1198 § 1, 1976; Ord. 1268 § 1, 1984; Ord. NS-154 § 2, 1991)

**§ 3.30.030. Restoration to owner—Costs.**

- A. If, during the time that lost and unclaimed property is in the possession of the police department, the owner of the property appears and proves his or her ownership, the department shall restore the property to him or her.
- B. The department may require that the reclaiming owner pay to the department the reasonable costs of storage and care of the property and the costs of publication incurred by reason of compliance with the terms of this chapter.

(Ord. 1198 § 1, 1976)

**§ 3.30.040. Transfer to finder.**

Personal property, except bicycles, which has been held by the department for 90 days, and which has not been returned to the rightful owner, shall be subject to and may be transferred to the finder thereof in accordance with Section 2080.3 of the California Civil Code.

(Ord. 1198 § 1, 1976)

**§ 3.30.050. Disposition to city.**

If, after the expiration of the applicable retention period, the City Manager determines any unclaimed property in the possession of the police department is needed for public use, such property shall be retained by the city.

(Ord. 1198 § 1, 1976)

**§ 3.30.060. Disposition to public authorized.**

After the expiration of the applicable return period all lost and unclaimed property remaining in the custody of the police department shall be sold at public auction to the highest bidder in accordance with this chapter.

(Ord. 1198 § 1, 1976)

**§ 3.30.070. Auction procedure.**

The purchasing officer, on behalf of the Police Chief, shall authorize a public auction at least once each year, or more frequently if, in the judgment of the Police Chief, it is necessary for the more immediate disposition of lost or unclaimed property. The date of a public auction shall be not less than five days following the publication in a newspaper of general circulation in the city, printed and published in the county, of a notice of the sale at public auction of lost and unclaimed property. The public auction may, but is not required to be conducted over the Internet. Property purchased at public auction shall not be reclaimable by the original owner.

(Ord. 1198 § 1, 1976; Ord. NS-590 § 2, 2001)

**§ 3.30.080. Auction proceeds.**

All proceeds from the sale at public auction of lost or unclaimed property, including bicycles, shall be deposited in the general fund of the city.

(Ord. 1198 § 1, 1976)

**§ 3.30.090. Authorization to destroy.**

After the expiration of the applicable retention period all lost and unclaimed property which is deemed to be of limited or no value, or which is a thing which is commonly not the subject of sale, may be destroyed or otherwise disposed of by the city. All unclaimed property remaining unsold after being offered for sale at public auction may be destroyed or otherwise disposed of by the city.

(Ord. 1198 § 1, 1976)

**§ 3.30.100. City personnel prohibited.**

No city officer or employee may claim property as a finder or purchase lost or unclaimed property sold in accordance with this chapter.

(Ord. 1198 § 1, 1976)

## CHAPTER 3.32 CLAIMS AND DEMANDS

### **§ 3.32.010. Payment of demands.**

Demands, before payment, shall be processed in accordance with the following procedure:

- A. Demands other than payroll demands shall, before payment, be duly certified:
  1. By the department head for whom the work was performed;
  2. By the Finance Director that such demands conform to the budgetary allowances set forth by the City Council.
- B. Payroll demands shall, before payment, be duly certified as follows: The department heads shall certify or approve departmental attendance or payroll records for employees in their departments. The Finance Director shall certify attendance or payroll records for other officers and employees.
- C. After demands have been certified in accordance with the foregoing, the Finance Director shall prepare warrants upon funds of the city as authorized by the City Council in appropriate budgetary and salary resolutions. For other than payroll warrants, the Finance Director shall indicate on each warrant the fund from which such warrant demands are to be paid and the purpose for which such warrant is issued. The Finance Director shall then transmit the prepared warrants to the City Treasurer and the Mayor for signature. The signature of the Mayor and the treasurer may be affixed by a stamped facsimile of their signature by an authorized representative.

(Ord. 1215 § 2, 1979; Ord. 1294 § 1, 1987)

### **§ 3.32.020. Ratification of payment of demands.**

Warrants and payroll checks on checks drawn in payment of demands or payroll obligations certified or approved by the Finance Director as conforming to the city's budget as adopted or amended by council shall be presented to the City Council in the form of an audited comprehensive annual financial report.

(Ord. 1215 § 2, 1979; Ord. 1294 § 2, 1986)

### **§ 3.32.025. Submitting false claims—Monetary penalties.**

- A. Any contractor, subcontractor or consultant who commits any of the following acts may be liable to the city for three times the amount of damages which the city sustains because of the act of that contractor, subcontractor or consultant. A contractor, subcontractor or consultant who commits any of the following acts shall also be liable to the city for the costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the city for a civil penalty of up to \$10,000.00 for each false claim:
  1. Knowingly presents or causes to be presented to an officer or employee of the city a false claim or request for payment or approval;
  2. Knowingly makes, uses or causes to be made or used a false record or statement to get a false claim paid or approved by the city;
  3. Conspires to defraud the city by getting a false claim allowed or paid by the city;
  4. Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the city;

5. Is a beneficiary of an inadvertent submission of a false claim to the city, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the city within a reasonable time after discovery of the false claim.
- B. This section does not apply to any controversy involving an amount of less than \$500.00 in value. For purposes of this subsection, "controversy" means any one or more false claims submitted by the same contractor, subcontractor or consultant in violation of this section.
- C. Every contract performed at the expense of the city, or the costs of which are paid for out of monies deposited in the treasury of said city, whether directly awarded or indirectly by or under subcontract, subpartnership, day labor, station work, piece work, or any other arrangement whatsoever, shall contain a clause reciting the provisions of subsection A of this section.
- D. Liability under this section shall be joint and severable for any act committed by two or more persons.
- E. For purposes of this section, the terms "contractor" and "subcontractor" shall have the same definitions as found in Section 4113 of the Public Contract Code. The term "consultant" shall be broadly defined to include any person or entity that provides services to the city.
- F. For purposes of this section, "claim" includes any request or demand for money, property or services made to any employee, officer or agent of the city, or to any contractor, subcontractor, grantee or other recipient, whether under contract or not, if any portion of the money, property or services requested or demanded issued from, or was provided by, the city.
- G. For purposes of this section, "knowingly" means that a contractor, subcontractor or consultant, with respect to information, does any of the following:
1. Has actual knowledge of the information;
  2. Acts in deliberate ignorance of the truth or falsity of the information;
  3. Acts in reckless disregard of the truth or falsity of the information. Proof of specific intent is not required and reliance on the claim by the city is also not required.

(Ord. NS-313 § 1, 1995; Ord. NS-681 § 1, 2003)

#### **§ 3.32.026. Disqualification of irresponsible contractors—Effect of disqualification.**

- A. Any contractor, subcontractor or consultant who fails to comply with the terms of its contract with the city or the provisions of this chapter may be declared an irresponsible bidder, after a hearing in accordance with Section 3.32.028. Upon a determination of irresponsibility, the contractor, subcontractor or consultant (or any other entity with substantially the same officers, directors, owners or principals) shall not be permitted to submit bids, contract, subcontract, or conduct business on any public work or improvement for the city for the period of the debarment. The contract of any such person or entity may, at the option of the City Manager, be canceled and in the event of such cancellation, no recovery shall be had thereon by the contractor, subcontractor or consultant.
- B. Any one of the following acts or omissions may constitute grounds for temporary debarment of three to five years:
1. The contractor, subcontractor or consultant unsatisfactorily performed a contract;
  2. The contractor, subcontractor or consultant unjustifiably failed to honor or observe contractual obligations or legal requirements pertaining to the contract;

3. The contractor, subcontractor or consultant used substandard materials or has failed to furnish or install materials in accordance with the contract requirements, even if the discovery of the defect is subsequent to acceptance of the project and expiration of the warranty thereof, if such defect amounts to intentionally deficient or grossly negligent performance of the contract under which the defect occurred;
  4. The contractor, subcontractor or consultant willfully failed to cooperate in the investigation or hearing of the proposed debarment;
  5. The contractor, subcontractor or consultant performs, or fails to perform, the contract in such a way that significant environmental damage results, or a violation of environmental laws or permits is committed; or
  6. The contractor substitutes a subcontractor in violation of Section 4100 et seq., of the Public Contract Code (Subletting and Subcontracting Fair Practices Act).
- C. Any of the following may constitute grounds for permanent debarment of the contractor, subcontractor or consultant:
1. Any violation of Section 3.32.025(A);
  2. A final conviction under any state or federal statute or municipal ordinance, including a plea of nolo contendere, or final unappealable civil judgment of any one or more of the grounds listed below:
    - a. Embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any offense demonstrating a lack of business integrity, business honesty or responsibility on the part of the contractor, subcontractor or consultant's responsibility;
    - b. A criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract;
    - c. Violations of the California Government Code, Section 84300 or 84301 (sections of the California Political Reform Act requiring disclosure of the true campaign donor) or Section 1.13.025 of the Carlsbad Municipal Code, relating to any city election, or any amendments to the code;
    - d. Fraud or criminal offense in connection with obtaining a public contract;
    - e. Conviction under federal or state antitrust statutes involving public contracts;
  3. Any two or more of the acts or omissions specified in Section 3.32.026(B).
- D. In addition to all other remedies permitted by law, the City Council may, upon the recommendation of the City Manager and upon advice of the City Attorney, by resolution, declare a bidder or contractor ineligible to bid on city procurement and public works contracts based upon any debarment of the contractor, subcontractor or consultant by another governmental agency, for the debarment period designated by the other agency.

(Ord. NS-313 § 2, 1995; Ord. NS-342 §§ 1, 2, 1996; Ord. NS-681 § 2, 2003)

#### **§ 3.32.027. Conduct required of responsible contractors.**

The covenant of good faith and fair dealing is contained in every city contract, and contractors,

subcontractors and consultants shall at all times deal in good faith with the city and shall submit claims, requests for equitable adjustments, requests for change orders, requests for contract modifications or requests of any kind seeking increased compensation on a city contract only upon a good faith, honest evaluation of the underlying circumstances and a good faith, honest calculation of the amount sought. Violation of this section subjects the contractor, subcontractor or consultant to the penalties set forth in this chapter, including disqualification. The act of knowingly submitting a false, untrue or misleading claim, request for equitable adjustment, request for contract modification, request for change order or request of any kind seeking increased compensation is sufficient of itself to subject the contractor, subcontractor or consultant to the penalties stated in this chapter, regardless of the city's reliance on, or response to, the submission.

(Ord. NS-313 § 3, 1995)

**§ 3.32.028. Procedures for disqualification of irresponsible contractors.**

- A. When an action is brought pursuant to Section 3.32.025, 3.32.026 or 3.32.027 of this chapter, the contractor, subcontractor or consultant shall be given notice of the charges and of all evidence supporting such charges. The contractor, subcontractor or consultant or its attorney shall be entitled to offer rebuttal evidence and any other evidence in support of its position.
- B. The city shall schedule a hearing, as soon as practicable upon delivery of the notice to the contractor, where all evidence supporting grounds for debarment shall be presented. The hearing shall be conducted before an unbiased arbitrator with expertise in the area related to the contract. Any such hearing shall be conducted pursuant to the applicable sections of the American Arbitration Association's Construction Industry Arbitration Rules, or other applicable arbitration rules. The arbitrator shall follow and comply with all applicable California case, statutory, and regulatory law in arriving at a decision. The City Attorney may, in his or her discretion, appoint outside counsel to prosecute the charges.
- C. The parties shall attempt to agree upon an unbiased third-party arbitrator. If unable to agree, each party shall select an arbitrator. The two selected arbitrators shall agree on a third arbitrator, who will conduct the hearing. The parties shall share the costs of conducting the hearing before an arbitrator.
- D. A decision of the arbitrator, making a finding of irresponsibility, is final and effective 10 calendar days after a written determination and delivery of the decision to the parties, unless within the 10-day period following delivery, the contractor, subcontractor or consultant, or the City Manager, submits a written appeal to the City Council, filed with the City Clerk for the City Council. The written appeal shall specifically state the reason(s) for the appeal and the manner in which the decision of the arbitrator is in error. Fees for filing an appeal under this section shall be established by resolution of the City Council.
- E. The decision of the arbitrator shall be affirmed by the City Council unless the appellant shows by a preponderance of the evidence that the decision of the arbitrator is in error or inconsistent with state law. The appeal hearing shall be held as soon as practicable after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the City Council shall render its decision on the appeal. The decision of the City Council is final.
- F. All proceedings shall be as informal as is compatible with the requirements of justice. The arbitrator and/or City Council need not be bound by the common law or statutory rules of evidence and procedure, but may make inquiries in the matter through all means and in a manner best calculated to make a just factual determination.

(Ord. NS-313 § 4, 1995; Ord. NS-681 § 3, 2003)

**§ 3.32.029. Notice.**

Whenever a notice is required to be delivered under this chapter, the notice shall be delivered by any one of the following methods. Service is effective as described herein unless different provisions are specifically stated to apply:

- A. Personal Delivery. Service shall be deemed effective on the date of delivery. Proof of delivery of notice may be made by the certification of any designated person over the age of 18 years by declaration under penalty of perjury. The proof shall show that the delivery was done in conformity with this section or other provisions of law applicable to the subject matter concerned.
- B. Certified Mail, Postage Prepaid, Return Receipt Requested. Service shall be deemed effective on the date of mailing. If a notice is sent simultaneously by regular mail and the notice of certified mail is returned unsigned, then service by regular mail will be deemed effective on the date mailing provided the regular mail notice is not returned.
- C. Publication. Service shall be deemed effective on the first date of publication.

(Ord. NS-681 § 4, 2003)

**§ 3.32.030. Refunds.**

- A. When not otherwise prohibited by law, the City Manager may authorize a refund in an amount up to \$25,000.00 for monies that were erroneously paid to or collected by, but not actually due to the city at the time the funds were received, such as overpayments or duplicate payments.
- B. A written request for refund, signed by the person paying the fee or by the department head of the requesting department shall be filed with the Finance Director setting forth the facts and reasons which justify the request.
- C. The Finance Director shall investigate the request and forward the request and his or her recommendation to the City Manager or designee.
- D. The City Manager or designee shall make written findings that support the authorization for refund and shall send to the City Council regular reports of refunds exceeding \$10,000.00.
- E. The City Manager may also authorize a refund when the request for refund is based on the withdrawal of an application for a development project requiring a fee for city services, including, but not limited to, checking of improvement plans, review of tentative tract maps, site development plans, conditional use permits, or other similar zoning permits and building permits. The city shall retain a portion of the application fee as compensation for staff time invested in the acceptance and processing functions through the time the refund was requested. The appropriate department head shall provide the Finance Director with an estimate of the number of hours spent in processing any such application or permit as the basis for the city's retention. The City Manager may then authorize the refund of any remaining balance.
- F. Upon receipt of proper authorization, the Finance Director shall make the refund.

(Ord. 1215 § 2, 1979; Ord. 1284 § 1, 1985; Ord. 142 § 1, 2011)

**§ 3.32.040. Claims for damage.**

- A. No claim for damages against the city shall ever be allowed or paid unless there has been first filed with the City Clerk a claim therefor within the time periods required by subsection B of this section. All such claims for damages shall be first verified by the claimant before an officer authorized to

administer oaths.

- B. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be filed not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be filed not later than one year after the accrual of the cause of action.

(Ord. 1215 § 2, 1979; Ord. 1296 § 5, 1987; Ord. NS-150 § 1, 1991)

**CHAPTER 3.34  
SECURITIES AND RETENTIONS**

**§ 3.34.010. Securities and retentions held in trust.**

Whenever security or a retention of funds is required under the Carlsbad Municipal Code or under the terms of a contract with the city, that security or retention shall be held in trust for the City of Carlsbad. (Ord. NS-229 § 1, 1993)

## CHAPTER 3.36 FEES FOR SPECIAL POLICE SERVICES

### **§ 3.36.010. Established.**

- A. A fee established by City Council resolution shall be paid whenever special police services are provided by the Carlsbad police department. The fee shall not exceed the cost of providing the service.
- B. For the purposes of this chapter, "special police services" includes, but is not limited to, providing crime reports, accident reports, fingerprinting, photographs, clearance letters and patrol or security officers or equipment for special events.

(Ord. 1263 § 1, 1983)

### **§ 3.36.020. Special events.**

- A. Whenever a special event, including, but not limited to exhibits, fairs, athletic events, trade shows, concerts or conventions, requires any permit under the provisions of this code the Chief of Police may, as a condition of the permit, require that patrol or security officers or equipment be provided.
- B. The patrol or security officers or equipment provided shall be approved by the Chief of Police.
- C. The Chief of Police may require that the patrol or security officers or equipment shall be provided by the Carlsbad police department as a special police service.
- D. Whenever patrol or security officers or equipment shall be provided by the Carlsbad police department the applicant shall deposit with the city security in a form acceptable to the Chief of Police, or cash, in an amount sufficient to guarantee payment for the cost of providing the special police service.
- E. Whenever a person holding an event not requiring a permit requests special police services the provisions of this section shall apply.

(Ord. 1263 § 1, 1983)

### **§ 3.36.030. Waiver of fees.**

Governmental agencies and nonprofit corporations, agencies, or organizations whose nonprofit status is listed and declared by the State of California may request a waiver of the fees from the City Council.  
(Ord. 1263 § 1, 1983)

### **§ 3.36.040. Fee for police services at parties requiring a second response.**

- A. It is the purpose of this section to recover the city's costs for second or subsequent responses to the scene of a party when the police officer determines that continued activity is a threat to the peace, health, safety or general welfare of the public. Return calls to a party to disperse uncooperative participants is a drain on personnel and resources often leaving other areas of the city without adequate levels of police protection which creates a hazard to the public, requires resources over and above the level of police services normally provided and constitutes a public nuisance the costs for which should be paid by the responsible person.
- B. For the purpose of this section, the following definitions shall apply:  
"Costs of a second or subsequent responses" include the salaries of the police officers for the amount

of time actually spent in responding to or remaining at the party, at a rate established by the City Manager plus the actual cost of any medical treatment to injured city employees and the cost of repairing any damaged city equipment or property.

"Party" includes a gathering or event where a group of persons have assembled or are assembling on private property for a social occasion or social activity which may constitute a disturbance of the peace in violation of California Penal Code Section 415.

"Responsible person" is the person or persons who own the property where the party takes place or who are in charge of the premises or who organized the party. If the responsible person is a minor, then the minor's parents or guardians will jointly and severally be liable for the costs.

- C. During a first response to a complaint of a disturbance at a party, the responding officer may, among other things, deliver to the responsible person a "Notice of Violation: First Response" which shall contain a message substantially as follows:

This notice of violation is given to you as a result of a first response by the City of Carlsbad to a disturbance of the peace occurring in violation of California Penal Code Section 415. You will be charged all City personnel and equipment costs incurred as a result of any second or subsequent response by the police to this location.

The notice may also contain such other information as deemed necessary by the City Manager to accomplish the purposes of this section.

- D. If the city is required to make a second or subsequent response to a party and a "Notice of Violation: First Response" has been delivered to the responsible person, then the city shall compute the costs of such response. A bill for the costs incurred by the city for its second and subsequent responses shall be prepared and delivered to the responsible person who shall be liable for its payment. The amount of the charge shall be deemed a debt to the city of the responsible person who shall be liable in an action brought in the name of the city for recovery of such amount, including reasonable attorney's fees.
- E. The City Manager is authorized to adopt appropriate procedures for billing and other matters necessary for the administration of this section.
- F. Any person aggrieved by any decision of the City Manager to bill for costs of a second or subsequent response may appeal to the City Council by filing a notice of appeal with the City Clerk within 15 days of the date of the billing. Upon the filing of such request, the City Clerk shall set a time and place for the hearing and shall notify the appellant thereof. At the hearing, any person may present evidence in opposition to or in support of the appellant's case. At the conclusion of the hearing, the City Council may affirm, reverse or modify the decision and the decision of the City Council shall be final.

(Ord. NS-84 § 1, 1989)

**CHAPTER 3.37  
CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT**

**§ 3.37.010. Definitions.**

"Hotel" shall have the meaning defined in Section 3.12.020 of the Carlsbad Municipal Code.  
(Ord. NS-778 § 1, 2005)

**§ 3.37.020. Procedure and findings.**

This chapter is made and enacted pursuant to the provisions of the Parking and Business Improvement Area Law of 1989 (Sections 36500, et seq., of the Streets and Highways Code) (the "law").

- A. On September 13, 2005, the City Council of the City of Carlsbad adopted Resolution No. 2005-281 entitled, "A Resolution of Intention of the City Council of the City of Carlsbad, California, Declaring the Intention of the City Council to Establish the Carlsbad Tourism Business Improvement District (CTBID), Fixing the Time and Place of a Public Meeting and Public Hearing Thereon and Giving Notice Thereof."
- B. Said Resolution No. 2005-281 was published and copies thereof were duly mailed and posted, all as provided by said law and said Resolution No. 2005-281.
- C. Pursuant to said Resolution No. 2005-281, a public meeting concerning the formation of said district was held before the City Council of the City of Carlsbad on October 11, 2005 at 6:00 p.m. in the council chambers of the City Hall of the City of Carlsbad.
- D. Pursuant to said Resolution No. 2005-281, a public hearing concerning the formation of said district was held before the City Council of the City of Carlsbad on November 8, 2005 at 6:00 p.m. in the council chambers of the City Hall of the City of Carlsbad.
- E. All written and oral protests made or filed were duly heard; evidence for and against the proposed action was received; a full, fair and complete hearing was granted and held.
- F. The City Council determined that there was no majority protest within the meaning of Section 36525 of the law.
- G. Following such hearing, the City Council hereby finds that the hotel businesses lying within the district herein created, in the opinion of the City Council, will be benefited by the expenditures of funds raised by the assessment or charges proposed to be levied hereunder.

(Ord. NS-778 § 1, 2005)

**§ 3.37.030. Establishing the Carlsbad Tourism Business Improvement District.**

Pursuant to said law, the Carlsbad Tourism Business Improvement District (CTBID) is hereby established in the City of Carlsbad as herein set forth and all hotel businesses in the district established by this chapter shall be subject to any amendments made hereafter to said law or to other applicable laws.

(Ord. NS-778 § 1, 2005)

**§ 3.37.040. Boundaries.**

The boundaries of the CTBID shall be the boundaries of the City of Carlsbad as shown on the map labeled Exhibit A attached to the ordinance codified in this chapter and found on file in the City Clerk's office.  
(Ord. NS-778 § 1, 2005)

**§ 3.37.050. Levy and collection of assessments.**

The CTBID will include all hotel businesses located within the CTBID boundaries. An assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad of two percent of gross short-term room rental revenue for all transient occupancies as defined in Section 3.12.020 of the Carlsbad Municipal Code. The amount of the assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be collected monthly, based on two percent of gross short-term room rental revenue for the previous month. New hotel businesses within the boundaries will not be exempt from the levy of assessment authorized by Section 36531. Assessments pursuant to the CTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. No assessment shall be imposed upon occupancies of any federal or State of California officer or employee when on official business nor on occupancies of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

(Ord. NS-778 § 1, 2005; Ord. CS-381 § 2, 2020)

**§ 3.37.055. Refund of assessments.**

- A. When not otherwise prohibited by law, the CTBID Advisory Board may authorize a refund in any amount for assessment monies that were erroneously paid to or collected by, but not actually due to the CTBID at the time the funds were received, such as overpayments or duplicate payments.
- B. A written request for refund, signed by the person paying the fee shall be filed with the City of Carlsbad Finance Director setting forth the facts and reasons which justify the request.
- C. The Finance Director shall investigate the request and forward the request and his or her recommendation to the CTBID Advisory Board.
- D. The CTBID Advisory Board shall make written findings that supports the authorization for refund and shall send to the City Manager regular reports of assessments refunds exceeding \$10,000.00.
- E. Upon receipt of proper authorization, the Finance Director shall make the assessment refund.
- F. All requests for refund of assessments fees paid in error shall be made within one year of the date in which the assessment payment made in error was posted to the CTBID account.

(Ord. CS-185 § 1, 2012)

**§ 3.37.060. Ordering the collection of assessments.**

The City Council hereby levies and imposes and orders the collection of an additional assessment to be imposed upon persons occupying hotel business premises in the proposed district described above, which shall be calculated pursuant to Section 3.37.050 above. Such levy shall begin on January 1, 2006.

(Ord. NS-778 § 1, 2005)

**§ 3.37.070. Use of proceeds from assessments.**

The proceeds of the additional hotel business assessment shall be spent to administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges, that benefit hotels within the boundaries of the district. Funds remaining at the end of any CTBID term may be used in subsequent years in which CTBID assessments are levied as long as they are used consistent with the requirements of this section. The City Council of the City of Carlsbad shall consider recommendations as to the use of said revenue made by the

Advisory Board created by Section 3.37.100 of this chapter.  
(Ord. NS-778 § 1, 2005)

#### **§ 3.37.080. Penalty for nonpayment of assessment.**

Any hotel business that fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of 10% of the amount of the assessment in addition to the amount of the assessment. Any hotel business that fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the assessment and the 10% penalty first imposed. In addition to the penalties imposed, any hotel business that fails to remit any assessment imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(Ord. NS-778 § 1, 2005)

#### **§ 3.37.090. Assessments to be used within the district.**

The improvements and activities to be provided in the CTBID will be funded by the levy of the assessments. The revenue from the levy of assessments within the CTBID shall not be used to provide improvements or activities outside the CTBID or for any purpose other than the purposes specified in the resolution of intention.

(Ord. NS-778 § 1, 2005)

#### **§ 3.37.100. Advisory Board.**

The Advisory Board for the district is hereby appointed pursuant to Section 36530 of the law. The initial members and the powers and duties of the Advisory Board shall be set forth in a separate resolution adopted by the City Council. It shall be the purpose of the Advisory Board to make recommendations to the City Council on expenditures for the programs and activities of the CTBID, to make recommendations for its annual budget to be approved by the City Council, and to provide end-of-year financial reports of the CTBID operations as required by the City Council. The powers and duties of the Advisory Board shall be specified by resolution of the City Council. The City Attorney shall serve as the general counsel of the Advisory Board.

(Ord. NS-778 § 1, 2005)

#### **§ 3.37.110. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

(Ord. NS-778 § 1, 2005)

**CHAPTER 3.38  
CARLSBAD GOLF LODGING BUSINESS IMPROVEMENT DISTRICT**

**§ 3.38.010. Definitions.**

"Hotel" shall have the meaning defined in Section 3.12.020 of the Carlsbad Municipal Code.  
(Ord. CS-194 § I, 2012)

**§ 3.38.020. Procedure and findings.**

This chapter is made and enacted pursuant to the provisions of the Parking and Business Improvement Area Law of 1989 (Section 36500 et seq., of the Streets and Highways Code) (the "law").

- A. On September 11, 2012, the City Council of the City of Carlsbad adopted Resolution No. 2012-221 entitled, "A Resolution of Intention of the City Council of the City of Carlsbad, California, Declaring the Intention of the City Council to Establish the Carlsbad Golf Lodging Business Improvement District (CTBID), Fixing the Time and Place of a Public Meeting and Public Hearing Thereon and Giving Notice Thereof."
- B. Said Resolution No. 2012-221 was published and copies thereof were duly mailed and posted, all as provided by said law and said Resolution No. 2012-221.
- C. Pursuant to said Resolution No. 2012-221, a public meeting concerning the formation of said district was held before the City Council of the City of Carlsbad on September 25, 2012 at 6:00 p.m. in the council chambers of the City Hall of the City of Carlsbad.
- D. Pursuant to said Resolution No. 2012-221, a public hearing concerning the formation of said district was held before the City Council of the City of Carlsbad on November 6, 2012 at 6:00 p.m. in the council chambers of the City Hall of the City of Carlsbad.
- E. All written and oral protests made or filed were duly heard; evidence for and against the proposed action was received; a full, fair and complete hearing was granted and held.
- F. The City Council determined that there was no majority protest within the meaning of Section 36525 of the law.
- G. Following such hearing, the City Council hereby finds that the Carlsbad hotels opting in to the district, in the opinion of the City Council, will be benefited by the expenditures of funds raised by the assessment or charges proposed to be levied hereunder.

(Ord. CS-194 § I, 2012)

**§ 3.38.030. Establishing the Carlsbad Golf Lodging Business Improvement District.**

Pursuant to said law, the Carlsbad Golf Lodging Business Improvement District (CGLBID) is hereby established in the City of Carlsbad as herein set forth and hotel businesses that elect to be part of the district established by this chapter shall be subject to any amendments made hereafter to said law or to other applicable laws. The initial members of the Advisory Board shall be set forth in a separate resolution adopted by the City Council.

(Ord. CS-194 § I, 2012)

**§ 3.38.040. Boundaries.**

The boundaries of the CGLBID shall be the boundaries of the City of Carlsbad as shown on the attached

map labeled Exhibit A and found on file in the City Clerk's office.  
(Ord. CS-194 § I, 2012)

#### **§ 3.38.050. Levy and collection of assessments.**

The CGLBID members will include all lodging businesses within the City of Carlsbad that have elected to be part of the district. Businesses may elect to participate in the district by submitting a written letter to the city requesting inclusion no later than May 1 for the following fiscal year. Once a lodging business has submitted a signed request to be included, the assessment shall be mandatory. Participating businesses will be listed in the annual report submitted to the city. The assessment shall be levied on these hotel businesses that have elected to be part of the district for that fiscal year, within the City of Carlsbad based upon a flat fee of two dollars per occupied room per night for all transient occupancies as defined in Section 3.12.020 of the Carlsbad Municipal Code. The amount of the assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be collected monthly, based on two dollars per occupied room per night in revenues for the previous month. New hotel businesses within the boundaries of the district opening during the term of the district will receive notice of the opportunity to be included at least 30 days prior to the annual hearing. Assessments pursuant to the CGLBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. No assessment shall be imposed upon occupancies of any federal or State of California officer or employee when on official business nor on occupancies of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

(Ord. CS-194 § I, 2012)

#### **§ 3.38.055. Refund of assessments.**

- A. When not otherwise prohibited by law, the CGLBID Advisory Board may authorize a refund in any amount for assessment monies that were erroneously paid to or collected by, but not actually due to the CGLBID at the time the funds were received, such as overpayments or duplicate payments.
- B. A written request for refund, signed by the person paying the fee shall be filed with the City of Carlsbad Finance Director setting forth the facts and reasons which justify the request.
- C. The Finance Director shall investigate the request and forward the request and his or her recommendation to the CGLBID Advisory Board.
- D. The CGLBID Advisory Board shall make written findings that support the authorization for refund and shall send to the City Manager regular reports of assessments refunds exceeding \$10,000.00.
- E. Upon receipt of proper authorization, the Finance Director shall make the assessment refund.
- F. All requests for refund of assessments fees paid in error shall be made within one year of the date in which the assessment payment made in error was posted to the CGLBID account.

(Ord. CS-194 § I, 2012)

#### **§ 3.38.060. Ordering the collection of assessments.**

The City Council hereby levies and imposes and orders the collection of an additional assessment to be imposed upon persons occupying hotel business premises in the proposed district described above, which shall be calculated pursuant to Section 3.38.050 above. Such levy shall begin on January 1, 2013.

(Ord. CS-194 § I, 2012)

**§ 3.38.070. Use of proceeds from assessments.**

The proceeds of the additional hotel business assessment shall be used to promote golf-related tourism within the boundaries of the CGLBID, as well as marketing related capital improvements such as golf-related signage, golf-related equipment and to pay for related administrative costs. Funds remaining at the end of any CGLBID term may be used in subsequent years in which CGLBID assessments are levied as long as they are used consistent with the requirements of this section. The City Council of the City of Carlsbad shall consider recommendations as to the use of said revenue made by the Advisory Board created by Section 3.38.100 of this chapter.

(Ord. CS-194 § I, 2012)

**§ 3.38.080. Penalty for nonpayment of assessment.**

Any hotel business that fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of 10% of the amount of the assessment in addition to the amount of the assessment. Any hotel business that fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the assessment and the 10% penalty first imposed. In addition to the penalties imposed, any hotel business that fails to remit any assessment imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(Ord. CS-194 § I, 2012)

**§ 3.38.090. Assessments to be used within the district.**

The improvements and activities to be provided in the CGLBID will be funded by the levy of the assessments. The revenue from the levy of assessments within the CGLBID shall not be used to provide improvements or activities outside the CGLBID or for any purpose other than the purposes specified in the resolution of intention.

(Ord. CS-194 § I, 2012)

**§ 3.38.095. Opting out of the district.**

As stated in Section 3.38.050 of this chapter, the assessment is mandatory for hotel businesses within the City of Carlsbad that have elected to be part of the district. If one of these participating hotel businesses no longer wish to be part of the district, that hotel business must submit a written letter to the City requesting exclusion no later than May 1 for the following fiscal year. The hotel business shall cease collecting the assessment as of July 1. The exiting hotel business shall have 180 days after July 1 to request reimbursement of any remaining funds. After 180 days, any remaining funds of that hotel business shall revert to the CGLBID for administrative costs.

(Ord. CS-321 § 1, 2017)

**§ 3.38.100. Advisory Board.**

The Advisory Board for the district is hereby created pursuant to Section 36530 of the law. The initial members and the powers and duties of the Advisory Board shall be set forth in a separate resolution adopted by the City Council. It shall be the purpose of the Advisory Board to make recommendations to the City Council on expenditures for the programs and activities of the CGLBID, to make recommendations for its annual budget to be approved by the City Council, and to provide end-of-year financial reports of the CGLBID operations as required by the City Council. The City Attorney shall serve as the general counsel of the Advisory Board.

(Ord. CS-194 § I, 2012)

**§ 3.38.110. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

(Ord. CS-194 § I, 2012)

## CHAPTER 3.40 CARLSBAD REIMBURSEMENT FEE

### **§ 3.40.010. Short title.**

This chapter shall be known as the "Carlsbad Reimbursement Fee."

(Ord. CS-281 § 1, 2015)

### **§ 3.40.020. Purpose.**

Chapter 21.90 of the Carlsbad Municipal Code requires the preparation of a local facilities management plan for each local facilities management zone within the city to include, among other provisions, a financing plan establishing various methods of funding the public facilities and improvements identified in such local facilities master plan needed to accommodate development within the related local facilities management zone to fairly allocate the cost of construction of such public facilities and improvements to the various properties within such local facilities management zone.

A local facilities management plan may provide that an owner or developer of property within the related local facilities management zone fund and construct certain required LFMP improvements prior to or concurrent with development of such owner's or developer's property to comply with the phasing schedule and performance standards for such LFMP improvements provided for in the LFMP.

The purpose of this chapter is to establish, in accordance with the freedom afforded to charter cities generally and by the Charter of the City of Carlsbad, a mechanism by which the costs of the construction of LFMP improvements (defined in Section 3.40.030 herein) and certain appurtenant improvements, defined in Section 3.40.030 herein collectively as "eligible improvements," incurred by an owner or developer of property within a local facilities management zone may, as required pursuant to Chapter 21.90, be fairly allocated among the properties within such local facilities management zone and the owner or developer that originally incurred such costs may be reimbursed by the owners of the other properties within the local facilities management zone that would otherwise have been responsible for financing and/or constructing all or some portion of such eligible improvements as a condition of approval of the development of such properties.

(Ord. CS-281 § 1, 2015)

### **§ 3.40.030. Definitions.**

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

"Administrative Services Director" shall mean the Administrative Services Director of the city or designee.

"Building permit" means a permit required by and issued pursuant to Chapter 18.04 of the Carlsbad Municipal Code.

"Chapter 21.90" means Chapter 21.90 of the Carlsbad Municipal Code as it may be amended from time to time.

"City" shall mean the City of Carlsbad.

"City Council" shall mean the City Council of the city.

"City Engineer" shall mean the City Engineer or designee.

"Eligible improvements" shall mean those improvements for which the cost of construction thereof may be eligible for reimbursement pursuant to this chapter.

"Eligible incidental costs" shall mean those incidental costs that may be eligible for reimbursement pursuant to this chapter and which the City Engineer determines are reasonable and customary for the work performed or services provided.

"LFMP improvements" means those public facilities and improvements identified in an LFMP that are needed to accommodate development with the LFMZ for which such LFMP was prepared pursuant to Chapter 21.90.

"LFMZ property" or "LFMZ properties" means a property or the properties, as applicable, within a local facilities management zone.

"Local facilities management plan" or "LFMP" shall have the meaning given such term in Chapter 21.90.

"Local facilities management zone" or "LFMZ" means a local facilities management zone established pursuant to Chapter 21.90.

"Occupancy permit" means a permit required by and issued pursuant to Chapter 21.60 of the Carlsbad Municipal Code.

"Project" means any project undertaken on LFMZ properties for the purpose of development. "Project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

"Public agency" shall mean any city or county, whether general law or chartered, special district, school district or any other municipal corporation, district, or political subdivision of the State of California.

"Reimbursement fee" means a fee adopted pursuant to the Charter of the City of Carlsbad, this chapter and any City Council resolution adopted pursuant to this chapter.

"Reimbursement fee study" means a study prepared or caused to be prepared by the City Engineer pursuant to Section 3.40.090 hereto pertaining to a request for establishment of a reimbursement fee.

"Requesting party" means the owner or developer of LFMZ property within an LFMZ that has filed a request pursuant to Section 3.40.050 hereto that the city establish a reimbursement fee pursuant to the provisions of this chapter. "Requesting party" also means, collectively, the owners and/or developers of LFMZ properties within an LFMZ that have jointly filed such a request.

(Ord. CS-281 § 1, 2015; Ord. CS-389 § 5, 2021)

#### **§ 3.40.040. Request for establishment of a reimbursement fee.**

Whenever a requesting party is required by the city to construct eligible improvements the cost of which such requesting party believes will exceed the cost fairly allocable to the requesting party's LFMZ property, the requesting party may file a written request with the City Engineer requesting that the city undertake proceedings pursuant to this chapter to consider the establishment by the city of a reimbursement fee to be imposed on those LFMZ properties located within such LFMZ upon which a portion of the cost of such eligible improvements should be fairly allocated as a condition of approval of the development of such LFMZ properties. Such request must be received by the City Engineer prior to the construction of the eligible improvements for which reimbursement is being requested.

Such a request shall include a description of each eligible improvement in sufficient detail to enable the City Engineer to identify each such improvement and a detailed plat of the applicable LFMZ showing the precise location of each such eligible improvement with respect to each of the LFMZ properties. Such request must also include an engineer's estimate of the cost of construction of such eligible improvements, together with an estimate of the eligible incidental costs for which reimbursement is requested. For any request for which the requesting party consists of multiple owners and/or developers that are jointly filing

such request, such request must be executed by all such owners and developers and must include the designation of one party to whom the city is authorized and directed to make all reimbursement payments, together with an acknowledgment that the city shall have no responsibility whatsoever for determining the allocation of reimbursements among such owners and/or developers or making such allocation to such owners and developers. The requesting party shall, at such requesting party's expense, also mail a copy of such request to the owner of each LFMZ property and the requesting party shall file proof of such mailing satisfactory to the City Engineer.

The request of such requesting party shall not be deemed to be complete until:

- A. The City Engineer has received satisfactory proof of the mailing of the requesting party's request for establishment of a reimbursement fee; and
- B. The Administrative Services Director has received the initial deposit from the requesting party as required pursuant to Section 3.40.050 below.

(Ord. CS-281 § 1, 2015)

#### **§ 3.40.050. Deposits.**

All city and consultant costs incurred in the implementation of a request for the establishment of a reimbursement fee pursuant to the provisions of this chapter, the preparation of the reimbursement fee study for such reimbursement fee request, the proceedings to establish a reimbursement fee, the amendment of the reimbursement fee study pursuant to Section 3.40.120 and the proceedings to consider the adjustment of a reimbursement fee pursuant to Section 3.40.120 will be paid by the requesting party by advance deposit with the city of monies sufficient to pay all such costs.

Each request for the establishment of a reimbursement fee shall be accompanied by an initial deposit in an amount to be determined by the Administrative Services Director to be adequate to fund the initial review of the request, preparation of the reimbursement fee study and the proceedings to implement the reimbursement fee request. If additional funds are required to pay implementation costs, the Administrative Services Director may make written demand upon the requesting party for such additional funds and the requesting party shall deposit such additional funds with the city within five working days of the date of receipt of such demand. Upon the depletion of the funds deposited by the requesting party for such costs, all work related to the preparation of the reimbursement fee study and all proceedings related to the establishment of such reimbursement fee shall be suspended until receipt by the city of such additional funds as the Administrative Services Director may demand.

The deposits shall be used by the city to pay for costs and expenses incurred by the city incident to the initial review of the reimbursement fee request, preparation of the reimbursement fee study, proceedings for the consideration of the reimbursement fee request, and the review of the actual costs of construction of the eligible improvements and the eligible incidental costs and proceedings for the consideration of the adjustment of the reimbursement fee pursuant to Section 3.40.120, including, but not limited to, legal, reimbursement fee consulting, engineering, administration and staff costs and expenses, required notifications, printing, and publication costs.

The city shall refund any unexpended portion of the deposits if the requesting party files a written request with the City Engineer that the requesting party is terminating its reimbursement request.

(Ord. CS-281 § 1, 2015)

#### **§ 3.40.060. Improvements eligible for reimbursement.**

Eligible improvements must be LFMP improvements or other additional public improvements identified

in this section that will be owned, operated, or maintained by the city or another public agency and that are constructed pursuant to and in compliance with all applicable requirements of the city, including, without limitation, this chapter, or such other public agency that will own, operate or maintain such eligible improvements. The City Council shall have the final determination as to the eligibility of any improvements for reimbursement. Such eligible improvements may include, but are not limited to:

- A. Streets and Highways. Arterial streets, highways, major bridges, and freeway interchanges constituting LFMP improvements for an LFMZ. If the primary purpose of completing a circulation link is met, and overriding public interest is shown, then public facilities increasing traffic capacity for a circulation element may be considered. Right-of-way must be dedicated or acquired prior to submission of a request for reimbursement. The value of right-of-way required to be dedicated by the owner thereof is generally not eligible for reimbursement except under special circumstances as recommended by the City Engineer.
- B. Additional Public Improvements. If appurtenant to the types of street and highway improvements described in subsection A, the following additional improvements may be considered for reimbursement:
  1. Sewer Lines or Other Sewer Facilities. Sewer lines must be located within the rights-of-way of the arterial streets when the City Engineer has determined it is necessary that they be so located.
  2. Water Lines and Other Water Facilities. Water lines must be located within the public rights-of-way of the arterial streets when the City Engineer has determined it is necessary that they be so located.
  3. Drainage facilities.
  4. Landscape and irrigation facilities.
  5. Recycled water facilities.
  6. Grading for eligible public streets.
  7. The construction of environmental mitigation required for eligible improvements.
  8. Bicycle and pedestrian facilities, if located on land or easements owned or dedicated to the city and accepted as part of the city-wide trail system.
  9. Such other improvements as may be authorized by law and which the City Council determines are consistent with Chapter 21.90 and the applicable LFMP.

Each eligible improvement must be located in public rights-of-way dedicated or otherwise granted to the city or the other public agency that shall own, operate or maintain any such eligible improvement.

Notwithstanding the foregoing, no facility or improvement the financing of which is included in any fee program established for the purpose of financing such facility or improvement by the city or the other public agency that will own such facility or improvement shall be considered to be an eligible improvement. Additionally, dry utilities or other utility improvements that will be owned by a public utility or other private entity shall not be considered to be eligible improvements.

(Ord. CS-281 § 1, 2015)

**§ 3.40.070. Eligible costs.**

Costs of an eligible improvement that shall be eligible for reimbursement pursuant to the provisions of this chapter shall include the following:

- A. The actual costs of construction as determined by the City Engineer to be reasonable and customary costs of the work performed. Costs incurred to expedite the completion of the construction of any eligible improvement within a time period not required by the city or the public agency that will own such eligible improvement will not be eligible for reimbursement.
- B. Eligible incidental costs, as determined by the City Engineer to be reasonable and customary for such incidental costs, that are directly related to eligible improvements the costs of construction of which shall be reimbursed from the related reimbursement fees and that are identified in the "Administrative Procedures for Reimbursable Public Works Projects" as issued by the City Engineer from time to time as eligible incidental costs for public works projects.

The following incidental costs are considered ineligible to be reimbursed from reimbursement fees established pursuant to this chapter:

1. Development impact fees.
2. Administrative or overhead expenses, financial consultant, or legal fees incurred by a requesting party for the establishment of a reimbursement fee. This limitation does not apply to amounts advanced by the requesting party to the city pursuant to the provisions of this chapter to pay for costs incurred by the city to undertake the proceedings to establish reimbursement fees pursuant to this chapter.
3. Land-use planning and subdivision costs and environmental review costs related to such land use planning and subdivision.
4. Environmental impact studies, unless directly related to the project and done separately for the project.
5. Maintenance, monitoring and endowment costs for mitigation land.
6. Construction loan interest.
7. Subdivision financial analysis.
8. Attorney's fees incurred by the property owners or their agents, except as recommended by the City Attorney related to condemnation proceedings.

(Ord. CS-281 § 1, 2015)

**§ 3.40.080. Construction of eligible improvements.**

A requesting party shall solicit at least three bids from licensed contractors for the construction of any eligible improvements for which the requesting party is seeking reimbursement and shall award the contract for the construction of such eligible improvements to the lowest responsible bidder. Nothing in the preceding sentence shall prohibit a requesting party from including more than one such eligible improvement in a single solicitation for bids. In the case where the requesting party does include more than one such eligible improvement in a single solicitation for bids, the requesting party shall award the contract for the construction of such eligible improvements to the bidder submitting the lowest aggregate bid for the construction of all such eligible improvements included in such solicitation.

Following the award of a contract for the construction of an eligible improvement or eligible improvements, the requesting party shall provide to the City Engineer copies of the bid solicitation documents, the names of the contractors from whom such bids were solicited, the results of the bid solicitation including the response provided by each contractor submitting a bid or declining to submit a bid if provided and copies of the executed construction contracts.

Following completion of the construction of the eligible improvements, the requesting party shall submit to the City Engineer: (a) copies of all change orders to the construction contracts, all invoices for the construction of the eligible improvements for which the requesting party is seeking reimbursement and documents satisfactory to the City Engineer evidencing payment for the construction of the eligible improvements; and (b) copies of all contracts related to eligible incidental costs for which the requesting party is seeking reimbursement, all change orders related to such contracts, all invoices for such eligible incidental costs and documents satisfactory to the City Engineer evidencing payment of such eligible incidental costs. All such invoices must be submitted to the City Engineer no later than 60 calendar days following acceptance by the city of the last of the eligible improvements for which the requesting party is seeking reimbursement. Costs represented by invoices received beyond this period of time shall not be eligible for reimbursement.

Following the receipt of such invoices, the City Engineer shall review the invoices and shall determine whether or not the costs represented thereby are reasonable and customary costs for the work performed or the costs incurred. If, in the opinion of the City Engineer, the costs represented by the invoices are higher than that which are customary and reasonable for such work performed or costs incurred, the City Engineer may deny reimbursement for that portion of such costs deemed to be excessive.

(Ord. CS-281 § 1, 2015)

#### **§ 3.40.090. Reimbursement fee study.**

The City Engineer will, following receipt of the documents required to be provided to the City Engineer pursuant to Section 3.40.040 hereto, in the exercise of his or her independent professional judgment, prepare or cause to be prepared a reimbursement fee study for the requested reimbursement fee that will include the following:

- A. A legal description or list of the assessor's parcel numbers of each parcel within the applicable LFMZ, including the properties owned or being developed by the requesting party, upon which the City Engineer determines that a portion of the eligible costs of eligible improvements and eligible incidental costs should be fairly allocated, the name of the owner thereof, street address thereof each such parcel, if any, and the acreage thereof;
- B. A detailed plat showing the precise locations of all of the eligible improvements for which the requesting party has requested reimbursement shown in relation to the parcels identified pursuant to subsection A;
- C. A list of each of the eligible improvements and the estimated cost of the construction of the eligible improvements and each of the estimated eligible incidental costs, as determined by the City Engineer to be reasonable and customary for such eligible improvements and eligible incidental costs;
- D. A determination whether any portion of the cost of the construction of any eligible improvements and related eligible incidental costs may be subject to reimbursement from any existing city impact fee program. If and to the extent that any portion of such costs is subject to reimbursement from such impact fee program, such amount shall be deducted from estimated cost of the construction of such eligible improvements and the related eligible incidental costs;

- E. A report identifying the burden which the development of each parcel, including the parcels owned or being developed by the requesting party, identified pursuant to subsection A in accordance with its zoning and general plan designation and other existing land use entitlements, if any, will impose upon the eligible improvements and the extent to which the development of each such parcel will contribute to the need for or burden upon such eligible improvements;
- F. An explanation of how there is a reasonable relationship between the reimbursement fee's use and the types of projects on which the reimbursement fee may be imposed;
- G. A detailed description of the method of reimbursement fee allocation;
- H. A reimbursement schedule to include a list of all LFMZ properties determined by the City Engineer to be subject to the proposed reimbursement fee with current assessor's parcel number, owner's name, property's street address, and the acreage of such parcels and the proposed reimbursement fee applicable to each such LFMZ property.

Upon completion of a reimbursement fee study the City Engineer shall mail a copy of such study to the requesting party and the owner of each property determined by the City Engineer to be subject to the proposed reimbursement fee as set forth in such reimbursement fee study, together with the notice of the date, time and place of a property owner informational meeting at which the City Engineer or designee shall be available to answer questions regarding the reimbursement fee study. Such notice shall be given at no less than 10 days before the date of such meeting. Such meeting shall be scheduled to occur not less than 20 days prior to the public hearing required to be held pursuant to Section 3.40.110 hereto.

(Ord. CS-281 § 1, 2015; Ord. CS-286 § 2, 2015)

#### **§ 3.40.100. Notice of public hearing.**

Upon completion of the reimbursement fee study pursuant to Section 3.40.080 hereto, the time and place for a public hearing of the City Council shall be set, as part of a regularly scheduled meeting of the City Council, at which oral or written presentations can be made regarding the proposed reimbursement fee. Notice of such public hearing shall be published pursuant to Government Code Section 6062a and such notice shall be mailed to the requesting party and the owner of each parcel that may be subject to the imposition of the proposed reimbursement fee at least 15 calendar days prior to the date set for such public hearing.

(Ord. CS-281 § 1, 2015)

#### **§ 3.40.110. Public hearing and establishment of reimbursement fee.**

The City Council shall hold a public hearing to determine the types of projects that shall be subject to the reimbursement fee and the reimbursement fee that shall be imposed on each project. This reimbursement fee shall only be established if the City Council can make the following findings:

- A. The purpose and use of the reimbursement fee.
- B. Determine how there is a reasonable relationship between the use of the reimbursement fee and the type of project on which the reimbursement fee is imposed.
- C. Determine how there is a reasonable relationship between the need for the eligible improvement and the type of project on which the reimbursement fee is imposed.

At the conclusion of the public hearing, the City Council shall adopt a resolution approving, conditionally approving or denying the establishment of the reimbursement fee. If the City Council approves the establishment of the reimbursement fee, the resolution shall attach as an exhibit thereto a copy of the reimbursement plan as adopted by the City Council and shall set forth the method of reimbursement fee allocation as approved by the City Council.

If the establishment of a reimbursement fee is approved, such resolution shall establish the term that such reimbursement fee shall be in effect and may be collected from LFMZ properties subject to such fee. The term of a reimbursement fee shall be consistent with the term, if any, for a reimbursement agreement specified in the LFMP related to the LFMZ subject to the reimbursement fee, the terms for reimbursement agreements or fees specified or contemplated in legislation or policies pertaining to such reimbursement agreements or fees, including, but not limited to, the ordinances and policies of the city, or the terms for reimbursement agreements previously established by the city, in such order of priority; provided, however, except as provided in Section 3.40.140, no reimbursement fee shall have a term longer than 20 years from the first day of the calendar year following the date of adoption of the resolution of the City Council establishing such reimbursement fee.

If the reimbursement fee is to be subject to escalation, the resolution shall state the rate of escalation applicable to the reimbursement fee.

(Ord. CS-281 § 1, 2015; Ord. CS-286 § 3, 2015)

#### **§ 3.40.120. Adjustment of the reimbursement fee to reflect actual costs.**

Upon completion of the construction of the eligible improvements for which a reimbursement fee has been established and acceptance of such eligible improvements by the city or the other public agency that will own, operate and maintain such eligible improvements and receipt by the City Engineer of the information and documents required to be submitted by the requesting party, the City Engineer shall prepare or cause an amendment to the reimbursement fee study to be prepared to incorporate such actual costs of the eligible improvements and the related eligible incidental costs that are determined by the City Engineer pursuant to Section 3.40.070 to be eligible costs. As to the reimbursement fee applicable to properties owned or developed by the requesting party, the City Engineer shall apply the eligible costs allocated to such properties as a credit against the reimbursement fee applicable to such properties. If and to the extent that the eligible costs allocated to any such properties are less than the reimbursement fee applicable to such properties, the amount of the eligible costs allocable to such properties that shall be subject to reimbursement shall be reduced by the difference between the reimbursement fee applicable to such properties and such eligible costs.

Upon completion of the amendment to the reimbursement fee study, the City Engineer shall mail a copy of such amendment to the requesting party and the owner of each property subject to the reimbursement fee, together with the notice of the date, time and place of a property owner informational meeting at which the City Engineer or designee shall be available to answer questions regarding the amendment to the reimbursement fee study. Such notice shall be given at no less than 10 days before the date of such meeting. Such meeting shall be scheduled to occur not less than 20 days prior to the public hearing required to be held pursuant to this section.

The existing reimbursement fee shall be subject to increase or decrease, as applicable, to reflect differences between the estimated costs of the eligible improvements and the eligible incidental costs utilized to establish the reimbursement fee and the eligible costs of such eligible improvements and eligible improvement costs. Such adjustments may be considered for approval by the City Council following a public hearing thereon for which notice is given pursuant to Section 3.40.100 hereto. At such public

hearing oral or written presentations may be made regarding the proposed adjustment in the reimbursement fee. At the conclusion of such public hearing, adjustments to the reimbursement fee may be made by resolution of the City Council.

(Ord. CS-281 § 1, 2015)

**§ 3.40.130. Adjustment of reimbursement fee for specific projects.**

Upon application filed with the city for approval of the land use entitlements to permit development and construction of a project to be developed on property subject to a reimbursement fee established pursuant to this chapter, the City Engineer shall prepare or cause to be prepared an analysis of the project based upon the land used entitlements reflected in such application and whether there is a reasonable relationship between the amount of the reimbursement fee to which such project would be subject and the cost of the eligible improvements attributable to such project. The City Engineer shall mail a copy of such analysis to the applicant for the entitlement and the owner of such property, if other than the applicant, and the requesting party entitled to reimbursement from the proceeds of the reimbursement fee not less than 20 days prior to the public hearing described in the following paragraph.

The City Council shall, prior to imposing the payment of such reimbursement fee as a condition of approval of such project, hold a public hearing for the purpose of determining whether there is a reasonable relationship between the amount of the reimbursement fee to which such project would be subject and the cost of the eligible improvements attributable to such project. Such public hearing may be consolidated with any public hearing to consider the approval of the land use entitlements for such project. In addition to any other notice of such public hearing required by law, notice of such public hearing shall be mailed to the owner of the property on which such project is proposed to be developed and the requesting party entitled to reimbursement from the proceeds of the reimbursement fee not less than 15 days prior to the date of such public hearing.

At such public hearing oral or written presentations may be made regarding whether there is a reasonable relationship between the amount of such reimbursement fee and the cost of the eligible improvements attributable to such project.

Upon the conclusion of such public hearing, the City Council shall determine whether there is a reasonable relationship between the amount of the reimbursement fee to which such project would be subject and the cost of the eligible improvements attributable to such project. If the City Council determines that there is such a reasonable relationship, the approval of such project may be conditioned with the requirement for the payment of the reimbursement fee. If the City Council determines that there is not a reasonable relationship between the amount of the reimbursement fee to which such project would be subject and the eligible cost of the eligible improvements attributable to the project, the City Council shall adopt a resolution modifying the reimbursement fee so that there is a reasonable relationship between the reimbursement fee, as modified, to which such project will be subject and the eligible cost of the eligible improvements attributable to such project.

(Ord. CS-281 § 1, 2015)

**§ 3.40.140. Imposition of a reimbursement fee.**

Notwithstanding any provisions of the Carlsbad Municipal Code, no permit shall be issued for any project subject to a reimbursement fee established pursuant to this chapter except upon the condition that the reimbursement fee applicable to such project shall be paid in accordance with the provisions of this chapter. The obligation for the payment of a reimbursement fee for any project shall attach at the time the initial grading permit for such project is issued. Such obligation shall continue to apply to such project for a period not to exceed 10 years beyond the term of such reimbursement fee established pursuant to Section

3.40.110.

(Ord. CS-281 § 1, 2015; Ord. CS-286 § 4, 2015)

**§ 3.40.150. Payment of the reimbursement fee.**

The owner or developer of a project subject to the payment of a reimbursement fee established by the City Council pursuant to this chapter shall pay such reimbursement fee prior to issuance of any building permit or occupancy permit for such project; provided, however, that if the Carlsbad Municipal Code provides for development impact fees assessed by the city pursuant to the Charter of the City of Carlsbad or the Mitigation Fee Act (Chapter 5 of Division 1 of Title 7 of the California Government Code) to be collected at a later time, then a reimbursement fee collected pursuant to this chapter shall be collected at the same time as that mandated by the Carlsbad Municipal Code for the payment of such other fees.

In no event shall a final inspection or an occupancy permit be issued for any project subject to a reimbursement fee prior to the payment of such reimbursement fee in full.

A reimbursement fee required to be paid pursuant to this chapter shall be the reimbursement fee in effect at the time of payment.

Notwithstanding anything in the Carlsbad Municipal Code or any other written documentation to the contrary, the reimbursement fee applicable to a project shall be paid whether or not such project is subject to conditions of approval by the city.

For projects for which the city does not require a permit, final inspection or issuance of an occupancy permit, the reimbursement fee applicable to a project shall be paid prior to use or occupancy of such project.

(Ord. CS-281 § 1, 2015)

**§ 3.40.160. Establishment of funds and use of reimbursement fees.**

Reimbursement fees collected under this chapter shall be segregated into a reimbursement fee fund with separate accounts established for each separate reimbursement fee established pursuant to this chapter. Reimbursement fees deposited in such an account may be disbursed solely to reimburse the applicable requesting party for eligible improvements and eligible incidental costs as approved by the City Council in the establishment of such reimbursement fee.

No reimbursement payment shall be made to any requesting party until the construction of all eligible improvements has been completed and such eligible improvements have been accepted by the city or the other public agency that will own such eligible improvements and the adjustment, if any, to the applicable reimbursement fee pursuant to Section 3.40.120 has been approved. If a reimbursement fee shall have paid at the rate initially established pursuant to Section 3.40.110 and such reimbursement fee is reduced pursuant to Section 3.40.120, the city shall refund to the payee of such reimbursement fee the amount by which such reimbursement fee shall have been reduced prior to disbursing any funds on deposit in the applicable account of the reimbursement fee fund to the requesting party.

(Ord. CS-281 § 1, 2015)

**§ 3.40.170. Use of Chapter 3.40 in combination with use of bond financing prohibited.**

Notwithstanding anything to the contrary in this chapter, this chapter may not be used to impose a reimbursement fee on certain LFMZ properties to provide for the reimbursement of the costs of construction of eligible improvements allocable to such LFMZ properties in combination with the levy of special taxes pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, or special

assessments pursuant to the Municipal Improvement Act of 1913 against other LFMZ properties to secure the payment of special tax bonds or limited obligation improvement bonds, as applicable, issued to fund the costs of construction of such eligible improvements allocable to such other LFMZ properties.  
(Ord. CS-281 § 1, 2015; Ord. CS-286 § 5, 2015)



## BUSINESS LICENSES AND REGULATIONS

**Title 5****BUSINESS LICENSES AND REGULATIONS**

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## CHAPTER 5.04 LICENSING BUSINESSES GENERALLY

### **§ 5.04.010. Definitions.**

As used in this title the following words and phrases shall have the following meanings:

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

"Gross receipts" includes the total amount of the sale price of all sales and the total amount charged or received for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares or merchandise. Included in gross receipts shall be all receipts, cash, credits and property of any kind or nature without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Gross receipts shall also include all receipts from coin-operated vending machines. Excluded from gross receipts shall be cash discounts allowed and taken on sales; any tax required by law to be included in or added to the purchase price and collected from the customer or purchaser; such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit; and amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected.

(Ord. 6040 § 6, 1967; Ord. 6049 § 1, 1973)

### **§ 5.04.020. License required.**

- A. There are imposed upon persons engaged in the specified businesses in this title, within the city limits, license taxes in the amounts hereinafter prescribed. The license tax shall be due and payable before the commencement of any new business. A penalty charge shall accrue to any new business without a license upon the expiration of one year, or after receiving written notice of this requirement, whichever occurs first. Notification shall be in writing and proof of receipt shall be retained on file by the license collector. The tax shall be increased by a penalty of 25% of the license tax 60 days after it is due, and increased by a penalty of 50% of the license tax 90 days after it is due.
- B. For all previously licensed businesses the license tax shall be due and payable annually in advance on the first day of the month in which the business was originally established. In the event any person fails to pay a license renewal tax, the tax shall be increased by a penalty of 25% of the license tax 60 days after it is due, and increased by a penalty of 50% of the license tax 90 days after it is due.
- C. The Finance Director or designee shall have the discretion to waive all or a portion of penalties imposed for failure to obtain or renew a business license upon a showing of good cause.
- D. Nothing contained in this section shall be construed as permitting the operation of a business, which is intended to be operated for only a limited period of time and on a nonpermanent basis, such as athletic events, carnivals, etc., without having first obtained a business license. Each such license shall show the number of such license, the period of time covered thereby, the name of the person to whom issued, and the location or place where such business is to be commenced or conducted, and upon a detachable portion of such license, shall also show the number of such license and the amount of the fee paid therefor. No error or mistake on the part of the license collector or any other person in the determination, stating or collection of the amount of any license tax shall prevent or prejudice the collection by or for the city of what shall be actually due from anyone commencing or conducting any business subject to a license tax, nor shall the issuance of any license under this title authorize the

commencing or conducting of any business in any zone, district or location within the city, contrary to the provisions of any zoning or other ordinance of the city.

Applications on forms prescribed by the license collector shall be filed annually by each licensee before the issuance of a license. Any person intending to engage in the business of owning, renting, leasing, operating, maintaining or servicing coin-operated vending machines or newsracks shall include with the application a list of the number, type and location of such machines.

For the purposes of determining the correct tax to be collected, the license collector may at any time require a licensee to furnish his or her books of account and records for inspection and audit and may require the production of other documents and information regarding the business as authorized by law. Refusal by a licensee or applicant to furnish such books of account and records upon request therefor by the license collector shall automatically revoke any then existing business license, and shall require the license collector to refuse to issue any further business licenses to the person so refusing. Any and all books of account and records furnished pursuant hereto, and any and all statements made by a licensee for the purpose of obtaining a business license shall be confidential in character and shall not be subject to public inspection or disclosure, except in the proper proceedings before the City Council or a competent court or tribunal. It is unlawful for any person to cause to be disclosed, except as provided in this title, any of the information required to be furnished hereunder to the license collector for purposes of determining the correct tax to be collected.

(Ord. 6040 § 2, 1967; Ord. 6049 § 2, 1973; Ord. 6061 § 1, 1980; Ord. 6073 § 1, 1983; Ord. NS-324 § 1, 1995; Ord. NS-389 § 1, 1997)

#### **§ 5.04.025. Temporary amnesty period.**

To encourage voluntary compliance with this chapter during the city's public awareness campaign, the city establishes a temporary amnesty period for persons or entities currently engaged in a business that should have been but has not previously been licensed under this chapter. Such persons or entities will not be subject to the penalties specified in Section 5.04.020(A) provided they obtain a business license prior to the end of this amnesty period and prior to being cited for a violation under Section 5.04.030.

This section and the amnesty period shall be operative until September 30, 2000, at which time this section and the amnesty period shall be automatically repealed.

(Ord. NS-549 § 1, 2000)

#### **§ 5.04.030. Violations.**

It is unlawful for any person to conduct any business within the city without first having obtained from the city a license so to do, and each day or portion thereof of conduct of such business constitutes a separate violation of this title.

It is unlawful for any person wilfully to make any false statement or representation for the purpose of obtaining a business license pursuant to the provisions of this title.

(Ord. 6040 § 3, 1967)

#### **§ 5.04.040. License nontransferable except for changed location.**

No license issued pursuant to this title shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may upon application therefor and the paying a fee of one dollar have the license amended to authorize the transacting and carrying on of such business under the license at some other location to which the business is or is to

be moved.  
(Ord. 6040 § 4, 1967)

#### **§ 5.04.050. Duplicate licenses.**

Upon receipt of an affidavit filed in the office of the license collector, by or on behalf of any licensee, stating that any license has been lost or destroyed, the license collector shall issue a duplicate of such license to the licensee therein named. A charge of one dollar shall be made for each such duplicate license issued, which sum shall be paid into the treasury of the city to the credit of the general fund.

(Ord. 6040 § 5, 1967; Ord. 6061 § 1, 1980)

#### **§ 5.04.060. Separate license for each place of business.**

A separate license must be obtained for each branch establishment or separate place of business in which the business licensed is commenced or conducted within the city, except that in the case of vending machines and newsracks only one license per owner/operator need be obtained. Each license shall authorize the licensee named therein to commence or conduct only that business described in such license and only at the location or place indicated therein; provided, however, that where a license is herein imposed on any business the gross receipts or sales of which are made the basis for fixing the amount of the license fee of such license, a separate license fee shall be paid for each branch establishment or separate place of business in which such business is commenced or conducted, based upon the gross receipts or sales of such branch establishment or separate place of business.

(Ord. 6040 § 6, 1967; Ord. NS-324 § 2, 1995)

#### **§ 5.04.070. Posting and display of license.**

All persons conducting businesses within the city at fixed places shall post their licenses issued under this title, except for the detachable portions thereof showing the fees paid, at such places of business.

In all instances in which a license is required under this title for the use of any vehicle, equipment, contrivance or device, the license shall be attached to the vehicle, equipment, contrivance or device. Any person conducting business within the city shall, upon demand therefor by the license collector or properly designated city employee, exhibit his or her license for inspection.

(Ord. 6040 § 7, 1967; Ord. 6061 § 1, 1980)

#### **§ 5.04.080. Exemptions.**

Nothing in this title shall be deemed or construed to apply to any person conducting any of the following businesses:

- A. Any business exempt by virtue of the United States Constitution or statutes of the United States or of the State of California from the payment of such taxes as are prescribed in this title;
- B. Any business conducted under a written franchise from the city;
- C. Any business which is conducted, managed or carried on only for charitable, fraternal or educational purposes, or from which profit is not derived, either directly or indirectly, by any person.
- D. Small or large family day care homes (defined in Sections 21.04.147 and 21.04.128), pursuant to California Health and Safety Code Section 1597.46.

(Ord. 6040 § 8, 1967; Ord. CS-435 § 2, 2022)

**§ 5.04.085. Constitutional apportionment.**

None of the license tax as provided for by Chapters 5.04 and 5.08 shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States and the State of California.

In any case where a license tax is believed by licensee or applicant for a license to place an undue burden upon interstate commerce or to be violative of such constitutional clauses, the licensee or applicant may apply to the City Council for an adjustment of the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax. The burden of proving an undue burden upon interstate commerce or a violation of the equal protection or due process clauses of the Constitutions of the United States and the State of California shall be upon the applicant. The decision of the City Council shall be final.

(Ord. 6063 § 1, 1981)

**§ 5.04.090. Appeals to council.**

In the event of a dispute between an applicant or licensee and the license collector regarding the classification of any business under this title or the amount of the license fee to be paid therefor, then any such applicant or licensee or the license collector/City Attorney, may appeal to the City Council to hear and determine such matter. The appeal shall be taken by addressing a communication to the council in writing, briefly stating the question involved. The communication shall be presented to the City Council at a council meeting within 30 days of its receipt, at which meeting the City Council shall hear such evidence with reference to the subject thereof as may be offered and may continue the hearing from time to time. The findings and decisions of the council after hearing and considering such evidence shall be binding, final and conclusive as to the classification of the business and the amount of license fee involved under this title. Pending the hearing on any such appeal filed by an applicant for a license under this title, no license shall be issued for the business involved in such controversy unless the classification assigned thereto by the license collector is accepted in the mean-time and the license fee therefor paid as provided in this title. Such acceptance and payment shall be deemed made under protest and subject to decision of the council and such adjustment, if any, as the council may order. Appeals by a licensee must be taken within 10 days after the issuance of the license constituting the basis of appeal, and if not so taken shall be waived, and thereafter shall not be considered by the council.

(Ord. 6040 § 9, 1967; Ord. 6061 § 1, 1980)

**§ 5.04.100. Unlawful operation or nuisance.**

The granting of a license under this title shall not be deemed in any sense whatsoever a permit or license to conduct the business referred to therein, in any unlawful manner, or in any manner so as to constitute the same a nuisance.

(Ord. 6040 § 10, 1967)

**§ 5.04.110. Vested rights.**

No provision of this title or any license issued under this title, shall give any vested right pursuant to any license issued, or required to be issued, thereunder, either as to the rates or amounts of license fees, or the terms and durations thereof, and any and all matters provided therein are and shall be subject to repeal, amendment, alteration and change to become effective at the end of any license period, and all licenses for such purposes shall be subject to such ordinances of the city as the city may from time to time establish; provided, that if any license is revoked, the amount of the license fee paid shall be proportioned accordingly, and the proportional part for the unexpired part of the term of such license shall be repaid to

the licensee within 10 days after written demand, or at the licensee's option, credited upon any other license required of him or her.

(Ord. 6040 § 11, 1967)

#### **§ 5.04.120. Refusal to issue to hazardous businesses—Appeal.**

Notwithstanding any of the other provisions of this title, in all those cases where application is made for a license for a business which from its general nature, or the materials, goods, wares, merchandise or commodities handled, or to be handled, constitutes, in the opinion of the license collector, a potential fire hazard, or public safety hazard, the license collector may refuse to issue a license for such business unless and until there has been filed with him or her, in writing, from the Community and Economic Development Director and from the Fire Chief, statements approving the location indicated therefor. The applicant shall have the right of appeal to the City Council from any refusal of the license collector to issue any such license under the provisions of this section, such appeal to be made and heard in substantially the same manner as hereinabove contemplated for appeals under Section 5.04.090.

(Ord. 6040 § 12, 1967; Ord. 6061 § 1, 1980; Ord. 1261 § 5, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.04.130. Adjustments.**

If it is found that an additional license fee amount is required from any licensee, the license collector shall bill the licensee for such amount and such amount shall be paid by the licensee within 30 days after the billing. It is unlawful for any licensee to continue to conduct any business within the city if the licensee is billed as provided in this chapter for an additional license fee and fails to pay such additional license fee within 30 days after such billing. In the event it is found that any licensee has paid a license fee amount in excess of that required, the licensee may submit a request for refund to the license collector, who shall investigate the request and forward the request and recommendation to the City Manager or designee. At the request of the licensee, the license collector may, in the license collector's discretion, apply a refund in an amount less than \$25,000.00, or a portion thereof, to the next ensuing license fee payable by such licensee for such business. No minimum license fee or any portion of such minimum fee shall be refunded.

The City Manager reserves the right to pass upon and in his or her discretion either grant or refuse to grant refunds or amounts, or portions thereof, paid as license fees over and above the minimum fee, after ascertaining the facts in each particular case where requests or demand for refund is made or presented.  
(Ord. 6040 § 13, 1967; Ord. 6060 § 1, 1979; Ord. 6061 § 1, 1980; Ord. 142 § 2, 2011)

#### **§ 5.04.140. Permits or franchises in lieu of prescribed licenses.**

In those cases where any other ordinance of the city prescribing a registration or license fee relates to a particular business, or classification therein referred to, then and in all such cases the particular registration or license fees prescribed by such other ordinance shall be paid and shall be in lieu of the business license fees. It is the purpose and intention of the City Council that every business, which is lawfully subject to the payment of a business license tax shall pay such a tax, but in no case to require a duplication of such business license fees or taxes. Nothing contained in this section, however, shall be construed as relating to permits or other fees required to be paid under the building, electricity and plumbing chapters<sup>2</sup> or permits or other fees required to be paid in connection with such matters as building, plumbing, electrical and similar permits or plan checking fees, as all such fees are in addition to the license taxes or registration charges imposed by this and other ordinances of the city.

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2. Building, electrical and plumbing codes can be found in Title 18 of this code.

(Ord. 6040 § 14, 1967)

**§ 5.04.150. Administration.**

The City Manager shall be responsible for the administration and enforcement of this chapter and may adopt such written procedures as are necessary for its efficient administration. The City Manager's decisions may be appealed within 10 calendar days of the date of the decision to the City Council, whose decision shall be final. Fees for appeal shall be established by resolution of the City Council.

(Ord. NS-549 § 2, 2000)

**§ 5.04.160. (Reserved)**

## CHAPTER 5.08 LICENSE TAXES

### **§ 5.08.010. Based on gross receipts.**

- A. Classification A. Persons engaged in the businesses listed in this subsection shall pay a license tax of \$25.00 plus 40 cents for each \$1,000.00 of annual gross receipts or portion thereof, from the business, but in no event shall the license tax be less than \$30.00.

Bookkeeper

Barber school

Barber shop

Beauty school

Beauty shop

Collection agency

Dancing teacher and/or dancing school

Designer

Draftsman

Funeral home

House mover

Finance and/or loan company

Illustrator/commercial artist

Insurance adjuster

Bottled water service

Interpreter

Interior decorator service

Music teacher and/or music school

Radio station

Repair service (unless otherwise specified)

Dressmaker and/or tailor

Employment agency

Stock, bond or security brokerage

Plumbing and heating sales

Photographers/photography

Drive-in/thru restaurant

Rock and sand

- B. Classification B. Persons engaged in the businesses listed in this subsection shall pay a license tax of \$25.00 plus 35 cents for each \$1,000.00 of annual gross receipts or portion thereof, from the business, but in no event shall the license tax be less than \$30.00.

Janitorial service

Lapidary shop

Intra-city private trucking

Bus transportation

Bakery

Cocktail lounge

Delivery service

Auto renting and/or leasing

Tavern

Confectionery restaurant

Auto parts—Sales

Toy store

Variety store

Garage

Liquor store

- C. Classification C. Persons engaged in the businesses listed in this subsection shall pay a license tax of \$25.00 plus 30 cents for each \$1,000.00 of annual gross receipts or portion thereof, from the business, but in no event shall the license tax be less than \$30.00.

Rental of two or more apartment units whether at the same or separate location

Boarding, lodging or rooming house

Locksmith

Motel/hotel

Trailer court

Jewelry and/or watch repairing

Motor court

Shoe store  
Appliance store  
Radio and TV sales and repair  
Sporting goods store  
Trailer, boat and motorcycle dealer  
Bowling alley  
Apparel store  
Lumber and building materials store  
Service station  
Car wash  
Coin-operated dry cleaning business  
Feed and ice dealer  
Office supply store  
Specialty stores  
Trailer camp  
Department store  
Florist  
Hardware store  
Car dealer, new or used  
Nursery and garden supply store  
Paint, glass and wallpaper store  
Creamery  
Diaper service  
Laundry and dry cleaning (agent and plant)  
Theater  
Penny or small coin arcades and/or amusement park  
Specialty food sales store  
Tobacco and periodicals store  
Book store

Drug store  
Gift, novelty, souvenir store  
Grocery and food sales store  
Furniture store  
Farm equipment store  
Linen service  
Meat market  
Dairy route delivery person  
Coin-operated vending machines  
Newsracks

Public dance halls, ice skating rinks and roller skating rinks, subject to a special permit from the City Council to be first obtained; provided, however, that nothing contained in this chapter shall be construed as abrogating or repealing the provisions of any ordinance or regulation of the city or of the City Council thereof, dealing expressly with the subject of public dance halls or public dances, nor as interfering with any regulatory ordinance or requirement made or adopted with reference thereto by the City Council; provided further, that when a dance is conducted in connection with and only as an incident of any other business duly licensed under the provisions of this chapter, conducting the same shall be subject to special permit from the council to be first obtained.

- D. Classification D. Persons engaged in the businesses listed in this subsection shall pay a license tax of \$25.00 plus 20 cents for each \$1,000.00 of annual gross receipts or portion thereof, from the business, but in no event shall the license tax be less than \$30.00.

Wholesaler  
Manufacturer  
Farmer  
Rancher  
Grower

- E. In the event a person is engaged in a business which conducts activities in two or more of the stated classifications in this section, and does not segregate the gross receipts of such activities, he or she shall pay a license tax on the gross receipts of all the business activities, at the rate applicable to the major or largest single portion of his or her business.
- F. Any business for which a business license tax is not provided herein, shall be taxed upon its gross receipts as if classified in classification B of this section.

(Ord. 6040 § 15, 1967; Ord. 6042 § 1, 1971; Ord. 6049 § 3, 1973; Ord. NS-68 § 1, 1989; Ord. NS-324 § 3, 1995)

**§ 5.08.015. Solicitors and vendors.**

Any person engaged in the business of soliciting, vending or peddling regulated by Chapter 8.32 shall pay a license tax according to Section 5.08.010(C) unless such soliciting, vending or peddling is conducted as an incident to any business regularly licensed under this chapter.

(Ord. 6076 § 3, 1985)

**§ 5.08.020. Distribution of advertising matter.**

The license tax for distributing advertising bills, posters, pictures, lithographs, maps, plates, announcements, samples or other devices, or any other advertising matter of any kind is \$10.00 per day for each individual person engaged in such actual distribution; provided, however, that such license fee shall not be payable when such distribution is made as an incident to the conducting of any business regularly licensed under this chapter, where the things, articles or matter distributed relate to or advertise only the business so licensed, or exclusively the goods, wares or merchandise dealt in by such licensee; provided further, that any distribution made or licensed to be made under this section, must be made in full conformity with the requirements of any other ordinance of the city relating thereto.

(Ord. 6040 § 16, 1967)

**§ 5.08.030. Auctioneer.**

The license tax for auctioning real estate, goods, wares, merchandise or property, or conducting any public auction, sale or sales not hereinabove otherwise provided for in Section 5.08.040, is \$50.00 per day.

(Ord. 6040 § 17, 1967)

**§ 5.08.040. Auctions and bankrupt stock.**

The license tax for auction sales of goods, wares, merchandise or property where goods or property are brought or transported to the premises where such sales are made for the purpose of making or conducting such auction sales; and the selling or offering for sale of a bankrupt stock of goods, wares, merchandise or property of any kind is \$150.00 per year (which shall include the right to the service of one auctioneer for sales at such place only). Before being entitled to a license under this section, the licensee must have filed with the license collector his or her written statement describing the particular stock to be sold, and his or her agreement not to sell anything under such license applied for but the particular stock referred to in such statement; and in the event stock other than that so described is offered for sale or if the advertising relating to such sale is unsure or misleading, the license collector may forthwith revoke the license without notice. With regard to the activities for which a license tax is charged under the provisions of this section, it is further provided that no such license fee shall be required to be paid under this chapter for the selling at auction or at public sale of any goods, wares, merchandise or property belonging to the United States of America, or the state, or the county, or the city, or any governmental agency, or for any sale conducted under or by virtue of, or pursuant to the authority of any process issued out of or by any duly constituted city, county, state or federal court, commission or body, or for the bona fide sale of the household goods, livestock, or farming implements of the owner thereof at the domicile of such owner, or of the assets of the estate of a decedent, or to the sale by the owner thereof of the real or personal property upon which his or her home, domicile or business license under this chapter is located; and the provisions of this section further shall not apply to the selling, or offering for sale of a bankrupt stock of goods, wares, merchandise or property of any kind, transported into the city for the purpose of sale pursuant to the order of any duly constituted city, county, state, or federal court, body, board or tribunal.

(Ord. 6040 § 18, 1967; Ord. 6061 § 1, 1980)

**§ 5.08.050. Automobile wrecking yard.**

The license tax for commencing or conducting an automobile wrecking yard, or any yard where automobiles or other vehicles are torn down, broken up or otherwise taken apart for the salvaging of a part thereof is \$100.00 per year, subject to special permit from the council to be first obtained. It is provided, however, that any license under this section shall not permit the licensee to sell or assemble used motor vehicles if the sale or assembly of such used motor vehicles is covered and regulated by other ordinance provisions of the city, and the persons engaged in such business must qualify for a license and pay the fees prescribed for such type of business according to such provisions.

(Ord. 6040 § 19, 1967)

**§ 5.08.060. Athletic events, shows and similar events.**

- A. Every person desiring to engage in or commence the business of conducting an athletic event, show, circus, game, or similar exhibition or event shall first obtain permission therefor from the City Council. The permission may be upon such conditions as the City Council may impose and shall be revocable by the City Council at any time.
- B. After first having obtained such a permit, persons engaged in said businesses shall pay a license tax of \$125.00 for the first day, \$100.00 for the second day and \$75.00 for each day thereafter.
- C. Anything contained in this chapter to be contrary notwithstanding, persons conducting legitimate theatrical or operatic performances, not as an incident to another business licensed under this chapter shall pay a license tax of \$15.00 per day of performance.

(Ord. 6040 § 20, 1967)

**§ 5.08.070. Contractors, subcontractors and sign painters.**

Any person who engages with the owner or lessee or other person in possession of a lot or parcel of land or building, for the erection, construction or repair of any building or structure in the city, or for the doing of any plumbing, wiring, heating, air conditioning, drainage, irrigation, brick laying, cement work, sewer work, painting, tile work, carpenter work, lathing, plastering, roofing, shingling, sign painting, sign erecting, sign maintaining, landscaping or any other work in connection with any of the building trades, whether the same be by contract at a fixed price, or upon the cost of material and labor basis, or upon the cost of construction plus a percentage thereof basis, shall pay a fee as follows:

- A. General contractors, \$80.00 per year;
- B. Subcontractors, \$60.00 per year;
- C. Sign painters who paint and maintain or erect signs, \$30.00 per year.

Contractors, subcontractors and sign painters who do not maintain a regularly established place of business with the city, shall pay the same license tax as would be charged to contractors, subcontractors or sign painters respectively, whose regularly established places of business are located within the city.

Such license fee for contractors, subcontractors and sign painters shall be paid in full for the full taxable year, whenever issued.

(Ord. 6040 § 21, 1967; Ord. NS-68 § 2, 1989)

**§ 5.08.080. Home occupations.**

Persons engaged in occupations in their home shall pay license fees in accordance with the license fees provided for the types of businesses conducted notwithstanding the limited use permitted in such cases. (Ord. 6040 § 22, 1967)

**§ 5.08.090. Junk.**

The license tax for junk business, junk dealer or junk collector is \$100.00 per year, subject to a special permit from the City Council to be first obtained.

(Ord. 6040 § 23, 1967)

**§ 5.08.100. Motion picture taking (commercial).**

The license tax for the taking of motion pictures, shots or scenes for commercial purposes, or for commercial use, or in connection with the production for commercial purposes of any motion picture play or production is \$30.00 for the first day and \$10.00 per day thereafter, when private property exclusively is used, and \$100.00 for the first day and \$50.00 for each day thereafter when public property is used. (Ord. 6040 § 24, 1967; Ord. NS-68 § 3, 1989)

**§ 5.08.110. Oil wells.**

The license tax for oil and petroleum product production from any well is \$180.00 per well per year (minimum), which shall cover the first 18,000 or fewer barrels produced from such well, and shall be paid at the beginning of the license period, and in addition thereto, payable within 15 days after the close of each license year, shall be the sum of one cent per barrel for each barrel in excess of 18,000 barrels produced from such well during such year. In the event of abandonment of any well such additional amount shall be paid within 15 days after production from such well is finally stopped. A separate license must be procured and a separate license fee paid for each such well. Each such license shall be subject to a special permit from the council to be first obtained. Such special permit must be obtained for each oil or gas well or other hydrocarbon substance well, notwithstanding any variance for the development of natural resources which may have been granted under the zoning ordinance or land use regulations of that city. Such special permits shall contain such provisions and shall be subject to such terms and conditions as the City Council in the exercise of its discretion may promulgate, prescribe or impose; provided, however, that the permit fee for each such permit shall be the sum of \$1,000.00 which shall be paid at or before the time of the issuance of such permit. Each such permit shall be valid for the particular well covered thereby until the same expires, or is forfeited, canceled or revoked according to its terms, conditions or provisions.

(Ord. 6040 § 25, 1967)

**§ 5.08.120. Pawnbrokers.**

Any person engaging in the business of being a pawnbroker shall pay a business license fee of \$150.00 per year and obtain a pawnbroker license from the Chief of Police.

(Ord. 6040 § 26, 1967; Ord. CS-027 § 1, 2009)

**§ 5.08.130. Public utility.**

The license tax for a public utility not having a written franchise whereby the city obtains money shall be as follows:

- A. Transportation utility, \$48.00 per year per vehicle used;

B. Public utilities other than transportation, which do not have a written franchise shall pay a license fee of \$100.00 per year.

(Ord. 6040 § 27, 1967)

#### **§ 5.08.140. Taxicabs.<sup>3</sup>**

The fee for taxicabs shall be \$25.00 per cab per year, plus \$100.00 per street or alley stand per year.  
(Ord. 6040 § 28, 1967)

#### **§ 5.08.150. Vending machines—Amusement and skill machines and related devices.**

Any person who causes or allows a coin-operated vending machine to be kept, maintained or operated in or about the person's place of business by another person shall include any proceeds to the business derived from the machines in the gross receipts from the business for business license tax purposes. In addition, such person shall furnish the license collector with the name and address of the person, or persons, who owns, rents, leases, operates, maintains or services the machines.

(Ord. 6040 § 29, 1967; Ord. 6049 § 4, 1973; Ord. 6061 § 1, 1980)

#### **§ 5.08.160. Professional licenses.**

Each person engaged in the rendering of professional or semiprofessional services for compensation shall pay the sum of \$50.00 per year per person so engaged. The professional or semiprofessional services shall include but not be limited to these: Appraiser, chiropodist, optician, orthopedist, pathologist, radiologist, surveyor, osteopath, doctor of veterinary medicine, chemist, chiropractor, physiotherapist, optometrist, bacteriologist, accountant, engineer, architect, attorney, dentist, physician, surgeon, oculist, real estate broker, dental technician, and fortuneteller.

(Ord. 6040 § 30, 1967; Ord. 6077 § 4, 1985)

#### **§ 5.08.170. Billiards, pool, ping-pong and related games.**

The license tax for a billiard room or poolroom, ping-pong parlor, skeeball alley or other similar game, device or business other than coin operated is \$25.00 per year for each table, alley or device; provided, however, that the foregoing rate shall not include or authorize the sale of any goods, wares or merchandise in connection with the conducting of any such game or business.

(Ord. 6040 § 31, 1967; Ord. NS-68 § 4, 1989)

#### **§ 5.08.180. Private police patrols or private watch service.**

The license tax for private police patrols or private watch service is \$30.00 per year.  
(Ord. 6040 § 32, 1967; Ord. 6054 § 1, 1975; Ord. NS-68 § 5, 1989)

#### **§ 5.08.190. Wheel tax.**

With the exception of intercity transportation business licensed under the Highway Carriers' Uniform Business License Tax Act, every person who does not have a regularly established place of business within the city, who conducts business within the city through the use of a motor vehicle or vehicles, shall pay an annual license tax as follows:

A. At retail, the license tax for the first vehicle shall be according to the following schedule, and for each

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3. See also Chapter 5.20 of this code.

additional vehicle used within the city, the license tax shall be three-fifths of the rate for the first vehicle:

Lunch wagon and catering service	\$80.00
Bread and bakery supplies	\$80.00
Concrete or road mix	\$100.00
Dairy and ice cream	\$80.00
Dry cleaning	\$100.00
Laundry	\$100.00
Linen service	\$20.00
Meat distributor	\$80.00
Petroleum products (home delivery)	\$20.00
Retail bottled water supply	\$80.00
Rock and sand	\$100.00
Transfer or delivery service	\$20.00
Water softener service	\$100.00
Other businesses not herein specified	\$40.00

- B. At wholesale, the license tax shall be \$20.00 for the first vehicle, and \$12.00 for each additional vehicle used within the city, plus two dollars for each employee performing work within the city.  
(Ord. 6040 § 33, 1967; Ord. 6042 § 2, 1971)

## CHAPTER 5.09 ADDITIONAL LICENSE TAX ON NEW CONSTRUCTION

### **§ 5.09.010. Purpose and intent.**

The City Council declares that the license taxes required to be paid hereby are assessed pursuant to Section 37101 of the Government Code of the State of California and the taxing power of the city and solely for the purpose of producing revenue. This chapter is not adopted for regulatory purposes. The continued development of the city, with the consequent increase in population and in the use of public facilities, has imposed increased requirements for such facilities, including, but not limited to parks, major streets, traffic signals, storm drains, bridges and public buildings (such as fire stations, police facilities, maintenance facilities, libraries and general offices). The necessity for such facilities results from new construction. The need for such facilities cannot be met from existing city revenues. The most practical and equitable method of raising city revenue is to impose a tax upon new construction in the city.

(Ord. 6067 § 1, 1982)

### **§ 5.09.020. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Mobile home space" means each space, area or building, in a trailer park or mobile home park or other place, designed or intended as a place to accommodate any mobile home, trailer, van, bus or other vehicle or mobile structure, at a time when the same is being used as living or sleeping quarters for human beings.

"Person" includes every individual, firm, partnership, joint venture, association, trust, corporation or any other group engaging in construction activities itself or through the services of any employee, agent or independent contractor.

(Ord. 6067 § 1, 1982)

### **§ 5.09.030. Imposition of tax—Amount.**

- A. In addition to any other fee, license or tax required by this code, every person constructing or causing to be constructed or erected any building or structure in the city for which a building permit is required, shall pay a license tax in the amount of 3.5 percent of the valuation of the building or structure established pursuant to this code for determining the building permit fee.
- B. The developer of a mobile home park shall pay a license tax fee of \$1,150.00 for each mobile home space. The license tax for mobile home spaces shall be automatically increased or decreased on January 1st of each year by the same percentage as the percentage of increase or decrease in construction costs between December 1st of each of the two immediately preceding years, for which purpose construction costs and the increase or decrease therein shall be based on the Engineering News Record Construction Cost Index.
- C. For the alteration of or addition to residential structures or mobile home parks, the license tax shall be computed only on the valuation of additional dwelling units or mobile home spaces, if any, resulting from the alteration or addition.
- D. For additions to structures, other than residential structures, the tax shall be calculated on the value of the addition only.
- E. For the alteration of structures, other than residential structures, the tax shall be calculated on the

value added by the alteration. The tax shall be imposed upon alterations only where the alteration changes the use potential for the structure, results in the ability to accommodate a more intense operation of the existing use, or results in making the structure suitable for occupancy or use pursuant to the building code.

(Ord. 6067 § 1, 1982; Ord. 6072 § 1, 1983; Ord. 6078 § 1, 1986; Ord. 6082 § 1, 1987; Ord. CS-041 § 5, 2009; Ord. CS-094 § 5, 2010; Ord. CS-154 § 5, 2011; Ord. CS-186 § 5, 2012)

#### **§ 5.09.040. Credit.**

A credit toward the license tax imposed by this chapter shall be given if:

- A. A public facilities fee has been paid pursuant to council policy number 17 in satisfaction of an obligation under a public facilities fee agreement for the building or structure. The amount of the credit shall be the amount of the fee paid. For purposes of this section, the payment of a public facilities fee shall be deemed to include any applicable credits against such fee from community facilities district number one;
- B. The property is subject to taxation under the communities facilities district number one amount of the credit shall be determined by the City Council and established by resolution.

(Ord. 6067 § 1, 1982; Ord. NS-156 § 1, 1991)

#### **§ 5.09.050. Time and place of payment.**

The license taxes imposed pursuant to Section 5.09.030 shall be due and payable at the Office of the Community and Economic Development Director, City Hall, Carlsbad, California, upon issuance of the building permit. The tax for a mobile home space shall be paid prior to the issuance of the first permit for the construction of such space or if such construction is performed without a permit, at the time when construction is commenced.

No permit shall be issued until the tax is paid.

(Ord. 6067 § 1, 1982; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.09.060. Refunds.**

If a permit for construction work expires or if such permit is revoked and if within 30 days following the expiration or revocation date of the permit the permittee files written application for a refund in the office of the City Clerk, there shall be a refund of the entire tax paid. There shall be no refund if any construction work has been performed nor shall there be any partial refund. In the event of a refund, it is unlawful for any person to proceed in any way with further construction without first applying for another building permit and paying the tax imposed by this chapter. If no refund is made and a permit expires after work has been performed, a new building permit shall be required and the tax imposed by this chapter shall be paid; provided, however, a credit shall be given not to exceed the tax paid in connection with the expired permit.

(Ord. 6067 § 1, 1982)

#### **§ 5.09.070. Disposition of proceeds.**

Funds from this tax shall be placed in the general fund and shall be available for general governmental purposes. Decisions on the expenditure of such funds shall be made by the City Council in the context of approval of the city's annual operating and capital improvements budget or at such other time as the council may direct.

(Ord. 6067 § 1, 1982)

**§ 5.09.080. Exceptions.**

There is excepted from the tax imposed by this chapter, the following:

- A. The construction of a building or structure or mobile home space which is a replacement for a building or space being removed from the same lot or parcel of land. The exception shall equal but not exceed the tax which would be payable hereunder if the building being replaced were being newly constructed. If the tax imposed on the new building exceeds the amount of this exception, such excess shall be paid;
- B. Accessory buildings or structures in mobile home parks, such as a club house, swimming pool, or laundry facilities;
- C. Buildings or structures which are clearly accessory to an existing use such as fences, pools, patios and automobile garages;
- D. Additions to existing single-family or two-family residential structures, provided the addition does not create a new dwelling unit or economy dwelling unit as defined by the Uniform Building Code;
- E. The City Council may grant an exception for a low cost housing project where the City Council finds such project consistent with the housing element of the general plan and that such exception is necessary. In approving an exception for low cost housing, the City Council may attach conditions, including limitations on rent or income levels of tenants. If the City Council finds a project is not being operated as a low cost housing project in accordance with all applicable conditions, the tax, which would otherwise be imposed by this chapter, shall immediately become due and payable.

(Ord. 6067 § 1, 1982)

**§ 5.09.090. Exemptions.**

There is excluded from the tax imposed by this chapter:

- A. Any person when imposition of such tax upon that person would be in violation of the Constitution and laws of the United States or the State of California;
- B. The construction of any building by a nonprofit corporation exclusively for religious, educational, hospital or charitable purposes;
- C. The construction of any building by the City of Carlsbad, the United States or any department or agency thereof or by the State of California or any department, agency or political subdivision thereof.

(Ord. 6067 § 1, 1982)

**§ 5.09.100. Construction prohibited.**

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, make, put together or convert any building or structure in the city, or attempt to do so, or cause the same to be done, without first paying the tax imposed by this chapter.

(Ord. 6067 § 1, 1982)

**§ 5.09.110. Tax liability—Enforcement.**

The taxes imposed by this chapter are due from the person by or on behalf of whom a residential, industrial or commercial building or mobile home space is constructed, whether such person is the owner or a lessee

of the land upon which the construction is to occur. The Community and Economic Development Director shall collect the tax due hereunder. The full amount due under this chapter shall constitute a debt to the city. An action for the collection thereof may be commenced in the name of the city in any court having jurisdiction of the cause.

The City Manager shall be responsible for the administration and enforcement of this chapter. The City Manager's decisions may be appealed to the City Council whose decision shall be final.  
(Ord. 6067 § 1, 1982; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.09.120. Effective date.**

The taxes imposed by this chapter shall be applicable with respect to building permits for construction activities, issued on or after November 3, 1987, provided any person constructing one or more dwelling units, or otherwise engaging in construction taxable hereunder, pursuant to a building permit applied for before July 28, 1987, but not actually issued until on or after the date, shall not be liable for payment of the tax provided such person has obtained all other discretionary approvals required for the project, has had the application accepted as complete, paid the plan check fee, and who obtains the permit applied for within 180 days of the date the application was accepted and diligently pursues the project to completion.

(Ord. 6067 § 1, 1982; Ord. 6082 § 1, 1987)

**§ 5.09.130. Effective date of increased tax.**

The increased tax adopted by Ordinance No. 6078 shall apply to all projects for which building permits were issued after January 21, 1986. In those instances where building permits were issued after January 21, 1986, and before the effective date of this ordinance, the increased tax shall be due and owing upon the effective date of this ordinance. This section is adopted to implement city Ordinance No. 9791.

(Ord. 6078 § 2, 1986)

## CHAPTER 5.10 **BINGO**

### **§ 5.10.010. Bingo authorized.**

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution and Section 326.5 of the California Penal Code in order to make the game of bingo lawful under the terms and conditions in the following sections of this chapter.

(Ord. 1194 § 1, 1976)

### **§ 5.10.020. Definitions.**

Whenever in this chapter the following terms are used they shall have the meanings respectively ascribed to them in this section:

"Bingo" is a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

"Licensee" is a nonprofit, charitable organization to which the license collector has issued a license to conduct bingo games pursuant to this chapter.

"Minor" is any person under the age of 18 years.

"Nonprofit, charitable organization" is an organization exempted from the payment of the bank and corporation tax by Section 23701(d) of the Revenue and Taxation Code, Mobile Home Park Associations, Senior Citizens Organization; and Veterans Organizations which are exempted from the payment of the bank and corporation tax by Sections 23701(b), 23701(e), 23701(f), 23701(g) or 23701(l) of the Revenue and Taxation Code.

(Ord. 1194 § 1, 1976; Ord. 1204 § 1, 1977; Ord. 1208 § 1, 1978; Ord. 6061 § 1, 1980)

### **§ 5.10.030. License required.**

It is unlawful for any person to conduct any bingo game in the city unless such person is a member of a nonprofit, charitable organization, acting on behalf of such organization, and has a valid license issued pursuant to this chapter.

(Ord. 1194 § 1, 1976)

### **§ 5.10.040. Term of license.**

The term of a bingo license is one year and may be renewed for successive periods of one year each if application therefor is made prior to expiration of the preceding license.

(Ord. 1194 § 1, 1976; Ord. 1228 § 1, 1980)

### **§ 5.10.050. Application.**

Application for a bingo license shall be made to the license collector on forms prescribed by the license collector, and shall be filed not less than 20 days prior to the proposed date of the bingo game or games. Such application form shall require from the applicant at least the following:

- A. A list of all members of the nonprofit, charitable organization who will operate the bingo game, including full names of each such member, date of birth, place of birth, physical description and driver's license number;

- B. The date and place of the proposed bingo game or games;
- C. Proof that the organization is a nonprofit, charitable organization as defined by this chapter.  
(Ord. 1194 § 1, 1976; Ord. 6061 § 1, 1980)

#### **§ 5.10.060. License fee.**

The fee for a bingo license shall be \$50.00. The fee for a renewal license shall be \$50.00. The appropriate fee shall be paid at the time of submission of each application for a license or renewal and shall be used to defray the cost of issuance of a license. If a license is denied, one-half the fee shall be refunded to the applicant.

(Ord. 1194 § 1, 1976; Ord. 1204 § 2, 1977; Ord. 1228 § 2, 1980)

#### **§ 5.10.070. Application investigation.**

- A. Upon receipt of an application for a license the license collector may send copies of such application to any office or department which the license collector deems essential in order to carry out a proper investigation of the applicant.
- B. The license collector and every officer and department to which an application is referred shall investigate the truth of the matters set forth in the application, the nature of the applicant, the membership in the organization of the persons to operate the games, and may examine the premises to be used for the bingo game. If the license collector is satisfied the requirements of this chapter are and will be met, the application shall be approved, and the license collector shall issue the license.

(Ord. 1194 § 1, 1976; Ord. 6061 § 1, 1980)

#### **§ 5.10.080. License not transferable.**

Each license issued under this chapter shall be issued to a specific person on behalf of a specific nonprofit, charitable organization to conduct bingo games at a specific location and shall in no event be transferable from one person to another nor from one location to another.

(Ord. 1194 § 1, 1976)

#### **§ 5.10.090. Limitations.**

- A. A nonprofit, charitable organization shall conduct a bingo game only on property owned, leased or donated to the organization for use by it, and used by it for an office or for the performance of the purposes for which the organization is organized. Nothing in this subsection shall be construed to require that the property owned, leased, or donated to the organization for use by the organization be used or leased exclusively by, or donated exclusively to, such organization.
- B. No minors shall be allowed to participate in any bingo game.
- C. All bingo games shall be open to the public, not just to the members of the nonprofit, charitable organization.
- D. A bingo game shall be operated and staffed only by members of the nonprofit, charitable organization which organized it and obtained the license. Such members shall be limited to those set forth in the most recent application for a license or renewal as approved by the license collector, and shall not receive a profit, wage or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision or any other phase of such games. This subdivision does not preclude the employment of security personnel by the

organization.

- E. No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.
- F. With respect to organizations exempted from payment of the bank and corporation tax by Section 23701(d) of the Revenue and Taxation Code, all profits derived from the bingo games shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this chapter, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by business organizations not within the scope of the first sentence of this subsection. Such proceeds shall be used only for charitable purposes, except as follows:
  - 1. Such proceeds may be used for prizes;
  - 2. A portion of such proceeds, not to exceed 20% of the proceeds before deduction for prizes, or \$1,000.00 per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, administrative expenses, security equipment and security personnel;
  - 3. Such proceeds may be used to pay the license fees required by this chapter.

On or before the 15th of each month the licensee shall file with the license collector a full and complete financial statement on a form to be approved by the license collector of all moneys collected, disbursed and the amount remaining for charitable purposes as a result of all bingo games conducted during the preceding month.

- G. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.
- H. The total value of prizes awarded during the conduct of any bingo games shall not exceed \$250.00 in cash or kind, or both, for each separate game which is held.
- I. No bingo game shall be conducted between the hours of midnight and 8:00 a.m.  
(Ord. 1194 § 1, 1976; Ord. 1204 § 3, 1977; Ord. 1208 § 2, 1978; Ord. 1228 § 3, 1980; Ord. 6061 § 1, 1980; Ord. 6068 § 2, 1983)

#### **§ 5.10.100. Inspection.**

The license collector, license inspector and any peace officer of the city shall have free access to the premises in which any bingo game licensed under this chapter is conducted. The licensee shall have the bingo license and list of approved staff available for inspection at all times during any bingo game.  
(Ord. 1194 § 1, 1976)

#### **§ 5.10.110. Application denial—License suspension or revocation.**

- A. The license collector may deny any application for a bingo license, or suspend or revoke a license, if the license collector finds the applicant or licensee or any agent or representative thereof has:
  - 1. Knowingly made any false, misleading or fraudulent statements of a material fact in the application or in any record or report required to be filed pursuant to this chapter;

2. Violated any of the provisions of this chapter.
- B. If after investigation the license collector determines that a bingo license should be suspended or revoked or an application for such license denied, the license collector shall prepare a notice of suspension, revocation or denial of the application setting forth the reasons for such suspension, revocation or denial of application. Such notice shall be sent by certified mail to the applicant's last address provided in the application or be personally delivered. Any person who has had an application for a bingo license denied by the license collector, or who has had a bingo license suspended or revoked by the license collector, may appeal the license collector's decision in the manner provided in Section 5.10.120.

(Ord. 1194 § 1, 1976; Ord. 6061 § 1, 1980)

#### **§ 5.10.120. Appeal procedure.**

Whenever an appeal is provided for in this chapter, such appeal shall be filed and conducted as prescribed in this section.

- A. Within 15 calendar days after the date of any suspension, revocation or denial or other decision of the license collector, an aggrieved party may appeal such action by filing with the license collector a written appeal briefly setting forth the reasons why such suspension, revocation or denial or other decision is not proper;
- B. Upon receipt of such written appeal, the license collector shall set the matter for hearing before the City Council within 30 days. At least 10 calendar days prior to the date of the hearing on the appeal the license collector shall notify the appellant of the date and place of the hearing. At such hearing the license collector and the appellant may present evidence relevant to the suspension, revocation or denial or other decision of the license collector. The City Council shall receive evidence and shall rule on the admissibility of evidence and on questions of law. The formal rules of evidence applicable in a court of law shall not apply to such hearing;
- C. At the conclusion of the hearing, the City Council may uphold the suspension, revocation or denial or other decision of the license collector, or the City Council may reinstate that which has been suspended or revoked, or allow that which has been denied, or modify or reverse any other license collector's decision which is the subject of the appeal. The City Council's decision shall be final.

(Ord. 1194 § 1, 1976; Ord. 6061 § 1, 1980)

#### **§ 5.10.130. Violations and penalties.**

- A. It is a misdemeanor for any person to receive a profit, wage or salary from any bingo game authorized by this chapter. A violation of this subsection shall be punishable by a fine not to exceed \$10,000.00 which fine shall be deposited in the general fund of the city.
- B. Any person violating any of the provisions or failing to comply with any of the requirements of this chapter, other than subsection A of this section, is guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail for a period of not more than six months or by both such fine and imprisonment. All sanctions provided herein shall be cumulative and not exclusive.

(Ord. 1194 § 1, 1976)

## CHAPTER 5.12 CARDROOMS

### **§ 5.12.010. Definition.**

For the purposes of this chapter, a "cardroom" is defined to be any space, room, collection of rooms or enclosure furnished or equipped with a table used or intended to be used as a card table for the playing of cards and similar games.

(Ord. 6083 § 2, 1988)

### **§ 5.12.020. Cardrooms prohibited.**

It is unlawful for any person to engage in or carry on, or to maintain or conduct, or cause to be engaged in, carried on, maintained or conducted any cardroom in the city for the purpose of playing cards or games of chance where cards are used for money, profit, barter or where other consideration exchanges hands. This is not intended to prohibit the recreational playing of cards in single-family homes where no consideration passes to the owner of such single-family residence by virtue of such recreational playing.

(Ord. 6083 § 2, 1988)

### **§ 5.12.025. Exceptions.**

This chapter shall not apply to the lawful playing of card games at the Carlsbad Senior Center at such times and under such reasonable rules and regulations as established by the City Manager.

(Ord. NS-193 § 1, 1992)

### **§ 5.12.030. Existing lawful use of cardrooms excepted.**

Cardrooms lawfully existing on the date of the passage of the ordinance codified in this chapter, may continue to exist provided they shall not be altered, improved, reconstructed, restored, repaired, intensified, expanded or extended. In addition, existing cardrooms shall comply with the following requirements.

(Ord. 6083 § 2, 1988)

### **§ 5.12.040. Work permit requirements.**

Employees in cardrooms must obtain a work permit from the Chief of Police. Applications for such work permits shall be submitted under oath and contain such information as may be deemed by the Chief of Police necessary to determine whether the applicant is a proper person to be employed in a cardroom.

No work permit shall be issued to any person who is not a citizen of the United States and who has not been a resident of the county for at least one year. The Chief of Police may deny to such applicant a work permit if, in the chief's opinion, good cause appears why such person should not be permitted to be employed in a cardroom. Each application for work permit shall be accompanied by a fee of \$10.00 and the work permit when issued shall be valid for one year.

(Ord. 6083 § 2, 1988)

### **§ 5.12.050. Revocation or suspension of license or permit—Appeal.**

The Chief of Police shall have the right for cause to revoke or suspend any cardroom license or cardroom work permit issued under this chapter and take possession of such license or permit. The action of the Chief of Police in this respect shall be subject to an appeal to the City Council. Notice of such appeal shall be filed with the license collector within 10 days; otherwise the action of the Chief of Police in revoking or

suspending the cardroom license or cardroom work permit shall be final and conclusive.  
(Ord. 6083 § 2, 1988)

#### **§ 5.12.060. Licenses—Number per person, assignment and transfer.**

Only One License to One Person; Assignment or Transfer of License. No person shall be granted a license to conduct more than one cardroom. No cardroom license shall be assignable or transferable. Once a licensee under this chapter establishes a cardroom at a specific location, he or she may not thereafter move such cardroom business to another location. Any license issued under this chapter shall automatically become revoked upon the occurrence of any of the following conditions:

- A. If after the issuance of a license, the licensee does not begin operation of a cardroom within six months from the date of issuance. The licensee under this chapter may, upon written application to the City Council therefor, be granted one additional six-month period within which to begin operation of a cardroom;
- B. If, after the beginning of a cardroom, the licensee ceases operation of his or her cardroom for a period of 30 days or longer.

(Ord. 6083 § 2, 1988)

#### **§ 5.12.070. Rules and regulations.**

It is unlawful to operate a cardroom in violation of any of the following regulations and rules:

- A. Not more than one cardroom shall be located at any one address. On and after the 30th day after the effective date of this chapter, all licenses to operate cardrooms in the city, issued before that time, shall be null and void and of no further force and effect;
- B. No game except pinochle, low-ball draw poker, draw poker, panguingue, without variation as defined by Hoyle, contract or auction bridge, shall be played in any cardroom;
- C. Not more than five tables shall be permitted in any cardroom;
- D. Not more than eight players shall be permitted to any one card table;
- E. No minor shall be permitted at any card table, or to participate in any game played thereat;
- F. All cardrooms shall be closed at 2:00 a.m. and shall remain closed until 10:00 a.m. of every day;
- G. All cardrooms shall be open to police inspection during all hours of operation.

(Ord. 6083 § 2, 1988)

#### **§ 5.12.080. Alcoholic beverages prohibited.**

No alcoholic liquor or beverage shall be served, consumed, sold or given away in any cardroom, and no cardroom shall have an entrance leading to any establishment which serves or sells intoxicating liquor.  
(Ord. 6083 § 2, 1988)

#### **§ 5.12.090. Rates.**

No charge in excess of the following rates shall be assessed for the privilege of participating in the following games:

- A. Pinochle: 20 cents per game and 15 cents per set;
  - B. Low-ball and draw poker: Five percent of each pot;
  - C. Bridge: 60 cents per hour per player.
- (Ord. 6083 § 2, 1988)

**§ 5.12.100. Limit on table stakes.**

No player shall be permitted to make any bet in excess of \$20.00 or bet more than \$100.00 in any one hand and shall in any event be limited to betting the amount of money then on the table belonging to the player. (Ord. 6083 § 2, 1988)

**§ 5.12.110. Cashing of bank checks.**

The cashing of bank checks for players shall not be permitted in any cardroom.  
(Ord. 6083 § 2, 1988)

**§ 5.12.120. Supervision—Identification badges of employees.**

All card tables shall be supervised by the operator or his/her employees, who may at their discretion refuse any individual the right to participate. They shall see to it that it is operated strictly in accordance with the terms of this chapter, and with the provisions of the Penal Code of the state. Every operator and employee of an operator of a cardroom licensed under this chapter shall at all times when on duty in such cardroom wear an identification badge containing his or her photograph, together with the name, age, address and description of such individual.

(Ord. 6083 § 2, 1988)

**§ 5.12.130. Exterior signs.**

No signs or other insignia advertising or relative to cardrooms shall be permitted upon the exterior of any premises occupied as a cardroom, except the word "cardroom" and the name of the operator thereof. Such a sign shall be flush with the building, and shall not be more than one and one-half feet by six feet in size. (Ord. 6083 § 2, 1988)

**§ 5.12.140. Interior signs.**

There shall be posted in every cardroom in letters plainly visible from all parts thereof, signs stating that only draw poker, pinochle or bridge is permitted to be played and stating the charge exacted for the privilege of playing.  
(Ord. 6083 § 2, 1988)

**§ 5.12.150. Monthly collections by city.**

There shall be collected for each card table where the game of poker is played during any portion of the license period the sum of \$30.00 per table per month, or portion thereof, payable quarterly in advance. There shall be collected for each table licensed under this chapter where any other permitted games than poker are played the sum of five dollars per table per month, or portion thereof, payable quarterly in advance. In addition to the above amounts, there shall be an additional license fee based upon total monthly gross revenue of the cardroom so licensed, according to the following schedule:

Total Monthly Gross Cardroom Revenue	Monthly Fee Based on the Following Percentage of Total Monthly Revenue
\$250,000 or less	7.0%
\$250,001 but less than \$500,000	8.0%
\$500,000 and over	9.0%

(Ord. 6083 § 2, 1988)

#### **§ 5.12.160. Scope of chapter.**

The council declares that it is not the intention of this chapter to license any cardroom for the playing of any game prohibited by the laws of this state and particularly those games enumerated in Section 330 of the Penal Code of the state.

(Ord. 6083 § 2, 1988)

#### **§ 5.12.170. Violations.**

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person violating any of the provisions or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period not exceeding six months, or by both.

(Ord. 6083 § 2, 1988)

## CHAPTER 5.16 MASSAGE SERVICES

**Note: Prior ordinance history: Ord. Nos. 1296, 3096, 3112, 6059, 6061, NS-216, and NS-291.**

### **§ 5.16.010. Purpose and intent.**

It is the purpose and intent of the City Council that this chapter relies upon California Business and Professions Code Chapter 10.5 of Division 2, as it may be amended, to provide for the orderly and consistent regulation of massage services, to enable consumers to identify legitimate massage workers and businesses, and additionally to establish minimum health and safety standards, thus protecting the public interest, health, safety and welfare of the city.

(Ord. CS-234 § 2, 2013)

### **§ 5.16.020. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the following meanings:

"Applicant" means an applicant for a certificate of registration—individual or business, and each of the following persons: the managing responsible officer/employee, a general partner, a limited partner, a shareholder, a sole proprietor, or any person who has a five percent or greater ownership interest in a massage business whether as an individual, corporate entity, limited partner, shareholder or sole proprietor.

"California Massage Therapy Council" or "CAMTC" means the massage therapy organization formed pursuant to California Business and Professions Code Section 4600, and following, as amended.

"CAMTC identification cards" or "identification cards" means the cards issued by CAMTC to a certified massage practitioner.

"Certificate administrator" means the City Manager's designee for promulgating rules, regulations, and requirements consistent with the provisions of this section and all other law in connection with the issuance of a certificate of registration.

"Certificate of registration—business" means a certificate issued by the certificate administrator upon submission of satisfactory evidence as required that a massage business or sole proprietorship employs or uses only certified massage therapists or practitioners possessing valid and current state certifications and has satisfied all other requirements pursuant to the provisions of this chapter.

"Certificate of registration—individual" means a certificate issued by the certificate administrator upon submission of satisfactory evidence that a massage practitioner or therapist has a valid and current state certification and has satisfied all other requirements pursuant to the provisions of this chapter.

"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 Sections 4600, and following, as amended), whether as a massage practitioner or massage therapist, as defined therein.

"Certified sole proprietorship" means any massage business where the owner is the only person employed or used by that business to provide massage services and the owner has a current and valid unconditional state certification.

"City" means the City of Carlsbad.

"Massage" means any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of consideration (whether for the massage, as part of a membership, as part of other services or a product, or otherwise) by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including, but not limited to, Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

"Owner" or "operator" means any and all owners of a massage business including any of the following persons: the managing responsible officer/employee, a general partner, a limited partner, a shareholder, a sole proprietor, or any person who has a five percent or greater ownership interest in a massage business whether as an individual, corporate entity, limited partner, shareholder or sole proprietor.

"Registered certificate holder" means a person or business that has been issued a certificate of registration by the certificate administrator.

"State certification," "state certificate," or "state certified" means a valid and current certification properly issued by CAMTC (pursuant to California Business and Professions Code Sections 4600, et seq., as amended) to a certified massage practitioner.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.030. Authority.**

The certificate administrator 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 certificate administrator may designate an employee to make decisions and investigations and take actions under this chapter.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.040. State certification and city certificate of registration required.**

- A. It is unlawful for any individual to administer massage in exchange for compensation or consideration of any type within the city unless that individual is a CAMTC certified massage practitioner.
- B. It is unlawful for any massage business within the city to provide or allow any form of massage to be administered unless all individuals employed by the massage business to administer massage, whether as an employee or independent contractor, are CAMTC certified massage practitioners.
- C. It is unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in or upon any premises within the city, the operation of a massage establishment or to allow any person to administer massage or function as a certified massage practitioner, unless a current and valid certificate of registration has been issued for that massage business pursuant to this chapter.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.045. Compliance period.**

- A. Within six months of the effective date this ordinance, any business that is operating in the city with a current and valid city massage business license and is otherwise subject to this chapter, shall submit an application for a certificate of registration pursuant to the provisions of this chapter.
- B. Within six months of the effective date of this ordinance, any person who possesses a current and

valid city license as a holistic health practitioner or massage technician and is otherwise subject to this chapter, shall submit an application for a certificate of registration pursuant to the provisions of this chapter.

- C. Massage businesses, massage technicians and holistic health providers that are subject to the requirements of this chapter, and that have a current and valid city massage business license and that have submitted a complete application for certificate of registration in accordance with this chapter may continue to operate while the certificate of registration application is processed.
- D. Massage businesses, massage technicians and holistic health providers that are subject to the requirements of this chapter, and that have a current and valid city massage business license or a current and valid city massage technician or holistic health practitioner license, issued pursuant to former Carlsbad Municipal Code Section 5.16.030 or 5.16.190, on the effective date of this ordinance shall be entitled to receive a prorated refund of the city massage license fee for the remaining portion of the license period. All requests for refunds shall be made in writing within six months of the effective date of this ordinance and will be paid to the licensee within 60 days of the request. All requests for refunds shall be directed to business licensing.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.050. Certified massage business—Certificate of registration required.**

- A. A certificate of registration application shall be filed on forms provided by the certificate administrator, submitted under penalty of perjury and shall contain all of the following information:
  - 1. State Certification Verification.
    - a. If a certified sole proprietorship, the applicant/owner shall produce a valid and current state certification and a valid and current CAMTC identification card.
    - b. If a certified massage business other than a certified sole proprietorship, the applicant/owners shall produce:
      - i. A valid and current state certification; and
      - ii. A valid and current CAMTC identification card; and
      - iii. A statement that the certified massage business shall employ only certified massage practitioners along with copies of valid and current state certificates for all certified massage practitioners employed or who will be employed by the massage business and copies of their current and valid CAMTC identification cards.
    - c. The certificate administrator may require the applicant/owner of a certified sole proprietorship or a certified massage business to produce a valid and current California driver's license and/or identification card issued by a state governmental agency.
    - d. The certificate administrator may require the certified massage practitioners whom the applicant/owner has identified as employees to personally appear and produce valid and current state certificates, a valid and current California driver's license and/or identification card.
    - e. The following information shall be provided by any applicant/owner who is not state certified and who owns or will own five percent or more of the massage business:

- i. Acceptable proof that the applicant/owner is at least 18 years of age.
- ii. Full, true name, and other names used, date of birth and valid and current California driver's license or identification card issued by a state governmental agency.
- iii. One photograph provided by the applicant. The photograph must be in color, printed on photo quality paper, two by two inches in size, sized such that the head is between one inch and one and three-eighths inches from the bottom of the chin to the top of the head, taken within the last six months to reflect the applicant's current appearance, taken in front of a plain white or off-white background, and taken in full-face view directly facing the camera.
- iv. Current address and all previous residence(s) for the past 10 years, including dates at each address.
- v. Business, occupation, and employment history for 10 years preceding the date of current or proposed employment, the inclusive dates of same; the name and address of any massage business or other like establishment owned or operated by any person subject to the background check including, but not limited to, history, if any, with any agency, board, city, county, territory, or state; and dates of issuance, denial, restriction, revocation, or suspension, and the reasons therefor of any individual or business permit.
- vi. Fingerprints, subject to a fee to cover actual costs, to submit to the Department of Justice through LiveScan or equivalent, and may submit additional fee to cover the actual costs for subsequent arrest notice for renewal applications, to determine whether the applicant/owner has any of the following:
  - (A) Convictions for any crime involving conduct which requires registration under California Penal Code Section 290 (Sex Offender Registration Act);
  - (B) Convictions of violation of California Penal Code Section 653.23 (supervision of prostitute);
  - (C) Convictions of violation of California Penal Code Section 647(b) or California Penal Code Section 415(3) where the original charge was for violation of California Penal Code Section 647(b);
  - (D) Convictions of crimes designated in Government Code Section 51032 (massage - grounds for denial of license), or any crime involving dishonesty, fraud, deceit, violence or moral turpitude;
  - (E) Injunctions for nuisances under Penal Code Section 11225-11235 (red light abatement law);
  - (F) Convictions in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the referenced offenses of this subdivision;
  - (G) Conspiracy or attempt to commit any such offense described in paragraphs (1)(e)(i)—(v) of this subsection A.

2. General Business Information. Applicant/owner to provide all of the following:

- a. The full true name under which the massage business will be conducted. The mailing address for the present or proposed massage business.
  - b. The present or proposed address where the massage services will be conducted.
  - c. Complete description of all massage services to be provided.
  - d. 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.
  - e. A description of any other business to be operated on the same premises, or on adjoining premises, owned or controlled by the applicant/owner.
  - f. The name and address of the owner and lessor of the real property, if any, upon or in which the massage business is to be conducted.
3. Corporate Information. Applicant/owner to provide all of the following:
    - a. If the applicant/owner is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of that corporation, and its registered agent for receipt of process.
    - b. If the applicant/owner is a partnership, the application shall set forth the names and residence address of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner.
    - c. The applicant/owner, corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this chapter. The corporation's or partnership's responsible managing officer must, at all times, meet all of the requirements set by this chapter or the corporation or partnership certificate of registration— business shall be suspended until a responsible managing officer who meets such requirements is designated and verified. If no such person is found within 90 days, the corporation or partnership's certificate of registration is deemed canceled and a new application for certificate of registration must be filed.
    - d. If an applicant/owner, operator, corporation, or partner owns five percent or more of the massage business and is not state certified, the police department shall conduct a background check of that owner, operator, corporation, or partner, which shall include the information requested in paragraphs (1)(e)(vi)(A)—(G) inclusive of this subsection A, and the name and address of any massage business or other like business owned or operated by any person who is subject to the background check requirement of this subdivision.
  4. Authorization for the city, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant/owner, where authorized by this chapter.
  5. A certificate of compliance from the city's building official (or other compliance person as designated by the City Manager) that certifies that the premises of the massage business will

meet or does meet all applicable codes and regulations. The certificate of compliance must be submitted prior to the application approval.

6. Zoning consistency check in writing from city. A zoning consistency check does not confer or authorize any entitlement to a use permit or building permit or similar, which process, if applicable, is separate from the certificate of registration process.
  7. A signed statement that the applicant/owner shall be responsible for the conduct of all employees or independent contractors working on the massage premises of the business and that failure to comply with California Business and Professions Code Section 4600, and following, 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—business.
  8. Payment of a registration fee, if any, as per Section 5.16.070.
- B. Upon receipt of the application, the certificate administrator shall refer the application for a certificate of registration—business to other city departments for review and the building official or other designee shall inspect the massage premises, if any, proposed to be used as a massage business and shall make a written recommendation to the certificate administrator concerning compliance with the respective requirements.
- C. The certificate administrator shall have 60 days, after the submission of all required information, to either issue or deny the application for a certificate of registration. For those applications that are submitted without all the required information, the certificate administrator, in his or her sole discretion, may either reject the application outright or request the applicant/owner to submit the missing information by a date certain. A rejected application, based on failure to submit all required information, shall not form the basis for a hearing as set forth in Section 5.16.200 of this chapter.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.060. Certified massage business—Certificate of registration issuance.**

- A. The certificate administrator shall issue a certificate of registration—business to any certified sole proprietorship that demonstrates all of the following:
1. That the operation, as proposed, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, health regulations, and this chapter.
  2. The owner is a certified massage practitioner and is the same person to whom the CAMTC issued a valid and current identification card.
  3. 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.
- B. The certificate administrator shall issue a certificate of registration—business to a certified massage business that demonstrates all of the following:
1. That the operation, as proposed, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, health regulations, and this chapter.
  2. The owner is a certified massage practitioner and is the same person to whom the CAMTC issued a valid and current identification card.

3. The massage business employs or uses only certified massage practitioners whose state certifications are valid and current 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 license 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 10 years preceding the application had a conviction in court of competent jurisdiction for any of the crimes identified in Section 5.16.050(A)(1)(e)(6)(i—vii) herein; 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 pursuant to Penal Code Sections 11225—11235 within the last 10 years.
- C. In the event of a denial of issuance of a certificate of registration—business, the certificate administrator will provide notification of and the reasons for denial shall be set forth in writing and shall either be hand delivered to the applicant/owner or sent by registered or certified mail. The applicant/owner shall, at the applicant/owner's election, have the right to receive a hearing as set forth in Section 5.16.200. If such a hearing is not requested within 10 calendar days of the notice of denial by the certificate administrator, the denial shall be final. A request for hearing is deemed timely if the certificate administrator received said request by close of business on the 10th calendar day.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.070. Registration fee.**

A registration fee, if any, shall be set by resolution of the City Council and shall be required only for background checks for those applicants/owners of a certified massage business who are not state certified and own five percent or more of the certified massage business. A registration fee shall not be charged to certified massage practitioners or as to those state certified applicants/owners applying for a certificate of registration—business.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.080. City business license.**

All persons shall obtain a business license where required by the city's business license provisions. The issuance of a certificate of registration (individual or business) is a condition precedent to the granting of such a city business license. Upon the issuance of a certificate of registration pursuant to this chapter, the applicant/owner shall apply for and furnish the information necessary to obtain a city business license as required by the provisions of this code. No business license shall be issued until the certificate of registration has been issued and the business license fee, as provided in this code, has been paid. A certified massage practitioner employed by a certified massage business is not required to obtain a city business license. The business license fee shall be commensurate with the business license fee charged to other professionals as established by this code.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.090. Exemptions from requirement for certificate of registration—Business and individual.**

The provisions of this chapter shall not apply to the following classes of persons or businesses while

engaged in the performance of their duties:

- A. Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists duly licensed to practice their respective professions in the State of California and working within the scope of their licenses.
- B. Barbers, cosmetologists, aestheticians, and manicurists who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face, hands and feet, and/or scalp of the customers, and this exception shall not apply to full body work or full body massage.
- C. Hospitals, nursing homes, sanatoriums, or any other health facilities duly licensed by the State of California.
- D. A trainer of any duly constituted athletic team who administers a massage in the normal course of training duties and when acting within the scope of their employment.
- E. Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as an outdoor road or bike race.
- F. Health clubs, health spa, gymnasium, or other similar facility designed or intended for general physical exercise or conditioning in which the furnishing of massage or bathing services or facilities is subordinate and incidental, except that the person performing massage services shall obtain a state certification and city certificate of registration in conformance with this chapter.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.100. Health and safety requirements.**

All premises of certified massage businesses shall be subject to periodic inspection by the city at any time and without prior notice for compliance with health, safety, and building standards and all such establishments shall comply with the following requirements:

- A. Health and Safety Requirements—Facility.
  - 1. One artificial white light of not less than 40 watts shall be provided in each room where massage is being administered.
  - 2. The walls shall be clean and painted with an approved washable mold resistant paint in all rooms where water or steam baths are given.
  - 3. Floors shall be free from any accumulation of dust, dirt, or refuse.
  - 4. All equipment used in the massage operation shall be maintained in a clean and sanitary condition.
  - 5. Dressing and locker facilities shall be provided for patrons. Security deposit facilities for the protection of the valuables of the patrons shall also be available.
  - 6. One front door shall be provided for patron entry to the massage business, which shall open to an interior patron reception and waiting area immediately inside the front door. All patrons and any persons other than individuals employed or retained by the massage business shall be required to enter and exit through the front.

7. No part of the massage business establishment shall be used for or connected with any bedroom or sleeping quarters. Nor shall any person sleep in such massage business establishment except for limited periods incidental to and directly related to a massage.

B. Health Requirements—Linens.

1. Towels, sheets, clothes and linens of all types, and items for personal use of operators and patrons shall be clean and freshly laundered and shall not be used for more than one person.
2. Reuse of such items is prohibited unless the same has first been laundered. Such items shall not be laundered or dried in any massage business unless such business is provided with approved laundry facilities for such laundering and drying.
3. Heavy white paper may be substituted for sheets provided that such paper is used once for every person and then discarded into a sanitary receptacle.

C. General Health and Safety Regulations.

1. No person afflicted with an infection or parasitic infestation transmissible to a patron shall knowingly provide massage therapy to a patron, or remain on the premises of a certified massage business while so infected or infested.
2. It is unlawful for any certified massage practitioner or other person to massage the genital area of any patron or the breasts of any female patron or for any operator of a massage business to allow or permit such massage.
3. It is unlawful for any certified massage practitioner or other person to be other than fully clothed in nontransparent clothing at all times that shall not expose their genitals, pubic area, buttocks, or chest or for any operator of a massage business to allow or permit prohibited dress.
4. If during the life of a certificate of registration, the applicant/owner has any change in information concerning the original application or is different from what was included in the original application; notification must be made to the certificate administrator, in writing, within 10 calendar days of the change.
5. It is unlawful for any certified massage business or registered certificate holder to provide a massage between 10:00 p.m. and 7:00 a.m. and 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. Patrons and visitors shall be permitted in the massage business only during hours of operation.
6. A list of massage services available and the cost of such services shall be posted in an open and conspicuous public place on the massage premises. The massage services shall be described in English and may also be described in such other languages as the business chooses. No massage business operator shall permit, and no person employed or retained by the certified massage business shall offer to perform, any massage services or fees other than those posted.
7. It is unlawful for any certified massage business or any registered certificate holder, owner, operator, or responsible managing officer/employee to violate any requirements of this chapter.

(Ord. CS-234 § 2, 2013)

**§ 5.16.110. Inspection by city officials and notices of violation.**

- A. The investigating officials of the city, including the San Diego County Health Official, shall have the right to enter the massage business premises from time to time during regular business hours, prior to the issuance of a certification of registration—business and subsequently, for the purpose of making reasonable inspections to enforce compliance with this chapter and with building, fire, electrical, plumbing, and/or health and safety regulations. In the event a certificate of registration—business has been issued, it may be suspended or revoked in the manner hereinafter set forth in this chapter.
- B. Whenever a city official makes an inspection of a massage business and finds that any provision of this chapter has been violated, the certificate administrator shall give notice of such violation by means of a written notice. Any resulting written notice shall set forth the specific violation or violations found, and notify the registered certificate holder that failure to comply with any notice issued in accordance with the provisions of this chapter may result in the suspension or revocation of the certification of registration. The registered certificate holder may be issued a warning that any future violation of this chapter may result in suspension or revocation of the certificate of registration. The certificate administrator may establish a specific and reasonable period of time for the correction of the violation or violations. No time to correct need be given for health and safety violations or violations of criminal law.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.120. Display of signs and certification of registration.**

A recognizable and legible sign shall be posted at the main entrance of each certified massage business identifying the business as such. The owner or operator of each certified massage business shall display the certificate of registration—business and the certificate of registration—individual issued to each certified massage practitioner employed in or providing massage services to the massage business in an accessible and conspicuous place on the premises.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.130. Transfer of certificate of registration—Business.**

A certificate of registration—business shall not be transferable except with the written approval of the certificate administrator. A written application for such a transfer shall be made to the certificate administrator. The application for such transfer shall contain the same information as required herein for an initial application for a certification of registration as set forth in Section 5.16.050. In the event of denial of such transfer, notification of and reasons for denial shall be set forth in writing and shall be sent to the applicant/owner by means of registered or certified mail or delivered in person.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.140. Notification of changes.**

Every certified massage business owner or operator shall report in writing immediately to the certificate administrator any and all changes of address or ownership of the certified massage business and any changes of certified massage practitioners employed in or providing massage services to the massage business.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.150. Certificate of registration—Individual; nontransferable.**

- A. It is unlawful to practice massage for any form of consideration as a principal, employee, agent or otherwise within the city, unless a person has a current and valid certificate of registration issued pursuant to this chapter and a CATMC identification card. This section does not apply to individuals

specifically exempted pursuant to the provisions of this chapter.

- B. The certificate administrator shall issue a certificate of registration—individual to any certified massage practitioner who demonstrates the following:
  - 1. A valid and current state certification; and
  - 2. A valid and current CAMTC identification card.
- C. In the event of a denial of issuance of a certificate of registration—individual, the certificate administrator will provide notification of and the reasons for denial shall be set forth in writing and shall either be hand delivered to the applicant or sent by registered or certified mail. The applicant shall, at the applicant's election, have the right to receive a hearing as set forth in Section 5.16.200. If such a hearing is not requested within 10 calendar days of the notice of denial by the certificate administrator, the denial shall be final. A request for hearing is deemed timely if the certificate administrator received said request by close of business on the 10th calendar day.
- D. A certificate of registration—individual shall not be transferable.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.160. Certificate of registration expiration and renewal.**

- A. Certificates of registration shall be valid for two years from issuance or as extended pursuant to this chapter.
- B. The registered certificate holder—business shall apply to the certificate administrator to renew such registration within 60 days prior to expiration and shall apply to the certificate administrator to amend the certificate of registration—business within 30 days after any change in the registration information, including, but not limited to a change in certified massage business mailing address or the address of the massage premises. The certificate administrator may extend the certificate of registration one time in a renewal period for up to 90 days for sole proprietors who provide timely evidence of a renewal application to CAMTC.
- C. The registered certificate holder—individual shall apply to the certificate administrator to renew such registration within 30 days prior to expiration of the certificate of registration and shall apply to the certificate administrator to amend the certificate of registration within 30 days after any change in the registration information, including, but not limited to a change in the mailing or work address. The certificate administrator may extend the certificate of registration one time during a renewal period for up to 90 days for individuals who provide timely evidence of a renewal application to CAMTC.
- D. If a renewal application and all required information for the renewal is not received by the certificate administrator within 30 days after expiration, the certificate of registration shall be deemed expired and no privilege to provide massage services in Carlsbad shall exist. Renewals shall be processed and investigated and the applicant/owner is required to submit that information which has changed from the last application or renewal.
- E. In the event of a denial of a renewal certificate of registration for reasons other than the applicant/owner's failure to submit a complete renewal application with all required information, the certificate administrator will provide notification of and the reasons for denial shall be set forth in writing and shall either be hand delivered to the applicant/owner or sent by registered or certified mail. The applicant/owner shall, at the applicant/owner's election, have the right to receive a hearing as set forth in Section 5.16.200. If such a hearing is not requested within 10 calendar days of the notice of denial

by the certificate administrator, the denial shall be final. A request for hearing is deemed timely if the certificate administrator received said request by close of business on the 10th calendar day.

(Ord. CS-234 § 2, 2013)

**§ 5.16.170. Grounds for suspension or revocation of certificate of registration—Business.**

The certificate administrator may suspend or revoke a certificate of registration issued to a certified massage business or certified sole proprietorship upon any of the following grounds:

- A. A registered certificate holder is no longer in possession of a current and valid state certification.
- B. A noncertified owner, operator, corporation, or partner who owns five percent or more of the massage business has been convicted of a crime that would have caused denial of the certificate of registration.
- C. A registered certificate holder has made a material misrepresentation on the application for certificate of registration or renewal.
- D. The registered certificate holder has engaged in conduct or operated the certified massage business or as a certified massage practitioner in a manner which violates any of the provisions of this chapter, any conditions of the certification of registration, or any of the laws which would have been grounds for denial of the certification of registration.
- E. The registered certificate holder employs or uses noncertified massage technicians to perform massage services.
- F. Violations of this chapter or of California Business and Professions Code Sections 4600, and following, have occurred on the massage business premises.
- G. The registered certificate holder has failed to comply with one or more of the health and safety requirements under this chapter.
- H. The registered certificate holder has engaged in fraud, misrepresentation, or false statements in obtaining or maintaining a certificate of registration.

(Ord. CS-234 § 2, 2013)

**§ 5.16.180. Grounds for suspension or revocation of certificate of registration—Individual.**

The certificate administrator may suspend or revoke a certificate of registration issued to an individual upon any of the following grounds:

- A. Registered certificate holder—individual is no longer in possession of a current and valid state certification or CAMTC identification card;
- B. The registered certificate holder—individual has engaged in fraud, misrepresentation, or false statements in obtaining or maintaining a certificate of registration.

(Ord. CS-234 § 2, 2013)

**§ 5.16.190. Suspension or revocation of certificate of registration.**

In the event that the certificate administrator determines that any of the grounds identified in Section 5.16.170 or 5.16.180 exists for the suspension or revocation of a certificate of registration, the certificate administrator shall notify the registered certificate holder in writing of the intended action and the reasons therefor, and of the right to request a hearing in regard thereto. The action indicated in the written notice

shall be final unless the registered certificate holder files a written request for hearing with the certificate administrator which is received by the certificate administrator within 14 calendar days of the date of the notice. A request for hearing is deemed timely if the certificate administrator received said request by close of business on the 14th calendar day. If the request for hearing is timely received, the certificate administrator shall proceed in accord with Section 5.16.200.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.200. Hearing.**

Any person who has been denied a certificate of registration, for reasons other than submitting an incomplete certificate of registration application or renewal, by the certificate administrator or any registered certificate holder who has received a notice of intent to suspend or revoke a certificate of registration may request a hearing.

- A. Upon receipt of a timely written request for hearing, the certificate administrator shall schedule a hearing and shall set forth in writing and send to the applicant or registered certificate holder, by means of registered mail, certified mail or hand delivery, notice that within a period of not less than five days nor more than 14 days from the date of the posting of the notice, a hearing shall be conducted to determine the existence of any facts which constitute grounds for denial, suspension or revocation of a certificate of registration. The notice shall include the date, time and place of the hearing.
- B. The hearing shall be conducted by a hearing officer appointed by the City Manager.
- C. The applicant/owner or registered certificate holder may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. The hearing need not be conducted according to the rules of evidence. Any relevant evidence may be admitted and considered by the hearing officer if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the hearing officer.
- D. In the event that the applicant/owner, registered certificate holder or counsel for applicant/owner or registered certificate holder fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for denial, suspension or revocation of the certificate of registration shall be considered unrebutted.
- E. Notice of the decision shall be given in the same manner as for the hearing and shall specify findings of fact and the reasons for the decision. The hearing officer shall inform the party against whom the decision is rendered of his or her right to appeal to the City Council pursuant to this chapter.

(Ord. CS-234 § 2, 2013)

#### **§ 5.16.210. Appeal.**

Within 10 days after receipt of the decision of the hearing officer, any party affected by the decision may file with the City Clerk a written request for a public hearing before the City Manager. Upon the filing of such a request, the City Clerk shall, within 14 days thereafter, set the matter for a hearing and shall notify the appellant of the date, time and place of such hearing at least five days before the hearing date. At the hearing, any person may present relevant evidence in opposition to, or in support of, appellant's case. At the conclusion of the hearing, the City Manager shall either grant or deny the appeal, and the decision of the City Manager shall be final.

(Ord. CS-234 § 2, 2013)

**§ 5.16.220. Reapplication after denial.**

No reapplication for a certificate of registration will be accepted within one year after an application or renewal is denied or a certificate of registration is revoked, provided that, if a certificate of registration—business is denied for the sole reason that a certified massage practitioner does not possess the required state certification, reapplication may occur when the required certification is obtained.

(Ord. CS-234 § 2, 2013)

**§ 5.16.230. Public nuisance.**

A certified massage business operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance, and the City Attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in a manner provided by law.

(Ord. CS-234 § 2, 2013)

**§ 5.16.240. Violations, penalties.**

- A. Unless otherwise exempted by the provisions of this chapter, every person, whether acting as an individual, owner, employee of the owner, operator, or employee of the operator or whether acting as a mere helper for the owner, employee, or operator, or whether acting as a participant or worker in any way, who gives massages or conducts a massage business, or who, in connection with the business, gives or administers, or practices the giving or administering of, massages or baths or any of the services defined in this chapter, without first obtaining state certification and a city certificate of registration, or who violates any provision of this chapter, shall be guilty of an infraction or misdemeanor punishable as provided in Section 1.08.010(B).
- B. Any owner, licensee, manager, or registered certificate holder in charge or in control of a massage business or certified massage business or certified sole proprietorship who knowingly employs a person who is not in possession of a valid, unrevoked certificate of registration, or who allows such persons to perform, operate, or practice within a massage business, shall be guilty of an infraction or misdemeanor punishable as provided in Section 1.08.010(B).

(Ord. CS-234 § 2, 2013)

**§ 5.16.250. Interpretation.**

This chapter shall be construed liberally in favor of regulation as determined if necessary and appropriate by the City Manager for the public protection and welfare and in order to accomplish its purpose and intent.

(Ord. CS-234 § 2, 2013)

**§ 5.16.260. Constitutionality.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted the chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(Ord. CS-234 § 2, 2013)

## CHAPTER 5.17 ESCORT SERVICES

### **§ 5.17.010. Purpose and intent.**

It is the purpose and intent of this chapter to provide for the orderly regulation of escort services and escorts in the City of Carlsbad, by establishing certain minimum standards for the conduct of this type of business by the adoption of a licensing procedure for escort establishments as well as the individuals providing escort services. This is determined to be necessary to protect and preserve the public order and the health, safety and general welfare of the residents of the City of Carlsbad.

(Ord. NS-388 § 1, 1997)

### **§ 5.17.020. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

"Employee" means any and all persons who work in or about or render any services whatsoever to the patrons or customers of an escort service and who receive compensation for such service.

"Escort" means any person who, for a fee, commission, hire, reward, or profit, accompanies other persons to or about social affairs, entertainments, or places of amusement, or consorts with others about any place of public resort or within any private quarters. Excluded from this definition are any persons employed by any business, agency or a person regulated by Chapter 21.43 of this code.

"Escort license" means the license to engage in the activities of an escort required by this chapter.

"Escort service" means any place where patrons can purchase the social company or companionship of another person to be given either on or off the premises, excluding any use regulated by Chapter 21.43 of this code.

"Escort service license" means the business license to operate an escort service required by this chapter.

"Operator" means any person operating an escort service, including, but not limited to, the owner or proprietor of the premises upon which it is located, and the lessee, sublessee, or mortgagee in possession.

"Person" means an 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, excepting the United States of America, the State of California, and any political subdivision thereof.

(Ord. NS-388 § 1, 1997)

### **§ 5.17.030. Escort service—License required.**

It is unlawful for any person, as defined in Section 5.17.020, to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, the operation of an escort service as defined in Section 5.17.020, without a license issued by the Chief of Police of the city pursuant to the provisions of this section for each and every such business. Any person obtaining an escort service license shall pay to the license collector a license fee in an amount established by City Council resolution and payable when the license issues. This license fee shall be in lieu of any business license tax.

(Ord. NS-388 § 1, 1997)

**§ 5.17.040. Escort service license.**

Each application for an escort service license shall be submitted to the Chief of Police and shall contain the following information:

- A. A definition of services to be provided;
- B. The location and mailing address of the proposed name of the escort service and address;
- C. The name and residence address and phone number of the applicant;
- D. The full true name and any other names used by the applicant and address of all owners of the escort service establishment, including corporate officers and directors, stockholders owning more than 10% of the corporation, and general, managing and limited partners. Corporations shall also furnish the name and address of an agent for service of process and the state of incorporation;
- E. The previous address of the applicant, if any, for a period of five years immediately prior to the date of the application and the dates of residences at each;
- F. Written proof that the applicant is over the age of 18 years;
- G. Provision of acceptable government issued identification containing the name, date of birth and photograph of the applicant;
- H. A complete set of the applicant's fingerprints and a photograph which shall be taken by the Chief of Police or agent;
- I. Business, occupation or employment history of the applicant for the five years immediately preceding the date of the application;
- J. The history of the applicant in the operation of an escort service or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another city or state under license, had had such license revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
- K. All criminal convictions, other than minor traffic violations, with a full explanation of the circumstances thereof for the escort service establishment manager, the operator and the owner, including all partners, corporate officers and directors;
- L. At the discretion of the Chief of Police, the applicant may be required to submit the name and address of each escort service applicant who is or will be employed in the establishment;
- M. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted, and a copy of the lease or rental agreement;
- N. Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application;
- O. The applicant shall be the owner of the escort service establishment. If the applicant is not responsible for the daily management and operation of the service, the person who is responsible must also submit an application and pay a fee pursuant to Section 5.17.050.

(Ord. NS-388 § 1, 1997)

**§ 5.17.050. Investigation fee—Escort service.**

A nonrefundable fee in an amount established by the Chief of Police shall accompany the submission of each application for an escort service license to defray, in part, the costs of investigation. The fee shall not be in lieu of, and shall be in addition to, the license fee to be paid pursuant to the terms of this chapter.  
(Ord. NS-388 § 1, 1997)

**§ 5.17.060. License investigation—Escort service.**

- A. Upon receipt of a completed application and fee, the Chief of Police shall have a reasonable time, not to exceed 60 days, in which to verify the application information and to investigate the background of the applicant.
- B. The Chief of Police shall notify the planning, building, fire and health departments regarding the pending application. The notified departments, within the 30 days from the application date, shall inspect the premises proposed to be devoted to the escort service and shall make separate recommendations to the Chief of Police concerning compliance with the provisions of this chapter and with the other applicable provisions of state law and the municipal code.
- C. If the escort service has made application for a conditional use permit pursuant to Chapter 21.43, Section 21.43.110 of this code, the investigations required therein may satisfy the requirements of this section as well.

(Ord. NS-388 § 1, 1997)

**§ 5.17.070. Issuance or denial of license.**

Based upon the results of his or her own investigation and upon the reports received from the other city departments, the Chief of Police shall issue a escort service license if the chief finds:

- A. That the operation, as proposed by the applicant, if licensed, would comply with all applicable laws, including, but not limited to, the city's building, zoning, fire and health regulations;
- B. That the applicant, if an individual, or in the case of an applicant which is a corporation or a partnership, any of its officers, directors, holders of 10% or more of corporation stock, has not been convicted in a court of competent jurisdiction of:
  1. An offense involving the use of force or violence upon the person of another; or
  2. A crime requiring registration under Section 290 of the California Penal Code, or of any violation of Sections 266i, 315, 316, 318 or subdivision (a) or (b) of Section 647 of the Penal Code; or
  3. Any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code; or
  4. Any of the above substantive offenses as defined in the laws of any jurisdiction other than the State of California;
- C. That the applicant has not knowingly and with intent to deceive made false, misleading or fraudulent statements of fact in the license application or any other document required by the city in conjunction therewith;
- D. The applicant has met all the requirements of this chapter;

E. The applicant has not had an escort service, massage establishment, nude entertainment, outcall service activity, nude photo studio or similar type of license or a permit suspended for one year or more, or revoked for good cause within three years immediately preceding the date of the filing of the application unless the applicant can show material change in circumstances or mitigating circumstances exist since the revocation or suspension.

If one or more of the above described findings cannot be made, the license shall be denied. In the event of denial, notifications and reasons for denial shall be set forth in writing by the Chief of Police and shall be sent to the applicant by means of registered or certified mail or hand delivery. The denied applicant shall, at his or her election, have the right to receive a hearing before the City Manager pursuant to the provisions of this chapter. If such a hearing is not requested within 10 days of the notice of denial by the Chief of Police, the denial shall be final.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.080. Escort service establishment facilities.**

No license to conduct an escort service shall be granted unless an inspection by the city reveals that the proposed establishment from which the service is to be conducted complies with the minimum requirements set forth in Title 21, Chapter 21.42, Section 21.42.010 of this code.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.090. Display of licenses.**

Every person issued an escort service license under the terms of this chapter shall display the license in a conspicuous place so that the same may be readily seen by persons entering the premises from which the escort service is operated.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.100. Name of business.**

No person licensed to do business as provided in this chapter shall operate under any name or conduct his or her business under any designation not specified in the person's license.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.110. Telephone number or numbers of business.**

All telephone numbers or listings of the escort service shall be reported in writing to the Chief of Police within 10 days of the telephone number becoming operative or inoperative.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.120. Change of location.**

A change of location of a licensed escort service may be approved by the Chief of Police; provided all applicable provisions of this code are complied with and a change of location fee to be determined by a resolution of the City Council to defray, in part, the costs of investigation and inspection has been paid to city.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.130. Change in escort service manager.**

If the owner of an escort service establishment is not acting as the manager of the establishment, and

there is a change in managers, the new manager shall submit information required for an escort service application to the Chief of Police or agent within 30 days of becoming the new manager. The application information must be accompanied by an investigation fee pursuant to Section 5.17.050. No other license fee pursuant to this chapter shall be required due to a change in escort service managers if the manager is not the establishment owner.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.140. Sale or transfer.**

Upon the sale or transfer of any interest in an escort service, the license for that establishment shall be null and void. A new application shall be made by any person desiring to own or operate an escort service. An application fee to be determined by a resolution of the City Council shall be payable for each such application.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.150. Inspection.**

Representatives of the city departments of building inspection, housing, fire, police and health shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, mechanical, plumbing or health regulations. This shall not restrict or limit the right of entry vested in any law enforcement agency.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.160. Escort—License required.**

It is unlawful for any person to engage in the business of acting or act as an escort without an escort license issued pursuant to the provisions of this chapter. Such persons when providing services as an escort shall have the permit in his or her immediate possession and shall exhibit the permit upon demand of any peace officer.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.170. Escort license.**

- A. Any person desiring to obtain a license to act as an escort shall make application to the Chief of Police, or designated representative. An annual nonrefundable fee shall accompany the submission of each application to defray, in part, the cost of investigation and examination as required by this chapter. An annual nonrefundable renewal fee shall be charged to defray associated costs of investigation and enforcement.
- B. Each applicant for a license to act as an escort shall furnish the following information to the Chief of Police:
  1. The full true name and any other names used by the applicant;
  2. The present address and telephone number of the applicant;
  3. Each residence and business address of the applicant for the three years immediately preceding the date of the application, and the inclusive dates of each such address;
  4. Written proof that the applicant is at least 18 years of age;
  5. Applicant's height, weight, color of eyes and hair;

6. Two photographs of the applicant of a size specified by the Chief of Police taken within the last 30 days immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the license;
  7. Applicant's business, occupation and employment history for the three years immediately preceding the date of application;
  8. The business or permit history of the applicant including whether such applicant has ever had any business, professional or vocational license or permit issued by an agency or board, city, county or state revoked or suspended, and the reason therefor;
  9. All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions;
  10. The establishment or business locations, if any, at which the applicant expects to be employed;
  11. Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application;
  12. The Chief of Police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification;
  13. A certificate from a medical doctor, licensed to practice in the State of California, stating that the applicant has within 30 days immediately preceding the date of application been examined and had no communicable disease on the date of the examination.
- C. The Chief of Police shall have a reasonable time, not to exceed 60 days, in which to investigate the application and background of the applicant.
- D. A permit shall be issued within 60 days of receipt of the application to any applicant who has furnished all of the information required by this section of the application for such permit, unless:
1. The applicant has knowingly made a false or misleading statement of a material fact or omission of a material fact in the application for the permit; or
  2. The applicant has within five years immediately preceding the date of the filing of the application been convicted of any of the following offenses: 315, 316, or subdivision (a) or (b) of Section 647 of the California Penal Code, or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of Section 415 of the California Penal Code in satisfaction of, or as a substitute for, an original charge of a violation of Section 315, 316 or subdivision (a) or (b) of Section 647 of the California Penal Code; any offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 290; any offense in another state which if committed in this state would have been punishable as one or more of the heretofore mentioned offenses; any offense involving the use of force or violence upon the person of another; any offense involving theft, embezzlement, or moral turpitude; or any violation of a statute, ordinance or regulation pertaining to the same or similar business operational; or
  3. The applicant has had an escort service, massage technician or establishment, nude entertainment, outcall services activity, nude photo studio or similar type of license or permit suspended for one year or more, or revoked for good cause within three years immediately preceding the date of the filing of the application, unless the applicant can show material changes in circumstances or mitigating circumstances exist since the revocation or suspension;

or

4. The applicant is under 18 years of age.
- E. A license to act as an escort does not authorize the operation of an escort service. Any person obtaining a license to act as an escort who desires to operate an escort service must separately apply for a license therefor. A person who applies for a license to operate an escort service and who desires to act as an escort within said business, who pays the fee required by Section 5.17.050 of this chapter, shall not be required to pay the fee required in this section.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.180. Operative date—Escort services, escorts.**

All persons operating an escort service or acting as an escort at the time this chapter becomes effective shall apply for an escort service license or escort license, as described in this chapter, within 30 days of the effective date of the ordinance codified in this chapter.

(Ord. NS-388 § 1, 1997)

#### **§ 5.17.190. Escort services—Operating requirements.**

No person, association, partnership or corporation shall engage in, conduct or carry on, or license to be engaged in, conducted or carried on the operation of an escort service unless each and all of the following requirements are met:

- A. Each person employed or acting as an escort shall have a valid license issued pursuant to the provisions of this chapter, and it shall be unlawful for any owner, operator, responsible managing employee, manager or licensee in charge of or in control of an escort service to employ or permit any person to act as an escort who is not in possession of a valid, unrevoked escort permit.
- B. The possession of a valid escort service license does not authorize the possessor to perform services for which an escort license is required.
- C. Every owner, operator, responsible managing employee, manager or licensee in charge of or in control of an escort service shall maintain a daily register, approved as to form by the police department, containing the following information:
  1. The identification of all employees employed by such establishment together with a duplicate of each of said employee's escort permit;
  2. The hours of employment of each employee for each day; and
  3. The true identity of each patron as it appears on bona fide documentary evidence of identity issued by a governmental agency, the city and state of each patron's residence, hours of employment of escort service, name of escort or employee providing escort services, location and place where escort services took place, and fee charged.
- D. The daily register shall at all times during the establishment's business hours be subject to inspection by the police department and shall be kept on file for one year on the premises.
- E. This section is regulatory only within this chapter.

(Ord. NS-388 § 1, 1997)

**§ 5.17.200. Patrons obligation.**

No person who is a patron shall place or be cause to be placed in the daily register a false name, or false city and state of that patron's address.

(Ord. NS-388 § 1, 1997)

**§ 5.17.210. Rules and regulations.**

The Chief of Police may adopt rules and regulations supplemental to the provisions of this chapter and not in conflict therewith.

(Ord. NS-388 § 1, 1997)

**§ 5.17.220. Denial of license.**

Any person who has been denied a license by the Chief of Police may request a hearing and appeal in accordance with the provisions set forth in Chapter 5.16, Sections 5.16.270 and 5.16.280.

(Ord. NS-388 § 1, 1997)

**§ 5.17.230. Suspension or revocation of license.**

In the event that any person holding a license issued pursuant to this chapter violates or causes or permits to be violated any of the provisions of this chapter or any provision of any other ordinance or law relating to or regulating escort services, or conducts or carries on such business or occupation in an unlawful manner or in such manner as to constitute a public nuisance, the City Manager may, in addition to other penalties provided by ordinance, suspend or revoke the license as follows:

- A. The City Manager shall notify the licensee in writing of the intended action and the reasons therefor, and of the right to request a hearing in regard thereto;
- B. The action indicated in the written notice shall be final unless the licensee files a written request for hearing with the City Manager within 10 days of the notice;
- C. If a notice of hearing is received, the City Manager shall proceed in accord with Chapter 5.16, Sections 5.16.270 and 5.16.280.

(Ord. NS-388 § 1, 1997)

**§ 5.17.240. Injunctive relief.**

An addition to the legal remedies provided for in this code, the operation of any escort service in violation of the terms of this chapter is a public nuisance and may be enjoined by the city.

(Ord. NS-388 § 1, 1997)

**§ 5.17.250. Violations.**

Any person who violates any of the provisions of this chapter upon conviction is guilty of misdemeanor punishable as provided in Section 1.08.010.

(Ord. NS-388 § 1, 1997)

**§ 5.17.260. Constitutionality.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The council declares

that it would have adopted the chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(Ord. NS-388 § 1, 1997)

## CHAPTER 5.20 TAXICABS

**Note: Prior ordinance history: Ord. Nos. 6010, 6031, 6048, 6052, 6061, 1296, NS-142, and CS-055.**

### **§ 5.20.010. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section, unless it is apparent from the context that a different meaning is intended:

"Certificate of liability insurance" means the certificate of liability insurance issued by an insurance company in the name of the taxi company in the required coverage amounts by the City of Carlsbad in order to obtain a business license.

"Chief of Police" means the Chief of the Carlsbad Police Department, or duly authorized agents and representatives.

"City" means the City of Carlsbad.

"City of Carlsbad business license" or "business license" means the business license that is issued by the City of Carlsbad that is required to operate a taxi business or provide taxi services that originate within the city limits of Carlsbad.

"County" means the County of San Diego and includes the San Diego County Sheriff's Department.

"Decal" means a pre-numbered decal that demonstrates issuance of a city business license, to be affixed to the left portion of the passenger side rear window. The decal will be hole-punched with its expiration month and year. This decal authorizes the taxicab to provide taxi services that originate in the City of Carlsbad.

"Passenger" shall mean every occupant other than the driver of a taxicab.

"Posted rate" means the rate the operator has registered with the county for transporting passengers and which is conspicuously posted in the taxicab. The "posted rate" includes flat rate fares and the fares at which the taximeter has been calibrated and inspected by the sealer of the County of San Diego weights and measures.

"Primary business address" means the location where the taxicab operator, his or her employees, contractors and/or agents are physically located and conduct the majority of their taxicab business.

"Substantially located" shall mean, in reference to a city or county, the taxicab company meets either of the following:

1. Has its primary business address within that city's or county's jurisdiction.
2. The total number of prearranged and non-prearranged trips that originate within that city's or county's jurisdiction account for the largest share of the taxicab company's total number of trips over the previous calendar year, as determined annually.
3. A taxicab company that initiates taxi operations after January 1, 2019, in reference to a city or county in which that company had operated before January 1, 2019, the following:
  - a. In the first year of its operation, the jurisdiction where that taxicab company has its primary business address.

- b. After the first year of operation, it meets either of the following: the test described in paragraph 1 or 2.

"Taxicab" means a motor vehicle as the term is defined by the California Vehicle Code used for transportation of passengers for hire, equipped with a taximeter. A taxicab shall be a vehicle designed to transport no more than eight persons, excluding the driver.

"Taxicab driver" means any person or individual who drives, or is in actual physical control of, a taxicab.

"Taxicab driver identification cards" or "identification cards" means the two annual county identification cards issued to a taxicab driver, by the San Diego County Sheriff's Department, authorizing a taxicab driver to pick up passengers. Both identification cards shall be made available to any passenger or law enforcement official for inspection prior to, during, and after any transportation of passengers.

1. The larger identification card is approximately eight inches long by five and one-fourth inches high and will be on display, unaltered and without obstruction, on the dash board of all taxicabs while the taxicab driver is operating the taxicab in the city.
2. The smaller identification card is approximately three and one-fourth inches long by two inches high, and shall be worn by the taxicab driver at all time while operating the taxicab in the city.

"Taxicab operator" means the person, business, partnership, association, firm or corporation which is engaged in the taxicab business.

"Taxicab operator license" means the annual license issued by the county Sheriff's department authorizing a taxicab operator to pick up passengers. In addition the taxicab operator shall obtain a city business license.

"Taxicab vehicle inspection form" means the County Sheriff's Department taxicab vehicle inspection form. Each and every taxicab operating within the city shall have a completed and approved taxicab vehicle inspection form. A copy of the taxicab vehicle inspection form shall be maintained in each taxicab and shall be made available for viewing by any passenger or law enforcement official prior to, during, and after, any transportation of passengers.

"Taximeter" means any type of taximeter, device or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the Business and Professions Code and with all regulations established pursuant to Section 12107 of the Business and Professions Code.

"Taximeter certificate" means the certificate issued by the county weights and measures department showing that the taximeter for that taxicab has been calibrated. A copy of the taximeter certificate, to its specifically assigned taxicab, shall be maintained in each taxicab and be made available to any passenger or law enforcement official for inspection prior to, during and after any transportation of passengers.  
(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

#### **§ 5.20.015. Permit requirements.**

- A. No owner of a taxicab business that is substantially located in the city shall operate or permit the operation of a taxicab as a vehicle for hire on the streets of the city without having obtained from the city a taxicab permit pursuant to the provisions of this chapter.
- B. A taxicab company substantially located and permitted by another city within the County of San Diego or by the County of San Diego may operate in the city on a prearranged basis only. That taxicab company may pick up trips originating through online enabled application, phone dispatch, or Internet website.

C. It is unlawful to operate a taxicab without a valid permit to operate issued by each city or county in which a taxicab company is substantially located. The minimum fine for operating without a permit from the city or county in which a taxicab company is substantially located shall be \$500.00.  
(Ord. CS-343 § 2, 2018)

#### **§ 5.20.020. Business license.**

No taxicab owner or operator substantially located in the City of Carlsbad shall engage in the business of providing taxicab services that originate in the City of Carlsbad without having obtained a City of Carlsbad business license and shall comply with all the provisions of this chapter and of such business license.  
(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

#### **§ 5.20.030. Application information and fee.**

Any person wanting to obtain a business license required by this chapter to operate taxicab services originating in the City of Carlsbad shall pay a fee as established by resolution of the City Council to the city finance department.

The application shall include, at a minimum, the following:

A. Owners:

1. The name and address of applicant, and if the same be a corporation, the names of its principal officers; if the same be a partnership, association or fictitious company, the names of the partners or persons comprising the association or company, with the address of each.
2. The trade name of the taxicab operator or company.
3. Taxicab operator's certificate of liability insurance for the taxicab.
4. Data verifying that the taxicab company is substantially located within the City of Carlsbad; said data shall include the addresses and the trip data showing that the total number of prearranged and non-prearranged trips that originated within the City of Carlsbad account for the largest share of the taxicab company's total number of trips over the previous calendar year.

B. For taxicab vehicle(s):

1. A photo copy of a valid California registration card for every taxicab vehicle owned or leased by applicant taxicab operator for which a city decal will be issued.
2. A photo copy of each taximeter certificate, including the serial number that was issued by the county for each taxicab for which a city decal will be issued.
3. A photo copy of each taxicab vehicle inspection form issued by the county for each taxicab for which a city decal will be issued.
4. The distinctive color scheme, name, monogram or insignia which shall be used on such taxicab vehicle.
5. Copy of a certificate of insurance pursuant to Section 5.20.080.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

#### **§ 5.20.040. Investigation and issuance of a City of Carlsbad business license and City of Carlsbad**

**decal.**

Taxicab operators names are submitted to the Carlsbad Police Department for approval. The Chief of Police or designee shall inspect all applications and forms required by the chapter to ensure they are valid copies issued by the County of San Diego prior to applicant(s) operating any taxicab service/business in the City of Carlsbad. After the police department has reviewed all documents in their entirety, and checked with the County of San Diego that the taxicab operator(s) and taxicab(s) are in good standing with the County of San Diego, the police department shall notify the city's finance department that taxicab operator(s) is authorized to conduct business as a licensed Carlsbad taxicab operator.

Upon the receipt of appropriate approvals and certifications, the finance department shall issue the taxicab operator a business license and a decal for each taxicab.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.050. Grounds for denying a taxicab operator a City of Carlsbad business license and/or taxicab permit.**

If a taxicab operator applicant was unable to pass the background check conducted by the County of San Diego Sheriff's Department, was under a current investigation by the County of San Diego Sheriff's Department or any other law enforcement agency or was unable to obtain or have issued a county taxicab license or had a county taxicab license revoked or suspended for any reason listed in the San Diego County Code of Regulatory Ordinances, the taxicab operator applicant will not be issued a City of Carlsbad business license or taxicab permit for operating a taxicab business in the City of Carlsbad.

The Chief of Police or designee shall notify the taxicab operator applicant within 30 days after the applicant filed a complete application that the City of Carlsbad business license for taxicab operator has been denied.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.060. City of Carlsbad business license for taxicab operator—Expiration and renewal.**

A City of Carlsbad business license for taxicab operator and taxicab permit issued pursuant to this chapter shall expire one year from the date it they are issued unless said license and/or permit, by their terms, provides for a different expiration date. A City of Carlsbad business license for taxicab operator and taxicab permit may be renewed by filing a renewal application not more than 60 days and not less than 40 days prior to the expiration date with the City of Carlsbad. The application for renewal shall contain the same information required in Section 5.20.030. The finance department shall forward the complete renewal application to the police department for review and compliance with Section 5.20.040. The Chief of Police and/or finance department may deny renewal on the following grounds:

- A. Any of the grounds for denying a new City of Carlsbad business license for taxicab operator; or
- B. The taxicab operator committed an illegal act, or allowed any of its taxicab drivers, agents or employees to commit an illegal act, while engaging in the activity for which the business license was issued or used or allowed any taxicab driver, agent or employee to use the business license contrary to its terms; or
- C. The County of San Diego did not renew or will not renew the applicant's county issued taxicab operator license.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.070. Notice of suspension, revocation, or denial and appeal rights and procedures.**

- A. If the County of San Diego suspends, revokes, or denies a new or renewal taxicab operator license the taxicab operator licensee must contest that suspension, revocation, or denial with the County of San Diego.
- B. If the City of Carlsbad suspends, revokes or denies a new or renewal taxicab operator's business license, taxicab permit and/or taxicab driver's permit then the taxicab operator applicant shall utilize the following appeal process:
  1. The taxicab operator applicant must request an appeal hearing before the City Manager. This request must be made in writing and it must be physically received at the Carlsbad Police Department no later than 21 days following the date of the notice of suspension, revocation or denial of either a new or renewal taxicab operator application for City of Carlsbad business license, taxicab permit and/or taxicab driver's permit. For purposes of complying with the 21-day request for hearing, the Carlsbad Police Department "received" stamp shall be determinative for purpose of timely compliance. Failure to file a timely written request for a hearing shall be deemed a waiver of the applicant's right to appeal the suspension, revocation, or denial of a City of Carlsbad business license for taxicab operator.
  2. The City Manager or designee will schedule a hearing within 30 days of receipt of the written request for hearing, unless the 30-day time period is waived in writing by the parties. At the hearing, the taxicab operator applicant shall present relevant evidence for consideration by the City Manager or designee as to why the business license, taxicab permit and/or taxicab driver's permit should be issued or renewed. The City Manager or designee shall issue a written decision to the applicant within 10 business days following the date of the hearing, unless the 10-business-day time period is waived in writing by the parties.
  3. The decision of the City Manager shall be final.
  4. Upon a written decision of the City Manager which suspends or revokes a taxicab license or taxicab permit, the holder of the taxicab license or taxicab permit shall surrender the license and/or permit to the Chief of Police immediately after service of the notice of the decision.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

#### **§ 5.20.075. Emergency suspension.**

- A. The Chief of Police may issue an order suspending a taxicab license or a taxicab driver's permit for a period not exceeding 10 days without having conducted a hearing therefor, if the Chief of Police determines that the continued use of the license or permit will cause immediate hazard to the public safety, health or welfare.
- B. Within 10 days of the effective date of the order, the Chief of Police shall hold a hearing for the owner or driver to show cause why the license or permit should not be suspended or revoked.
- C. The order issued by the Chief of Police under subsection A of this section shall also contain a notice of the hearing setting forth the date, time and place of the hearing.

(Ord. CS-343 § 2, 2018)

#### **§ 5.20.080. Insurance requirements.**

- A. It is unlawful for any taxicab operator to operate a taxicab within the City of Carlsbad unless the person has in effect insurance coverage issued by a company authorized to transact insurance business in the State of California with coverage amounts that meet the requirements of coverage for each

taxicab in an amount not less than \$1,000,000.00 per occurrence, combined single limit for bodily injury and property damage.

- B. The certificate of insurance shall provide that the insurer will notify the Carlsbad Chief of Police, in writing, of any policy cancellation and the notice shall be sent to the Carlsbad Chief of Police by registered mail at least 30 days prior to cancellation of the policy. The certificate shall also state:

1. The full name of the insurer;
2. The name and address of the insured;
3. The insurance policy number;
4. The type and limits of coverage;
5. The specific vehicle(s) insured;
6. The effective dates of the certificate; and
7. The certificate issue date.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.090. Suspension or revocation of a City of Carlsbad business license for taxicab operator.**

In addition to the basis for denial set forth in Section 5.20.050, a City of Carlsbad business license and/or taxicab permit granted under the provisions of this chapter may be suspended or revoked by the Chief of Police, either as a whole or in part to any taxicab operator or taxicab, described herein. The City of Carlsbad business license and/or taxicab permit may be suspended or revoked for any of the following reasons:

- A. Charging or demanding a passenger pay a fare exceeding the posted rate.
- B. Driving or controlling the movements of a taxicab without a valid taxicab driver identification card in the taxicab.
- C. Allowing a person to drive or control the movements of a taxicab without a valid taxicab driver identification card.
- D. Operating or allowing another person to operate a taxicab without the insurance coverage required by this chapter.
- E. Operating or allowing another person to operate a taxicab that has not been issued a valid taxicab operator license by the county.
- F. Operating a taxicab without a current taximeter certificate or without the taximeter certificate in the vehicle.
- G. Violating any other provision of federal, state or local law; minor traffic infractions excluded.
- H. Failure of the owner to pay when due any applicable taxes imposed by the city.
- I. Any activity that impairs the safety of passengers.
- J. Any act or omission of the applicant of any fact or condition which, if it existed at the time the application for a license and/or permit was filed, would have warranted the denial of the application.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.095. Suspension or revocation of taxicab driver's permit.**

The Chief of Police, or the City Manager on appeal, shall have the power to suspend or revoke a taxicab driver's permit issued under this chapter, on any of the following grounds stated in this chapter or on any of the following grounds:

- A. Suspension, revocation or expiration of the driver's privilege granted by the Department of Motor Vehicles of the State of California to operate a motor vehicle on the public highways of the State of California.
- B. The violation by the driver of any of the terms, conditions or requirements of the taxicab driver's permit or of this chapter.
- C. Any act or omission of the driver or any fact or condition which, if it existed at the time the application for a taxicab driver's permit was filed, would have warranted the denial of the application.
- D. Failure of the driver to pay any judgment against the driver for personal injury or death, or property damage arising out of the driver's operation of a public transportation vehicle, within 30 days after the judgment has become final.
- E. The driver consumed drugs or alcohol or is under the influence of drugs or alcohol while on duty or is convicted of a crime relating to drugs or alcohol.
- F. Failure of the driver to pay when due any applicable taxes imposed by the city.

(Ord. CS-343 § 2, 2018)

**§ 5.20.100. Permission to make changes in the mode of operation.**

The taxicab operator shall notify the Police Chief and city finance department within 10 calendar days of all changes to its taxicab operator's license. The city may suspend or revoke the business license of any taxicab operator who fails to notify the Police Chief and finance department of any changes to the taxicab operator's license.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.110. Taxicab stands.**

The City of Carlsbad does not maintain any taxicab stands within the city. All taxis are required to be legally parked at all times, including while loading and unloading passengers.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.120. Taxicab fares.**

- A. The rate schedule must be submitted to the City of Carlsbad at the time of application for a City of Carlsbad business license for taxicab operator and must be accompanied along with the taximeter verification from county weights and measures, if applicable.
- B. The taxicab operator shall prominently post the rate schedule on the interior of both rear doors of all taxicabs in letters at least one inch high. The rates shall be displayed in dollars and cents and shall also display the "flag drop rate," "travel charge rate," and "time charge rate." The figures that display the fare shall be easily readable by persons in the passenger compartment of the taxicab.

1. It is unlawful for a passenger who has hired a taxicab to refuse to pay the fare.
2. It is unlawful for the taxicab operator or the taxicab driver to request the passenger pay a fare in excess of the posted rate or the amount due on the taximeter.
3. Every taxicab operator and taxicab driver and all agent(s) and employee(s) of a taxicab operator or taxicab driver shall accurately state the "posted rate" in effect in response to any inquiry.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

#### **§ 5.20.130. Rules and regulations of operation.**

All applicable federal, state, local county and city laws and regulations shall be observed by all persons operating as a taxicab operator or taxicab driver at all times.

- A. A taxicab driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his or her destination safely and expeditiously.
- B. A taxicab driver shall provide a receipt to any passenger who requests one after the passenger pays the fare. The receipt shall indicate the beginning and ending points of the trip, the fare charged, the date, the taxicab operator or taxicab driver's name, and the vehicle number, and shall be signed by the taxicab driver.
- C. No person shall solicit passengers for taxicabs other than the taxicab driver. The taxicab driver, however, may not leave the taxicab to solicit passengers.
- D. No taxicab driver shall transport more persons, including the taxicab driver, than the manufacturer's rated seating capacity for the taxicab vehicle they are operating. A taxicab driver shall also not transport luggage or other items exceeding the vehicle's storage volume or load-carrying capacity.
- E. A taxicab must be legally parked and the taxicab driver must remain within 12 feet of his or her taxicab unless the taxicab driver is assisting passengers with loading and/or unloading of persons or luggage.
- F. No taxicab driver shall knowingly pick up a person who has summoned a taxicab from a competitive taxicab company without informing the person that he or she does not represent the taxicab company the person summoned.
- G. No taxicab driver, who has been hired by a passenger, shall pick up any additional passenger without the consent of the original passenger.
- H. A taxicab driver shall not operate a taxicab unless he or she has affixed his or her taxicab driver identification card in a prominent location inside the taxicab, visible to passengers in the passenger compartment. A taxicab driver while working shall display the name and photo identification badge issued to him or her by the County of San Diego Sheriff's Department. The taxicab driver shall prominently display the badge on the outside front of the driver's clothing, between the waist and shoulders.
- I. It is unlawful for a taxicab driver to refuse a prospective or actual fare or to take any action to actively discourage a prospective or actual fare on the basis of race, creed, color, age, sex, national origin or disability. A taxicab driver may, however, refuse a prospective or actual fare if it is readily apparent to the driver that a person presents a hazard to the taxicab driver. A taxicab driver is also not obligated to transport any person who is verbally or in any other way abusive to the taxicab driver.

- J. It is unlawful for a taxicab driver to refuse or discourage a prospective fare based upon the length of the trip if the trip is within the area normally serviced by the taxicab operator who employs the taxicab driver.
- K. A taxicab driver shall assist a passenger with loading or unloading a reasonable size, number, and type of passenger luggage or other items, when requested by a passenger. A taxicab driver, however, is not required to lift any single item that exceeds 25 pounds. The requirement to assist with loading or unloading shall be limited to retrieving or depositing items onto the nearest curbside adjacent to a legally parked taxicab. A sign in the form of a transparent decal may be affixed to the rear-door, side window stating that, "DRIVER IS NOT REQUIRED TO LOAD LUGGAGE IN EXCESS OF 25 POUNDS PER ITEM OR OF A SIZE OR KIND THAT WILL NOT SAFELY FIT IN THE DESIGNATED LUGGAGE AREA OF THIS VEHICLE." A taxicab driver with a lawful disability that prevents him or her from handling items may submit proof of disability to the County of San Diego issuing officer requesting relief from the requirement to assist passengers with luggage. If approved by the County of San Diego issuing officer, the taxicab driver may affix a small sign either in the passenger section of the vehicle to be visible to a rear seat passenger or on the inside of the trunk cover lid stating that, "DRIVER HAS DISABILITY THAT PREVENTS HANDLING OF LUGGAGE."
- L. A taxicab driver may seek passengers by driving on a public street, but may not travel at a speed or in a manner that interferes with or impedes traffic.
- M. A taxicab driver shall display an "out of service" sign when the taxicab is not available for hire. The sign must be located inside the vehicle to be visible and readable from outside the vehicle at a distance of at least 10 feet away.
- N. A taxicab driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer. The trip log shall show the taxicab driver's name, taxicab number, date, time, origin and destination of each trip, and fare charged. The logs shall have ruled lines and columns sufficient to include all required information and the entries shall be in black or dark blue ink. The taxicab driver shall submit his or her trip logs to the taxicab operator at least once a week.
- O. It is unlawful for any taxicab driver, while transporting passengers, to display the flag or device attached to the taximeter in a position indicating the vehicle is available for hire. It is unlawful for the taxicab driver to prevent the taximeter from operating while the driver is transporting passengers. It is unlawful for a taxicab driver to cause the taximeter to record when the taxicab is not employed or to allow the taximeter to continue to record after reaching the passenger's final destination.
- P. It is unlawful for any taxicab operator or taxicab driver to refuse a prospective or actual fare, take any action to actively discourage a prospective or actual fare or refuse to dispatch a taxicab driver.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

#### **§ 5.20.140. Condition of taxicabs.**

- A. All taxicab companies shall maintain motor vehicles used in taxi transportation services in a safe operating condition, and in compliance with the Vehicle Code, subject to annual inspection at a facility that is certified by the National Institute for Automotive Service Excellence or a facility registered with the Bureau of Automotive Repair. The inspection shall be completed prior to the renewal of the taxicab permit. If the taxicab successfully completes the safety inspection, a taxicab safety permit sticker shall be issued and shall be displayed in the taxicab rear window.
- B. Taxicabs that are owner-operated vehicles will receive a taxicab safety permit sticker only if the

registered owner holds a valid taxi driver permit.

- C. The registered owner of a taxicab, who is aware of, or should have been aware of, any unsafe condition of the taxicab, shall not allow the taxicab to be used until necessary repairs are made.

- D. Any taxicabs may be put out of service by any law enforcement officer until any unsafe condition has been corrected.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.150. Taxicab driver licensing requirements.**

- A. No person who wishes to operate a taxicab and is substantially located in Carlsbad shall operate any taxicab in the City of Carlsbad unless the person has a valid driver's permit to do so as hereinafter provided.

- B. A taxicab driver substantially located in and permitted by another city within the County of San Diego or by the County of San Diego may operate in the City of Carlsbad. That driver may pick up trips originating through online enabled application, phone dispatch, or Internet website.

- C. Application for a taxicab driver's permit shall be made in writing to the city setting forth the following minimum information:

1. The applicant's name, age address and past experience with regard to taxicab service;
2. The names, and addresses of the applicant's employers during the preceding three years;
3. The name of the taxicab operator the applicant has received an offer of employment from;
4. Such additional information as the Chief of Police may require.

- D. A driver's permit issued by the City of Carlsbad shall immediately cease to be valid upon a driver's termination from the employer applicant listed on his or her application for the driver's permit; permittee shall immediately surrender the permit to the Chief of Police.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.160. Taxicab numbers and information posted inside of a taxicab.**

- A. Every taxicab operator holding a City of Carlsbad business license shall designate each of its taxicabs by number, and no two taxicabs shall be designated by the same number. The name or trade name of the taxicab company and the number by which the taxicab is designated shall be painted, or stickers affixed conspicuously, on the outside of each taxicab and on the inside the passenger compartment.

- B. In addition, every taxicab shall have a sign of durable material, not smaller than six inches by four inches, securely attached and clearly displayed in view of the passenger at all times. The sign shall provide in letters as large as the size of the sign will reasonably allow and contain the following information:

1. The name, address, and telephone number of the City of Carlsbad Police Department;
2. The name, address, and telephone number of the taxicab operator's company licensed under this chapter.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.170. Transferability of a business license.**

No City of Carlsbad business license issued under the terms of this chapter shall be transferable either by contract or operation of law.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

**§ 5.20.180. Violations.**

- A. Every person who violates any of the provisions of this chapter shall be guilty of an infraction or misdemeanor punishable as provided in Section 1.08.010(B).
- B. Any taxicab operator, or taxicab driver, whether an employee or independent contractor of a taxicab operator violating, permitting, or assisting the violation of any provisions of this chapter, shall be subject to any and all civil remedies, including, without limitation, to business license suspension and revocation. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.
- C. In addition to the remedies set forth in subsection B of this section, any taxicab operator that is operating in violation of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation in the City of Carlsbad.

(Ord. CS-218 § 1, 2013; Ord. CS-343 § 2, 2018)

## CHAPTER 5.24 TRAILERS AND TRAILER PARKS

### **§ 5.24.005. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Approved," when used in connection with any material, appliance or construction, means meeting the requirements and approval of the Community and Economic Development Director of the city;

"Auto and trailer camp" means auto and trailer park;

"Auto and trailer park" means any area or tract of land where space is rented or held out for rent to two or more owners or users of trailer coaches or tent campers furnishing their own camping equipment, or where free camping is permitted owners or users of trailer coaches or tent camping equipment for the purpose of securing their trade;

"Building" means a tent, tenthouse, single and multi-family dwelling, public toilets, public baths and laundry rooms, or other structures, and a compartment containing a toilet or bath, or both, constructed for the exclusive use of an occupant of a camp site;

"Camp site" means any portion of an auto and trailer camp designed for the use or occupancy of one trailer coach or camping party;

"Liquefied petroleum gas" means petroleum hydrocarbons or mixtures thereof, in liquid or gaseous state, having a vapor pressure in excess of 26 psi at a temperature of 100 degrees Fahrenheit. Whenever the symbol "LPG" is used, it means liquefied petroleum gas;

Nuisance. In an auto and trailer park, "nuisance" includes any of the following:

1. Any public nuisance known at common law or in equity jurisprudence;
2. Whatever is dangerous to human life or is detrimental to health;
3. The overcrowding of any room with occupants;
4. Inadequate or insanitary sewage or plumbing facilities;
5. Insufficient ventilation or illumination of any room;
6. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings;
7. Unnecessary noise.

"Trailer coach" means any camp car, trailer or other vehicle, with or without motive power, designed and constructed to travel on the public thoroughfares at the maximum allowable speed limit and in accordance with the provisions of the Vehicle Code of the state, and designated or used for human habitation;

A "dependent trailer coach" is one not equipped with a toilet for sewage disposal;

An "independent trailer coach" is one equipped with a toilet for sewage disposal.  
(Ord. 8033 § 1; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

### **§ 5.24.010. Chapter inapplicable to public park, campground or picnic ground.**

This chapter does not apply to any supervised public park, public campground or picnic ground owned,

operated or maintained by any one of the following:

- A. The federal government;
  - B. The state;
  - C. Any agency or political subdivision of the state.
- (Ord. 8033 § 54)

#### **§ 5.24.015. Enforcement.**

The Chief of Police of the city shall enforce the provisions of Section 5.24.140. The Fire Chief and fire department shall enforce all provisions regarding fire protection. The Community and Economic Development Director shall enforce every other provision of this chapter; provided, however, that the health officer of the city may enforce such of the provisions contained in this chapter that relate to or affect public health.

(Ord. 8033 § 2; Ord. 2028 § 1(P), 1969; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.020. Authority of enforcement officers and agents.**

For the purpose of securing the enforcement of this chapter, the Community and Economic Development Director and his or her agents and the health officer and his or her agents shall have the authority of peace officers, including authority to make arrests, to serve any process or notice, and generally, such other authority of peace officers as may be necessary to secure enforcement of this chapter.

(Ord. 8033 § 5; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.025. Right of entry.**

The Community and Economic Development Director, or agents of his or her department, or the city health officer may:

- A. Enter public or private property to determine whether there exists any auto camp or trailer park to which this chapter applies;
  - B. Enter and inspect all auto camps and trailer parks, wherever situated, and inspect all accommodations, equipment or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of the provisions of this chapter.
- (Ord. 8033 § 2; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.030. Abatement of nuisances.**

The owner or operator of an auto and trailer park shall abate any nuisance in the court or park within five days, or within such longer period of time as may be allowed by the Community and Economic Development Director or health officer, after he or she has been given written notice by the Community and Economic Development Director or health officer to remove the nuisance. If the owner or operator fails to do so within that time, the City Attorney, upon the order of the City Council, shall bring a civil action to abate the nuisance in the superior court of the county in the name of the people of the state.

(Ord. 8033 § 3; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.035. Proof sufficient to support judgment.**

In any action or proceeding to abate a nuisance in an auto and trailer camp, proof of the following facts is sufficient for a judgment or order for the abatement of the operation of the auto and trailer park:

- A. Previous conviction of the owner or operator of the auto and trailer park of a violation of this chapter which constitutes a nuisance;
- B. Failure on the part of the owner or operator to correct the violation after the conviction;
- C. The violation is the basis for the proceeding.

(Ord. 8033 § 4)

**§ 5.24.040. Permit required—Application.**

It is unlawful for any person to do any of the following unless he or she first makes application in writing to the Community and Economic Development Director and obtains a permit therefor:

- A. Construct an auto and trailer park;
- B. Construct additional buildings or reconstruct or move existing buildings in an existing auto and trailer park;
- C. Operate, or rent, lease, sublease, let or hire out for occupancy, any space in an auto and trailer park or any building in an auto and trailer park that has been constructed, reconstructed or altered or moved without having obtained a permit as required in this chapter;
- D. Operate an auto and trailer park for which a fee of \$25.00 has never been paid either to construct or operate.

(Ord. 8033 § 6; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.045. Conditional use permit—Required when.**

All new auto and trailer parks shall obtain a conditional use permit from the Planning Commission and a permit from the Community and Economic Development Director.

(Ord. 8033 § 7; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.050. Plot plan to be filed by applicant for conditional use permit.**

Each applicant for a trailer park shall first submit to the Planning Commission a plot plan. Such filing shall be made prior to the final completion of surveys of streets and camp sites, and before grading or construction work within the proposed trailer park that might be affected in the changes in the plan, and in time to assure its receipt by the Planning Commission not less than 14 days prior to the date of the Planning Commission meeting at which time such matter is to be considered.

(Ord. 8033 § 8)

**§ 5.24.055. Contents of plot plan.**

Each plot plan required by the preceding section shall contain the following information:

- A. Name and address of owner;
- B. Name and address of architect, surveyor, engineer or land planner who prepared the plan;

- C. North point and scale;
  - D. Name, location and width of adjacent streets;
  - E. Camp sites with the approximate dimensions of each site;
  - F. Approximate location and width of watercourses, areas subject to inundation by floods, and drainage plan of park;
  - G. Location of structures, irrigation ditches and other permanent physical features;
  - H. Approximate location of buildings and structures;
  - I. Legal description of the exterior boundaries of the trailer park;
  - J. Width and location of proposed streets, drives and walks, including ingress and egress to public street;
  - K. Width and location of existing or proposed public easements;
  - L. Proposed name of park;
  - M. Proposed grading and landscaping;
  - N. Identification of city and county lines involved;
  - O. Description of water supply and method of sewage disposal.
- (Ord. 8033 § 8)

**§ 5.24.060. Recording of conditional use permits.**

Each conditional use permit issued under the provisions of this chapter shall be duly recorded with the office of the Recorder of the county, and the time limit governing the expiration of such permit shall be considered a covenant upon the property between the property owner and the city.

(Ord. 8033 § 17)

**§ 5.24.065. Fee to accompany application.**

In case of a new auto and trailer camp or a new combination auto and trailer camp, the application to the Community and Economic Development Director shall be accompanied by:

- A. Plans and information which have been filed and approved by the Planning Commission for the conditional use permit;
  - B. A fee of \$25.00.
- (Ord. 8033 § 9; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.070. Existing auto and trailer park—Application requisites.**

In the case of an existing auto and trailer camp, the application shall be accompanied by:

- A. A description of the grounds upon which buildings are to be added or reconstructed, or to which buildings are to be moved or which is to be used for camping purposes;
- B. Plans and specifications of the proposed addition, reconstruction or movement;

C. A description of the water supply, ground drainage and method of sewage disposal.  
(Ord. 8033 § 10)

**§ 5.24.075. Inspection and issuance of permit.**

Within 10 days after the application, descriptions, plans and specifications, and required fee, if any, are filed and paid, the Community and Economic Development Director shall inspect the grounds upon which the applicant proposes to do the work for which the applicant seeks a permit. The Community and Economic Development Director shall issue a written permit to the applicant if, in the director's opinion:

- A. The grounds are satisfactory for the work proposed;
- B. The descriptions and plans and specifications filed indicate that the work proposed will meet the requirements of this chapter.

(Ord. 8033 § 11; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.080. Annual inspection and fee.**

On the first day of July of each year, the sum of two and one-half dollars per camp site shall be due as and for an annual inspection fee. If such fee is not paid by July 31st, a 10% penalty shall be added. The Community and Economic Development Director shall inspect annually the auto and trailer park and inform the permittee of any violations of this chapter, and require compliance with the provisions of this chapter. Additional inspections shall be made by the Community and Economic Development Director when the director deems necessary.

(Ord. 8033 § 12; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.085. Change in name, ownership or possession—Notice.**

The Community and Economic Development Director shall be notified by the new owner or operator of any auto and trailer park of any change in the name of or the ownership or possession thereof. Such notice shall be in written form and shall be furnished within 30 days from and after any such change in name or transfer of ownership or possession. The notice shall be accompanied by a transfer fee of \$10.00.

(Ord. 8033 § 13; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.090. Permits to be posted.**

Permits for construction and operation of an auto and trailer park shall be posted in a conspicuous place.  
(Ord. 8033 § 14)

**§ 5.24.095. Expiration of permits.**

All permits as required in this chapter for construction or reconstruction of an auto and trailer park shall automatically expire within two months from the date of the issuance thereof in those cases where the construction or reconstruction has not been completed within such period; provided, however, that the Community and Economic Development Director may extend the expiration date of any such permit for a reasonable time.

(Ord. 8033 § 15; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.100. Grounds for suspension of permit.**

In the event that any person holding a permit issued by the Community and Economic Development

Director under this chapter violates any of the provisions of the permit or of this chapter, the permit may be subject to suspension as provided in Sections 5.24.105 to 5.24.120.

(Ord. 8033 § 16; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.105. Suspension notice—Issuance.**

The Community and Economic Development Director shall issue and serve upon the permittee a notice setting forth in what respect the provisions of the permit and this chapter have been violated, and shall notify him or her that unless these provisions have been complied with within 30 days after the date of notice the permit shall be subject to suspension.

(Ord. 8033 § 16; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.110. Manner of service of notice of suspension.**

The notice shall be served by posting at least one copy in a conspicuous place on the premises described in the permit, and by sending another copy by registered mail, postage prepaid, return receipt requested, to the person to whom the permit was issued at the address therein given.

(Ord. 8033 § 16)

#### **§ 5.24.115. Suspension upon failure to comply with notice.**

If the requirements of the notice have not been complied with on or before the expiration of 30 days after the mailing and posting of the notice, the Community and Economic Development Director may suspend the permit.

(Ord. 8033 § 16; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.120. Reinstatement of permit upon compliance.**

Upon compliance by the permittee with the provisions of this chapter and of the notice, and submission of proof thereof to the Community and Economic Development Director, the Community and Economic Development Director shall reinstate the permit.

(Ord. 8033 § 16; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

#### **§ 5.24.125. Parking certain trailer coaches in auto and trailer park prohibited.**

It is unlawful for any person in an auto and trailer park to use, or cause or permit to be used, for occupancy:

- A. Any trailer coach from which any tire or wheel has been removed therefrom, except for the purpose of making temporary repairs or placing it in dead storage;
- B. Any trailer coach to which are attached any rigid water, gas or sewer pipes; provided, however, that metal tubing not to exceed one-half inch inside diameter may be used for water and gas;
- C. Any trailer coach which is permanently attached with underpinning or foundation to the ground;
- D. Any trailer coach which does not conform to the requirements of the California State Vehicle Code governing the use of the trailers on public highways;
- E. Any trailer coach which does not carry a current yearly license issued by any state or foreign state motor vehicle department;
- F. Any trailer coach in an unsanitary condition;

- G. Any trailer coach which is structurally unsound and does not protect its habitants against the elements;
- H. Any trailer coach to which there is attached or established less than six feet adjacent thereto any awning, portable, demountable or permanent cabana, building or windbreak, unless constructed in conformity with the rules and regulations as provided by the California Administrative Code, Title 8, Chapter 9, Article 4, and any subsequent amendments thereto, and such use shall be in conformance with all applicable ordinances and regulations thereto, and the Community and Economic Development Director is empowered to enforce such rules and regulations. The provisions of Section 5.24.155 shall not apply to any awning, cabana, building or windbreak regulated by this subsection.  
(Ord. 8033 § 18; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.130. Rental of trailer in auto and trailer park owned by owner of park.**

It is unlawful for any person to rent or hold out for rent any trailer coach in an auto and trailer park which is owned by or in the possession or control of the owner or operator of the auto and trailer park or agent. The rental paid for any such trailer coach shall also be deemed to be rental for the space it occupies.  
(Ord. 8033 § 19)

**§ 5.24.135. Unauthorized occupation of land—Time limitation.**

It is unlawful for any person to use, occupy or maintain any trailer coach, tent or tent house upon any area or tract of land for a period of more than seven days during any one three month period of time without the written permission of the owner or person legally in charge of the land.

(Ord. 8033 § 20)

**§ 5.24.140. Overnight occupation of public highway.**

It is unlawful to camp overnight or to park a trailer coach overnight upon any public highway including the right-of-way. This provision shall not apply where a trailer coach is parked for the purpose of making emergency repairs.

(Ord. 8033 § 21)

**§ 5.24.145. Location of trailers outside of auto and trailer park.**

Unless otherwise permitted by this code, it is unlawful within the limits of the city for any person to park an automobile trailer, trailer coach or trailer on the premises of any occupied dwelling, which lot or premises are situated outside of any authorized automobile trailer park, except as follows:

- A. One unoccupied trailer may be parked in an accessory building, private garage, or in a rear yard, in any zoning district, provided that no living quarters shall be maintained or any business practiced in the trailer when such trailer is so parked or stored; and
- B. A trailer may be parked on the subject premises when utilized for the purposes of a watchman's unit, with the approval of the City Manager, provided that the trailer is not used as a primary place of residence and that utilities meet the standards of the county health department.

(Ord. 8033 § 2; Ord. 9341 § 1, 1973; Ord. 9345, 1973; Ord. 9350 § 1, 1973)

**§ 5.24.150. Camp sites.**

- A. Area Generally. Each camp site in an auto and trailer park shall be not less than 1,300 square feet, the corners of which shall be clearly and distinctly marked.

- B. Automobile Parking Area. There shall be in addition to the camp site area an area of at least 10 feet by 20 feet for the parking of automobiles for each camp site; this automobile parking area shall be within the trailer park, but need not be adjacent to or on the trailer coach site.
- C. Transient Occupancy. The Planning Commission may approve camp sites of not less than 750 square feet where such camp sites are to be used exclusively for transient occupancy. Such approval shall be conditioned by a time limit governing the continuous occupancy of a trailer or camp car on such site. Transient occupancy herein referred to shall mean use by tourists or vacationists for a period of time not to exceed 90 days.

(Ord. 8033 § 23)

**§ 5.24.155. Distance of trailer coaches from buildings or other trailer coaches.**

No trailer coach, building, awning or cabana shall be located closer than 10 feet from any building, awning or cabana not on the camp site.

(Ord. 8033 § 24)

**§ 5.24.160. Location of trailer coaches and buildings from lot lines.**

Each trailer coach and each building, awning or cabana shall be located not closer than three feet from a lot line.

(Ord. 8033 § 25)

**§ 5.24.165. Building area per site.**

The space occupied by trailers, awnings, cabanas or any other structure shall not exceed 75% of the total site area.

(Ord. 8033 § 26)

**§ 5.24.170. Camp sites to front upon driveway—Thoroughfare access.**

Each camp site shall front upon a driveway of not less than 20 feet in width. All driveways shall have clear and unobstructed access to a public thoroughfare.

(Ord. 8033 § 27)

**§ 5.24.175. Accommodation of parties when sites not available.**

An auto and trailer park shall not accommodate any camping parties for whom there are no available camp sites in the camp.

(Ord. 8033 § 29)

**§ 5.24.180. Streets to be paved.**

All streets within the trailer park shall be paved with an asphaltic material or concrete.

(Ord. 8033 § 28)

**§ 5.24.185. Street width.**

Streets shall be at least 30 feet wide for collector streets:

- A. Minor streets and drives shall be subject to the following formula, based upon the angle of parking of trailer coaches. In the case of varied parking, the widest angle shall determine the width of the street:

1. Ninety-degree parking, 25 feet;
  2. Sixty-degree parking, 22 feet;
  3. Forty-five degree parking, 20 feet.
- B. If parking is to be permitted on one side of a street, such street shall be at least 22 feet wide; if parking is to be permitted on both sides of a street, such street shall be at least 30 feet wide.  
(Ord. 8033 § 30)

**§ 5.24.190. Water closets—Generally.<sup>4</sup>**

- A. Number Required. For dependent trailers there shall not be less than one water closet in a separate compartment for each sex for the first 10 trailer sites or fractional part thereof not provided with a private water closet. There shall be one additional water closet for each sex in a separate compartment for every 10 additional trailer sites or fractional part thereof. In no event shall there be less than one toilet for each sex in any auto and trailer camp. The enforcement agency, when conditions warrant, may approve the installation and use of other types of toilet facilities. For independent trailers there shall not be less than one water closet for each sex for every 15 trailer sites or fractional part thereof.
- B. Location of Toilet Facilities. All toilet facilities for dependent trailers shall not be farther than 200 feet from each trailer site. All toilet facilities for independent trailers shall not be farther than 500 feet from each trailer site.
- C. Use of Toilets. Each toilet shall be for the exclusive use of the occupants of the camp sites in the auto and trailer park.
- D. Width of Water Closet Compartments. Every water closet compartment in any building in an auto and trailer park shall be at least 30 inches in clear width.

(Ord. 8033 § 58)

**§ 5.24.195. Marking of water closets.**

In every auto and trailer camp water closets for men shall be distinctly marked: "For Men"; and water closets for women shall be distinctly marked: "For Women." In addition the location of water closets shall be plainly indicated by signs.

(Ord. 8033 § 32)

**§ 5.24.200. Floors of water closet compartments to be waterproof.**

The floor of every water closet compartment shall be constructed and shall be maintained in a waterproof condition by the use of cement, concrete or other approved waterproof material. The waterproof material shall be applied upward on the interior walls of the water closet compartment, to a height of not less than 12 inches above the floor.

(Ord. 8033 § 33)

**§ 5.24.205. Water closet—Accessibility to tenants.**

The public toilets shall be maintained readily accessible to all tenants at all times.  
(Ord. 8033 § 31)

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4. As to cleanliness, maintenance and ventilation of watercloset compartments, see Section 5.24.220.

**§ 5.24.210. Use of trailer coach toilets in auto camps.**

It is unlawful for any person to use, or permit the use of, any toilet in any trailer coach located or camped within an auto and trailer park unless such toilet meets the requirements of the California Administrative Code, Title 8, Chapter 9, Article 3, and any subsequent amendments, and the Community and Economic Development Director is empowered to enforce such rules and regulations.

(Ord. 8033 § 34; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.215. Bathing facilities.**

- A. Number Required; Doors; Location. In every auto and trailer park, shower baths or other bathing facilities with hot and cold running water shall be installed in separate compartments for every 15 or fractional part of 15 camp sites, for each sex. However, in no event shall there be less than one shower for each sex. Every compartment shall be provided with a self-closing door. All shower baths or other bathing facilities provided herein shall not be farther than 200 feet from each camp site for dependent trailers, and not farther than 500 feet for independent trailers.
- B. Floors of Shower Bath Compartments to be Waterproof. The floor of every shower bath compartment shall be constructed and shall be maintained in a waterproof condition by the use of cement, concrete or other approved waterproof material. The waterproof material shall be applied upward on the interior walls of the compartment to a height of not less than six feet above the floor.

(Ord. 8033 § 35)

**§ 5.24.220. Cleanliness, maintenance and ventilation of water closet and bathing compartments.<sup>5</sup>**

Every water closet compartment or compartments containing bathing facilities shall be:

- A. Kept clean;
- B. Kept free from obnoxious odors, flies, mosquitoes or other insects;
- C. Provided with one or more windows having an aggregate area of not less than six square feet. However, if the room contains more than one water closet, bath or urinal, the total window area shall be equivalent to three square feet for each water closet, bath or urinal, but need not exceed one-fourth of the superficial floor area of the room;
- D. Windows shall be screened with not less than 16-mesh metal screen.

(Ord. 8033 § 36)

**§ 5.24.225. Laundry compartment.**

- A. Generally. There shall be constructed in every trailer park a laundry compartment with not less than two laundry trays.
- B. Construction of Floors and Lower Walls. The floors and at least 12 inches on the walls from the ground shall be constructed of approved masonry construction.
- C. Window Area. Each laundry compartment shall have window area equal to at least one-eighth of the floor area, and in no case shall it be less than nine square feet.
- D. Laundry Trays to be Supplied with Hot and Cold Water. The laundry trays shall be supplied with hot

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5. As to water closets generally, see Sections 5.24.190 to 5.24.205 of this code.

and cold water.

- E. Facilities to Dry Clothes. In every auto and trailer park there shall be set aside a space convenient to the laundry facilities for the occupants of the camp sites to dry clothes.

(Ord. 8033 § 37)

**§ 5.24.230. Slop sinks.**

There shall be installed in every auto and trailer park one or more slop sinks, which shall be conveniently located within 100 feet of each trailer coach or camp site.

(Ord. 8033 § 38)

**§ 5.24.235. Number of lavatories.**

There shall be not less than one lavatory for each sex installed in every building in an auto and trailer park containing public toilets.

(Ord. 8033 § 39)

**§ 5.24.240. Installation and maintenance of plumbing fixtures affecting sanitary drainage system.**

All plumbing fixtures in every building in an auto and trailer park which affect its sanitary drainage system shall be installed and maintained as follows:

- A. Each plumbing fixture shall be connected to a sanitary drainage system and shall be provided with a water-sealed trap;
- B. The trap shall be separately and effectively vented by means of a connection to a vent pipe extending to the outer air above the roof. The vent pipe shall be so installed and maintained that no drainage or sewage from any fixture may be deposited in or conveyed through;
- C. Plumbing vent pipes installed in any building shall not terminate at a point adjacent to any window or other opening in the building intended or used for ventilation purposes;
- D. Suitable and readily accessible cleanouts shall be placed at convenient points in the plumbing system of every building;
- E. Whenever any plumbing fixture becomes insanitary the enforcement agency may require its removal and replacement by a fixture conforming to the provisions of this chapter;
- F. If it is impracticable to connect the plumbing fixtures affecting the sanitary drainage system with municipal or sanitary district sewer, sewage, or waste may be discharged into a cesspool or into a septic tank constructed and maintained to the satisfaction of the enforcement agencies;
- G. No sewage, waste water or any effluent shall be allowed to be deposited on the surface of the ground.

(Ord. 8033 § 40)

**§ 5.24.245. Water supply.**

- A. Generally. There shall be in every auto and trailer park an adequate supply of pure water for all the requirements of the park. The water shall be obtainable from faucets installed within 100 feet of each part of the park.
- B. Common Drinking Vessels Prohibited. No dipping vessels or cups for common use are permissible

in any auto and trailer park.

C. Drinking Fountains. Drinking fountains shall be maintained in a sanitary condition and shall be of a type approved by the enforcement agency.

(Ord. 8033 § 41)

#### **§ 5.24.250. Garbage cans.**

In every auto and trailer park, one or more metal garbage cans with tight-fitting covers appropriately labeled, shall be provided for every six, or fractional part of six, trailer coaches or camp sites within the park.

(Ord. 8033 § 43)

#### **§ 5.24.255. Disposal of garbage, waste and rubbish.**

All garbage, waste and rubbish in every auto and trailer park shall be disposed of in the manner provided by city ordinance.

(Ord. 8033 § 44)

#### **§ 5.24.260. Disposal of liquid wastes from coaches.**

It is unlawful to permit any waste water or material from sinks or other plumbing fixtures in a trailer coach to be deposited upon the surface of the ground, and all such fixtures, when in use, must be connected to a sewer system or covered cesspool or septic tank.

(Ord. 8033 § 45)

#### **§ 5.24.265. Care of land.**

The area or tract of land upon which an auto and trailer park is maintained shall be:

A. Well drained and graded;

B. Kept free from dust;

C. Kept clean and free from the accumulation of refuse, garbage or debris.

(Ord. 8033 § 46)

#### **§ 5.24.270. Space beneath trailer coaches to be kept clean.**

The space beneath each trailer coach shall be kept clean and free from refuse, rubbish or other impediments.

(Ord. 8033 § 47)

#### **§ 5.24.275. Dogs and barnyard animals not to run at large.**

Dogs and barnyard animals, including poultry, shall not be permitted to run at large in any auto and trailer park.

(Ord. 8033 § 53)

#### **§ 5.24.280. Location of storage and utilization vessels and regulators of liquefied petroleum gases.**

A. No cylinder shall be located within a building enclosed on four sides, nor within a trailer coach, nor

within five feet of a source of ignition; nor below ground, nor below ground level, nor with the outlet less than five feet away from any building opening which is below the level of such outlet.

The discharge from safety valves shall be vented in such a manner as to prevent any impingement of escaping LPG upon the vessel and such discharge point shall be not less than five feet, measured horizontally from any building opening which is below such discharge.

- B. Each tank shall be located with respect to the nearest source of ignition or line of property adjoining, which may be built upon, in accordance with the following table. Vessels and first-stage regulating equipment carrying more than 20 psi pressure shall be located outside the buildings, or trailer coaches, except as hereinafter provided. Each individual vessel shall be located with respect to the nearest important building or group of buildings or line of property adjoining, which may be built upon in accordance with the following table:

<b>VOLUMETRIC CAPACITY OF VESSELS (in U.S. gallons)</b>	<b>MINIMUM DISTANCE</b>
(1) Not more than 500 U.S. gallons	10 feet
(2) 501 to 1,200 U.S. gallons	25 feet
(3) Over 1,200 U.S. gallons	50 feet

- C. Regulating or filling equipment on tanks filled on consumers' premises shall not be less than 15 feet from any opening into or under a building where such opening is below the level of the outlets of such regulating or filling equipment.
- D. Readily ignitable material shall not be permitted within 10 feet of any vessel, regulator or vaporizer. (Ord. 8033 § 48)

#### **§ 5.24.285. Charging cylinders.**

No cylinder shall be charged within 10 feet of any building or trailer coach in an auto and trailer park. (Ord. 8033 § 49)

#### **§ 5.24.290. Illumination.**

In every auto and trailer park there shall be installed and kept burning from sunset to sunrise sufficient artificial light to adequately illuminate every building containing public toilets and public showers and the area or tract of land containing the auto and trailer park.

(Ord. 8033 § 51)

#### **§ 5.24.295. Electric wiring, fixtures and equipment.**

- A. Generally. In any auto and trailer park, electrical wiring, fixtures and equipment shall be installed and maintained under provisions of the California Administrative Code, Title 8, Chapter 9, Article 5, and any subsequent amendments thereto.
- B. Underground Wiring. In new trailer parks, or when major rewiring such as would require a permit is to be done in existing trailer parks, all wiring, including electrical and telephone service to the camp site shall be underground, installed and maintained under provisions of California Administrative Code, Title 8, Chapter 9, Article 5.

(Ord. 8033 § 52)

**§ 5.24.300. Fire hydrants.**

Each trailer park shall have at least one collector street upon which is located a fire hydrant in a location to be determined by the fire department. This provision may be met with a hydrant located on a public street fronting the property providing that no trailer site is further than 500 feet from such hydrant.

(Ord. 8033 § 56)

**§ 5.24.305. Additional safety equipment.**

The fire department of the city may require additional safety equipment and high pressure water outlets to be located within the trailer park.

(Ord. 8033 § 57)

**§ 5.24.310. Landscaping.**

Landscaping requirements shall have as a basic minimum a free standing fence, hedge or wall which is subject to the provisions of the Zoning Ordinance Title 21 and is adequate for screening and decorative purposes, to be constructed and maintained around the boundaries of the park.

(Ord. 8033 § 55)

**§ 5.24.315. Employment of caretaker.**

- A. Required; Duties Generally. It shall be unlawful for any person to operate or maintain, or cause or permit to be operated or maintained, any auto and trailer camp, unless there is a caretaker in the camp at all times. The caretaker shall enforce within the camp the provisions of this chapter governing the operation and maintenance of auto and trailer camps.
- B. Registration of Caretaker and Alternate; to be Authorized Representative of Owner. A caretaker and an alternate for each trailer park shall be registered with the office of the Community and Economic Development Director. The registration shall be accompanied by a signed statement from the owner of the trailer park giving authorization to the caretaker as his or her representative and agent responsible for compliance with this chapter. This shall not be construed as meaning that an owner may not register as his or her own caretaker.
- C. Caretaker or Alternate's Responsibility. The party registered as caretaker shall be responsible for the locating of any trailer on the site, electrical connections between the trailer and the electrical system of the park, including approved grounding of the trailer, the gas connection to the trailer, the sanitary connection from the trailer to the sewer system and a connection to the water supply.

(Ord. 8033 § 59; Ord. 1261 § 3, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.320. Maintenance of register.**

Every person who owns or operates an auto and trailer park shall keep a register in which shall be entered the following:

- A. The name and address of each guest who is the owner or operator of an automobile and the name and address of each member of his or her party, for which space is rented in an auto and trailer park;
- B. The make, type and license number of the automobile and trailer if any, and the state in which such vehicle is registered, and the year of registration.

(Ord. 8033 § 50)

**§ 5.24.325. Adoption of applicable state law.**

Division 13, Part 2, of the California Health and Safety Code, commonly known as the Trailer Park Act, and the California Administrative Code, Title 8, Chapter 9, Article 1, and any subsequent amendments, are made a part of this chapter the same as though specifically reenacted herein, as far as the same shall be applicable.

(Ord. 8033 § 60)

**§ 5.24.330. Chapter not to be construed as less restrictive than state law.**

No portion of this chapter shall be construed as allowing a less restrictive use of land within a trailer park than that which is allowed under the state Trailer Park Act and any subsequent amendments to such act.

(Ord. 8033 § 61)

**§ 5.24.335. Authority to issue permits allowing variations.**

Upon application, the Community and Economic Development Director and the health officer of the city may issue a permit for the operation of an auto or trailer park which permit may allow variations in specified respects from the requirements of this chapter, under the following conditions:

- A. When the auto or trailer park is operated incidental to the operation of a fishing resort where boats are rented, and the auto or trailer park is not so located as to rely primarily on tourist travel for patronage;
- B. Where such relaxation in the requirements of this chapter as the Community and Economic Development Director and the health officer may permit will not in fact endanger public health.

(Ord. 8033 § 42; Ord. 1261 § 6, 1983; Ord. NS-676 § 3, 2003; Ord. CS-164 § 14, 2011)

**§ 5.24.340. Violation of chapter.**

Every person violating any provision of this chapter who has been served with written notice of such violation as prescribed in this chapter and who refuses to comply with such notice is guilty of a misdemeanor.

(Ord. 8033 § 62)

## CHAPTER 5.29 STATE VIDEO FRANCHISES

### **§ 5.29.010. Purpose.**

This chapter is applicable to all video service providers who are eligible for, and have been awarded, a state video franchise under the California Public Utilities Code Section 5800 et seq. (the Digital Infrastructure and Video Competition Act of 2006), to provide video services in any portion of the city.

(Ord. NS-848 § 1, 2007)

### **§ 5.29.020. Rights reserved.**

The rights reserved to the city under this chapter are in addition to all other rights of the city whether reserved by this chapter or authorized by other applicable law, and no action, proceeding or exercise of a right shall affect any other rights which may be held by the city.

(Ord. NS-848 § 1, 2007)

### **§ 5.29.030. Compliance with this chapter.**

Nothing contained in this chapter exempts a state franchise holder from compliance with all ordinances, rules or regulations of the city now in effect or which may be hereafter adopted which are not inconsistent with this chapter or California Public Utilities Code Section 5800 et seq., or obligations under any franchise previously issued by the city, insofar as those may be enforced under California Public Utilities Code Section 5800.

(Ord. NS-848 § 1, 2007)

### **§ 5.29.040. Definitions.**

For purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this chapter. Unless otherwise expressly stated, words not defined in this chapter shall be given the meaning set forth in the Digital Infrastructure and Video Competition Act of 2006, Division 2.5 of the California Public Utilities Code, Section 5800 et seq. ("DIVCA"). When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and "including" and "include" are not limiting. The word "shall" is always mandatory.

"Access channel" means any channel on a cable system or video system set aside by a state franchise holder for public, educational, or governmental use.

"Applicable law" means all lawfully enacted and applicable federal, state, and city laws, ordinances, codes, rules, regulations and orders as the same may be amended or adopted from time to time.

"Applicant" means any person submitting any application required under Division 2.5 of the California Public Utilities Code.

"Cable service" means: (1) the one-way transmission to subscribers of video programming or other programming services; and (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the City of Carlsbad, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form. Any act that may be taken by the city may be taken by the City Council or any agency, department, agent or other entity now or hereafter authorized by the City Council to act on the city's behalf.

"City Council" means the governing body of the City of Carlsbad, California.

"City Director of Public Works" means the Director of Public Works or the Deputy City Manager of the public works branch of the City of Carlsbad or designated representative.

"City Manager" means the city's chief executive officer or any designee thereof.

"Construction," "operation," or "repair" and similar formulations of those terms mean the named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming. The term "operation" does not encompass or regulate the provision of services, but refers to activities affecting rights-of-way and other property subject to the jurisdiction of the city.

"DIVCA" means the Digital Infrastructure and Video Competition Act of 2006, Division 2.5 of the California Public Utilities Code, Section 5800 et seq., as may be amended from time to time.

"Gross revenues" means all revenues (whether in the form of cash or other consideration) of a state franchise holder or its affiliates in any way derived from its operations within the city.

"Incumbent cable operator" shall have the same meaning as in DIVCA.

"Network" shall have the same meaning as in DIVCA.

"PEG" or "public, educational, and governmental" shall have the same meaning as in DIVCA.

"Person" means any natural person and all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts and societies. The term does not include the city.

"Public rights-of-way" shall have the same meaning as in DIVCA.

"State franchise" or "state video franchise" means a franchise issued by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in DIVCA, within any portion of the city.

"State franchise holder" or "state video franchise holder" means a person who holds a state franchise.

"Subscriber" means the city or any person who legally receives any cable service or video service from a state franchise holder delivered over that state franchise holder's network.

"User" means a person or the city utilizing a channel, capacity or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a subscriber.

"Video service" shall have the same meaning as in DIVCA.

(Ord. NS-848 § 1, 2007; Ord. CS-361 § 4, 2019)

#### **§ 5.29.050. State video franchise fees.**

For any state video franchise holder operating within the boundaries of the city, there shall be a state franchise fee paid to the city equal to five percent of the gross revenues of that state video franchise holder or any affiliate that are subject to a franchise fee under California Public Utilities Code Section 5860. (Ord. NS-848 § 1, 2007)

#### **§ 5.29.060. PEG fees.**

A. For any state video franchise holder operating within the boundaries of the City of Carlsbad, there shall be a PEG fee paid to the city equal to one percent of the gross revenues of that state video

franchise holder or any affiliate that are subject to a franchise fee under California Public Utilities Code Section 5860.

- B. PEG fees shall be used to support PEG channel facilities consistent with applicable federal and state law.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.070. Payment of fees.**

The state franchise fee required pursuant to Section 5.29.050, and the PEG fee required pursuant to Section 5.29.060, shall each be paid to the city quarterly, in a manner consistent with California Public Utilities Code Section 5860. The state franchise holder shall deliver to the city, by check or other means specified by the city, a payment for the state franchise fee and a separate payment for the PEG fee not later than 45 days after the end of each calendar quarter. Each payment made shall be accompanied by a report, detailing how the payment was calculated, containing such information as the City Manager or designee may require consistent with DIVCA. Unless the City Manager or designee provides otherwise, the summary statement shall identify:

- A. Revenues received from subscribers, by category, with service revenues broken out by service levels;
- B. Any charges to subscribers for which revenues were received, but on which a franchise fee was not paid;
- C. Where the fee is paid on an allocated portion of revenues received, the total revenues received; the allocation factor; and how the allocation factor was calculated.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.080. Audit authority.**

The city may examine and perform an audit of the business records of a holder of a state video franchise to ensure compliance with Sections 5.29.050 and 5.29.060, in a manner consistent with California Public Utilities Code Section 5860(i).

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.090. Late payments.**

In the event a state franchise holder fails to make payments required by this chapter on or before the due dates specified in this chapter, the city shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.100. Lease of city-owned network.**

In the event a state franchise holder leases access to a network owned by the city, the city may set a franchise fee for access to the city-owned network separate and apart from the franchise fee charged to state franchise holders pursuant to Section 5.29.050, which fee shall otherwise be payable in accordance with the procedures established by this chapter.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.110. Customer service standards and penalties.**

- A. The holder of a state video franchise shall comply with all applicable state and federal customer

service and protection standards pertaining to the provision of cable or video service, including, to the extent consistent with California Public Utilities Code Section 5900, all existing and subsequently enacted customer service and consumer protection standards established by state and federal law and regulation.

- B. City Manager or designee shall monitor and enforce the compliance of state video franchise holders with respect to state and federal customer service and protection standards. City Manager or designee will provide the state video franchise holder written notice of any material breaches of applicable customer and service standards, and will allow the state video franchise holder 30 days from the receipt of the notice to remedy the specified material breach. Material breaches not remedied within the 30-day time period will be subject to the following penalties to be imposed by the City Manager or designee:
1. For the first occurrence of a violation, a fine of \$500.00 shall be imposed for each day the violation remains in effect, not to exceed \$1,500.00 for each violation.
  2. For a second violation of the same nature within 12 months, a fine of \$1,000.00 shall be imposed for each day the violation remains in effect, not to exceed \$3,000.00 for each violation.
  3. For a third or further violation of the same nature within 12 months, a fine of \$2,500.00 shall be imposed for each day the violation remains in effect, not to exceed \$7,500.00 for each violation.

- C. A state video franchise holder may appeal a penalty assessed by the City Manager or designee to the City Council within 60 days. After relevant speakers are heard, and any necessary staff reports are submitted, City Council will vote to either uphold or vacate the penalty. City Council's decision on the imposition of a penalty shall be final.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.120. City response to state video franchise applications.**

- A. Each state franchise holder or applicant for a state franchise to provide video or cable service within the boundaries of the City of Carlsbad must concurrently provide complete copies to the city of any notice, application or amendments to applications filed with the PUC. One complete copy must be provided to the City Clerk, and one complete copy to the City Manager of City of Carlsbad.
- B. City Manager will provide any appropriate comments to the PUC regarding any notice, application or amendment to an application for a state video franchise.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.130. Construction in the public rights-of-way.**

Except as expressly provided in this chapter, the provisions of Title 11 of this code, and all city administrative rules and regulations developed pursuant to Title 11, as now existing or as hereafter amended, shall apply to all work performed by or on behalf of a state franchise holder in any public rights-of-way.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.140. Permits.**

- A. Prior to commencing any work for which a permit is required by Title 11 of this code, a state franchise holder shall apply for and obtain a permit in accordance with the provisions of Title 11. A permit application is complete when the state franchise holder has complied with all applicable laws and

regulations, including, but not limited to, all city administrative rules and regulations, and all applicable requirements of Division 13 of the California Public Resources Code, Section 21000, et seq. (the California Environmental Quality Act).

- B. The city Director of Public Works shall either approve or deny a state franchise holder's application for any permit required under Division 1 of this title within 60 days of receiving a complete permit application from the state franchise holder.
- C. If the city Director of Public Works denies a state franchise holder's application for a permit, the Director of Public Works shall, at the time of notifying the applicant of denial, furnish to the applicant a detailed explanation of the reason or reasons for the denial.
- D. A state franchise holder that has been denied a permit by final decision of the city Director of Public Works may appeal the denial to the City Council, pursuant to the procedure proscribed in Section 11.16.120 of this code.
- E. The issuance of a permit is not a franchise, and does not grant any vested rights in any location in the public rights-of-way, or in any particular manner of placement within the rights-of-way. Without limitation, a permit to place cabinets and similar appurtenances aboveground may be revoked and the permittee required to place facilities underground, upon reasonable notice to the permittee.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.150. Right-of-way management.**

- A. A state franchise holder shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different or additional poles, conduits or other facilities whether on public property or on privately owned property unless and until first securing the written approval of the City Manager. Whenever the state franchise holder shall not utilize existing poles, conduits and other facilities, or whenever existing conduits and other facilities shall be located beneath the surface of the streets, or whenever the city shall undertake a program designed to cause all conduits and other facilities to be located beneath the surface of the streets in any area or throughout the city, in the exercise of its police power or pursuant to the terms hereof, upon reasonable notice to grantee, any such conduits or other facilities of the state franchise holder shall be constructed, installed, placed or replaced beneath the surface of the streets. Any construction, installation, placement, replacement or changes which may be so required shall be made at the expense of state franchise holder whose costs shall be determined as in the case of public utilities.
- B. In those areas of the city where the transmission or distribution facilities of the respective public utilities providing telephone, communication and electric services are underground or hereafter are placed underground, each state franchise holder shall likewise shall construct, operate and maintain all of its network facilities underground. The term "underground" includes a partial underground system; provided, that upon obtaining the written approval of the City Manager, passive devices, power supplies and other equipment in the grantee's network may be placed in appropriate housings upon the surface of the ground, subject to applicable provisions of the city code, regulations, and practices.
- C. A state franchise holder, at its expense, shall protect, support, temporarily disconnect, relocate or remove any network property of the state franchise holder when, in the opinion of the City Manager, the same is required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, waterpipes, power line, signal line, transportation facilities, tracks or any other type of structure or improvements by

governmental agencies whether acting in a governmental or proprietary capacity, or any other structure of public improvement, including, but not limited to, movement of buildings, urban renewal development and any general program under which the city shall undertake to cause all such properties to be located beneath the surface of the ground. The state franchise holder shall in all cases have the privilege, subject to the corresponding obligations, to abandon any network property in place, as herein provided. Nothing hereunder shall be deemed a taking of the property of the state franchise holder, and the grantee shall be entitled to no surcharge by reason of anything hereunder.

- D. Upon the failure, refusal or neglect of the state franchise holder to cause any work or other act required by law or hereunder to be properly complete in, on, over or under any street within any time prescribed therefor, or upon notice given, where no time is prescribed, the City Manager may cause such work or other act to be completed in whole or in part, and upon so doing, shall submit to grantee an itemized statement of the costs thereof. The grantee shall, within 30 days after receipt of such statement, pay to the city the entire amount thereof.
- E. In the event that the use of any part of the state franchise holder's network is discontinued for any reason for a continuous period of 30 days, without prior written notice to and approval by the city; or any part of such network has been installed in any street or other area without complying with the requirements hereof; then the state franchise holder shall, at the option of the city, and at the expense of the state franchise holder and at no expense to the city, and upon demand of the city, promptly remove from any streets or other area any such network property, and the state franchise holder shall promptly restore the street or other area from which such property has been removed to such condition as the City Manager may prescribe. The City Council may, upon written application therefor by the state franchise holder, approve the abandonment of any of such property in place by the state franchise holder and under such terms and conditions as the City Council may prescribe. Upon abandonment of any such network property in place, the state franchise holder shall cause to be executed, acknowledged and delivered to the city such instruments as the City Attorney shall prescribe and approve, transferring and conveying the ownership of such property to the city.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.160. Emergency alert systems.**

Each state franchise holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the state franchise holder's network.

(Ord. NS-848 § 1, 2007)

#### **§ 5.29.170. Interconnection for PEG programming.**

Each state franchise holder, and each incumbent cable operator, shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by any means authorized under Public Utilities Code Section 5870(h). Each state franchise holder and incumbent cable operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a state franchise holder and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the city may require the incumbent cable operator to allow the state franchise holder to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchise holder's network as identified by the state franchise holder. If no technically feasible point for interconnection is available, each state franchise holder will make an interconnection available to each channel originator providing PEG programming to an incumbent cable operator, and will provide the facilities necessary for the interconnection. The cost

of any interconnection will be borne by the state franchise holder requesting the interconnection unless otherwise agreed to by the state franchise holder and the incumbent cable operator.

(Ord. NS-848 § 1, 2007)

## CHAPTER 5.50 FORTUNETELLING AND RELATED OCCUPATIONS

### **§ 5.50.010. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless from the context a different or contrary meaning is clearly intended:

"For pay" means for a fee, reward, donation, loan, or receipt or 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, mindreading, 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. 6077 § 2, 1985)

### **§ 5.50.020. Permit required.**

No person shall conduct, engage in, carry on, participate in, advertise or practice fortunetelling or cause the same to be done for pay without having first obtained a permit from the Chief of Police and a business license from the license collector. Any permit issued pursuant to this chapter shall be valid for one year from the date of issuance unless suspended or revoked.

(Ord. 6077 § 2, 1985)

### **§ 5.50.030. Permit application.**

Each application for a fortunetelling permit shall be submitted to the Chief of Police on a form provided by the Police Chief and shall contain the following information:

- A. The name, home and business address and home and business phone number of the applicant;
- B. A record of convictions of violations of law of the applicant and of any person who is employed by the applicant to conduct or conducts fortunetelling on behalf of the applicant;
- C. A set of fingerprints and current photograph of the applicant and of any person who is employed by the applicant to conduct or conducts fortunetelling on behalf of the applicant;
- D. The address, city and state, and approximate dates where and when the applicant and any person employed by the applicant to conduct or conducting fortunetelling on behalf of the applicant practiced a similar business either alone or in conjunction with others;
- E. A site plan showing the location of the business and the interior layout;
- F. An application fee of \$150.00.

(Ord. 6077 § 2, 1985)

### **§ 5.50.040. Permit investigation.**

Upon receipt of a complete application and fee the Police Chief shall, within a reasonable period of time not to exceed 30 days, conduct an investigation to verify the facts contained in the application and shall

grant a fortunetelling permit if the chief makes all of the following findings:

- A. That all the information contained in the application and supporting data is true;
- B. The applicant or any person employed by the applicant to conduct or conducting fortunetelling on behalf of the applicant has not, within the previous two years, been convicted of any violation of this chapter or any law relating to fraud or moral turpitude;
- C. The applicant agrees to abide by and comply with all conditions of the permit and applicable laws;
- D. The City Planner has certified that the business location complies with the provisions of Title 21 of this code.

(Ord. 6077 § 2, 1985; Ord. NS-676 § 4, 2003; Ord. CS-164 § 10, 2011)

#### **§ 5.50.050. Fee required.**

A fortunetelling permit shall be issued only after the applicant has paid the license fee required by Section 5.08.160.

(Ord. 6077 § 2, 1985)

#### **§ 5.50.060. Term of the permit.**

A fortunetelling permit shall be valid for the same period of time and shall run concurrently with the term of the regular business license issued for the fortunetelling business.

(Ord. 6077 § 2, 1985)

#### **§ 5.50.070. Revocation of permit.**

A fortunetelling permit may be revoked at any time by the Chief of Police after providing not less than 10 days' notice and a hearing to the applicant. A permit may be revoked if the applicant or any person employed by the applicant to conduct or conducting fortunetelling on behalf of the applicant violates any provision of this chapter or, if during the permit period, any event occurs which would disqualify the applicant from the issuance of a permit.

(Ord. 6077 § 2, 1985)

#### **§ 5.50.080. Renewal of fortunetelling license.**

If on or before the 45th day prior to the expiration of a currently valid fortunetelling permit the permittee applies for the renewal of the permit the Police Chief shall grant such renewal, provided the chief finds that all the facts set forth in the original application are substantially the same and provided that such application is accompanied by a fee in the amount of \$50.00, no part of which is refundable. If all facts set forth in the original application are not substantially the same, the applicant for renewal shall comply with all requirements set forth in the chapter for an initial application for a permit.

(Ord. 6077 § 2, 1985)

#### **§ 5.50.090. Issuance of permit after revocation.**

If a permittee has had a permit revoked under Section 5.50.070 of this chapter, a new permit shall not be issued unless the permittee qualifies for a new permit under this chapter and in addition posts with the City Clerk a surety bond in the principal amount of \$5,000.00 executed as surety by good and sufficient corporate surety doing business in the state and as a principle by the applicant. The form of the bond shall be approved by the City Attorney and shall be given to ensure good faith and fair dealing on the part of the

applicant as a guarantee of indemnity for any and all loss, damage, theft or other unfair dealing suffered by any patron or customer of the applicant within the city during the term of the permit.

(Ord. 6077 § 2, 1985)

**§ 5.50.100. Exception—Entertainment.**

The provisions of this chapter shall not apply to any person engaged solely in the business of entertaining the public by demonstration of mindreading, mental telepathy, thought conveyance, or the giving of horoscope readings in public places and in the presence of or within the hearing of all other persons in attendance and at which no questions are answered as part of such entertainment except in a manner to permit all persons present at the public place to hear such answers.

(Ord. 6077 § 2, 1985)

**§ 5.50.110. Exception—Religious practices.**

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 or ordination as a minister, missionary, medium, healer or clairvoyant (hereinafter collectively referred to as minister) from 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:

- A. Except as provided in subsection B of this section, the fees, gratuities, emoluments and profits thereof shall be regularly accounted for and paid solely to and for the benefit of the bona fide church or religious association, as defined in this section;
- B. Such bona fide church or religious association, as defined in this section, may pay to its ministers a salary or compensation based on a percentage basis pursuant to an agreement between the church and the minister which is embodied in a resolution and transcribed in the minutes of said church or religious organization.

(Ord. 6077 § 2, 1985)

## CHAPTER 5.60 SHORT-TERM VACATION RENTALS

### **§ 5.60.010. Purpose.**

- A. The purpose of this chapter is to establish regulations for short-term vacation rentals in order to safeguard the peace, safety and general welfare of neighborhoods within the City of Carlsbad by minimizing negative secondary effects related to short-term vacation rentals including excessive noise, disorderly conduct, illegal parking, overcrowding, and excessive accumulation of refuse; and to ensure that the city is collecting transient occupancy tax pursuant to Chapter 3.12 of this code, and the Carlsbad Tourism and Business Improvement District assessment pursuant to Chapter 3.37 of this code.
- B. This chapter is not intended to provide any owner of residential property with the right or privilege to violate any deed restrictions or private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term vacation rental purposes as defined in this chapter. Short-term vacation rentals are not permitted in dwelling units that have deed restrictions for affordable housing purposes or have other city imposed conditions of approval or restrictions which prohibit the use of said dwelling unit as a short-term vacation rental as defined herein.

(Ord. CS-272 § I, 2015)

### **§ 5.60.020. Definitions.**

"Bedroom" means a private room intended for or capable of being used for sleeping, separated from other rooms by a door, curtain or other entry way, having at least one window and a closet/storage nook and accessible to a bathroom without crossing into another bedroom.

"Broker" means any entity or person, including, but not limited to, on-line websites, on-line travel agencies, and on-line booking agents, that offers, lists, advertises, accepts reservations and/or collects whole or partial payment for a short-term vacation rental unit.

"Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the subject short-term vacation rental.

"Short-term vacation rental" is defined as the rental of any legally permitted dwelling unit as that term is defined in Chapter 21.04, Section 21.04.120 of this code, or any portion of any legally permitted dwelling unit for occupancy for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive calendar days. Time-shares as defined in Chapter 21.04, Section 21.04.357 are not considered short-term vacation rentals. Accessory dwelling units and junior accessory dwelling units as defined in Chapter 21.04, Section 21.04.121, for which a building permit was issued on or after January 1, 2020, are not considered short-term vacation rentals. A trailer coach as defined in Chapter 5.24, Section 5.24.005 of this code, which is parked on the property of a legally permitted dwelling unit, is not considered a short-term vacation rental, and it may not be rented out for occupancy pursuant to Chapter 5.24, Section 5.24.145 of this code. Short-term vacation rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either orally or in writing to permit the occupant(s) of the owner's short-term vacation rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

(Ord. CS-272 § I, 2015; Ord. CS-338 § 2, 2018; Ord. CS-383 § 2, 2020)

**§ 5.60.030. Short-term vacation rentals.**

Short-term vacation rentals which comply with the requirements of this chapter are permitted only in the coastal zone as defined by the California Coastal Commission and in the La Costa Resort and Spa Master Plan area, to include the Balboa and Cortez buildings located at 2003 and 2005 Costa Del Mar Road.  
(Ord. CS-272 § I, 2015; Ord. CS-291 § 2, 2016; Ord. CS-338 § 3, 2018)

**§ 5.60.040. Authorized agent.**

- A. An owner may in writing authorize an agent to comply with the requirements of this chapter on behalf of the owner. The authorized agent shall submit a copy of the authorization to the city during the initial permit and all renewal permit process(es).
- B. Notwithstanding subsection A of this section, the owner shall not be relieved from any personal responsibility and personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental unit, regardless of whether such noncompliance was committed by the owner's authorized agent or the occupants of the owner's short-term vacation rental unit or their guests.

(Ord. CS-272 § I, 2015)

**§ 5.60.050. Permit required.**

- A. The owner or owner's authorized agent is required to obtain a short-term vacation rental permit and a business license from the city before renting or advertising the availability of a short-term vacation rental unit.
- B. A short-term vacation rental permit shall be valid for one calendar year from the date of issuance and must be renewed annually thereafter.
- C. Every broker shall ensure that each short-term vacation rental is registered with the city prior to listing or advertising said property for rent.
- D. The requirement for a short-term vacation rental permit shall be based on the actual duration of the rental period and not the stated time period of the reservation, rental, or lease agreement.

(Ord. CS-272 § I, 2015)

**§ 5.60.060. Obtaining and renewing a short-term vacation rental permit.**

- A. The owner or owner's authorized agent must submit the following information on a short-term vacation rental permit application form provided by the city:
  1. The name, address and telephone number of the owner of the short-term vacation rental unit.
  2. If applicable, the name, address and telephone number of the authorized agent of the owner of the short-term vacation rental unit.
  3. The name, address and telephone number of a local contact person who shall be available 24 hours per day, seven days per week for the purpose of responding within 45 minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term vacation rental unit or their guests.
  4. The address of the proposed short-term vacation rental unit, all Internet listing sites for the short-term vacation rental unit and all listing numbers.

5. The number of bedrooms in the short-term vacation rental unit.
  6. Acknowledgement of receipt of the city's "Good Neighbor" brochure.
  7. An owner shall prepare an impact response plan, which shall state the owner's intent to operate a short-term vacation rental, the number of bedrooms that will be rented to overnight guests and the owner or the owner's authorized agent's phone number. A copy of the impact response plan shall also be mailed or delivered to all residents and owners of property abutting or across the street from the short-term vacation rental.
  8. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- B. Any fee for a short-term vacation rental permit shall be established by resolution of the City Council.
- C. Any false statements or false information provided in the application for a short-term vacation rental permit shall be grounds for denial of a permit(s), permit revocation and/or imposition of penalties as outlined in this chapter.
- D. A short-term vacation rental permit application may be denied if the owner has had a prior short-term vacation rental permit revoked within the past 36 calendar months for the same or other short-term vacation rental unit within the City of Carlsbad.
- E. Short-term vacation rental permit holders must comply with the provisions of Carlsbad Municipal Code Chapter 3.12 and Chapter 3.37 regarding the collection and remittance of transient occupancy taxes and the collection and remittance of Carlsbad Tourism and Business Improvement District assessments. Failure to comply with these provisions may result in revocation of a short-term vacation rental permit. A broker that collects any revenue from arranging or listing a short-term rental unit shall have primary responsibility for collecting, paying and transmitting all revenues due to the city pursuant to this section.

(Ord. CS-272 § I, 2015; Ord. CS-338 § 4, 2018)

#### **§ 5.60.070. Operational requirements.**

- A. The owner and/or owner's authorized agent shall use reasonably prudent business practices to ensure that the short-term vacation rental unit is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term vacation rental unit.
- B. While a short-term vacation rental unit is rented, a local contact person shall be available 24 hours per day, seven days per week for the purpose of responding within 45 minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term vacation rental unit or their guests.
- C. The owner or owner's authorized agent shall post the short-term vacation rental permit on the exterior of the unit within plain view of the general public with the 24-hour, seven-day local contact phone number for complaints. The permit shall be displayed at all times the unit is used as a short-term vacation rental.
- D. The owner or the owner's authorized agent shall, upon notification that any occupant or guest of the short-term vacation rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the short-term vacation rental unit, respond in a timely and appropriate manner to immediately halt or prevent a recurrence of such conduct. Failure of the owner or the owner's

authorized agent to respond to such calls or complaints regarding the condition, operation, or conduct of the occupants and/or guests of the short-term vacation rental in a timely and appropriate manner shall subject the owner to all administrative, legal and equitable remedies available to the city.

- E. The owner and/or the owner's authorized agent shall use reasonably prudent business practices to ensure that the occupants and/or guests of the short-term vacation rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental unit.
- F. No amplified or reproduced sound shall be used outside or audible from the property line of any short-term vacation rental unit between the hours of 10:00 p.m. and 10:00 a.m.
- G. The owner and/or owner's authorized agent shall use reasonably prudent business practices to ensure that the short-term vacation rental unit is used for residential purposes only. Commercial activities and special events, including, but not limited to, weddings, receptions and large parties are prohibited. All occupants of the short-term vacation rental shall be notified of the prohibition against commercial activities prior to the reservation, rental or lease, and said prohibition shall be a part of any rental or lease agreement.
- H. Prior to occupancy of a short-term vacation rental unit, the owner or the owner's authorized agent shall:
  - 1. Obtain the contact information of the renter.
  - 2. Provide a copy of the "Good Neighbor" brochure containing these requirements to the renter.
  - 3. Require the renter to execute a formal acknowledgment that he or she is legally responsible for compliance by all occupants of the short-term vacation rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term vacation rental unit.
  - 4. The information required in paragraphs 1 and 3 of this subsection shall be maintained by the owner or the owner's authorized agent for a period of three years and be made available upon request to any officer of the city responsible for the enforcement of any provision of the municipal code or any other applicable law, rule or regulation pertaining to the use and occupancy of the short-term vacation rental unit.
- I. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the city's authorized waste hauler on scheduled trash collection days.
- J. All occupants and guests shall, to the greatest extent possible, utilize any on-site parking of the short-term vacation rental and avoid parking on nearby residential streets. On-site parking shall be allowed on approved driveway, garage, and/or carport areas only. Parking of over-sized vehicles must comply with the provisions of Section 10.40.180.
- K. The number of occupants allowed to occupy any given short-term vacation rental unit shall be limited to two people per bedroom or studio plus one person per unit.
- L. The City Manager, or designee, shall have the authority to impose additional conditions on the use of any given short-term vacation rental unit to ensure that any potential secondary effects unique to the subject short-term vacation rental unit are avoided or adequately mitigated.
- M. The owner or owner's authorized agent shall post the current short-term vacation rental permit number

on or in any advertisement appearing in any written publication or on any website that promotes the availability or existence of a short-term vacation rental unit.

(Ord. CS-272 § I, 2015; Ord. CS-338 § 5, 2018)

#### **§ 5.60.080. Penalties and enforcement.**

- A. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor punishable pursuant to Chapter 1.08 or Chapter 1.10 of this code.
- B. In addition to any penalties imposed pursuant to Chapters 1.08 and 1.10 of this code, the City Manager, or designee, may impose additional conditions on the use of any short-term vacation rental permit pursuant to Section 5.60.070(L) above; or suspend or revoke any short-term vacation rental permit commensurate with the severity of the violation(s). The issuance of three or more administrative citations, verifiable municipal code violations or hearing officer determinations concerning permit requirements within a 24-month period shall result in revocation of a short-term vacation rental permit. Revocation is subject to a 30-day prior written notice and to appeal, if requested within 10 days. The appeal procedures will otherwise follow those outlined in Chapter 1.10 of this code. In the event of permit revocation, an application to reestablish a short-term vacation rental at the subject property shall not be accepted for a minimum period of 36 months.
- C. Except as otherwise provided, enforcement of this chapter is at the sole discretion of the persons authorized to enforce this chapter. Nothing in this chapter shall create a right of action in any person against the city or its agents for damages or to compel public enforcement of this chapter against private parties.
- D. Pursuant to Section 1.08.010(C) of this code, each and every day during any portion of which any violation of this code or any other ordinance of the city is committed, continued or permitted shall be a separate offense.
- E. In accordance with the provisions of Section 3.36.040, the owner of a short-term vacation rental may be billed for law enforcement services when a second or subsequent police response is required at the short-term vacation rental unit due to a party when the police officer determines that continued activity is a threat to the peace, health, safety or general welfare of the public.

(Ord. CS-272 § I, 2015; Ord. CS-338 § 6, 2018)

#### **§ 5.60.090. Interpretation.**

This chapter shall be construed liberally in favor of regulation as determined if necessary and appropriate by the City Manager for the public protection and welfare and in order to accomplish its purpose and intent.  
(Ord. CS-272 § I, 2015)

#### **§ 5.60.100. Constitutionality.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted the chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(Ord. CS-272 § I, 2015)

**BUSINESS LICENSES AND REGULATIONS**

**Title 6****HEALTH AND SANITATION**

<b>COUNTY CODE—HEALTH AND SANITATION</b>	Chapter 6.02	§ 6.04.110.	Emergency organization.
		§ 6.04.120.	Emergency plan.
		§ 6.04.130.	Punishment of violations.

<b>§ 6.02.010.</b>	<b>Adopted by reference—Interpretation.</b>	Chapter 6.06	
<b>§ 6.02.020.</b>	<b>Violation.</b>	<b>EMERGENCY MEDICAL TRANSPORTATION SERVICE</b>	
<b>§ 6.02.030.</b>	<b>Health permit fees.</b>		
<b>§ 6.02.040.</b>	<b>Operation of mobile food preparation units.</b>	<b>§ 6.06.010.</b>	<b>Emergency medical transportation service established.</b>
		<b>§ 6.06.020.</b>	<b>Purpose.</b>
		<b>§ 6.06.030.</b>	<b>Operation procedures.</b>
		<b>§ 6.06.040.</b>	<b>Fees authorized.</b>
<b>§ 6.03.010.</b>	<b>Adopted by reference.</b>	Chapter 6.08	
<b>§ 6.03.020.</b>	<b>Fees.</b>	<b>SOLID WASTE</b>	
<b>§ 6.03.030.</b>	<b>Violation.</b>		
<b>§ 6.03.040.</b>	<b>Materials exempt from disclosure requirements.</b>	<b>§ 6.08.010.</b>	<b>Definitions.</b>
		<b>§ 6.08.020.</b>	<b>Required discarded materials handling.</b>
		<b>§ 6.08.022.</b>	<b>Requirements for multifamily premises.</b>
		<b>§ 6.08.023.</b>	<b>Requirements for commercial premises.</b>
<b>§ 6.04.010.</b>	<b>Agreement with county.</b>	<b>§ 6.08.024.</b>	<b>(Reserved)</b>
<b>§ 6.04.020.</b>	<b>Definition.</b>	<b>§ 6.08.025.</b>	<b>Waivers for multifamily premises and commercial premises.</b>
<b>§ 6.04.030.</b>	<b>Purposes of chapter.</b>	<b>§ 6.08.026.</b>	<b>Requirements for special events.</b>
<b>§ 6.04.040.</b>	<b>Expenditures to be for protection of inhabitants and property.</b>	<b>§ 6.08.027.</b>	<b>Requirements for commercial edible food generators.</b>
<b>§ 6.04.050.</b>	<b>Creation of disaster council.</b>	<b>§ 6.08.028.</b>	<b>Requirements for food recovery organizations and services.</b>
<b>§ 6.04.060.</b>	<b>Disaster council—Composition—Appointment of members—Officers.</b>	<b>§ 6.08.030.</b>	<b>Containers generally.</b>
<b>§ 6.04.070.</b>	<b>Meetings of council.</b>	<b>§ 6.08.040.</b>	<b>Cleanliness of discarded materials collection containers.</b>
<b>§ 6.04.080.</b>	<b>Powers and duties of council.</b>	<b>§ 6.08.045.</b>	<b>Cleanliness of discarded materials collection container areas or enclosures.</b>
<b>§ 6.04.090.</b>	<b>Director and Assistant City Director of Emergency Services.</b>		
<b>§ 6.04.100.</b>	<b>Powers and duties of the director and Assistant City Director of Emergency Services.</b>		

## HEALTH AND SANITATION

<b>§ 6.08.050.</b>	<b>Discarded materials collection containers to be kept covered.</b>	<b>§ 6.10.030.</b>	<b>Police and fire departments—Possession of controlled substances in the form of unwanted, unused and expired prescription drugs.</b>
<b>§ 6.08.055.</b>	<b>Composting.</b>		
<b>§ 6.08.060.</b>	<b>Residential discarded materials carts—Maximum weight.</b>		
<b>§ 6.08.070.</b>	<b>Maximum residential collection.</b>		<b>Chapter 6.12 JUNK</b>
<b>§ 6.08.080.</b>	<b>Placement of residential carts for collection.</b>		<b>Definitions.</b>
<b>§ 6.08.090.</b>	<b>Timing of placement of residential carts for collection.</b>	<b>§ 6.12.010.</b>	<b>Accumulation deemed nuisance.</b>
<b>§ 6.08.100.</b>	<b>Unlawful placement of solid waste.</b>	<b>§ 6.12.020.</b>	<b>Accumulation prohibited—Exceptions.</b>
<b>§ 6.08.110.</b>	<b>Unhindered access to collection containers.</b>	<b>§ 6.12.030.</b>	<b>Regulations for accumulation.</b>
<b>§ 6.08.120.</b>	<b>Special collection service.</b>	<b>§ 6.12.040.</b>	<b>Junkyards.</b>
<b>§ 6.08.130.</b>	<b>Bulky item collection.</b>	<b>§ 6.12.050.</b>	<b>Firewood.</b>
<b>§ 6.08.140.</b>	<b>Shared service allowed.</b>	<b>§ 6.12.060.</b>	<b>Violation determination.</b>
<b>§ 6.08.150.</b>	<b>Multiple tenant residential service.</b>	<b>§ 6.12.070.</b>	<b>Notice of violation—Service to owner—Form.</b>
<b>§ 6.08.160.</b>	<b>Hauling discarded materials and construction and demolition debris.</b>	<b>§ 6.12.080.</b>	<b>Appeal from notice.</b>
<b>§ 6.08.161.</b>	<b>Self-hauler requirements.</b>	<b>§ 6.12.090.</b>	<b>Hearing and findings—Enforcement.</b>
<b>§ 6.08.162.</b>	<b>Facility operator requirements.</b>	<b>§ 6.12.100.</b>	<b>Failure to comply with notice and order.</b>
<b>§ 6.08.170.</b>	<b>Unauthorized collection (scavenging).</b>	<b>§ 6.12.110.</b>	
<b>§ 6.08.180.</b>	<b>Contracts.</b>		<b>Chapter 6.14 PROHIBITION OF SMOKING IN UNENCLOSED DINING AREAS</b>
<b>§ 6.08.190.</b>	<b>Rate and fees for service.</b>		
<b>§ 6.08.200.</b>	<b>Payment of fees.</b>	<b>§ 6.14.010.</b>	<b>Purpose.</b>
<b>§ 6.08.210.</b>	<b>Liability for payment.</b>	<b>§ 6.14.020.</b>	<b>Definitions.</b>
<b>§ 6.08.215.</b>	<b>Administrative regulations.</b>	<b>§ 6.14.030.</b>	<b>Prohibition.</b>
<b>§ 6.08.218.</b>	<b>Inspections and investigations by city.</b>	<b>§ 6.14.040.</b>	<b>Reasonable smoking distance required.</b>
<b>§ 6.08.220.</b>	<b>Enforcement.</b>	<b>§ 6.14.050.</b>	<b>Optional prohibition.</b>
<b>§ 6.08.230.</b>	<b>Savings clause.</b>	<b>§ 6.14.060.</b>	<b>Posting of signs.</b>
<b>§ 6.08.240.</b>	<b>Severability.</b>	<b>§ 6.14.070.</b>	<b>Other requirements and prohibitions.</b>
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<b>Chapter 6.10 PRESCRIPTION DRUG DROP BOXES</b>			
<b>§ 6.10.010.</b>	<b>Purpose.</b>		
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Chapter 6.16 <b>PUBLIC NUISANCES AND PROPERTY MAINTENANCE</b>		Article II <b>Summary Abatement</b>	
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§ 6.16.110.	Nuisance abatement violation—Penalty.	§ 6.17.010. Urinating or defecating in public.	
§ 6.16.120.	Account of cost of abatement to be kept.	Chapter 6.18 <b>ELECTRONIC CIGARETTES</b>	
§ 6.16.130.	Copies of abatement cost report to be served.	§ 6.18.010. Electronic cigarettes—Prohibited wherever smoking is prohibited.	
§ 6.16.140.	Challenges to abatement cost report.	Chapter 6.20 <b>PHASED-IN SINGLE-USE PLASTIC FOODWARE BAN</b>	
§ 6.16.150.	Hearing on abatement cost report—Abatement cost order.	§ 6.20.010. Intent and purpose. § 6.20.020. Definitions.	
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§ 6.16.180.	Strict liability offense.		
§ 6.16.190.	No mandatory duty.		
§ 6.16.200.	Alternative means of enforcement.		
§ 6.16.205.	Attorneys' fees.		

## HEALTH AND SANITATION

<b>§ 6.20.030.</b>	<b>Prohibition on polystyrene and single-use plastic foodware.</b>	<b>Chapter 6.24</b>
<b>§ 6.20.040.</b>	<b>City facilities and city-affiliated events.</b>	<b>PLASTIC BAG BAN</b>
<b>§ 6.20.050.</b>	<b>Foodware accessories requirements.</b>	<b>Intent and purpose.</b>
<b>§ 6.20.060.</b>	<b>Other provisions to reduce use of single-use plastics.</b>	<b>Definitions.</b>
<b>§ 6.20.070.</b>	<b>Exemptions.</b>	<b>Carryout bag requirements.</b>
<b>§ 6.20.080.</b>	<b>Enforcement.</b>	<b>Carryout bag charge.</b>
<b>§ 6.20.090.</b>	<b>Severability.</b>	<b>Produce bags.</b>
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<b>PLASTIC BOTTLED BEVERAGE REDUCTION</b>		<b>Exemptions.</b>
<b>§ 6.22.010.</b>	<b>Intent and purpose.</b>	<b>Enforcement.</b>
<b>§ 6.22.020.</b>	<b>Definitions.</b>	<b>No conflict with state law.</b>
<b>§ 6.22.030.</b>	<b>City-affiliated events.</b>	<b>Severability.</b>
<b>§ 6.22.040.</b>	<b>City facilities and funds.</b>	
<b>§ 6.22.050.</b>	<b>Alternative containers.</b>	
<b>§ 6.22.060.</b>	<b>Exemptions.</b>	
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Chapter 6.26		
<b>INTENTIONAL RELEASE OF BALLOONS PROHIBITION</b>		
<b>§ 6.26.010.</b>	<b>Intent and purpose.</b>	
<b>§ 6.26.020.</b>	<b>Definitions.</b>	
<b>§ 6.26.030.</b>	<b>Intentional release of balloons prohibited.</b>	
<b>§ 6.26.040.</b>	<b>Enforcement.</b>	
<b>§ 6.26.050.</b>	<b>Severability.</b>	

**CHAPTER 6.02  
COUNTY CODE—HEALTH AND SANITATION**

**§ 6.02.010. Adopted by reference—Interpretation.**

- A. The following divisions and chapters of Title 6 of the San Diego County Code of Regulatory Ordinances, as amended, and relating to the subjects of health and sanitation are adopted by reference as part of this code:

Division 1	Food
Division 4	Disease Control
Division 5	Permit Fees and Procedures for Businesses and Health Regulated Activities
Division 6	(Limited only to the following chapters):
Chapter 1	Applications, Permits and Fees
Chapter 6	Bathhouses
Chapter 9	Enforcement of State Housing Law
Chapter 10	Permits for Apartments and Hotels
Division 7	(Limited only to the following chapters):
Chapter 3	Public Swimming Pool Plans
Chapter 4	Wells
Division 8	(Limited only to the following chapters):
Chapter 3	Septic Tanks and Seepage Pits
Chapter 6	Septic Tanks and Cesspool Cleaners
Chapter 12	Medical Wastes
Division 9	Unsanitary Premises

- B. Title 6, Division 1, Chapter 1, Section 61.101, of the San Diego County Code of Regulatory Ordinances, as amended by Ord. 10218 (N.S.), effective 8-25-12, relating to mobile food facilities specifically establishing a grading system similar to that used to rate restaurants is adopted by reference and incorporated as part of this code, except that whatever provisions thereof refer to a County of San Diego board, territory, area, agency, official, employee, or otherwise it shall mean the corresponding board, territory, area, agency, official, employee, or otherwise of the city, and if there is none, it shall mean that the county is acting in the same capacity on behalf of the city. A copy of the referenced County of San Diego ordinance is on file in the City Clerk's office.
- C. The definition of "apartment house" in Section 66.1001 of Division 6 of Title 6 of the County Code of Regulatory Ordinances shall not include an ownership on an occupied condominium. "Condominium" is defined as an estate of 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 building on such property.
- D. Section 67.301 of Division 7 of Title 6 (Review of Plans for Public Swimming Pools—Fee) is not adopted.

(Ord. NS-558 § 3, 2000; Ord. CS-198 § 1, 2012)

**§ 6.02.020. Violation.**

The provisions of Chapter 1.08 of this code shall apply to any violation of this chapter. When County of San Diego, Department of Environmental Health (DEH) initiates an enforcement action against a person operating a mobile food facility without a permit required by California Retail Food Code (CRFC), pursuant to County Code of Regulations Section 61.105, the department may recover its enforcement costs from the violator, up to a maximum of three times the cost of the permit. After the enforcement activity has been completed, DEH may send the violator a penalty assessment for its enforcement costs. The violator shall pay the assessment within 15 days from the date of the assessment or at the time the violator applies for the permit, whichever occurs first.

(Ord. NS-558 § 3, 2000; Ord. CS-198 § 1, 2012)

**§ 6.02.030. Health permit fees.**

All persons and businesses required to obtain a health-related permit or related service from the DEH pursuant to this code shall pay the county the fee established in the county code for that permit or service, including delinquent payment fees.

(Ord. CS-198 § 1, 2012)

**§ 6.02.040. Operation of mobile food preparation units.**

- A. No person shall drive or operate a mobile food preparation unit on any public street or private property unless all persons within such vehicle are seated.
- B. No person shall drive or operate a mobile food preparation unit on any public street or private property while cooking or food preparation is going on in such vehicle.

(Ord. NS-558 § 3, 2000)

## CHAPTER 6.03 HAZARDOUS MATERIALS

### **§ 6.03.010. Adopted by reference.**

Chapters 9 and 11 of Division 8 of Title 6 of the San Diego Code of Regulatory Ordinances, as amended, relating to hazardous materials are adopted by reference as part of this code; except that, wherever the provisions incorporated refer to a county board, territory, area, agency, official, employee, or otherwise it means the corresponding city board, territory, area, agency, official or employee and if there is no such corresponding city entity it means the county entity acting in that capacity on behalf of the city.  
(Ord. NS-592 § 3, 2001)

### **§ 6.03.020. Fees.**

The fees for permits issued pursuant to this chapter shall be those established by the San Diego County Board of Supervisors for countywide application under the provisions of Section 68.812 of the County Code of Regulatory Ordinances.

(Ord. 5064 § 2, 1983)

### **§ 6.03.030. Violation.**

The provisions of Chapter 1.08 of this code shall apply to any violation of this chapter. A violation of this chapter is a misdemeanor.

(Ord. 5064 § 2, 1983)

### **§ 6.03.040. Materials exempt from disclosure requirements.**

The following materials are exempt from the disclosure requirements of this chapter:

- A. Waste oil when properly stored and recycled;
- B. Perchloreethylene when used in dry cleaning establishments.

(Ord. 5066 § 1, 1983)

## CHAPTER 6.04 EMERGENCY SERVICES

### **§ 6.04.010. Agreement with county.**

The Mayor of the city is authorized and directed, on behalf of the city, to enter into and sign that certain civil defense and disaster agreement regarding the coordination of all of San Diego County cities with the County of San Diego into a unified organization.

(Ord. 1126 § 1, 1970)

### **§ 6.04.020. Definition.**

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, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of services, personnel, equipment, and facilities of this city, requiring the combined forces of other political subdivisions to combat.

(Ord. 1015 § 2; Ord. 1152 § 3, 1972)

### **§ 6.04.030. Purposes of chapter.**

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. 1015 § 1; Ord. 1152 § 4, 1972)

### **§ 6.04.040. Expenditures to be for protection of inhabitants and property.**

Any expenditures made in connection with city civil defense and disaster 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. 1015 § 1)

### **§ 6.04.050. Creation of disaster council.**

The city civil defense and disaster council is created.

(Ord. 1015 § 3; Ord. 1152 § 5, 1972)

### **§ 6.04.060. Disaster council—Composition—Appointment of members—Officers.**

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

- A. The Mayor, who shall be chair;
- B. The Director of Emergency Services, who shall be vice chair;
- C. The Assistant City Director of Emergency Services;
- D. Such chiefs of emergency services as are provided for in a 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. 1015 § 3; Ord. 1015A § 1; Ord. 1152 § 6, 1972)

#### **§ 6.04.070. Meetings of council.**

The civil defense and disaster council shall meet upon call of the chair or, in his or her absence from the city or inability to call such meeting, upon the call of the vice chair.

(Ord. 1015 § 4)

#### **§ 6.04.080. Powers and duties of council.**

It shall be the duty of the disaster council, and it is empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chair or, in his or her absence from the city or inability to call such meeting, upon call of the vice chair.

(Ord. 1015 § 4; Ord. 1152 § 7, 1972)

#### **§ 6.04.090. Director and Assistant City Director of Emergency Services.**

A. There is created the office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.

B. There is created the office of Assistant City Director of Emergency Services, who shall be appointed by the director.

(Ord. 1015A § 2; Ord. 1152 § 8, 1972)

#### **§ 6.04.100. Powers and duties of the director and Assistant City Director of Emergency Services.**

A. The director is 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. Whenever a local emergency is proclaimed by the director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;
2. Request the Governor to proclaim a "state of emergency" when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency;
3. Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter;
4. Direct cooperation between and coordination of services and staff of the emergency organization of this city; and resolve questions of authority and responsibility that may arise between them;
5. Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein;
6. In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state 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 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 his or her ordinary power as City Manager, all of the special powers conferred upon him or her by this chapter or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him or her by any statute, by any agreement approved by the City Council, and by any other lawful authority.
- B. The Director of Emergency Services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his or her duties during an emergency. Such order of succession shall be approved by the City Council.
- C. The Assistant City director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency program of this city; and shall have such other powers and duties as may be assigned by the director.

(Ord. 1015 § 5; Ord. 1152 § 9, 1972)

#### **§ 6.04.110. 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 6.04.100(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 this city.

(Ord. 1152 § 10, 1972)

#### **§ 6.04.120. Emergency plan.**

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

(Ord. 1152 § 11, 1972)

**§ 6.04.130. Punishment of violations.**

It is a misdemeanor, punishable by a fine of not to exceed \$500.00 or by imprisonment for not to exceed six months, or both, for any person, during an emergency 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 him or her by virtue of this chapter;
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this city, or to prevent, hinder or delay the defense or protection thereof.

(Ord. 1152 § 12, 1972)

## CHAPTER 6.06 EMERGENCY MEDICAL TRANSPORTATION SERVICE

### **§ 6.06.010. Emergency medical transportation service established.**

An emergency medical transportation service is established for the city.

(Ord. 1183 § 1, 1975)

### **§ 6.06.020. Purpose.**

The emergency medical transportation service is for the purposes of:

- A. Responding insofar as possible to all medical emergency calls within the city limits from victims of injury or illness who require immediate transportation in order to secure medical care;
- B. Providing first-aid medical assistance to the victim at the scene and during transport to attempt to save or prolong life;
- C. Transporting the victim to the nearest facility which has been designated by the San Diego County office of emergency medical services as a primary emergency facility. Requests for transportation to a facility other than the nearest primary emergency facility will not be honored.

(Ord. 1183 § 1, 1975)

### **§ 6.06.030. Operation procedures.**

The emergency medical transportation service shall operate under the direction of the City Manager or designated representative. The City Manager is authorized to establish procedures for the operation of the service.

(Ord. 1183 § 1, 1975)

### **§ 6.06.040. Fees authorized.**

The City Council may by resolution establish a fee schedule for the emergency medical transportation service. Persons using such service shall pay a fee to the city in the amount established by such resolution.

(Ord. 1183 § 1, 1975)

## CHAPTER 6.08 SOLID WASTE

### **§ 6.08.010. Definitions.**

- A. For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

"Bin" means a container with capacity of approximately one to eight cubic yards, provided by the city or its franchisee, equipped with a hinged lid and wheels (where appropriate), that may be services by a front-end loading collection vehicle, including bins with compactors attached to increase the capacity of the bin.

"Bulky item" means discarded appliances, furniture, tires, carpets, mattresses, e-waste, bundled and tied yard trimmings, and/or wood waste, and similar large items which can be handled by two people, weigh no more than 200 pounds, and require special collection due to their size or nature, but can be collected without the assistance of special loading equipment and without violating vehicle load limits. Bulky items must be generated by the customer and at the service address where the bulky items are collected. Bulky items do not include abandoned automobiles, large auto parts, trees, construction and demolition debris, or items defined as excluded waste.

"California Code of Regulations (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 Cal. Code of Regs., Title 14).

"CalRecycle" means California's Department of Resources Recycling and Recovery.

"Cart" means a plastic container provided by the city or its franchisee with a hinged lid and wheels serviced by an automated or semi-automated collection vehicle. A cart has capacity of 20, 35, 64 or 96 gallons (or similar volumes).

"City" or "City of Carlsbad" means the incorporated territory of the City of Carlsbad.

"Collection container(s)" means collectively the carts, bins or drop boxes furnished by the city or franchisee used for storage of discarded materials prior to collection.

"Commercial" or "commercial business" shall mean of, from, or pertaining to nonresidential premises where business activity is conducted, including, without limitation, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

"Commercial edible food generator" has the same meaning as in 14 CCR Section 18982(a)(7).

"Community composting" means any activity that composts as specified in 14 CCR Section 17855(a)(4); or as otherwise defined in 14 CCR Section 18982(a)(8).

"Compactor" means a mechanical apparatus that compresses materials together with the container that holds the compressed materials or the container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two to eight cubic yard bin compactors serviced by front-end loader collection vehicles and 10 to 50 cubic yard drop box compactors serviced by roll-off collection vehicles.

"Compliance review" means a review of records by a city to determine compliance with this chapter.

"Compostable plastics" or "compostable plastic" means plastic materials that meet the ASTM D6400

standard for compostability.

"Composting" or "compost" (or any variation thereof) includes a controlled biological decomposition of organic materials yielding a safe and nuisance free compost product.

"Construction and demolition debris" or "C&D" includes discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair, or demolition operations on any pavements, excavation projects, houses, commercial buildings, or other structures, excluding excluded waste. Construction and demolition debris includes rocks, soils, tree remains, and other yard trimmings which result from land clearing or land development operations in preparation for construction.

"Designee" means an entity that a city contracts with or otherwise arranges to carry out any of the city's responsibilities in 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.

"Director" means the city's Public Works Director or designee, or other city official as designated by the City Manager.

"Discarded materials" means recyclable materials, organic materials, and solid waste placed by a generator in a receptacle and/or at a location for the purposes of collection by franchisee, excluding excluded waste.

"Discarded material service" means the collection, transport, processing, and/or disposal of solid waste, organic materials, and recyclable materials.

"Divert" or "diversion" (or any variation thereof) means to prevent discarded materials from disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, recycling, composting, anaerobic digestion or other method of processing, subsequent to the provisions of AB 939 (1989). Diversion is a broad concept that is to be inclusive of material handling and processing changes that may occur over the term including, without limitation, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce disposal risk, decrease costs and/or are for other reasons deemed desirable by the city.

"Drop box" means an open top container with a capacity of seven to 40 cubic yards that is serviced by a roll-off collection vehicle.

"Edible food" means food intended for human consumption. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code (California Health and Safety Code Section 113700 et seq.).

"Event organizer" has the same meaning as set forth in Section 8.17.020 of this code, as it may be amended from time to time.

"Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that the franchisee reasonably believes would, as a result of or upon 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, waste that in franchisee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose franchisee or city to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, 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 used motor oil and filters, or household batteries when properly placed for collection by franchisee as set forth in this chapter.

"Food distributor" has the same meaning as in 14 CCR Section 18982(a)(22).

"Food facility" has the same meaning as in Section 113789 of the California Health and Safety Code.

"Food recovery" has the same meaning as defined in 14 CCR Section 18982(a)(24).

"Food recovery organization" has the same meaning as in 14 CCR Section 18982(a)(25).

"Food scraps" means those discarded materials that will decompose and/or putrefy including: (1) all kitchen and table food waste; (2) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (3) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (4) vegetable trimmings, houseplant trimmings and other compostable organic waste common to the occupancy of residential dwellings. Food scraps are a subset of food waste.

"Food service provider" has the same meaning as in 14 CCR Section 18982(a)(27).

"Food-soiled paper" means compostable paper material that has come in contact with food scraps or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

"Food waste" means source-separated food scraps, food-soiled paper, and compostable plastics. Food waste is a subset of organic materials.

"Generator" means any person whose act or process produces discarded materials as defined in the California Public Resources Code, or whose act first causes discarded materials to become subject to regulation.

"Franchisee" means any person, persons, firm or corporation to whom a franchise has been granted by the city for the collection, processing, recycling and disposal of solid waste.

"Grocery store" has the same meaning as in 14 CCR Section 18982(a)(30).

"Hauler route" has the same meaning as in 14 CCR Section 18982(a)(31.5).

"Hazardous waste" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the state in California Health and Safety Code Sections 25110.02, 25115, and 25117, as they may be amended from time to time, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC Section 6901 et seq.), as it may be amended from time to time, and all implementing rules and regulations.

"High diversion organic waste processing facility" has the same meaning as in 14 CCR Section 18982(a)(33).

"Inspection" has the same meaning as in 14 CCR Section 18982(a)(35).

"Large event" has the same meaning as in 14 CCR Section 18982(a)(38).

"Large venue" has the same meaning as in 14 CCR Section 18982(a)(39).

"Large education agency" has the same meaning as in 14 CCR Section 18982(a)(40)

"Multifamily" or "multifamily premises" means, for the purposes of this chapter, any residential premises, other than a single-family premises, with five or more dwelling units used for residential purposes (whether temporarily or permanently), including such premises when combined in the same building with commercial establishments, that receive centralized, shared, collection service

for all units on the premises which are billed to one customer at one address. Customers residing in townhouses, mobile homes, condominiums, or other structures with five or more dwelling units who receive individual service and are billed separately shall not be considered multifamily.

"Organic materials" means yard trimmings, compostable plastic, and food waste, individually or collectively. No discarded material shall be considered to be organic materials, however, unless it is separated from recyclable material and solid waste. Organic materials are a subset of organic waste.

"Organic waste" has the same meaning as in 14 CCR Section 18982(a)(46) and shall also include compostable plastic and yard trimmings.

"Permitted C&D hauler(s)" means any person, persons, firm or corporation to whom the city has granted a permit for the collection, recycling and disposal of construction and demolition debris generated from a city-permitted construction, demolition, alteration, or remodel project.

"Person" includes any person, firm, association, organization, partnership, business trust, joint venture, corporation, or company and includes the United States, the State of California, the County of San Diego, the City of Carlsbad, cities, districts, and any officer or agency of them.

"Pollutants" means and includes, without limitation, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged spoil, rock, sand, sediment, silt, industrial waste, and any organic or inorganic substance defined as a pollutant under Title 40, Section 122.2 of the Code of Federal Regulations whose presence degrades the quality of the receiving waters in violation of basin plan and California ocean plan standards such as fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, fertilizers, pesticides, herbicides and other biocides. A pollutant also includes any contaminant which degrades the quality of the receiving waters in violation of basin plan and California ocean plan standards by altering any of the following parameters: pH, total suspended and settleable solids, biochemical oxygen demand (BOD), chemical oxygen demand (COD), nutrients, temperature, and other narrative standards of the basin plan.

"Premises" means any land or building in the city where discarded materials are generated or accumulated.

"Prohibited container contaminants" means the following: (1) discarded materials placed in the recyclable materials collection container that are not identified as acceptable recyclable materials for the city's collection program; (2) discarded materials placed in the organic materials collection container that are not identified as acceptable organic materials for the city's collection program; (3) discarded materials placed in the solid waste collection container that are acceptable recyclable materials and/or organic materials to be placed in the city's recyclable materials or organic materials containers or otherwise managed under the city's collection program; and (4) excluded waste placed in any container.

"Recovery" has the same meaning as in 14 CCR Section 18982(a)(49).

"Recyclable materials" means those discarded materials that: the generators set out in recyclables containers for collection for the purpose of recycling by the franchisee and that exclude excluded waste. No discarded materials shall be considered recyclable materials unless such material is separated from organic materials, and solid waste. Recyclable materials shall include, without limitation: (1) newspaper (including inserts, coupons, and store advertisements); (2) mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, telephone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, tabletop beverage containers, cereal, and other

similar food boxes yet excluding paper tissues, paper towels, paper with plastic coating, paper contaminated with food, wax paper, foil-lined paper and cartons, Tyvex non-tearing paper envelopes); (3) chipboard; (4) corrugated cardboard; (5) glass containers of any color (including brown, clear, and green glass bottles and jars); (6) aluminum (including beverage containers and small pieces of scrap metal); (7) steel, tin, or bi-metal cans; (8) mixed plastics such as plastic containers (no. one to seven), except expanded polystyrene (EPS); (9) bottles including containers made of high-density polyethylene (HDPE), low-density polyethylene (LDPE), or polyethylene terephthalate (PET); (10) film plastic (when clean, dry, and contained inside of a plastic bag); (11) dry cell household batteries when placed on the recycling cart in a sealed heavy-duty plastic bag; and (12) those materials added by the franchisee from time to time.

"Recycle" or "recycling" means the process of sorting, cleansing, treating, and reconstituting at a recyclable materials processing facility materials that would otherwise be disposed of at a landfill for the purpose of returning such materials to the economy in the form of raw materials for new, reused, or reconstituted products. Recycling includes processes deemed to constitute a reduction of landfill disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in California Public Resources Code Section 40201.

"Recycling facility" means a recycling, composting, or materials recovery or reuse facility.

"Residential" means of, from, or pertaining to a single-family or multifamily premises including single-family homes, apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments.

"Responsible person" means the individual or entity responsible for the management of discarded materials generated at a residential or commercial premises. In instances of dispute or uncertainty regarding who is the responsible person for a premises, responsible person shall mean the owner of a residential or commercial premises.

"Restaurant" has the same meaning as in 14 CCR Section 18982(a)(64).

"Route review" has the same meaning as in 14 CCR Section 18982(a)(65).

"SB 1838" means California 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 California Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the California 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. For the purposes of this chapter, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted on November 3, 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-hauler" or "self-haul" means a person who hauls recyclable materials and organic materials that such person generates in or on their own premises, to another person with their own vehicle. Self-hauler also includes a person who back-hauls recyclable materials and organic materials from premises they own and operate. For purposes of this chapter, the definition of "self-hauler" or "self-haul" does not include construction and demolition debris.

"Single-family" or "single-family premises" means, notwithstanding any contrary definition in this code, any detached or attached house or residence designed or used for occupancy by one family, provided that collection service feasibly can be provided to such premises as an independent unit, and the owner or occupant of such independent unit is billed directly for the collection service. Single-family includes townhouses, and each independent unit of duplex, tri-plex, or four-plex residential

structures, regardless of whether each unit is separately billed for their specific service level.

"Solid waste" means solid waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, Section 40191 and implementing regulations. Excluded from the definition of solid waste are excluded waste, C&D, source-separated recyclable materials, edible food if it is recovered and not discarded, source-separated organic materials, and radioactive waste. Notwithstanding any provision to the contrary, solid waste may include de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment, and disposal of household hazardous waste in compliance with Sections 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid waste includes salvageable materials only when such materials are included for collection in a solid waste collection container not source-separated from solid waste at the site of generation.

"Solid waste facility" means a solid waste transfer or processing station, a composting facility, a transformation facility, or a disposal facility as approved by the city.

"Source-separated" means the segregation, by the generator, of materials designated for separate collection for some form of recycling, composting, recovery, or reuse.

"Special event" has the same meaning as set forth in Section 8.17.020 of this code, as it may be amended from time to time.

"State" means the State of California.

"Stormwater" has the same meaning as set forth in Section 15.04.020 of this code, as it may be amended from time to time.

"Stormwater conveyance system" has the same meaning as set forth in Section 15.04.020 of this code, as it may be amended from time to time.

"Supermarket" has the same meaning as in 14 CCR Section 18982(a)(71).

"Tier one commercial edible food generator" has the same meaning as in 14 CCR Section 18982(a)(73).

"Tier two commercial edible food generator" has the same meaning as in 14 CCR Section 18982(a)(74).

"Wholesale food vendor" has the same meaning as in 14 CCR Section 189852(a)(76).

"Yard trimmings" means those discarded materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic materials resulting from normal yard and landscaping maintenance that may be specified for collection and processing as organic materials under this chapter. Yard trimmings does not include items defined as excluded waste. Yard trimmings are a subset of organic materials. Yard trimmings placed for collection may not exceed six inches in diameter and three feet in length and must fit within the franchisee-provided collection container.

- B. Any other term that is defined by Division 30 (Waste Management) of the California Public Resources Code (commencing with Section 4000) that is used but not otherwise defined in this chapter shall have the meaning established by the California Public Resources Code, to the extent meaning is not inconsistent with the context of the usage in this chapter and does not conflict with the approved franchise.

(Ord. CS-183 § 2, 2012; Ord. CS-276, 2015; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.020. Required discarded materials handling.**

- A. Every person in possession, charge or control of any place or premises in the city in, upon, or from which discarded materials are created, produced or accumulated shall:
  - 1. Discard such solid waste, organic waste and/or recyclable materials through the discarded materials collection service of the city or its franchisee.
  - 2. Place and/or direct its generators to place source-separated organic materials in the organic materials stream of the applicable container; source-separated recyclable materials in the recyclable materials stream of the applicable container; and solid waste in the solid waste stream of the applicable container. No person shall dispose of commercial grease or cooking oil in a compostable materials container.
  - 3. Not place and/or direct its generators to not place prohibited container contaminants in containers and not place materials designated for the organic materials containers or recyclable materials containers in the solid waste containers.
  - 4. Pay the established fee or fees.
- B. The collection of discarded materials shall occur at least once per week.
- C. Exceptions.
  - 1. Nothing in this chapter limits the right of any person to donate or sell the person's recyclable materials in lieu of placing the recyclable materials in recycling containers for collection.
  - 2. Commercial businesses and multifamily premises with recycling compactors that receive a collection frequency waiver pursuant to Section 6.08.025 may have recyclable materials collected once every 14 days.
  - 3. Upon customer request, and with written approval from the director or a designee, franchisee shall cease providing, and collecting payment for, collection services to a premises which is anticipated to be vacant for no less than 30 days. In addition, upon written direction from the director or a designee, franchisee shall modify or otherwise cease providing collection services to customers requesting other service exemptions, provided that such customers consistently demonstrate the ability to responsibly manage discarded materials generated at the premises in question, in a manner consistent with applicable law.
- D. Nothing in this section prohibits a responsible person or generator of a premises from engaging in any of the following activities, in addition to subscribing to the discarded materials collection service of the city or its franchisee:
  - 1. Donating or selling the service recipient's source-separated organic materials to other persons, provided that there is no net payment made by the service recipient to such other person.
  - 2. Self-hauling materials within the requirements of Section 6.08.161.
  - 3. Collecting C&D, if: (a) such persons maintain a city-issued permit granting such right; (b) the C&D was generated from a construction, demolition, alteration, or remodel project pursuant to a permit issued by the city; and (c) such persons comply with all other applicable requirements in Section 6.08.160.
  - 4. Selling any items which are source-separated at any premises by the generator or donating any

items which are source-separated at any premises by the generator to youth, civic, or charitable organizations. Materials will not be deemed donated if they are collected by a non-franchised waste hauler that is not a 501(c)(3) organization.

5. Arranging for the collection of edible food for the purposes of food recovery, regardless of whether the generator donates, sells, or pays a fee to the other person(s) to collect or receive the edible food.
  6. Separating food scraps and using or distributing to other person(s) such food scraps for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7). Food scraps intended for animal feed may be self-hauled by the generator or hauled by another party provided that there is no net payment made by the service recipient to such other person.
  7. Delivering containers for recycling under the California Beverage Container Recycling and Litter Reduction Act (California Public Resources Code Section 14500, et seq.).
  8. Arranging for discarded materials, and/or bulky items to be removed from a premises by a contractor (e.g., gardener, landscaper, tree-trimming service, construction contractor who produces waste other than C&D, residential clean-out service) as an incidental part of the service being performed, rather than as a separately contracted or subcontracted hauling service; or if such contractor is providing a service which is not included in the scope of the franchise agreement.
  9. Composting or otherwise legally managing organic materials at the site where they are generated (e.g., backyard composting, or on-site anaerobic digestion) or at a community composting site.
  10. Preventing or reducing discarded materials.
- E. The responsible person for a commercial or a multifamily premises that does not receive regular recyclable and/or organic materials collection from the city or its franchisee under Section 6.08.020(C)(1) and/or self-hauls discarded materials pursuant to Section 6.08.161 shall submit an annual report to the city: (i) by August 15, 2022, for the period of January 1, 2022 through June 30, 2022; and (ii) by May 1, 2023, and on or before May 1 of each year thereafter, on a form or using a format prescribed by the City Manager. Annual reports submitted, beginning with May 1, 2023, shall include the following information for the entire previous calendar year:
1. The name of the responsible person(s) for the premises.
  2. The address for the premises.
  3. The name for the commercial business (if applicable).
  4. The volume in cubic yards or gallons, measured by the size of the containers in use at the premises, of recyclable materials and organic materials handled through self-hauling or other means, and documentation verifying where all material was transported to.
  5. Additional information as required by the director.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.022. Requirements for multifamily premises.**

- A. In addition to the requirements described in Section 6.08.020 of this chapter and other applicable law,

the responsible person for any multifamily premises must do all of the following:

1. Provide on-site source-separated collection of recyclable materials, organic materials, and solid waste to the occupants of the premises consistent with this chapter.
  2. Provide a sufficient number and type of containers at the property to contain the recyclable materials, organic materials, and solid waste generated by the occupants of the complex or premises.
  3. Place recyclable material containers and organic materials containers in convenient locations for use by occupants of the property, which means placement of recyclable materials containers and organic materials containers adjacent to, or in the immediate vicinity of, solid waste containers in disposal areas. The responsible person must pair recycling containers and organic materials containers with solid waste containers of equivalent volume capacity at each disposal area.
  4. Educate the occupants of the multifamily premises about the recycling and organic waste services as follows:
    - a. The responsible person must annually distribute recycling and organic waste program information to all occupants that describes the types of recyclable materials accepted, the location of recyclable materials containers, and the occupant's responsibility to recycle pursuant to this chapter;
    - b. The responsible person must provide occupants with the recycling and organic waste program information upon their first occupancy or use of the complex or premises; and
    - c. The responsible person must provide occupants with updated recycling program information upon any change in recycling service to the multifamily or commercial premises.
- B. Occupants of a multifamily premises must participate in the recycling program provided by the responsible person by separating recyclable materials from other solid waste and depositing the recyclable materials in the on-site recycling containers.
- C. If the responsible person of a multifamily premises wants to self-haul, meet the self-hauler requirements in Section 6.08.160 of this chapter, including retaining all records (including, but not limited to, receipts and weight tickets) for no less than five years of the amount of recyclable materials and organic waste, delivered to each facility, operation, activity, or property that processes or recovers recyclable materials and organic waste subject to inspection by the city or its designee.
- D. Multifamily premises that generate two cubic yards or more of total discarded materials per week (or other threshold defined by the state) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a multifamily premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.

(Ord. CS-359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.023. Requirements for commercial premises.**

- A. In addition to the requirements described in Section 6.08.020 of this chapter and other applicable law, responsible persons of commercial premises shall:

1. Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with subsection (A)(2) below) for employees, contractors, tenants, and customers, consistent with city's recyclable materials container, organic materials container, and solid waste container collection service or, if self-hauling, consistent with the commercial premises' approach to complying with self-hauler requirements in Section 6.08.160 of this chapter.
2. Provide containers for the collection of source-separated recyclable materials and source-separated organic materials in all indoor and outdoor areas where solid waste containers are provided for customers, for materials generated by that commercial business. Such containers shall be visible and easily accessible. 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 responsible person of the commercial business does not have to provide that particular container in all areas where solid waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the responsible person of the commercial business shall have either:
  - a. A body or lid that conforms with the container colors provided through the collection service provided by 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. The responsible person of the commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
  - b. Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
3. To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the city's recyclable materials container, organic materials container, and solid waste collection service or, if self-hauling, per the instructions of the commercial business's responsible person to support its compliance with self-hauler requirements in Section 6.08.160 of this chapter.
4. Annually inspect recyclable materials containers, organic materials containers, and solid waste 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).
5. Annually provide information to employees, contractors, tenants, and customers about recyclable materials and organic waste recovery requirements and about proper sorting of recyclable materials, organic materials, and solid waste.
6. Provide education information before or within 14 days of occupation of the premises to new tenants that describes requirements to source separate recyclable materials and organic materials and to keep source-separated organic materials and source-separated recyclable materials separate from each other and from other solid waste (when applicable) and the location of containers and the rules governing their use at each property.

7. Provide or arrange access for city or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.
  8. If the responsible person of a commercial business wants to self-haul, meet the self-hauler requirements in Section 6.08.160 of this chapter.
- B. Responsible persons of commercial businesses that are tier one or tier two commercial edible food generators shall comply with food recovery requirements, pursuant to Section 6.08.027 of this chapter.

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.024. (Reserved)**

#### **§ 6.08.025. Waivers for multifamily premises and commercial premises.**

- A. Collection Frequency Waiver. The city, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the responsible person of any multifamily premises or commercial business premises that subscribes to the city's discarded materials collection service to arrange for the collection of their premises' recyclable materials collection container once every 14 days, rather than once per week, if the responsible person utilizes a recycling compactor at the premises for which the responsible person is applying for a waiver.
- B. Review and Approval of Waivers by City. Waivers shall be granted to responsible persons by city according to the following process:
  1. Responsible persons of premises seeking waivers shall submit a completed application form to the sustainable materials management division or other designated city department for a waiver specifying the waiver type requested, type(s) of collection services for which they are requesting a waiver, the reason(s) for such waiver, and documentation supporting such request.
  2. Upon waiver approval, city shall specify that the waiver is valid for three years.

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.026. Requirements for special events.**

- A. The event organizer of a special event permitted under Chapter 8.17 must provide a level of discarded materials service sufficient to contain the solid waste generated at the special event.
- B. The event organizer shall provide containers at convenient locations at the special event to facilitate the source separation of solid waste, organic materials, and recyclable materials by event employees, vendors, and attendees. Convenient locations mean that solid waste containers, organic materials containers, and recyclable materials containers placed next to one another throughout the special event venue. The event organizer must pair recyclable materials containers and organic materials containers with solid waste containers of equivalent volume capacity at each disposal area in the special event venue.
- C. All containers must be clearly identified as either a solid waste, organic materials, or recyclable materials container and must include signage that describes the types of materials that may be deposited in the container.
- D. Large venue or large event operators providing food services must comply with the requirements of

Section 6.08.027 commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

- E. 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 Section 6.08.027, commencing January 1, 2024 pursuant to 14 CCR Section 18991.3. (Ord. CS-359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.027. Requirements for 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, including, but not limited to, large events and large venues as defined in this chapter, must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. 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. Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (a) the collection of edible food for food recovery; or (b) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
  3. Not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
  4. Allow the city's designated enforcement entity or designated third-party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
  5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
    - a. A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
    - b. A copy of all contracts or written agreements established under 14CCR Section 18991.3(b).
    - 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 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.
  6. Maintain records required by this section for five years.
  7. By (i) August 15, 2022 for tier one commercial edible food generators for the period of January

1, 2022 through June 30, 2022; (ii) by May 1, 2023, and on or before May 1 of each year thereafter, for tier one commercial edible food generators; and (iii) by May 1, 2024 for tier two commercial edible food generators, provide an annual food recovery report to the city, covering the entire previous calendar year, that includes the following information:

- a. Weight of edible food donated.
  - b. Weight of rejected edible food.
  - c. Entity(ies) edible food is being donated to, and weight subtotals per entity of edible food donated.
  - d. Any additional information required by the director.
- C. 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 (AB 1219), the federal Good Samaritan Food Donation Act (42 USCA Section 1791 et seq.), or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the California Education Code, and amended Section 114079 of the California Health and Safety Code, relating to food safety) as amended, supplemented, superseded and replaced from time to time. Additionally, nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code (California Health and Safety Code Section 113700 et seq.).

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.028. Requirements for food recovery organizations and services.**

- A. Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain all records required by 14 CCR Section 18991.5(a)(1).
- B. Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain all records required by 14 CCR Section 18991.5(a)(2).
- C. Maintain records required by this section for five years.
- D. Food recovery organizations and food recovery services that have their primary address physically located in the city and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall report to the city the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b). The annual report shall be submitted to the city no later than the dates set forth in Section 6.08.027(B)(7) of each year.
- E. In order to support edible food recovery capacity planning assessments or other studies, food recovery services and food recovery organizations operating in the city shall provide information and consultation to the city, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the city and its commercial edible food generators. A food recovery service or food recovery organization contacted by the city shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the city.
- F. Food recovery organizations and food recovery services that have their primary address physically

located in the city and contract with or have written agreements with one or more commercial edible food generators shall include language in all agreements with tier one and tier two edible food generators located in the city identifying and describing the California Good Samaritan Act, as may be amended from time to time.

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.030. Containers generally.**

- A. No person shall deposit, keep or accumulate any solid waste in or upon any public or private premises unless enclosed in containers. Collection containers shall be provided by the franchisee. The collection containers will remain the property of the franchisee. Every person occupying or having control of any such premises shall insure that a sufficient number of containers are available to properly store all solid waste generated at said premises.
- B. No person shall deposit, keep or accumulate any recyclable materials in or upon any public or private premises unless enclosed within a recyclable materials container.
- C. Collection containers shall be kept in the rear or on the side of the premises or in designated enclosures, except as provided in Section 6.08.080, or as approved by the director.
- D. No person shall dispose of commercial grease or cooking oil in a container intended for recyclable materials.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.040. Cleanliness of discarded materials collection containers.**

No person shall allow grease or decomposing material to accumulate in the interior or on the exterior of a solid waste, recyclable materials, or organic materials collection container. No person shall allow water or other liquids to accumulate in the bottom of a solid waste container in excess of a depth of one inch.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.045. Cleanliness of discarded materials collection container areas or enclosures.**

No person shall allow pollutants or liquids to accumulate around or on discarded materials enclosures or around and/or under discarded materials containers such that stormwater will carry these pollutants or liquids to the stormwater conveyance system.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.050. Discarded materials collection containers to be kept covered.**

No person shall permit a solid waste, recyclable materials, or organic materials collection container to remain uncovered or open, or in such condition that insects or vermin may obtain access to the container, except when necessary to place discarded materials in the container or remove discarded materials from the container, and when the cover is removed for such purposes it shall be immediately replaced.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.055. Composting.**

Every compost pile, bin, holding area or other compost system shall be maintained so as to not create a public nuisance. No compost pile, bin, holding area or other compost system shall be maintained within six feet from an exterior window, exterior door or other exterior entrance to an inhabited residential structure other than one owned by the owner of the compost system.

(Ord. CS-359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.060. Residential discarded materials carts—Maximum weight.**

Residential solid waste, recyclable materials, and organic materials carts, when placed for collection, shall not be at a weight greater than the cart manufacturer's recommended maximum weight.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.070. Maximum residential collection.**

Discarded materials, when placed for collection, shall fit entirely within the confines of the carts with lids securely shut. The franchisee shall not be obligated to collect discarded materials that are placed outside of the carts. Households requiring additional service shall arrange for special collection.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.080. Placement of residential carts for collection.**

Solid waste, recyclable materials, and organic materials carts from single-family premises shall be placed in the street with the wheels against the curb, or if no such curb exists, within the gutter of the public street; in the event that the discarded materials are to be collected from a public alley, the carts shall be placed within five feet of the edge of the right-of-way of such alley. Carts shall be positioned with handles facing away from the street or right-of-way. Carts must be placed at least two feet away from obstacles such as trees, vehicles and mailboxes, one foot away from other carts, and clear from any overhead obstructions such as tree limbs.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.090. Timing of placement of residential carts for collection.**

Solid waste, recyclable materials, and organic materials carts must be placed for collection between the hours of 6:00 p.m. on the day prior to collection and 6:00 a.m. of the day of collection. Carts shall be removed no later than 12:00 a.m. of the day of collection.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.100. Unlawful placement of solid waste.**

No person shall deposit or place any solid waste anywhere other than in an approved solid waste container under the person's control. Further, no person shall abandon, store, bury, and/or burn solid waste on public or private premises, with or without the property owner's permission, except at an authorized solid waste facility.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.110. Unhindered access to collection containers.**

It is unlawful for any person within the city to hinder access of the franchisee to the solid waste, recyclable materials or organic materials collection containers.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.120. Special collection service.**

The franchisee shall provide for the collection of any discarded materials which require special collection. If the special service is not identified in the city's contract with the franchisee, the franchisee shall provide

the service at a rate mutually agreed upon by the customer and the franchisee. Customers shall contract the city's franchisee to arrange for such services.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.130. Bulky item collection.**

Bulky items shall be discarded or recycled through special collection service.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.140. Shared service allowed.**

Multiple tenants within a single building or complex may be allowed to share bin service. Customers utilizing carts shall not be allowed to share service, except at the sole discretion of the director.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.150. Multiple tenant residential service.**

Multiple tenant residential complexes shall be allowed to utilize bin service or individual cart service at the discretion of the owner or property manager. Multiple tenant residential complexes utilizing individual cart service shall be charged the single-family fee per each unit.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

**§ 6.08.160. Hauling discarded materials and construction and demolition debris.**

- A. No person shall haul, carry or transport any discarded materials or construction and demolition debris through the city or along or over any public street or public place in the city except in water-tight vehicles so that the contents are not offensive. Such vehicles shall be so loaded and operated that none of their contents falls or spills from them, and every vehicle used for such purposes shall be kept in a clean and sanitary condition.
- B. Franchisees providing discarded materials collection services, and permitted C&D haulers providing construction and demolition debris collection services, to generators within the city's boundaries shall meet the following requirements unless otherwise stated in the franchise agreement, contract, permit, or other authorization with the city:
  1. Through written notice to the city annually: by (a) August 15, 2022, for the period of January 1, 2022 through June 30, 2022, and (b) by May 1, 2023, and on or before May 1 of each year thereafter, for the period covering the entire previous calendar year, identify the facilities to which they will transport discarded materials and construction and demolition debris, including facilities for source-separated recyclable materials, source-separated organic materials, and solid waste.
  2. Transport source-separated recyclable materials to a facility that recovers those materials; transport source-separated organic materials to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2; transport solid waste to a disposal facility or transfer facility or operation that processes or disposes of solid waste; and transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as alternative daily cover (ADC), or used as alternative intermediate cover (AIC).
  3. Obtain a permit 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 commingled with

organic waste in a manner that complies with 14 CCR Section 18989.1 and any other provision of this code.

4. Permitted C&D haulers must obtain a permit from the city to haul construction and demolition debris to a facility that processes C&D materials.
- C. Franchisee(s) and permitted C&D haulers authorized to collect discarded materials or construction and demolition debris shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement or other agreement or permit entered into with or issued by the city.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.161. Self-hauler requirements.**

- A. All self-haulers shall meet the following requirements:
  1. In order to self-haul materials, a responsible person must first register as a self-hauler with the sustainable materials management division in the manner prescribed by the director or a designee.
  2. Every self-hauler shall source separate its recyclable materials and organic materials (materials that city otherwise requires generators or responsible persons to separate for collection in the city's recyclable materials and organic materials collection program) generated on site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2 and the city's collection program. Self-haulers shall deliver their materials to facilities described in subsection (A)(3) below. Alternatively, self-haulers may choose not to source separate recyclable materials and organic materials and shall haul its solid waste (that includes recyclable materials and organic materials) to a high-diversion organic waste processing facility that is approved by the city.
  3. Self-haulers that source separate their recyclable materials and organic materials shall haul their source-separated recyclable materials to a facility that recovers those materials; haul their source-separated organic waste to a facility, operation, activity, or property that processes or recovers source-separated organic waste; haul their solid waste to a disposal facility or transfer facility or operation that processes or disposes of solid waste; and, haul their manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as alternative daily cover (ADC), or used as alternative intermediate cover (AIC).
- B. All self-haulers that are responsible persons of commercial businesses or multifamily premises shall meet the following requirements:
  1. Keep records of the amount of recyclable materials, organic waste, and solid waste delivered to each facility, operation, activity, or property that processes or recovers recyclable materials and organic waste and processes or disposes of solid waste, or shall keep records of solid waste delivered to high-diversion organic waste processing facilities. These records shall be subject to inspection by the city or its designee. The records shall include the following information:
    - a. Delivery receipts and weight tickets from the entity accepting the recyclable materials, organic materials, and solid waste.
    - b. The amount of material in cubic yards or tons transported by the generator or responsible

person to each entity.

- c. 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 discarded materials.
  - d. Additional information as required by the director.
2. Retain all records and data required to be maintained by this section for no less than five years after the discarded materials were first delivered to the facility accepting the materials.
  3. Provide copies of records required by this section to the city if requested by the director or a designee and provide records at the frequency requested by the director or a designee.
- C. No self-hauler shall haul organic waste or construction and demolition debris unless they comply with all applicable requirements in Section 6.08.160.

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.162. Facility operator requirements.**

- A. Owners of facilities, operations, and activities located in the city's boundaries that recover organic waste, including, without limitation, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the city's 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 30 days.
- B. Community composting operators with operations located in the city's boundaries, upon the city's request, shall provide information to the city to support organic waste capacity planning, including, without limitation, 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 30 days.
- C. Owners of facilities, operations, and activities located in the city's boundaries that receive discarded materials shall provide to the city on a quarterly basis copies of all reports they are required to report to CalRecycle, including at a minimum, those required by AB 901 and SB 1383.

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.170. Unauthorized collection (scavenging).**

It is unlawful for any person, other than an employee of the franchisee or an employee of the city to collect, remove, or dispose of discarded materials placed in collection containers in the city; provided, however, that nothing contained in this section shall prevent the use of garbage disposal devices as regulated by the city plumbing code.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.180. Contracts.**

The city may enter into a contract or contracts, including franchise agreements, under such terms or conditions as may be agreed upon and as may be seen fit by the city for the collection and disposal of discarded materials within the city. No person shall engage in the business of providing discarded materials services, except as provided in Section 6.08.020(C), within the city without having a valid discarded

materials services contract with the city.  
(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.190. Rate and fees for service.**

The rates and fees to be paid for regular (excluding Section 6.08.120) discarded materials services rendered by the franchisee shall be those rates and fees as established from time to time by resolution of the City Council.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.200. Payment of fees.**

- A. It is unlawful for any person having discarded materials collected and disposed of as provided in this chapter, to willfully fail, neglect, or refuse after demand by the city, or its duly authorized agent or employee, to pay the fees prescribed for services. The city and/or franchisee may seek payment for delinquent accounts by any legal means available. In addition to all other remedies available by law or established by this chapter, failure to pay after delinquency may result in suspension of service. The reduction of service level and reinstatement of service for delinquent accounts shall be subject to procedures and limitations of the franchisee's franchise agreement with the city and this chapter.
- B. Franchisee shall bill owners or responsible persons for discarded materials services and be solely responsible for collecting billings at rates set in accordance with the franchise agreement. Billing shall be performed on the basis of services rendered.
- C. All charges due by the property owner or responsible person shall become delinquent if not paid within 30 days after the billing date.
- D. If the bill becomes delinquent, franchisee must provide owners or responsible persons with delinquent accounts with written notice of the delinquency and that franchisee may assess a late fee for bills not paid within 45 days after the billing date.
- E. Franchisee may assess a late fee for bills not paid within 45 days after the billing date, not to exceed the late fees prescribed in the franchise agreement.
- F. Should any service account become more than 120 calendar days past due, franchisee may discontinue providing service to the delinquent account. Franchisee may withhold service from a delinquent account until past delinquencies are paid in full. Upon restoring service to a previously delinquent account, franchisee may require a deposit from the account holder not to exceed the deposit prescribed in the franchise agreement.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.210. Liability for payment.**

The obligation to pay discarded materials services fees is upon the legal owner or owners of the property served. Nothing in this section, however, shall prevent an arrangement under which payments for discarded materials services are made by a tenant or tenants, or an agent, on behalf of the owner, provided any such arrangement shall not affect the owner's obligation for payment of such fees.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.215. Administrative regulations.**

The City Manager may adopt administrative regulations that are consistent with and that further the terms

and requirements set forth within this chapter. All such administrative regulations must be in writing.  
(Ord. CS-359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.218. Inspections and investigations by city.**

- A. The sustainable materials management division, or other designated city department, is 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, and Cal. Code of Regs., Title 14, Section 18982 et seq., by generators, responsible persons of commercial businesses, responsible persons of multifamily premises, commercial edible food generators, haulers, self-haulers, food recovery services, food recovery organizations, and any other entities regulated by this chapter, subject to applicable laws. This section does not allow city to enter the interior of a private residential property for inspection.
- B. Entities regulated by this chapter shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the city's representative or its designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, inspection of edible food recovery activities, review of required records, or other verification or inspection, as prescribed by the director, to confirm compliance with any requirement of this chapter. Failure of a responsible person to provide or arrange for: (1) access to an entity's premises; or (2) access to records for any inspection or investigation is a violation of this chapter and may result in penalties described in Section 6.08.220.
- C. Any records obtained by a city during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- D. City representatives of the sustainable materials management division, or other designated city department, are authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- E. City shall receive written complaints from persons regarding an entity that may be potentially noncompliant with SB 1383 regulations, including receipt of anonymous complaints.

(Ord. CS-408 § 2, 2021)

#### **§ 6.08.220. Enforcement.**

The director shall be responsible for the enforcement of all provisions of this chapter. Nothing in these regulations shall prevent the city's authorized agents or deputies from efforts to obtain compliance by way of warning, notice of violation, educational means or other civil or administrative remedies available under this code or other applicable law.

- A. A violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and administrative citations as appropriate, in conformance with Chapter 1.10 of this code unless otherwise stated in this chapter.
- B. Process for Enforcement.
  - 1. City enforcement officials and/or their designee will monitor compliance with this chapter and through compliance reviews, route reviews, investigation of complaints, and an inspection program. Section 6.08.218 and Chapter 1.10 establish the city's right to conduct inspections and

investigations.

2. The city may issue an official notification to advise regulated entities of their obligations under the chapter.
3. For incidences of prohibited container contaminants found in collection containers, the city or its designee will issue a notice of contamination to any generator or responsible person found to have prohibited container contaminants in a collection container as prescribed by the current franchise agreement, and the city or its designee may assess contamination processing fees on the generator as prescribed by the current franchise agreement.
4. With the exception of violations of contamination of collection container contents addressed under this Section, the 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, the city shall proceed with enforcement pursuant to Chapter 1.10.

C. Penalty Amounts for Types of Violations. The penalty levels for violations of this chapter are as follows:

1. For a first violation, the amount of the base penalty shall be \$50.00 to \$100.00 per violation.
2. For a second violation, the amount of the base penalty shall be \$100.00 to \$200.00 per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be \$250.00 to \$500.00 per violation.
4. The dollar amounts described in subsection D of this section are intended to match the amounts established in Cal. Code of Regs., Title 14, Section 18997.2, as amended.

D. Factors Considered in Determining Penalty Amount. The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

1. The nature, circumstances, and severity of the violation(s).
2. The violator's ability to pay.
3. The willfulness of the violator's misconduct.
4. Whether the violator took measures to avoid or mitigate violations of this chapter.
5. Evidence of any economic benefit resulting from the violation(s).
6. The deterrent effect of the penalty on the violator.
7. Whether the violation(s) were due to conditions outside the control of the violator.

E. Compliance Deadline Extension Considerations. The city 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.
- F. Persons receiving an administrative citation may contest the citation according to the procedure prescribed in Section 1.10.120 of this code.
- G. Education Period for Noncompliance. Beginning January 1, 2022, the city will conduct inspections, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance with this chapter, and if the city determines that generator, responsible person, 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 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 July 1, 2022.
- H. Civil Penalties for Noncompliance. Beginning July 1, 2022, if the city determines that a generator, responsible person, 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. CS-359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.230. Savings clause.**

All code provisions, ordinances, and parts of ordinances in conflict with the provisions of this chapter are repealed. The provisions of this chapter, insofar as they are substantially the same as existing code provisions relating to the same subject matter shall be construed as restatements and continuations of the existing code provisions and not as new enactments. With respect, however, to violations, rights accrued, liabilities accrued, or appeals taken, prior to the effective date of the ordinance codified in this chapter, under any chapter, ordinance, or part of an ordinance otherwise repealed by this chapter, all provisions of such chapter, ordinance, or part of an ordinance shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceedings, with respect to any such violation, right, liability or appeal.

(Ord. CS-183 § 2, 2012; Ord. 359 § 2, 2019; Ord. CS-408 § 2, 2021)

#### **§ 6.08.240. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-408 § 2, 2021)

**CHAPTER 6.10  
PRESCRIPTION DRUG DROP BOXES**

**§ 6.10.010. Purpose.**

- A. The City of Carlsbad recognizes that unwanted, unused or expired prescription drugs, are a public safety, public health and environmental hazard because they can fall into the hands of children or criminals or be introduced to the environment through improper disposal.
- B. The city also acknowledges that experience has shown that parents, patients and others in possession of such prescription drugs will take advantage of opportunities for safe and secure disposal.
- C. The purpose of this chapter is to provide a safe and secure mechanism for the public to dispose of their unwanted, unused or expired prescription drugs at designated city facilities.

(Ord. CS-240 § 1, 2014)

**§ 6.10.020. Definition.**

"Prescription drug" means a drug requiring a prescription, as opposed to an over-the-counter drug, which can be purchased without a prescription.

(Ord. CS-240 § 1, 2014)

**§ 6.10.030. Police and fire departments—Possession of controlled substances in the form of unwanted, unused and expired prescription drugs.**

In accordance with the purpose and provisions of Title 21 Code of Federal Regulations Section 1301.24(a)(2), as amended from time to time, or any applicable successor provision of federal law, the Carlsbad Police Department and Carlsbad Fire Department are authorized to collect and possess controlled substances in the form of unwanted, unused and expired prescription drugs in the performance of their duties, and to dispose of such controlled substances according to state and federal laws.

(Ord. CS-240 § 1, 2014)

## CHAPTER 6.12 JUNK

**Note: As to garbage, rubbish and weeds, see Ch. 6.08. As to license fees for junk businesses, junk dealers, and junk collectors, see Section 5.08.090.**

### **§ 6.12.010. Definitions.**

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them in this section:

"Front lot line" means the line separating the front of the lot from the street. If a lot is bounded by more than one street, then the front lot line is the line most nearly facing the front of the main building on the lot; provided, that if there is no building on the lot the front lot line may be designated by the owner of the lot;

"Front yard" means a yard extending across the full width of a lot and extending from the front lot line to the front foundation line, and its prolongations of the main building. If the lot is vacant, the front yard depth shall be 50 feet;

"Junk" means any combustible or noncombustible nonputrescible waste, including, but not limited to, trash, refuse, paper, glass, cans, bottles, rags, fabrics, bedding, ashes, trimmings from lawns, shrubbery or trees, except when used for mulch or like agriculture purposes, household refuse other than garbage, lumber, metal, plumbing fixtures, bricks, building stones, plaster, wire or like materials from the demolition, alteration or construction of buildings or structures, tires or inner tubes, auto, aircraft or boat parts, plastic or metal parts or scraps, damaged or defective machinery, whether or not repairable, and damaged or defective toys, automotive equipment, recreational equipment or household appliances or furnishings, whether or not repairable;

"Lot" means lot or parcel two acres or less in size;

"Lot used for residential purposes" means a lot on which one or more dwellings are located;

"Rear lot line" means the lot boundary line or lines most distant from and generally opposite the front lot line;

"Side lot line" means any lot boundary line that is not a front or rear lot line.

(Ord. 5039 § 1)

### **§ 6.12.020. Accumulation deemed nuisance.**

The accumulation of junk contrary to this chapter is declared to be a public nuisance.

(Ord. 5039 § 11)

### **§ 6.12.030. Accumulation prohibited—Exceptions.**

No person shall accumulate junk:

- A. On any lot that is not in his or her ownership or possession, unless he or she has permission from the owner of such lot to do so.
- B. On any lot used for residential purposes, unless done in strict compliance with Section 6.12.040.
- C. On any parcel of land adjacent to a lot used for residential purposes, except:

1. As a part of and incident to a lawfully established and conducted commercial or industrial enterprise; or
  2. When done in strict compliance with Section 6.12.040.
- D. On any lot or parcel that is not in strict compliance with Chapter 15.12, Stormwater Management and Discharge Control.

(Ord. 5039 § 2; Ord. NS-625 § 6, 2002)

#### **§ 6.12.040. Regulations for accumulation.**

- A. No person shall accumulate junk or permit junk to be accumulated on a lot used for residential purposes or on a lot adjacent to a lot used for residential purposes except in agricultural zones:
1. Within four feet of any building or structure, except that junk may be accumulated within two feet of a fence or wall which is constructed of nonflammable material and is not used for structural support of a building;
  2. Within 15 feet of any rear lot line;
  3. Within 10 feet of any side lot line;
  4. In the front yard or in the street side yard of a corner lot.
- B. No person shall accumulate junk, or permit junk to be accumulated on a lot that is used for residential purposes, except in accordance with all of the following regulations:
1. The accumulation shall not be maintained so as to be conducive to the breeding, shelter or harborage of insects, rodents, vermin or pests;
  2. The accumulation shall not be strewn about or maintained in an unsightly condition;
  3. The accumulation shall be maintained so as not to constitute a fire hazard;
  4. Any accumulation of junk maintained on a lot for more than 30 days shall, from and after the thirtieth day of such accumulation, be stored in opaque containers;
  5. The accumulation shall be maintained so as not to constitute a danger or potential danger to the public health, safety or welfare;
  6. The accumulation shall not be a source of pollutants to stormwater or the stormwater conveyance system as defined in Chapter 15.12.

(Ord. 5039 § 3; Ord. NS-625 § 7, 2002)

#### **§ 6.12.050. Junkyards.**

This chapter does not prohibit the accumulation of junk in the course of the lawful operation of a junkyard, motor vehicle storage or wrecking yard, or salvage yard conducted in a manner otherwise authorized by ordinance. Nothing contained in this chapter shall be deemed to authorize the establishment or maintenance of a junkyard, motor vehicle storage or wrecking yard or salvage yard.

(Ord. 5039 § 4)

**§ 6.12.060. Firewood.**

This chapter does not prohibit the accumulation of used lumber, lumber scraps, tree and shrubbery trimmings or materials fabricated out of wood for use as firewood or fuel; provided, however, that any such accumulation shall be neatly stacked and shall be maintained in accordance with the provisions of paragraphs 1 and 4 of subsection A, and paragraphs 1 through 3 of subsection B of Section 6.12.040.  
(Ord. 5039 § 5)

**§ 6.12.070. Violation determination.**

The director shall determine whether or not a person is accumulating junk in such a manner as to constitute a violation of this chapter. In making such determination, the director may consider the nature, size and extent of the accumulation; the length of time the accumulation has been permitted to remain; whether, and to what extent the accumulation is detrimental to the public health, safety and welfare; and whether any unusual conditions exist that would render the disposal of such junk in a lawful manner a hardship.  
(Ord. 5039 § 6; Ord. 1261 § 9, 1983; Ord. NS-176 § 5, 1991; Ord. NS-625 § 7, 2002)

**§ 6.12.080. Notice of violation—Service to owner—Form.**

If the director determines that an accumulation of junk exists in violation of this chapter, the director shall give a written notice and order to the owner or to the occupant of the premises or, if such person cannot be located on the premises, to any person over the age of 18 years who is apparently in possession of the premises or, if there is no such person, then by mailing such written notice and order, postage prepaid, return receipt requested, to the person shown to be the owner by the latest equalized assessment roll or any more recent record in the office of the county assessor. Such written notice and order shall be substantially in the following form:

You are hereby informed that the Director of the City of Carlsbad has determined that there is an unlawful accumulation of junk, contrary to Ordinance No. NS-625, on the following premises: \_\_\_\_\_ (street address or other designation of premises).

(Ord. 5039 § 7; Ord. 1261 § 9, 1983; Ord. NS-176 § 5, 1991; Ord. NS-625 § 9, 2002)

**§ 6.12.090. Appeal from notice.**

Any person served with a notice and order made pursuant to Section 6.12.080 may appeal to the City Council as provided in Section 6.12.100 and such appeal shall stay the effect of such notice and order until the City Council hears the appeal and issues its order modifying, vacating or affirming such notice and order. Such appeal and stay of the notice and order shall not relieve any person from liability or responsibility, criminal or civil, for maintaining an unlawful accumulation of junk and shall not stay or prevent the filing or prosecution of a criminal or civil action for the maintenance of such unlawful accumulation of junk.

(Ord. 5039 § 8)

**§ 6.12.100. Hearing and findings—Enforcement.**

Within a period of three days (exclusive of Saturdays, Sundays and holidays) following the service of written notice and order by the director pursuant to Section 6.12.080 the person ordered to remove the accumulation of junk may file with the City Clerk a written appeal from such notice and order. Such appeal shall contain the appellant's name, mailing address and a general statement of exceptions taken by the appellant to the notice and order. Upon receipt of an appeal, the City Clerk shall immediately notify the director and shall set such appeal for hearing before the City Council. Such clerk shall forthwith give

written notice of the time, date and place of hearing to the director and shall send a copy of such notice through the United States mail to the appellant at the address specified in the appeal. At the time, date and place indicated, the director shall produce evidence of the existence of the unlawful accumulation of junk which is the subject of the director's notice and order. The appellant may likewise produce relevant evidence. The City Council shall consider all relevant evidence produced at such hearing, and if it finds by the preponderance of the evidence that there is in fact an unlawful accumulation of junk, it may declare the same to be a public nuisance. The determination that such accumulation of junk constitutes a public nuisance shall be supported by such findings as are necessary and proper, which findings need not be reduced to writing unless the appellant so requests at the hearing. Upon determining that a public nuisance exists, the City Council may order the abatement thereof upon such terms and conditions as it deems reasonable and just under the circumstances, or it may modify or affirm the notice and order made by the director. If the City Council does not find that a public nuisance exists, it shall vacate the order of the director, in which event the City Council need not make findings. In the event that the City Council determines that a public nuisance exists and orders the abatement thereof, the director shall serve the order of abatement in the manner described in Section 6.12.080, shall enforce the order, may supervise the abatement of the nuisance, if the director deems it necessary to do so, and may make such further orders in furtherance of such order of abatement as he or she deems necessary under the circumstances. Fees for filing an appeal under this section shall be established by resolution of the City Council.

(Ord. 5039 § 9; Ord. 1261 § 9, 1983; Ord. NS-176 §§ 2, 5, 1991; Ord. NS-625 § 10, 2002)

#### **§ 6.12.110. Failure to comply with notice and order.**

Failure to comply with the notice and order given by the Community and Economic Development Director pursuant to Section 6.12.080 or with the order of abatement given by the City Council pursuant to Section 6.12.100 constitutes a misdemeanor.

(Ord. 5039 § 10; Ord. 1261 § 9, 1983; Ord. NS-176 § 5, 1991; Ord. CS-164 § 14, 2011)

## CHAPTER 6.14 PROHIBITION OF SMOKING IN UNENCLOSED DINING AREAS

**Note: Prior ordinance history: Ord. No. 5065.**

### **§ 6.14.010. Purpose.**

Because smoking of tobacco, or any other weed or plant, is a danger to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in unenclosed areas as well as confined places, in order to serve public health, safety and welfare, the declared purpose of this article is to prohibit the smoking of tobacco, or any other weed or plant in unenclosed dining areas.

(Ord. CS-188 § II, 2012)

### **§ 6.14.020. Definitions.**

"Enclosed dining area" as defined in this chapter means an area enclosed by a roof and walls with appropriate openings for ingress and egress.

"Public place" as defined in this chapter means any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement.

"Reasonable distance" as defined in this chapter shall mean a distance of 20 feet in any direction from an area in which smoking is prohibited.

"Smoke" or "smoking" as defined in this chapter shall mean and includes (1) the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind; or (2) the use of an electronic cigarette as defined in California Health and Safety Code Section 119405 ("e-cigarette") or a similar device intended to emulate smoking, which permits a person to inhale vapors or mists that may or may not include nicotine.

"Unenclosed dining area" as defined in this chapter shall mean any dining area, which is not an enclosed dining area, including streets and sidewalks, which is available to or customarily used by the general public, an employee, or any invitee, and which is designed, established, or regularly used for consuming food or drink.

(Ord. CS-188 § II, 2012; Ord. CS-237 § 1, 2013)

### **§ 6.14.030. Prohibition.**

Smoking is prohibited in unenclosed dining areas within the City of Carlsbad, except places where smoking is already prohibited by state or federal law, in which case those laws apply.

(Ord. CS-188 § II, 2012)

### **§ 6.14.040. Reasonable smoking distance required.**

Smoking shall be prohibited within a reasonable distance, as defined in this chapter, from any unenclosed dining area.

(Ord. CS-188 § II, 2012)

### **§ 6.14.050. Optional prohibition.**

Nothing in this chapter prohibits any person, corporation or any other legal entity, or employer, with legal control over any property from prohibiting smoking on any part of such property, even if smoking is not

otherwise prohibited in that area by law.

(Ord. CS-188 § II, 2012)

#### **§ 6.14.060. Posting of signs.**

Any person, corporation or any other legal entity, or employer that has legal or de facto control of an unenclosed dining area in which smoking is prohibited by this chapter shall post a clear, conspicuous and unambiguous "No Smoking" or "Smoke-free" sign at each point of ingress to the area, and in at least one other conspicuous point within the area. The signs shall have letters of no less than one inch in height and shall include 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). Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of smoking in violation of any other provision of this chapter.

(Ord. CS-188 § II, 2012)

#### **§ 6.14.070. Other requirements and prohibitions.**

No ashtrays or smoking disposal receptacles shall be placed in areas where smoking is prohibited.

(Ord. CS-188 § II, 2012)

#### **§ 6.14.080. Penalties and enforcement.**

- A. Each incident of smoking in violation of this chapter is punishable pursuant to Chapter 1.08 of this code, or in alternative by the administrative code enforcement remedies of Chapter 1.10 of this code.
- B. Except as otherwise provided, enforcement of this chapter is at the sole discretion of the persons authorized to enforce this chapter pursuant to Chapters 1.08 and 1.10 of this code. Nothing in this chapter shall create a right of action in any person against the city or its agents for damages or to compel public enforcement of this chapter against private parties.

(Ord. CS-188 § II, 2012)

**CHAPTER 6.16  
PUBLIC NUISANCES AND PROPERTY MAINTENANCE**

**Note: For provisions regarding animal nuisances, see Section 7.04.010.**

## Article I General

### **§ 6.16.005. Declaration of purpose and statutory authority.**

The purpose of this chapter is to establish comprehensive and transparent procedures for the administrative and summary abatement of public nuisances and code violations, including public nuisances related to property maintenance. The procedures established in these sections are in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address municipal code or applicable state code violations.

The provisions of this chapter are authorized by California Constitution, Article 11, Section 7, California Civil Code Section 3491, California Code of Civil Procedure Section 731, California Government Code Sections 25485, 38771, 38773.5, and California Penal Code Section 372.

(Ord. CS-385 § 2, 2020)

### **§ 6.16.010. Public nuisance defined.**

"Public nuisance" means any condition caused, maintained, or in existence which constitutes a threat to the public's health, safety, and welfare or to the environment, or which significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood, community, or to any considerable number of persons, or which constitutes a public nuisance under California Civil Code Sections 3479 through 3480.

"Public nuisance" also means real property which is maintained in such a defective, unsightly, dangerous, or deteriorated condition, or state of disrepair, that the property will or may cause harm to persons, or will be materially detrimental to property or improvements located in the immediate vicinity of the property.

(Ord. CS-385 § 2, 2020)

### **§ 6.16.015. Specific conditions constituting a public nuisance.**

The existence of any of the following conditions on any property is a public nuisance:

- A. Conditions related to property maintenance, as set forth in Article III of this chapter.
- B. Any obstruction to the free flow of drainage water in a natural drainage course, such as streams, rivers, and creeks.
- C. Land that is in a state to cause or contribute to erosion, subsidence, or surface water drainage impacting adjacent public properties.
- D. Buildings which are abandoned, partially destroyed, or remain unreasonably in a state of partial construction with no observable work performed for a period of six months or longer.
- E. Buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to such an extent they cannot be repaired so as to conform to the requirements of the building code in effect in this city. Buildings which have been partially destroyed or demolished by these causes and which remain in such a state for a period of six months or longer shall also be a violation of this subsection.
- F. The failure to close, by means acceptable to the building official, all doorways, windows, and other openings into vacant structures.
- G. Any condition, instrument, or machine on real property that is unsafe and unprotected and

consequently dangerous to minors by reason of their inability to appreciate its peril, and which may be reasonably expected to attract minors to the property and thus risk injury to them by their playing with, in, or on it (i.e., attractive nuisances).

- H. Graffiti on any public or privately owned structures within the city. For purposes of this chapter, "graffiti" means any form of painting, writing, inscription, or carving on any surface, regardless of the content or the nature of the material used in the commission of the act, which was not authorized in advance by the owner of the surface.
- I. All other conditions deemed to be a "nuisance" or "public nuisance" as defined throughout this code.
- J. Property upon which any violation of this code or any applicable state, county, or local law exists, or property which is used in violation of this code or any applicable state, county, or local law.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.020. Determination of nuisance on real property.**

Whenever the enforcement officer, as that term is defined in Section 1.10.010, determines that there exists on any real property in the city a public nuisance, the enforcement officer may serve upon the property owner and responsible party, as that term is defined in Section 1.10.010, a notice of violation under Section 1.10.030 setting forth the nature of the public nuisance. The notice shall be served in accordance with Section 1.10.040.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.030. Right to appeal notice of violation.**

The property owner and/or responsible party may appeal the notice of violation of public nuisance within 10 calendar days from the date of service of the notice of violation by filing a written request to appeal as required by Section 1.10.120. The administrative appeal procedures shall follow those set forth in Section 1.10.130.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.040. Failure to abate nuisance.**

If a public nuisance noticed pursuant to Section 6.16.020 is not appealed within 10 calendar days, and is not abated on or before the date described in the notice of violation, the City Manager or designee shall cause to be issued a separate notice of nuisance abatement hearing, in accordance with Sections 6.16.050 and 6.16.060, for the holding of a public hearing before the City Council to determine whether a public nuisance exists and whether abatement is appropriate.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.050. Form and notice of nuisance abatement hearing.**

Notice of the time and place of hearing before the City Council shall be titled, "NOTICE OF NUISANCE ABATEMENT HEARING," in letters not less than three-fourths of an inch in height and shall be substantially in the following form, as approved by the City Attorney:

NOTICE OF HEARING TO DETERMINE EXISTENCE OF PUBLIC NUISANCE AND TO ABATE  
IN WHOLE OR PART.

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at the hour of \_\_\_\_\_, the City Council of Carlsbad will hold a public hearing in the Council Chambers, located at 1200 Carlsbad Village Drive, Carlsbad, California, to ascertain whether certain premises situated in the City of Carlsbad, State of California, more particularly described as:

[provide assessor's parcel number and legal description]

constitute a public nuisance subject to abatement by the rehabilitation of the premises or by the repair or demolition of buildings or structures situated on the premises. If the premises, in whole or part, are found to constitute a public nuisance as defined by Chapter 6.16 of the Carlsbad Municipal Code, and if the premises are not promptly abated by the owner, the nuisances may be abated by municipal authorities and/or their contractors or agents, and the rehabilitation, repair, or demolition will be assessed upon the premises and the cost will constitute a lien or special assessment against the land until paid. The alleged violations consist of the following:

[describe public nuisance violations]

The methods of abatement available are:

[describe methods]

All persons having any objection to, or interest in this matter are hereby notified to attend a meeting of the City Council of the City of Carlsbad to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, at the hour of \_\_\_\_\_ when their testimony and evidence will be heard and given due consideration.

DATED:

City Manager of the City of Carlsbad (or title of designee)

(Ord. CS-385 § 2, 2020)

**§ 6.16.060. Posting and service of notice of nuisance abatement hearing.**

- A. The City Manager or designee shall cause to be served upon the property owner and any mortgagee and/or beneficiary under any recorded deed of trust of the affected premises a copy of a notice of nuisance abatement hearing as set forth in Section 6.16.050, and shall cause a copy to be conspicuously posted on the affected premises.
- B. Notice shall be served as required by Section 1.10.040 at least 15 calendar days before the time fixed for the hearing. If any owner's address is unknown, this shall be stated in the notice and the notice shall be sent to the owner in care of the San Diego County Tax Assessor. Proof of posting and service of the notices shall be made by an affidavit or declaration that shall be filed with the City Clerk certifying the time and manner in which the notice was given, along with any registered or certified mail receipt cards which may have been returned to the city acknowledging receipt of said mail.
- C. Prior to the hearing before the City Council, a second notice shall be issued in the same manner as described above at least five calendar days before the time fixed for such hearing. The service is complete at the time of such deposit.
- D. "Owner," as used in this section, means any person in possession and also any person having or claiming to have any legal or equitable interest in the affected premises, including, but not limited to, a mortgagee and/or beneficiary, as disclosed by a current title search from any accredited title company. The failure of any person to receive the hearing notice does not affect the validity of the proceedings under this chapter.

(Ord. CS-385 § 2, 2020)

**§ 6.16.070. Hearing by City Council.**

At the time stated in the hearing notice, the City Council shall hear and consider all relevant evidence, objections or protests, and shall receive relevant testimony from owners, witnesses, city personnel, and interested persons relative to the alleged public nuisance and to the proposed rehabilitation, repair, or demolition of the premises. The hearing may be continued from time to time.

(Ord. CS-385 § 2, 2020)

**§ 6.16.080. Decision of City Council—Abatement order.**

Upon or after the conclusion of the nuisance abatement hearing, the City Council shall, based upon the hearing, determine whether the premises, or any part of it, as maintained, constitutes a public nuisance as defined in this chapter. If the City Council finds that a public nuisance exists and that there is sufficient cause to rehabilitate, demolish, or repair the premises, the City Council shall adopt a resolution ("abatement order") setting forth its findings and ordering the owner or other person having charge or control of the premises to abate the nuisance by having the premises, buildings, or structures rehabilitated, repaired, or demolished within the period specified in the resolution, which shall not be less than 30 calendar days after the adoption of the resolution, in the manner and by the means specifically set forth in the resolution. The abatement order shall also contain authorization for the city to abate the nuisance pursuant to this chapter if, in the City Council's discretion, it is determined that immediate abatement by the city in whole or in part is warranted. The decision and resolution of the City Council shall be final and conclusive.

(Ord. CS-385 § 2, 2020)

**§ 6.16.090. Limitation of filing judicial action.**

Any owner or other interested person having any objections or feeling aggrieved at any proceeding taken by the City Council in ordering the abatement of any public nuisance under this chapter must bring an action to contest the decision in a court of competent jurisdiction within the time period specified in Section 1.16.020.

(Ord. CS-385 § 2, 2020)

**§ 6.16.100. Service of abatement order.**

- A. Within five calendar days of the adoption of the abatement order, the city shall post a copy of the abatement order conspicuously on the premises, buildings, or structures declared to be a nuisance and serve another copy to the parties as required by Section 1.10.040. The abatement order shall contain a detailed list of needed corrections and abatement methods. Any property owner has the right to have the premises rehabilitated or to have the buildings or structures demolished or repaired in accordance with the abatement order and at the owner's own expense, provided the rehabilitation, demolition, or repair is done prior to the expiration of the abatement period set forth in the abatement order. Upon abatement in full by the owner, the proceedings under this chapter shall terminate.
- B. If a nuisance is not completely abated by the owner within the designated abatement period, then the City Manager or designee is authorized and directed to cause the nuisance to be abated by city agents, employees or by private contract. Upon request of the designated official, other city departments shall cooperate fully and shall render reasonable assistance in abating the nuisance.
- C. Any parties authorized by the City Manager or designee to perform the abatement work may enter upon the subject property only after: (1) receiving written consent of the property owner or his/her

authorized agent; (2) the issuance of a judicially authorized inspection warrant; or (3) a determination by the City Attorney's office that an exception to the inspection warrant requirement applies.  
(Ord. CS-385 § 2, 2020)

**§ 6.16.110. Nuisance abatement violation—Penalty.**

- A. The owner or other person having charge or control of a buildings or premises who violates any abatement order issued under this chapter, or under state law where applicable, is guilty of a misdemeanor.
- B. Any occupant or lessee in possession of a building or structure who fails to vacate the building or structure in accordance with an order issued under this chapter is guilty of a misdemeanor.
- C. Any person who removes any notice or order posted under this chapter is guilty of a misdemeanor.
- D. No person shall obstruct, impede, or interfere with any representative of the City Council or with any representative of a city department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished and removed, or with any person to whom the building has been lawfully sold pursuant to the provisions of this code, whenever the representative of the City Council, representative of the city, purchaser, or person having any interest or estate in the building is engaged in vacating, repairing, rehabilitating, or demolishing and removing the building under the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work as authorized or directed under this chapter.
- E. The provisions of this chapter are also enforceable, and violations are punishable, under Chapter 1.08. Chapter 1.08 allows for the issuance of infraction or misdemeanor citations for violations of certain sections of this code. Criminal prosecution shall not preclude nor be precluded by abatement of the violation or violations.
- F. It is unlawful and a misdemeanor for any person to do any act or thing upon the property of another that is declared to be a public nuisance under any provision of this code, or to do anything or act upon the property of another that results in the declaration of a public nuisance, without the express consent of the owner of the property.

(Ord. CS-385 § 2, 2020)

**§ 6.16.120. Account of cost of abatement to be kept.**

- A. The City Manager or designee shall keep an account of the cost of abatement and of rehabilitating, demolishing, or repairing any premises, buildings, or structures, including any related salvage value and administrative costs. Upon completion of this work, the City Manager or designee shall authorize a written abatement cost report stating these costs.
- B. For purposes of this chapter, "administrative costs" includes, without limitation, the actual expenses and costs of the city in preparing, printing, and mailing notices, specifications and contracts and in inspecting the work, and may include attorneys' fees.

(Ord. CS-385 § 2, 2020; Ord. CS-402, 2021)

**§ 6.16.130. Copies of abatement cost report to be served.**

The City Manager or designee shall cause a copy of the abatement cost report to be served on the property owner and the responsible party per Section 1.10.040.

(Ord. CS-385 § 2, 2020)

**§ 6.16.140. Challenges to abatement cost report.**

The property owner and/or responsible party may dispute the abatement cost report within 10 calendar days from the date of service of the abatement cost report by filing a written dispute with the City Clerk. The property owner and/or responsible party shall set forth the basis of the dispute and submit relevant documentation in support of their dispute.

(Ord. CS-385 § 2, 2020)

**§ 6.16.150. Hearing on abatement cost report—Abatement cost order.**

- A. If a property owner and/or responsible party timely challenges the abatement cost report, the City Council shall set the matter for hearing to determine the correctness or reasonableness, or both, of such costs.
- B. A copy of the abatement cost report and notice of hearing shall be served upon the property owner and/or responsible party challenging the report in accordance with Section 1.10.040, at least five calendar days prior to the date of the City Council hearing.
- C. Proof of service of the abatement cost report and notice of hearing shall be made by affidavit or declaration, under penalty of perjury, filed with the City Clerk at least five calendar days prior to the date of the City Council hearing.
- D. At the time and place fixed for receiving and considering the report, the City Council shall hear and pass upon the report of the costs of abatement, together with any objections, protest, or documentation submitted by the property owner and/or responsible party. By resolution, the City Council shall adopt an abatement cost order that:
  1. Determines the correct cost of abatement and related administrative costs.
  2. If necessary, modifies the abatement cost report to conform to such corrected abatement and administrative costs.
  3. Confirms the abatement cost report as presented or modified.
  4. States the date of the final abatement cost report.
  5. Determines and states the correct legal description of the subject property, the correct county assessor's parcel number, the street address, and the name and address of the recorded owner based on the last equalized assessment roll or the supplemental roll, whichever is more current.

The decision of the City Council shall be final and conclusive.

(Ord. CS-385 § 2, 2020)

**§ 6.16.160. Abatement cost to be lien against property.**

The cost of abatement and related administrative costs, as determined, shall be a:

- A. Personal obligation of the person creating, causing, committing, or maintaining the nuisance abated;
- B. Personal obligation of the property owner of the subject property; and
- C. Special assessment against the subject property or a lien against the subject property.

(Ord. CS-385 § 2, 2020)

**§ 6.16.170. Collection of cost of abatement.**

The cost of abatement and any related administrative costs, as confirmed, may be collected by the city by the following means or any other lawful means:

- A. Nuisance Abatement Lien. The City Manager or designee may authorize recordation of a nuisance abatement lien in the office of the County Recorder, along with an acknowledged copy of the abatement cost report(s), abatement cost order (if applicable), and the abatement order.
  1. Prior to recordation, a notice of lien shall be served on the owner of record, based on the last equalized assessment roll or the supplemental roll, whichever is more current.
  2. The notice shall be served in the same manner as a summons in a civil action in accordance with California Code of Civil Procedure Section 415.10 et seq. If the owner of record after diligent search cannot be found, the notice may be served by posting a copy in a conspicuous place upon the property for a period of 10 calendar days and publishing it in a newspaper of general circulation in San Diego County pursuant to California Government Code Section 6062.
  3. The nuisance abatement lien authorized by this section shall be in a form approved by the City Attorney substantially as follows:

[Name and address of the recorded owner of the parcel]

**NOTICE OF LIEN - CLAIM OF CITY OF CARLSBAD**

Pursuant to the authority vested by the provisions of Chapter 6.16 of the Carlsbad Municipal Code, the City Manager or designee of the City of Carlsbad did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, cause the premises hereinafter described to be rehabilitated, or the building or structure on the real property hereinafter described to be repaired or demolished, in order to abate a public nuisance; and the City Manager/City Council of the City of Carlsbad (circle one) did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, assess the cost of such rehabilitation, repair or demolition upon said real property hereinafter described; and the same has not been paid nor any part thereof; and that the City of Carlsbad does hereby claim a lien on such rehabilitation, repair or demolition in the amount of said assessment, to wit: the sum of \$ \_\_\_\_\_, and the same shall be a lien upon said real property until the same has been paid in full and discharged of record. The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Carlsbad, County of San Diego,

State of California, and more particularly described as follows: [Assessor Parcel Number and legal description]

DATED:

City Manager of the City of Carlsbad

4. From the date of recording, the nuisance abatement lien shall have the force, effect, and priority of a judgment lien and may be foreclosed by an action brought by the city for a money judgment.
5. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.
6. In the event that the lien is discharged or released or satisfied, either through payment or foreclosure, notice of the discharge ("release of lien") containing the information contained in subsection (A)(3) of this section shall be recorded in the County Recorder's office. A courtesy

copy shall also be provided to the recorded property owner consistent with the service methods in Section 1.10.040.

B. Special Assessment. As an alternative to the recordation of a nuisance abatement lien, the City Manager or designee may make the cost of abatement of a nuisance a special assessment against that parcel, using the following procedures:

1. The City Manager or designee shall file an acknowledged copy of the abatement cost report(s), abatement cost order (if applicable), and the abatement order with the auditor of the county, who shall enter the assessment on the county tax roll opposite the subject property.
2. Prior to the filing with the auditor of the county in accordance with subsection (B)(1) above, the property owner, if his/her identity can be determined from the county assessor's or County Recorder's records, should be provided a notice of special assessment by certified mail, similar in form to the notice of lien described in subsection (A)(3) of this section. The notice of special assessment shall include as an attachment an acknowledged copy of the abatement cost report, abatement cost order (if applicable), and the abatement order. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.
3. The amount of the assessment may be collected at the time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.
4. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches on the real property prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.
5. If the city imposes an assessment pursuant to this section, it may, subject to the requirements applicable to the sale of property pursuant to California Revenue and Taxation Code Section 3691, conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.

C. Civil action by the city.

D. In addition to any other costs of abatement under this chapter, upon the entry of a second or subsequent civil or criminal judgment within a two-year period in which the owner of real property is responsible for a condition that may be abated under this chapter, except for conditions under the State Housing Law (see California Health and Safety Code Section 17980), a court may order the property owner to pay triple the costs of the abatement.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.180. Strict liability offense.**

Violations of this chapter shall be treated as strict liability offenses regardless of intent.

(Ord. CS-385 § 2, 2020)

**§ 6.16.190. No mandatory duty.**

Nothing in this chapter is intended to create a mandatory duty on behalf of the city or its employees under the Government Claims Act (California Government Code Section 900 et seq.) and no cause of action against the city or its employees is created by this chapter that would not arise independently of the provisions of this chapter.

(Ord. CS-385 § 2, 2020)

**§ 6.16.200. Alternative means of enforcement.**

This chapter is not the exclusive regulation of nuisance code violations. It shall supplement and be in addition to other regulatory codes, statutes, and ordinances enacted by the state or any other legal entity or agency having jurisdiction. Nothing in this chapter shall be deemed to prevent the city from authorizing the City Attorney to commence any other available civil or criminal proceedings to abate a public nuisance under applicable provisions of state law as an alternative to proceedings set forth in this chapter.

(Ord. CS-385 § 2, 2020)

**§ 6.16.205. Attorneys' fees.**

In any judicial action, administrative proceeding or special proceeding to abate a nuisance, the prevailing party shall recover the incurred attorneys' fees as follows:

- A. The recovery of attorneys' fees by the prevailing party is limited to those individual actions or proceedings in which the city elects, at the initiation of the action or proceeding, to seek recovery of its own attorneys' fees.
- B. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

(Ord. CS-402 § 3, 2021)

## Article II **Summary Abatement**

### **§ 6.16.210. General.**

A nuisance may be summarily abated without notice, hearing, or a warrant when immediate action is necessary to preserve or protect the public health and safety. Summary abatement actions are not subject to all of the requirements of Article I of this chapter, but instead shall be subject to the following requirements.

(Ord. CS-385 § 2, 2020)

### **§ 6.16.220. Determination of summary abatement.**

- A. The City Manager or designee shall make a determination that a public nuisance exists that poses an immediate risk to the health, safety, or welfare of the public, persons in the city, or the environment.
- B. Whenever possible, the city shall attempt to contact the responsible party and property owner, as defined in Section 1.10.010, to request abatement of the nuisance prior to the city proceeding with summary abatement. If the responsible party and property owner are not available, or are incapable, or unwilling to abate the nuisance, the city may proceed with summary abatement using the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard.
- C. Notwithstanding the requirement in subsection B, the City Manager or designee may exercise the following powers without prior notice to the responsible party and property owner:
  1. Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed.
  2. Post the premises as unsafe, substandard, or dangerous.
  3. Board, fence, or secure the building or site.
  4. Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public.
  5. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard.
  6. Take any other action as reasonably appropriate under the circumstances of an immediate hazard.
  7. Exercise any of the summary abatement powers listed in this subsection to remove items placed or stored on city property, sidewalks, or public rights-of-way.
  8. Pursue any administrative or judicial remedy to abate any remaining public nuisance.

(Ord. CS-385 § 2, 2020)

### **§ 6.16.230. Summary abatement cost report.**

- A. The City Manager or designee shall maintain the following records and shall prepare a report of summary abatement that contains the following:
  1. A description of the time, duration, type, and extent of the nuisance;
  2. An evaluation of the risks to the health, safety, and welfare of the public and/or the environment

- caused by allowing the nuisance to continue;
3. Steps taken to contact the responsible party and property owner;
  4. All costs associated with the investigation and summary abatement of the nuisance, including the costs of personnel, equipment, facilities, materials, and other external resources.
- B. Within 10 business days after the determination is made by the City Manager or designee to summarily abate the nuisance, a notice of determination and a copy of the report of summary abatement shall be served on the responsible party, the owner of record of the parcel of land where the nuisance originated, and all persons known to have any legal interest in the property. The city may charge the responsible party or the property owner with the full costs of investigation and summary abatement of the nuisance.

(Ord. CS-385 § 2, 2020)

**§ 6.16.240. Summary abatement hearing.**

- A. A hearing to assess abatement costs and affirm whether immediate action was necessary to preserve or protect the health, safety, and/or welfare of the public, persons in the city and/or the environment shall be conducted before the City Council at the request of the responsible party and/or the property owner.
- B. The responsible party and/or the property owner must file a written request for a hearing with the City Clerk within 30 calendar days of receipt of the notice of determination and report of summary abatement.
- C. The hearing shall be scheduled before the City Council within 60 calendar days of receipt of the request for a hearing.
- D. Within 30 calendar days of receipt of the notice of determination and the report of summary abatement, and at least 30 calendar days prior to the scheduled hearing date, the responsible party and/or property owner may file a request with the City Clerk for any and all evidence and objections regarding the need for summary abatement and/or the abatement costs.
- E. The hearing and consideration may be continued from time to time and upon its conclusion, the City Council shall, by resolution:
  1. Determine whether the nuisance posed an immediate risk to the health, safety, or welfare of the public, persons in the city, and/or the environment.
  2. Determine whether the responsible party was unavailable, incapable, and/or unwilling to abate the nuisance.
  3. Determine the correct abatement cost.
  4. If necessary, modify the report of summary abatement to conform to such findings as indicated above.
  5. Confirm the report of summary abatement as presented or modified.
  6. State the date of the summary abatement order.
  7. Determine and state the correct legal description of the subject property, the correct county assessor's parcel number, the street address, and the name and address of the recorded owner

based on the last equalized assessment roll or the supplemental roll, whichever is more current.

F. The decision of the City Council shall be final.  
(Ord. CS-385 § 2, 2020)

**§ 6.16.250. Collection of cost of summary abatement.**

In addition to any other applicable procedures, the cost of summary abatement may be collected in accordance with Section 6.16.170 or become a lien or special assessment against the property in accordance with Section 6.16.160.

(Ord. CS-385 § 2, 2020)

## Article III Property Maintenance

### **§ 6.16.260. Declaration of purpose and statutory authority.**

Every person has the duty to maintain real property under the person's control free from dirt, rocks, weeds, plant growth, waste, or other materials which are either dangerous or injurious to neighboring property or to the health or welfare of residents in the vicinity or which interfere with the use of public rights-of-way.

There continues to be a need for further emphasis on maintaining unobstructed rights-of-way, particularly as to plant growth. Unless corrective measures are taken to alleviate the existing conditions and to avoid future problems in this regard, the public health, safety, and general welfare and the property values and social and economic standards of this community will be depreciated.

The purpose and intent of this article is to establish standards to identify and enforce private property maintenance to ensure plant growth, waste, and other materials do not present a public nuisance by obstructing public streets, sidewalks, or rights-of-way. This article is also intended to provide for procedures to administratively abate public nuisances caused by plant growth, waste, or other materials obstructing public streets, sidewalks, or rights-of-way.

This article is authorized by California Government Code Sections 39501 and 39502.  
(Ord. CS-385 § 2, 2020)

### **§ 6.16.270. Definitions.**

For purposes of this article the following definitions apply:

"Liquid waste" includes oil, other petroleum products, paint, chemicals, and hazardous waste or materials.

"Litter" means small quantities of waste matter carried on or about the person including, but not limited to, beverage containers and closures, packaging wrappers, wastepaper, newspapers, magazines, or the contents of containers, closures, or wrappers.

"Littering" means the act of discarding, dropping, scattering, or disposing of litter in a location or container which is not used for the proper disposal of waste.

"Parking strip" means the portion of property between a public street and private property.

"Plant growth" means any flora, vegetation, or herbage.

"Property" means any real property, or improvements on real property, including that portion of any lot abutting a public street over which the city has an easement for right-of-way or utility service.

"Public property" means any property interest owned by, or otherwise granted to, the City of Carlsbad.

"Rubbish" means non-functional, non-usable, or abandoned material or matter. Rubbish includes ashes, paper, cardboard, tin cans, dirt, cut brush, yard and garden clippings or trimmings, wood, glass, bedding, cloth, clothing, crockery, plastic, rubber by-products, litter, machinery, vehicle parts, junk, and other similar items.

"Solid waste" means rubbish, broken concrete or asphalt, piles of rock, dirt, and other noncombustible materials and earth fill material not otherwise authorized by permit or ordinance for land development.

"Waste" means material of any nature that constitutes rubbish, solid waste, liquid waste, or medical waste. Waste may include abandoned or unidentified personal property that is left unattended on public sidewalks and rights-of-way or other public property. Waste does not include compost piles, composting,

or recyclable material properly contained and disposed of in a timely fashion.  
(Ord. CS-385 § 2, 2020)

#### **§ 6.16.280. Enforcement authority.**

The directors of community development or environmental management, and any other director or equivalent authority, authorized by the City Manager or designee (collectively, "directors") are authorized to administer and enforce the provisions of this article. The directors or their designated enforcement officers may exercise any enforcement powers as provided in Chapter 1.10 of this code.  
(Ord. CS-385 § 2, 2020)

#### **§ 6.16.290. Duty to maintain property.**

- A. It is unlawful for any property owner or responsible party, as defined in Section 1.10.010, to place or maintain dirt, rocks, plant growth, waste, or other materials on or about adjacent sidewalks, parking strips, alleys, streets, or other public property in a manner that is either dangerous or injurious to neighboring property or the health, safety, or welfare of residents in the vicinity; or in a manner that unreasonably interferes with or unreasonably obstructs the use of public rights-of-way. Any violation of this section is a public nuisance and, as such, may be abated or enjoined from further existence or operation within the city, pursuant to the procedures set forth in Article I of this chapter, except as set forth in subsections B and C of this section.
- B. The director may require a property owner or responsible party to erect fences, barriers, berms, or other suitable means to discourage access to the property for littering or illegal dumping. This may include the posting of signs that prohibit littering and illegal dumping.
- C. The director may authorize the collection or abatement of waste from small business enterprises that abut public property under the following circumstances:
  - 1. At the request of the affected property owner, if the director determines that reasonable efforts were made to comply with subsection A or B listed above; or
  - 2. When public health or safety requires such measures.
- D. The director is authorized to assess costs against affected property owners for the abatement services performed by the city or its agents pursuant to Article I of this chapter. The director's cost assessment report may be challenged pursuant to the procedures in Article I of this chapter.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.300. Violations.**

Violations of this article may be chargeable as an infraction. The directors may also seek injunctive relief or civil penalties in the Superior Court, or pursue any administrative penalties under Chapter 1.10 of this code.

(Ord. CS-385 § 2, 2020)

#### **§ 6.16.310. Administrative abatement procedure.**

Any abatement action allowed by this article shall follow the procedures set forth in Article I of this chapter, except as provided in Section 6.16.290(B) and (C).

(Ord. CS-385 § 2, 2020)

**§ 6.16.320. Abatement lien.**

The cost of removal and abatement of a property maintenance public nuisance may be assessed against the abutting or adjacent property owner and may become a lien as authorized in California Government Code Section 39502. Designated enforcement officers shall follow the procedures in Article I of this chapter for assessment, execution, and collection of the lien. Enforcement of the lien may include sale of the property. (Ord. CS-385 § 2, 2020)

**§ 6.16.330. Severability.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted this chapter, and each and every section, subsection, sentence, clause, and phrase of the chapter not declared invalid or unconstitutional, without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional.

(Ord. CS-385 § 2, 2020)

**CHAPTER 6.17  
URINATING OR DEFECATING IN PUBLIC**

**§ 6.17.010. Urinating or defecating in public.**

No person shall urinate or defecate in or on any street, sidewalk, alley, plaza, park, bench, public building or public maintained facility, or in any place open to the public or exposed to public view. This section shall not apply to urination or defecation which is done in any restroom or other facility designed for the sanitary disposal of human waste. Any person who violates this section is guilty of a misdemeanor.  
(Ord. NS-236 § 1, 1993)

**CHAPTER 6.18  
ELECTRONIC CIGARETTES**

**§ 6.18.010. Electronic cigarettes—Prohibited wherever smoking is prohibited.**

In any location where the smoking of pipes, cigars or cigarettes is prohibited by any federal, state or local law, it shall also be unlawful for any person to use an electronic cigarette as defined in California Health and Safety Code Section 119405 ("e-cigarette") or a similar device intended to emulate smoking, which permits a person to inhale vapors or mists that may or may not include nicotine. The provisions of this chapter do not apply in any circumstance where federal or state law regulates smoking or the use of e-cigarettes, if the federal or state law is more restrictive.

(Ord. CS-237 § 2, 2013)

## CHAPTER 6.20 PHASED-IN SINGLE-USE PLASTIC FOODWARE BAN

### **§ 6.20.010. Intent and purpose.**

It is the intent and purpose of this chapter to phase in a ban for the use of single-use plastic foodware provided in the city:

- A. Protect wildlife and the environment by reducing harmful litter and marine debris;
- B. Divert waste from landfills and reduce contamination of the city's recyclable materials and organic materials collection programs;
- C. Conserve resources and reduce greenhouse gas emissions;
- D. Improve the cleanliness of city public areas and beaches to increase quality of life for residents, businesses, and visitors; and,
- E. Align with the goals set forth in other city policies, including the current City Council-adopted versions of the city's Sustainable Materials Management Plan and Climate Action Plan.

(Ord. CS-420 § 2, 2022)

### **§ 6.20.020. Definitions.**

For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

"AB 1276" means the 2021 bill amending California Public Resources Code Sections 42270 and 42271 and adding California Public Resources Code Sections 42272 and 42273, relating to solid waste and the provision of certain single-use foodware accessories.

"City" or "City of Carlsbad" means the entity that governs the incorporated territory of the City of Carlsbad, California.

"City-affiliated event" means any event or activity that is sponsored or co-sponsored by the city, is paid for, in part or full, using city funds, occurs on city-owned property, or requires a special event permit pursuant to Chapter 8.17 of this code or other authorization from the city.

"City facilities" means any building, structure, facility, park, or vehicle owned, leased, or operated by the city, its agents, agencies, departments, and authorized designees. For purposes of this chapter, "city facility" does not include city-owned buildings, structures, property, parks, public spaces, or vehicles operated by an entity other than the city pursuant to a lease or other contractual arrangement.

"City funds" means all monies or other assets received and managed by, or which are otherwise under the control of the city, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the city. For purposes of this chapter, "city funds" do not include funds received and managed by, or which are under the control of, any business improvement district.

"Compostable" means materials that meet all of the following conditions:

1. Are accepted for collection in the city's organic materials collection program, as determined by the City Manager or designee;
2. Meet the "ASTM standard specification" for compostability, as defined in California Public Resources Code Section 42356, or a subsequent standard if revised by the state in accordance

with Public Resources Code Section 42356.1;

3. Comply with the labeling requirements of California Public Resources Code Section 42357; and
4. Comply with the regulated perfluoroalkyl and polyfluoroalkyl substances standards set forth in California Health and Safety Code Section 109000, as applicable to the types of "food packaging" defined under that section.

"Consumer" has the same meaning as in California Health and Safety Code Section 113757.

"Enforcement agency" means the City of Carlsbad or its authorized agents charged with ensuring compliance with this chapter.

"Enforcement official" means the City Manager of the City of Carlsbad or designee.

"Food service provider" means any person or establishment that provides or sells prepared food or beverages on or off its premises within the city, including:

1. A restaurant, café, coffee shop, fast-food restaurant, drive-through service, grocery store, supermarket, convenience store, delicatessen, cafeteria, farmers' market vendor, or similar facility where prepared food is available for consumption on or off the premises;
2. Any mobile food facility, mobile food vendor, catering operation, food truck, or temporary food facility that provides prepared food;
3. Transient lodging facilities, including hotels, motels, and bed and breakfasts that provide prepared food, regardless of whether the prepared food is complementary or available for purchase by the consumer; and
4. Entities specified in California Health and Safety Code Sections 113789(a) and 113789(b).

For the purposes of this chapter, the definition of food service provider does not include the entities specified under Section 6.20.070.

"Foodware" means items used for containing, serving, or consuming prepared food, including containers, cups, bowls, plates, trays, cartons, boxes, and foodware accessories. Foodware does not include polystyrene egg cartons, meat trays, coolers, ice chests, or packing materials.

"Foodware accessory" means foodware items, including utensils (e.g., forks, knives, spoons, and sporks), straws, stirrers, condiment cups and packets, cup lids, cup sleeves, cocktail sticks, toothpicks, splash sticks, spill plugs, and other similar accessory items used as part of or alongside prepared food.

"Person" means any person, business, corporation, or event organizer or promoter; public, nonprofit, or private entity, agency, or institution; or, partnership, association, or other organization or group, however organized.

"Polystyrene" means a thermoplastic petrochemical material utilizing the styrene monomer, including, but not limited to, polystyrene foam or expanded polystyrene processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, extrusion-blown molding (extruded foam polystyrene), and clear or solid polystyrene (oriented polystyrene).

"Prepared food" means food or beverages that are prepared and served or provided by the food service provider using any cooking or food or beverage preparation technique and that are ready to consume, either on or off the food service provider's premises, without further food or beverage preparation or repackaging. Prepared food includes "beverages" and "ready to eat food" as defined in California Health and Safety Code Sections 113739 and 113881, respectively. Prepared food does not include raw or uncooked whole

fruits or vegetables that are not prepared through chopping, squeezing, blending, mixing, or otherwise altered through food preparation; or, uncooked meat, poultry, fish, or eggs that are not intentionally provided for further consumption without food preparation.

"Regulated entities" means food service providers, city facilities, city-affiliated events, or other persons regulated by this chapter.

"Reusable" means items manufactured out of durable materials to be used repeatedly over an extended period of time and are able to be washed and sanitized in accordance with applicable laws and regulations.

"Single-use" means items designed for one-time or limited use prior to being discarded, and not designed for repeated use and sanitizing.

"Standard condiment" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes.

"Third-party food delivery platform" has the same meaning as in California Health and Safety Code Section 113930.5.

(Ord. CS-420 § 2, 2022)

#### **§ 6.20.030. Prohibition on polystyrene and single-use plastic foodware.**

- A. Food service providers shall not provide prepared food in foodware made of polystyrene and shall only use foodware that is reusable or compostable.
- B. Food service providers shall comply with the requirements of this chapter for both on-premises and off-premises consumption of prepared food; and, for any method of ordering, including in-person, telephone, drive-through, self-serve, web or other digital order, or through a third-party food delivery platform.
- C. Notwithstanding subsection A of this section, the following foodware types are permissible:
  1. A food service provider may use non-compostable foil wrappers if those wrappers are necessary to contain and form the prepared food (e.g., for burritos or wraps), provided that such wrappers are accepted in the city's recyclable materials collection program; and,
  2. A food service provider may maintain a small supply of single-use plastic straws to provide to consumers with a disability or other medical or health conditions, in accordance with Section 6.20.070. Such straws shall be provided only upon request, in accordance with Section 6.20.050.

(Ord. CS-420 § 2, 2022)

#### **§ 6.20.040. City facilities and city-affiliated events.**

- A. The procurement, use, or distribution of foodware that is made of polystyrene or foodware that is not reusable or compostable shall be prohibited at all city facilities, and city-affiliated events. Foodware accessories shall be distributed in accordance with Section 6.20.050.
- B. The city, its departments, agents, employees, or designees acting in their official capacity as representatives of the city, shall not purchase or otherwise procure foodware that is made of polystyrene or that is not compostable or reusable. City funds utilized in any manner, including purchase orders, purchasing cards, and grant money, shall not be used to purchase foodware that does not comply with the requirements of this chapter.

- C. All special event permit applications required by Chapter 8.17 of this code, city facility rental agreements, leases, vendor contracts, or other such approvals for applicable activities or services on city property shall include a provision requiring the applicant to assume responsibility for complying with the requirements of this chapter.

(Ord. CS-420 § 2, 2022)

**§ 6.20.050. Foodware accessories requirements.**

- A. Regulated entities shall distribute foodware accessories in accordance with this chapter and AB 1276. To the extent that this chapter is more stringent, this chapter shall govern, as permitted under California Public Resources Code Section 42271(h).
- B. Except as provided in subsections E through H below, regulated entities shall not provide any single-use foodware accessory or standard condiments packaged for single use to a consumer unless the foodware accessory or standard condiment is requested by the consumer.
- C. Regulated entities shall comply with the requirements of this section for both on-premises and off-premises consumption of prepared food; and, for any method of ordering, including in-person, telephone, drive-through, self-serve, web or other digital order, or through a third-party food delivery platform.
- D. Single-use foodware accessories and standard condiments packaged for single use provided by regulated entities for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of single-use foodware accessory or standard condiment desired without also having to take a different type of single-use foodware accessory or standard condiment.
- E. A food service provider may ask a drive-through consumer if the consumer wants a single-use foodware accessory, rather than the consumer initiating the request, if the single-use foodware accessory is necessary for the consumer to consume prepared food, or to safely transport or prevent spills of prepared food.
- F. A food service provider that is located entirely within a public use airport, as defined in Section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if the consumer wants a single-use foodware accessory, rather than the consumer initiating the request, if the single-use foodware accessory is necessary for the consumer to consume prepared food, or to safely transport or prevent spills of prepared food.
- G. A food service provider may provide lids or cup sleeves for beverages that are provided via drive-through or delivery by the food service provider or a third-party food delivery platform without consumer request, if specifically necessary for the consumer to safely consume such beverages, or for prevention of spills and the safe transport of beverages.
- H. A third-party food delivery platform shall provide consumers with the option to request single-use foodware accessories or standard condiments from a food service provider serving prepared food. The third-party food delivery platform shall provide the food service provider with the option to customize its menu on the platform and provide technical assistance to the food service provider as needed in order to make such changes.
- I. If a food service provider uses any third-party food delivery platform for prepared food, the food service provider shall customize its menu with a list of available single-use foodware accessories and standard condiments, and only those single-use foodware accessories or standard condiments selected by the consumer shall be provided by the food service provider. If a consumer does not select any

single-use foodware accessories or standard condiments, no single-use foodware accessory or standard condiment shall be provided by the food service provider for delivery of prepared food, except as provided for in subsection G above.

- J. Nothing in this section shall prohibit a regulated entity from making unwrapped single-use foodware accessories available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for single-use foodware accessories to be obtained.
  - K. Nothing in this section shall prohibit a regulated entity from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained.
- (Ord. CS-420 § 2, 2022)

#### **§ 6.20.060. Other provisions to reduce use of single-use plastics.**

- A. Regulated entities are encouraged, but not required, to take actions in addition to the requirements of this chapter that support a goal of reducing the use of and waste generated by single-use foodware.
- B. Regulated entities are strongly encouraged, but shall not be required, to provide refillable or reusable foodware rather than disposable foodware for consumers, to the greatest extent practicable.
- C. A regulated entity that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use.
- D. Food service providers, at their discretion, may include a charge for foodware provided to consumers or provide other incentives to encourage use of reusable foodware.
- E. Within 30 days of the effective date of this chapter, food service providers shall post educational materials regarding the requirements of this chapter, if such materials are provided by the city. The educational materials shall be posted on or near the food service provider's menu, point-of-sale counter, or other location that is clearly visible to the consumer prior to ordering.

(Ord. CS-420 § 2, 2022)

#### **§ 6.20.070. Exemptions.**

The following exemptions and waiver provisions shall apply:

- A. Entities excluded from the requirements of this chapter include correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias, as defined in California Public Resources Code Section 42273.
- B. The City Manager may temporarily exempt regulated entities from some or all of the provisions of this chapter during an "emergency," as defined in Section 6.04.020, for the immediate preservation of public peace, health, or safety consistent with the provisions of Chapter 6.04.
- C. The City Manager or designee may exempt certain item(s) from the provisions of this chapter, if the City Manager or designee determines that no reasonably feasible alternative is available for one or more types of foodware regulated under this chapter, until the City Manager or designee determines that a feasible alternative is available.
- D. Nothing in this chapter shall restrict, or be construed to constrict, the availability and provision of single-use plastic straws requested by a consumer with a disability or other medical or health condition or circumstance. It shall not be a violation of this chapter for a regulated entity to provide a single-use plastic straw to such individuals that specifically request plastic straws in accordance with

this subsection.

- E. The City Manager or designee may adopt rules, regulations, or forms for regulated entities to obtain full or partial temporary waivers for up to six months from one or more requirements of this chapter. The subject of such waivers may include feasibility-based exemptions. The City Manager or designee may also adopt an administrative fee for waiver applications, as well as a process for waiving administrative fees for certain applicants.

(Ord. CS-420 § 2, 2022)

#### **§ 6.20.080. Enforcement.**

- A. The enforcement agency and enforcement official may exercise any code enforcement powers and procedures as provided in Title 1 of this code. The enforcement agency and enforcement official shall enforce the requirements set forth in Section 6.20.050 commencing June 1, 2022; and, shall enforce the requirements of all other requirements of this chapter, unless otherwise provided in subsequent sections, commencing July 1, 2023.
- B. Each regulated entity shall maintain records demonstrating compliance with the requirements of this chapter and make such records available for inspection upon request of the City Manager or designee.
- C. The first and second violations of this chapter shall result in a notice of violation, and any subsequent violation shall constitute an infraction punishable by a fine of \$25.00 for each day in violation, but not to exceed \$300.00 annually.
- D. The City Manager or designee is authorized to establish rules and regulations and to take any and all actions necessary for the administration and enforcement of this chapter. Such actions may include inspecting the premises of the regulated entity to verify compliance with this chapter.
- E. All regulated entities required to have a business license under Chapter 5.04 of this code shall certify in writing their compliance with the provisions of this chapter as part of their annual business license renewal application.
- F. The City Attorney is authorized to pursue all available administrative, civil, and criminal remedies set forth in this code to enforce this chapter. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.
- G. The remedies and penalties provided in this section may be cumulative and are not exclusive.

(Ord. CS-420 § 2, 2022)

#### **§ 6.20.090. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-420 § 2, 2022)

## CHAPTER 6.22 PLASTIC BOTTLED BEVERAGE REDUCTION

### **§ 6.22.010. Intent and purpose.**

It is the intent and purpose of this chapter to reduce the use of single-use beverage bottles to:

- A. Protect wildlife by reducing harmful litter and marine debris;
- B. Conserve natural resources and reduce greenhouse gas emissions;
- C. Encourage the use of reusable items and divert waste from landfills;
- D. Improve the cleanliness of city public areas and beaches to increase quality of life for residents, businesses, and visitors; and,
- E. Align with the goals set forth in other city policies, including the current City Council-adopted versions of the city's Sustainable Materials Management Implementation Plan and the city's Climate Action Plan.

(Ord. CS-423 § 2, 2022)

### **§ 6.22.020. Definitions.**

For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

"City" or "City of Carlsbad" means the entity that governs the incorporated territory of the City of Carlsbad, California.

"City-affiliated event" means any event or activity that is sponsored or co-sponsored by the city, is paid for, in part or full, using city funds, occurs on city-owned property, or requires a special event permit pursuant to Chapter 8.17 of this code or other authorization from the city.

"City facility" means any building, structure, property, park, public space, or vehicle, owned, leased or operated by the city, its agents, departments, or designees. For purposes of this chapter, "city facility" does not include city-owned buildings, structures, property, parks, public spaces, or vehicles operated by an entity other than the city pursuant to a lease or other contractual arrangement.

"City funds" means all monies or other assets received and managed by, or which are otherwise under the control of the city, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the city. For purposes of this chapter, "city funds" do not include funds received and managed by, or which are under the control of, any business improvement district.

"Distribute" means to sell, offer for sale, give, or otherwise provide or offer to provide an item, either as a separate transaction, as part of a transaction for another item, or as a complementary service.

"Enforcement agency" means the City of Carlsbad or its authorized agents charged with ensuring compliance with this chapter.

"Enforcement official" means the City Manager of the City of Carlsbad or designee.

"Person" means any person, firm, association, business, organization, partnership, business trust, joint venture, corporation, company, or other public, private, or non-profit entity, and includes the City of Carlsbad and its officers or agents.

"Plastic bottled beverage" means drinking water, sparkling water, enhanced water, soda, sport drinks, juice,

or other similar product in a rigid plastic bottle having a capacity of one liter or less and intended primarily as a single-service container.

"Rigid plastic bottle" means any formed or molded container comprised predominantly of plastic resin, having a relatively inflexible fixed shape or form, having a neck that is smaller than the container body, and intended primarily as a single-service container.

(Ord. CS-423 § 2, 2022)

#### **§ 6.22.030. City-affiliated events.**

- A. No person shall distribute plastic bottled beverages at city-affiliated events, regardless of whether the event is private or public.
- B. All special event permit applications required by Chapter 8.17 of this code, leases, facility permits, or other such approval granted by city departments for city-affiliated events shall specifically require that the permittee comply with the requirements of this chapter.

(Ord. CS-423 § 2, 2022)

#### **§ 6.22.040. City facilities and funds.**

- A. No person shall distribute plastic bottled beverages at city facilities, including use of city facilities through a rental, lease, or other agreement.
- B. City funds utilized in any manner, including purchase orders, purchasing cards, grant money, reimbursements, or other expenditures shall not be used to purchase plastic bottled beverages, except as otherwise permitted under this chapter.

(Ord. CS-423 § 2, 2022)

#### **§ 6.22.050. Alternative containers.**

Containers used in lieu of rigid plastic bottles to serve beverages, such as cups for use at beverage refill stations, shall comply with the single-use foodware requirements set forth in Chapter 6.20 of this code and any other provisions of this code or other applicable law.

(Ord. CS-423 § 2, 2022)

#### **§ 6.22.060. Exemptions.**

- A. The provisions of this chapter shall not apply in the following circumstances:
  1. In cases of emergency or other situations where the City Manager or designee finds that relying on plastic bottled beverages is necessary to protect the public health, safety and welfare, and no reasonable alternative will serve the same purpose. An example of such emergency includes lack of available potable water due to a natural disaster.
  2. Where specific hydration requirements exist for employees working outside and no reasonable alternative to plastic bottled beverages will serve the same purpose.
- B. The City Manager or designee may adopt rules, regulations, or forms for regulated entities to obtain full or partial waivers for up to six months from one or more requirements of this chapter. The subject of such waivers may include feasibility-based exemptions. The City Manager or designee may also adopt an administrative fee for waiver applications, as well as a process for waiving administrative fees for certain applicants.

(Ord. CS-423 § 2, 2022)

**§ 6.22.070. Enforcement.**

- A. The enforcement agency and enforcement official may exercise any code enforcement powers and procedures as provided in Title 1 of this code.
- B. Violation of any provision of this chapter shall constitute an infraction, punishable pursuant to Chapter 1.08 of this code.
- C. Violation of any provision of this chapter may constitute grounds for retention of all, or a portion of, any deposit paid to the city relating to city-affiliated events or other approved use of city facilities where the violation occurred, such as facility rental deposits.
- D. A person that violates any provision of this chapter in connection with a special event on three or more instances within a one-year period shall be prohibited from obtaining a special event permit under Chapter 8.17 of this code for a period of one year.
- E. Each violation of this chapter shall constitute a separate violation.
- F. Nothing in this chapter shall prevent the city's enforcement official from obtaining compliance by way of warning, administrative remedies contained in Chapter 1.10 of this code, educational means, or any other civil or administrative remedies available under this code or other applicable law. Such remedies and penalties shall be cumulative and not exclusive.

(Ord. CS-423 § 2, 2022)

**§ 6.22.080. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-423 § 2, 2022)

## CHAPTER 6.24 PLASTIC BAG BAN

### **§ 6.24.010. Intent and purpose.**

It is the intent and purpose of this chapter to reduce the use of single-use plastic bags in the city, in order to:

- A. Protect wildlife by reducing harmful litter and marine debris;
- B. Conserve natural resources and reduce greenhouse gas emissions;
- C. Encourage the use of reusable bags and divert waste from landfills;
- D. Improve the cleanliness of city public areas and beaches to increase quality of life for residents, businesses, and visitors; and,
- E. Align with the goals set forth in other city policies, including the current City Council-adopted versions of the city's Sustainable Materials Management Implementation Plan and Climate Action Plan.

(Ord. CS-424 § 2, 2022)

### **§ 6.24.020. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

"Carryout bag" means a bag provided at the check stand, cash register, point of sale, or other location for the purpose of transporting food or merchandise out of a retail establishment or food service provider's premises. For the purposes of this chapter, carryout bags do not include produce bags or product bags.

"City" or "City of Carlsbad" means the entity that governs the incorporated territory of the City of Carlsbad, California.

"Compostable" means materials that meet the following conditions:

1. Are accepted for collection in the city's organic materials collection program, as determined by the City Manager or designee;
2. Meet the "ASTM standard specification" for compostability, as defined in California Public Resources Code Section 42356, or a subsequent standard if revised by the state in accordance with California Public Resources Code Section 42356.1; and
3. Comply with the labeling requirements of California Public Resources Code Section 42357.

"Distribute" means to sell, offer for sale, give, or otherwise provide or offer to provide an item, either as a separate transaction, as part of a transaction for another item, or as a complementary service.

"Enforcement agency" means the City of Carlsbad or its authorized agents charged with ensuring compliance with this chapter.

"Enforcement official" means the City Manager of the City of Carlsbad or designee.

"Food service provider" shall have the same meaning as in Chapter 6.20 of this code.

"Person" means any person, firm, association, business, organization, partnership, business trust, joint venture, corporation, company, or other public, private, or non-profit entity, and includes the City of

Carlsbad and its officers or agents.

"Prepared food" shall have the same meaning as in Chapter 6.20 of this code.

"Produce bag" means any bag without handles provided to a customer to carry produce, bulk food, or other food items to the point of sale inside a store and protects food or merchandise from being damaged or contaminated by other food or merchandise when items are placed together in a carryout bag.

"Product bag" means:

1. A bag to hold prescription medication dispensed from a pharmacy;
2. A bag provided to a customer to protect merchandise from being damaged or contaminated by other merchandise when items are placed together in a carryout bag; or
3. A bag without handles that is designed to be placed over articles of clothing on a hanger, newspaper bags, door-hanger bags, or bags sold in packages containing multiple bags intended for use as solid waste container liners or pet waste bags.

"Recyclable paper bag" means a carryout bag that meets all of the following requirements:

1. Does not contain a plastic lining;
2. Is accepted for recycling in the city's curbside recyclable materials program;
3. Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400;
4. Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content; and
5. Displays the word "recyclable" on the outside of the bag, to the extent permitted under applicable law regarding recyclability claims.

"Retail establishment" means any establishment that sells or provides merchandise, goods, or materials primarily intended for consumer or household use, including food, clothing, household items, personal items, supplies, electronics, or other items directly to a consumer. Retail establishments include, grocery stores, department stores, clothing stores, hardware stores, supply stores, pharmacies, liquor stores, convenience stores, outdoor farmers' markets, and any other retail store or vendor. Retail establishment does not include food service providers.

"Reusable carryout bag" means a bag that is specifically designed and manufactured for multiple uses and meets the reusable bag requirements set forth in California Public Resources Code Section 42281.

"Reusable produce bag" means a produce bag that is specifically designed and manufactured for multiple uses, is machine washable or is made from a material that can be cleaned or disinfected, and is not made from plastic film.

(Ord. CS-424 § 2, 2022)

#### **§ 6.24.030. Carryout bag requirements.**

- A. A retail establishment or food service provider in the city shall not provide a carryout bag to a customer at the point of sale, except as provided for in this chapter.
- B. Retail establishments may distribute only reusable carryout bags or recyclable paper carryout bags for the purpose of carrying away goods, merchandise, or other items from the point of sale, in

accordance with this chapter. Food service providers located within retail establishments shall comply with the requirements of subsection C below.

- C. Food service providers may distribute only reusable carryout bags or recyclable paper bags for the purpose of carrying away prepared food or other goods from the point of sale, in accordance with this chapter. Food service providers shall comply with the requirements of this chapter for both on-premises and off-premises consumption of prepared food; and, for any method of ordering, including: in-person, telephone, drive-through, self-serve, digital order, or through a third-party food delivery platform. Food service providers may use product bags or produce bags for takeout or delivery orders to hold containers of prepared food items that are liquids susceptible to spilling, such as soups, if specifically needed to prevent spilling during transport.
- D. Nothing in this chapter prohibits customers from using bags of any type that they bring to a retail establishment or food service provider themselves or from opting to not use a carryout bag for their items.

(Ord. CS-424 § 2, 2022)

#### **§ 6.24.040. Carryout bag charge.**

- A. A retail establishment or food service provider that provides recyclable paper bags or reusable carryout bags at the point of sale shall charge the customer no less than 10 cents for each bag provided.
- B. The retail establishment or food service provider shall inform the customer of the 10-cent charge prior to completing the transaction and shall separately itemize such charge on the sales receipt.
- C. A retail establishment or food service provider shall not require a customer to use, purchase, or accept a carryout bag as a condition of sale of any product.
- D. All moneys collected pursuant to this section shall be retained by the food service provider or retail establishment and shall be used only for the following purposes:
  - 1. Costs associated with complying with the requirements of this chapter.
  - 2. Actual costs of providing recyclable paper bags or reusable carryout bags.
  - 3. Costs associated with educational materials or educational campaigns encouraging the use of reusable carryout bags.

(Ord. CS-424 § 2, 2022)

#### **§ 6.24.050. Produce bags.**

- A. Retail establishments that provide produce bags including grocery stores, markets, and farmers' markets, shall provide only compostable produce bags, recyclable paper bags, or reusable produce bags to carry produce, bulk food, or other food items to point of sale within the store, market, or outdoor market area.
- B. Nothing in this chapter prohibits customers from using produce bags of any type that they bring to the retail establishment themselves or from opting to not use a produce bag for their items.
- C. The requirements of this section shall not apply to product bags.

(Ord. CS-424 § 2, 2022)

**§ 6.24.060. Other requirements.**

- A. Retail establishments and food service providers shall post educational material regarding the requirements of this chapter if such educational materials have been provided by the city. The education materials shall be posted on or near the point-of-sale counter, menu, check-stand, or other location that is clearly visible to the customer prior to purchasing goods from a retail establishment or food service provider.
- B. Regulated entities are encouraged, but not required, to take actions in addition to the requirements of this chapter that support the goal of reducing the use of and waste generated by single-use carryout bags.

(Ord. CS-424 § 2, 2022)

**§ 6.24.070. Exemptions.**

- A. The provisions of this chapter shall not apply to carryout bags provided by nonprofit charitable reuse organizations.
- B. A retail establishment or food service provider that makes reusable carryout bags or recyclable paper bags available for purchase at the point of sale in accordance with Section 6.24.040 shall provide a reusable carryout bag or a recyclable paper bag at no cost to a customer using either:
  - 1. A payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code; or
  - 2. An electronic benefit transfer (EBT) card issued pursuant to Section 10072 of the California Welfare and Institutions Code.
- C. A retail establishment or food service provider may provide a reusable carryout bag at no charge if it is distributed as part of an infrequent and limited time promotion. An infrequent and limited time promotion shall not exceed a total of 90 days in any consecutive 12-month period.
- D. The provisions of this chapter shall apply to stores subject to the existing single-use carryout bag requirements of California Public Resources Code Division 30, Part 3, Chapter 5.3 only to the extent permitted by applicable law, as further described in Section 6.24.090.
- E. The City Manager may temporarily exempt regulated entities from some or all of the provisions of this chapter during a situation deemed to be an emergency for the immediate preservation of public peace, health, or safety, as determined by the City Manager.
- F. The City Manager or designee may exempt certain item(s) from the provisions of this chapter, if the City Manager or designee determines that no reasonably feasible alternative is available for one or more types of bags regulated under this chapter, until the City Manager or designee determines that a feasible alternative is available.
- G. The City Manager or designee may adopt rules, regulations, or forms for entities to obtain full or partial temporary waivers for up to six months from the requirements of this chapter. The subjects of such waivers may include feasibility-based exemptions. The City Manager or designee may also adopt an administrative fee for waiver applications, as well as a process for waiving administrative fees for certain applicants.

(Ord. CS-424 § 2, 2022)

**§ 6.24.080. Enforcement.**

- A. The enforcement agency and enforcement official may exercise any code enforcement powers and procedures as provided in Title 1 of this code.
- B. The enforcement agency and enforcement official shall enforce the provisions of this chapter commencing on July 1, 2023, for retail establishments, and on July 1, 2024, for food service providers.
- C. The City Manager or designee is authorized to establish rules and regulations and to take any and all actions necessary for the administration and enforcement of this chapter. Such actions may include inspecting the premises of the retail establishment or food service provider to verify compliance with this chapter.
- D. Retail establishment and food service providers subject to this chapter shall maintain records demonstrating compliance with this chapter, and make such records available for inspection upon request of the City Manager or designee.
- E. Violation of any provision of this chapter shall constitute grounds for enforcement through issuance of administrative citations, in conformance with Chapter 1.10 of this code.
- F. All regulated entities required to have a business license under this code shall certify in writing its compliance with the provisions of this chapter as part of its annual business license renewal application.
- G. Each violation of this chapter shall constitute a separate violation.
- H. Nothing in this chapter shall prevent the enforcement official from obtaining compliance by way of warning, administrative remedies contained in Chapter 1.10 of this code, educational means, or any other civil or administrative remedies available under this code or other applicable law. Such remedies and penalties shall be cumulative and not exclusive.

(Ord. CS-424 § 2, 2022)

**§ 6.24.090. No conflict with state law.**

This chapter is intended to work in conjunction with state law related to single-use carryout bags, and entities regulated and defined as a "store" under California Public Resources Code Section 42280 shall continue to comply with the requirements of California Public Resources Code Division 30, Part 3, Chapter 5.3. Stores subject to the requirements of California Public Resources Code Division 30, Part 3, Chapter 5.3 shall comply with the requirements of this chapter, to the extent that such requirements are not preempted by California Public Resources Code Section 42287.

(Ord. CS-424 § 2, 2022)

**§ 6.24.100. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-424 § 2, 2022)

## CHAPTER 6.26 INTENTIONAL RELEASE OF BALLOONS PROHIBITION

### **§ 6.26.010. Intent and purpose.**

It is the intent and purpose of this chapter to prohibit the intentional release of balloons in the city to:

- A. Protect wildlife and the environment by reducing harmful litter and marine debris;
- B. Improve the cleanliness of city public areas and beaches to increase quality of life for residents, businesses, and visitors; and
- C. Align with the goals set forth in other city policies, including the city's Sustainable Materials Management Implementation Plan, as most recently adopted by the City Council.

(Ord. CS-425 § 2, 2022)

### **§ 6.26.020. Definitions.**

For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

"Balloon" means a nonporous and flexible bag or sack made from materials, including, but not limited to, rubber, latex, polychloroprene, nylon fabric, or Mylar, designed to be inflated or filled with air, gas, or fluid. Balloons are typically used as a toy, decoration, or for other entertainment purposes.

"City" or "City of Carlsbad" means the entity that governs the incorporated territory of the City of Carlsbad, California.

"Enforcement agency" means the City of Carlsbad or its authorized agents charged with ensuring compliance with this chapter.

"Enforcement official" means the City Manager of the City of Carlsbad or designee.

"Gas lighter than air" means a gas that has a lower density than normal atmospheric gases and rises above them as a result, including helium, hydrogen, methane, oxygen, and nitrogen.

"Person" means any person, firm, association, business, organization, partnership, business trust, joint venture, corporation, company, or other public, private, or non-profit entity, and includes the City of Carlsbad and its officers or agents.

(Ord. CS-425 § 2, 2022)

### **§ 6.26.030. Intentional release of balloons prohibited.**

- A. It is unlawful for any person to intentionally release any balloon or balloons filled with a gas lighter than air. No person shall dispose of balloons or balloon accessories in any manner or location other than in a container for discarded materials collection, in accordance with Chapter 6.08 of this code.
- B. All special event permits required by Chapter 8.17 of this code, leases, facility permits, or other approval granted by city departments for events or other applicable use of city property shall specifically require the permittee to comply with the requirements of this chapter.
- C. This section shall not apply to attended hot air balloons, or balloons used for governmental or scientific research projects.
- D. Nothing in this chapter prohibits the sale or purchase of balloons within the city.

(Ord. CS-425 § 2, 2022)

**§ 6.26.040. Enforcement.**

- A. The enforcement agency and enforcement official may exercise any code enforcement powers and procedures as provided in Title 1 of this code.
- B. Violation of any provision of this chapter shall constitute grounds for enforcement through issuance of administrative citations, in conformance with Chapter 1.10 of this code.
- C. Violation of any provision of this chapter may constitute grounds for retention of all, or a portion of, any deposit paid to the city relating to a city-affiliated event or other use of city facilities where the violation occurred, such as facility rental deposits.
- D. A person that violates any provision of this chapter in connection with a special event on three or more instances within a one-year period shall be prohibited from obtaining a special event permit under Chapter 8.17 of this code for a period of one year.
- E. Each violation of this chapter shall constitute a separate violation.
- F. Nothing in this chapter shall prevent the enforcement official from obtaining compliance by way of warning, administrative remedies contained in Chapter 1.10 of this code, educational means, abatement requirements, or any other civil or administrative remedies available under this code or other applicable law. Such remedies and penalties shall be cumulative and not exclusive.

(Ord. CS-425 § 2, 2022)

**§ 6.26.050. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-425 § 2, 2022)

**HEALTH AND SANITATION**

**Title 7****ANIMALS AND FOWL**

	Chapter 7.04 <b>GENERAL</b>	<b>§ 7.12.030.</b>	<b>Location of signs—Specifications generally.</b>
§ 7.04.010.	<b>Offensive odors—Noises—Insects.</b>	<b>§ 7.12.040.</b> <b>§ 7.12.050.</b>	<b>Lettering on sign.</b> <b>Distance of apiaries from public roads.</b>
	Chapter 7.08 <b>RABIES, ANIMAL CONTROL AND REGULATION</b>	<b>§ 7.12.060.</b> <b>§ 7.12.070.</b>	<b>Location of apiaries within 150 feet of dwellings prohibited—Exception.</b> <b>Landowner's permission for apiary required.</b>
§ 7.08.005.	<b>Adopted by reference.</b>	<b>§ 7.12.080.</b>	<b>Transportation of bees.</b>
§ 7.08.010.	<b>Definitions.</b>	<b>§ 7.12.090.</b>	<b>Notice of violations of chapter.</b>
§ 7.08.015.	<b>Animal control authority.</b>	<b>§ 7.12.100.</b>	<b>Violations after notice deemed misdemeanor.</b>
§ 7.08.020.	<b>Penalties for violation.</b>		
§ 7.08.030.	<b>Public nuisance and abatement.</b>		
	Chapter 7.12 <b>BEES AND APIARIES</b>		<b>Chapter 7.16</b>
§ 7.12.010.	<b>Definitions.</b>	<b>§ 7.16.010.</b>	<b>Retail sale of dogs and cats prohibited.</b>
§ 7.12.020.	<b>Identification signs required—Information to be shown.</b>	<b>§ 7.16.020.</b> <b>§ 7.16.030.</b>	<b>Notice of violations of chapter.</b> <b>Violations after notice deemed misdemeanor.</b>

**CHAPTER 7.04  
GENERAL**

**§ 7.04.010. Offensive odors—Noises—Insects.**

It is unlawful for any person to keep, maintain or cause or allow to be kept or maintained within the city limits of the city any animal that causes odor, noise or the gathering of insects which is offensive to the senses of any person when the offended person is situated off of the lot or lots on which the animal is kept or maintained.

(Ord. 3069 § 1; Ord. 3070 § 1)

## CHAPTER 7.08 RABIES, ANIMAL CONTROL AND REGULATION

### **§ 7.08.005. Adopted by reference.**

- A. Title 3, Division 6, Chapter 4, Section 414, Subsection (c)(6) of the San Diego County Code of Regulatory Ordinances, as may be amended from time to time, relating to noise abatement and control, specifically of an animal causing any frequent or long continued noise, is adopted by reference and incorporated as part of this code. Any provisions of this county code section that conflict with any other provisions of this chapter shall be superseded by the provisions of this chapter. A copy of the referenced ordinance is on file in the City Clerk's office.
- B. Title 6, Division 2, Chapter 6, of the San Diego County Code of Regulatory Ordinances, as may be amended from time to time, relating to animal control, is adopted by reference and incorporated as part of this code. Any provisions of this county code section that conflict with any other provisions of this chapter shall be superseded by the provisions of this chapter. A copy of the referenced ordinance is on file in the City Clerk's office.

(Ord. 3110 § 1, 1978; Ord. 5063 § 2, 1982; Ord. 5071 § 1, 1986; Ord. NS-76 § 1, 1989; Ord. NS-167 § 1, 1991; Ord. NS-244 § 1, 1993; Ord. NS-381 § 1, 1996; Ord. NS-586 § 1, 2001; Ord. CS-090 § 1, 2010; Ord. CS-279 § 2, 2015; Ord. CS-450 § 2, 2023)

### **§ 7.08.010. Definitions.**

"Animal control authority" means a public agency or private organization authorized by the City Council to perform animal control services for the City of Carlsbad, including enforcing ordinances relating to the control, impoundment, and disposition of animals, as set forth in this chapter.

Whenever the following terms appear within the text of the county codes incorporated by reference in Section 7.08.005, they shall have the following definitions:

"County" means the City of Carlsbad.

"County animal shelter" means a facility operated by the animal control authority to temporarily house animals that are relinquished by their owners, found at large, impounded or otherwise come into custody of the animal control authority.

"Department" or "county department of animal services" means the City of Carlsbad or its agents or employees, or the animal control authority.

"Director" or "Director of the County Department of Animal Services" means the executive officer of the animal control authority or their designee.

"Unincorporated areas of the county" means the City of Carlsbad.

(Ord. CS-450 § 2, 2023)

### **§ 7.08.015. Animal control authority.**

- A. Authority for the City to Contract for Animal Control Services. The city may enter into a contract with an animal control authority which shall be the city's designee for the administration and enforcement of this chapter.
- B. The powers and duties of the animal control authority are to implement and enforce this chapter, including issuing administrative notices and citations and notices to appear in court, making arrests, and serving warrants pursuant to California Penal Code Section 830.9 and other applicable local or

state law.

C. Fees.

1. The animal control authority is authorized to collect and deposit fees and fines on behalf of the city in accordance with applicable law and is not required to deposit these fees and fines with the City Treasurer.
2. The animal control authority may waive or reduce fees when it determines that such programs benefit the public by encouraging animal adoption, helping prevent cruelty and neglect to animals, or providing animals in need with medical care, provided such waivers and fee reductions are consistent with applicable law.
3. All fees must not exceed the reasonable costs of providing all offered animal services and shall be assessed according to the established rates adopted by City Council resolution, and as mandated by state law.

D. All administrative hearings under this chapter shall be conducted in accordance with Chapter 1.10 of this code, with the exception of dangerous dog hearings which shall be administered by the animal control authority.

(Ord. CS-450 § 2, 2023)

**§ 7.08.020. Penalties for violation.**

The penalties for violating provisions of this chapter, including the county codes adopted and incorporated in Section 7.08.005, shall be as specified in Chapters 1.08 and 1.10 of this code, irrespective of whether the county codes specify that the violation is a misdemeanor or an infraction. In addition to these penalties, a court, if it finds it reasonably necessary to ensure animal or public health, safety, and welfare, may order a person convicted of any provision of the referenced ordinance classified as a misdemeanor to refrain from having any contact with animals of any kind for a period of up to three years. Furthermore, the court is permitted to require the convicted person to deliver all animals in their possession, custody, or control to the animal control authority, or provide proof that they no longer have possession, care, or control of any animals.

(Ord. NS-586 § 2, 2001; Ord. CS-450 § 2, 2023)

**§ 7.08.030. Public nuisance and abatement.**

The bringing or maintenance within the city of any animals in contravention of this chapter is, in addition to being chargeable as a misdemeanor at the discretion of the animal control authority, declared to be a public nuisance. The animal control authority or the City Manager or designee is authorized, directed, and empowered to summarily abate any such public nuisance pursuant to the procedures of Chapter 6.16 of this code by any means reasonably necessary.

(Ord. CS-450 § 2, 2023)

## CHAPTER 7.12 BEES AND APIARIES

### **§ 7.12.010. Definitions.**

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Apiary" includes bees, one or more hives of bees and appliances, wherever the same are kept, located or found;

"Appliances" means any contrivance or device used in the handling or manipulation of bees or their brood which may be used in an apiary;

"Hives" means any object or container made or prepared for the use of bees, or taken possession of by bees;

"Location" means the lands upon which any apiary is located or found.

(Ord. 3034 § 1)

### **§ 7.12.020. Identification signs required—Information to be shown.**

Every person maintaining an apiary on premises other than that of his or her residence shall identify such apiary by affixing a sign thereto showing the name of the owner or person in possession of the apiary, the owner's address, his or her telephone number, or, if the owner does not have a telephone, the words "No Phone."

(Ord. 3034 § 2)

### **§ 7.12.030. Location of signs—Specifications generally.**

Persons maintaining apiaries shall affix identification signs on the longer side of the hive or longer side of the super, prominently located on the entrance side of the apiary and shall at all times maintain such signs thereon. Such signs shall be in black letters at least one inch in height on white or other contrasting color.

(Ord. 3034 § 3)

### **§ 7.12.040. Lettering on sign.**

The lettering shall be printed or stenciled, or equivalent thereto, in black paint or black ink.

(Ord. 3034 § 4)

### **§ 7.12.050. Distance of apiaries from public roads.**

No apiary shall be kept and located at a distance from a public road which distance would constitute a nuisance.

(Ord. 3034 § 5)

### **§ 7.12.060. Location of apiaries within 150 feet of dwellings prohibited—Exception.**

No apiary shall be kept and located at a distance less than 150 feet from the nearest house or building inhabited as a dwelling, except buildings owned or controlled by the apiary owner; unless the owner of such apiary first procures permission in writing from the occupant or person using such building or house as a dwelling to do so. Such permission to be revocable at any time by written notice served upon the person owning or keeping the apiary.

(Ord. 3034 § 6)

**§ 7.12.070. Landowner's permission for apiary required.**

No apiary shall be kept or located upon the lands of another without the owner or the person in possession of the apiary first procuring from the owner or person entitled to possession of the lands permission to place the apiary thereon.

(Ord. 3034 § 8)

**§ 7.12.080. Transportation of bees.**

Hives of bees being transported during daylight hours shall be confined by screens or other means to the vehicle by which the bees are being transported.

(Ord. 3034 § 7)

**§ 7.12.090. Notice of violations of chapter.**

Any person maintaining an apiary who violates any of the provisions of this chapter may be served with written notice of such violation by any law enforcement officer of the county. Notice may be served upon such person personally, by mail, or by posting such notice for five days in a conspicuous place on the apiary where the violation occurs.

(Ord. 3034 § 9)

**§ 7.12.100. Violations after notice deemed misdemeanor.**

Every person violating any provision of this chapter who has been served with written notice of such violation as prescribed by Section 7.12.090 and who refuses to comply with such notice is guilty of a misdemeanor.

(Ord. 3034 § 10)

**CHAPTER 7.16  
RETAIL SALE OF DOGS AND CATS PROHIBITED**

**§ 7.16.010. Retail sale of dogs and cats prohibited.**

A. Definitions. For purposes of this chapter, the following definitions shall apply:

"Animal shelter" means a municipal or related public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

"Cat" means an animal of the Felidae family of the order Carnivora.

"Dog" means an animal of the Canidae family of the order Carnivora.

"Existing pet store" means any pet store or pet store operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the City of Carlsbad on the effective date of the ordinance codified in this chapter, and complied with all applicable provisions of the Carlsbad Municipal Code.

"Pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling animals at retail.

"Pet store operator" means a person who owns or is designated by an owner to operate a pet store, or both.

"Retail sale" includes display, offer for sale, offer for adoption, barter, auction, give away, or other transfer of any cat or dog.

"Certificate of source" means a document declaring the source of the dog or cat sold or transferred by the pet store. The certificate shall include the name and address of the source of the dog or cat.

"Non-commercial breeding establishment" means a person, firm, partnership, corporation or other entity that has sold, transferred or given away all or part of three or fewer litters, or less than 20 dogs, or less than 20 cats during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

B. Prohibition. No pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the City of Carlsbad.

C. Exemptions. This chapter does not apply to:

1. A person or establishment that engages in the retail sale of dogs or cats that are obtained from a non-commercial breeding establishment;
2. A person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of only animals that were bred and reared on the premises of the person or establishment;
3. A publicly operated animal control facility or animal shelter;
4. A private, charitable, nonprofit humane society or animal rescue organization; or
5. A publicly operated animal control agency, nonprofit humane society or nonprofit animal rescue organization that operates out of or in connection with a pet store.

D. Adoption of Shelter and Rescue Animals. Nothing in this chapter shall prevent a pet store or its

owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

- E. Certificate of Source. A pet store operator shall post and maintain in a conspicuous place, on or within three feet of each dog's or cat's kennel, cage or enclosure, a certificate of source for each dog or cat offered for retail sale ensuring the dog or cat was obtained in full compliance with this chapter, and the pet store operator shall provide a copy of such certificate of source to the purchaser or transferee of any dog or cat.
- F. Existing Pet Stores. An existing pet store may continue to engage in the retail sale of dogs and cats until November 10, 2016.

(Ord. CS-296 § 2, 2016)

#### **§ 7.16.020. Notice of violations of chapter.**

This chapter shall be enforced by the San Diego County department of animal services. Any person who violates any of the provisions of this chapter may be served with written notice of such violation by any law enforcement officer of the county. Notice may be served upon such person personally, by mail or by posting such notice for five days in a conspicuous place where the violation occurs.

(Ord. CS-296 § 2, 2016)

#### **§ 7.16.030. Violations after notice deemed misdemeanor.**

- A. Every pet store operator violating any provision of this chapter who has been served with written notice of such violation as prescribed by Section 7.16.020 and who refuses to comply with such notice is guilty of a misdemeanor.
- B. Each animal simultaneously displayed, offered for sale or sold in violation of this section constitutes a separate violation of this section. Furthermore, the display, offer for sale, offer for adoption, barter, auction, giving away, or otherwise transferring of cats or dogs after the date a citation has been issued shall also constitute a separate violation.

(Ord. CS-296 § 2, 2016)



**Title 8****PUBLIC PEACE, MORALS AND SAFETY**

<p>Chapter 8.04  <b>PARENTAL RESPONSIBILITY AND JUVENILE CRIME AND VICTIMIZATION</b>  <b>PREVENTION LAW</b></p> <p>§ 8.04.010. Title and purpose.</p> <p>§ 8.04.020. Definitions.</p> <p>§ 8.04.030. Prohibition—Juvenile.</p> <p>§ 8.04.040. Prohibition—Adult.</p> <p>§ 8.04.050. Exceptions.</p> <p>§ 8.04.060. Violations.</p>	<p>§ 8.16.010.</p> <p>§ 8.16.015.</p> <p>§ 8.16.020.</p>	<p>Chapter 8.16  <b>FIREARMS</b></p> <p>Discharge prohibited—Exceptions.</p> <p>Discharge of air guns, BB guns, etc. prohibited—Where.</p> <p>Permit to discharge firearms.</p>
<p>Chapter 8.09  <b>ENTERTAINMENT LICENSE</b></p> <p>§ 8.09.010. Purpose.</p> <p>§ 8.09.020. Definitions.</p> <p>§ 8.09.030. Entertainment license required.</p> <p>§ 8.09.040. Exemptions.</p> <p>§ 8.09.050. No renewal of cabaret license.</p> <p>§ 8.09.060. Application/modification requirements.</p> <p>§ 8.09.070. Fees.</p> <p>§ 8.09.080. Approval/denial/modification of entertainment license.</p> <p>§ 8.09.090. Entertainment license standards and conditions.</p> <p>§ 8.09.100. Class II entertainment establishment conditions.</p> <p>§ 8.09.110. Sound or noise measurement.</p> <p>§ 8.09.120. Immediate threat to public safety.</p> <p>§ 8.09.130. Term of license.</p> <p>§ 8.09.140. Revocation/suspension for violation.</p> <p>§ 8.09.150. Appeal procedure.</p> <p>§ 8.09.160. Severability.</p> <p>§ 8.09.170. Violation—Penalty.</p>	<p>§ 8.17.010.</p> <p>§ 8.17.020.</p> <p>§ 8.17.030.</p> <p>§ 8.17.040.</p> <p>§ 8.17.050.</p> <p>§ 8.17.060.</p> <p>§ 8.17.070.</p> <p>§ 8.17.080.</p> <p>§ 8.17.090.</p> <p>§ 8.17.100.</p> <p>§ 8.17.105.</p> <p>§ 8.17.110.</p> <p>§ 8.17.120.</p> <p>§ 8.17.130.</p> <p>§ 8.17.140.</p> <p>§ 8.17.150.</p> <p>§ 8.17.160.</p> <p>§ 8.17.170.</p> <p>§ 8.17.180.</p> <p>§ 8.17.190.</p> <p>§ 8.17.200.</p> <p>§ 8.17.210.</p> <p>§ 8.17.220.</p>	<p>Chapter 8.17  <b>SPECIAL EVENTS</b></p> <p>Purpose and intent.</p> <p>Definitions.</p> <p>Permit required.</p> <p>Exceptions to special event permit requirement.</p> <p>Special Events Committee.</p> <p>Application.</p> <p>Fees.</p> <p>Police protection and other emergency services.</p> <p>Release and indemnification requirement.</p> <p>Insurance requirements.</p> <p>Edible food recovery.</p> <p>Signs.</p> <p>Notification.</p> <p>Reasons for denial of a special event permit.</p> <p>Notice of denial of application.</p> <p>Alternatives to permit application.</p> <p>Appeal procedure.</p> <p>Notice to city and other officials.</p> <p>Special events calendar.</p> <p>Contents of permit.</p> <p>Violations.</p> <p>Revocation of permit.</p> <p>Severability.</p>

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PUBLIC PEACE, MORALS AND SAFETY

**Note: For provisions regarding the failure to pay taxi fare, see Section 5.20.120; for provisions regarding unlawful acts during a disaster, see Section 6.04.130.**

**CHAPTER 8.04  
PARENTAL RESPONSIBILITY AND JUVENILE CRIME AND VICTIMIZATION  
PREVENTION LAW**

**Prior ordinance history: Ord. Nos. 3023 and NS-415.**

**§ 8.04.010. Title and purpose.**

This chapter shall be entitled the Parental Responsibility and Juvenile Crime and Victimization Prevention Law of the City of Carlsbad. The purpose of this chapter is:

- A. To promote the public health, safety and welfare by reducing juvenile violence and crime within the city; and
- B. To protect juveniles, whose lack of maturity and experience renders them especially vulnerable to being victimized by older perpetrators of crime and to becoming participants in unlawful activities involving alcohol, drugs, graffiti, vandalism, theft and gang-related crimes; and
- C. To foster and strengthen parental responsibility for juveniles.

(Ord. NS-416 § 1, 1997; Ord. NS-658 § 1, 2003)

**§ 8.04.020. Definitions.**

"Curfew hours" means the hours between 11:00 p.m. and 5:00 a.m. each day.

"Emancipated" means a juvenile who is self-supporting and independent of parental control as a result of a court order or by marriage of the juvenile under California Family Code Section 302.

"Emergency" means the unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, without limitation, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Guardian" means (1) a person who, under court order, is the guardian of the subject juvenile, or (2) a public or private agency with which the court has placed the subject juvenile.

"Juvenile" means any person under the age of 18.

"Parent" means a person who is a natural parent, adoptive parent, or stepparent of the subject juvenile.

"Public place" means any place to which the public or a substantial group of the public has access, and includes, without limitation, sidewalks, streets, highways, parks, trails, beaches, vacant lots, and the common areas of schools, hospitals, office buildings, housing complexes, and shopping centers.

"Responsible adult" means a person at least 18 years of age who is authorized by a parent or guardian to have temporary care, custody or control of the subject juvenile.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ord. NS-416 § 1, 1997; Ord. NS-658 § 2, 2003)

**§ 8.04.030. Prohibition—Juvenile.**

Except as provided in Section 8.04.050, it is unlawful for any juvenile to be present in any public place during curfew hours.

(Ord. NS-658 § 3, 2003)

**§ 8.04.040. Prohibition—Adult.**

Except as provided in Section 8.04.050, it is unlawful for a parent, guardian, or responsible adult to knowingly, or by insufficient control, permit a juvenile to be present in any public place during curfew hours.

(Ord. NS-416 § 1, 1997; Ord. NS-658 § 4, 2003)

**§ 8.04.050. Exceptions.**

Sections 8.04.030 and 8.04.040 do not apply:

- A. When the juvenile is accompanied by a parent, guardian, or responsible adult; or
- B. When the juvenile is on an errand without detour or stop that is directed by a parent, guardian, or responsible adult; or
- C. When the juvenile is engaged in, or traveling without detour or stop to or from a school, religious, recreational, or civic function supervised by adults and sponsored by a school, religious, recreational, or civic organization taking responsibility for the juvenile; or
- D. When the juvenile is traveling without detour or stop to or from the juvenile's place of employment or is engaged in employment-related activities; or
- E. When the juvenile is traveling without detour or stop to or from a medical appointment; or
- F. When the juvenile is in a motor vehicle engaged in interstate travel; or
- G. When the juvenile is on a sidewalk abutting the juvenile's home, or the home of a guardian or responsible adult; or
- H. When the juvenile is involved in an emergency; or
- I. When the juvenile is engaged in "expressive activities" protected by the federal or state constitutions, such as the free exercise of religion, freedom of speech, or the right of assembly; or
- J. When the juvenile is emancipated.

(Ord. NS-416 § 1, 1997; Ord. NS-658 § 5, 2003)

**§ 8.04.060. Violations.**

Any juvenile, parent, guardian, or responsible adult who violates any provision of this chapter is guilty of an infraction, except that the fourth and each additional violation of a provision within one year shall be a misdemeanor. Penalties for a violation of this chapter shall be as designated in Section 1.08.010 of this code.

(Ord. NS-416 § 1, 1997; Ord. NS-658 § 6, 2003)

## CHAPTER 8.09 ENTERTAINMENT LICENSE

### **§ 8.09.010. Purpose.**

The City of Carlsbad encourages the development of arts and culture and recognizes that having many entertainment establishments provides a means for such activity. The City of Carlsbad further recognizes that having a variety of entertainment types in the city promotes a rich and diverse cultural experience.

The City of Carlsbad also recognizes that entertainment establishments serving alcohol have demonstrated the potential for creating an environment where various types of disturbances, excessive noise, and disorderly conduct by inebriated patrons may occur. These negative effects are adverse to the public safety and the quality of life in the community.

The purpose of this chapter is to regulate the operation of entertainment establishments so as to minimize the negative effects and to preserve the public safety, health and welfare. It is not the city's intent to regulate or restrict the type or content of entertainment provided in those establishments. All licensees will be responsible for controlling patron conduct at their entertainment establishment, making adequate provisions for security and crowd control, compliance with state and local laws and minimizing disturbances caused by the operation of an entertainment establishment.

It is also the intent of the City of Carlsbad to provide alternatives to the regulating of entertainment establishments by imposing license conditions tailored to the particular entertainment establishment.  
(Ord. NS-859 § 3, 2007)

### **§ 8.09.020. Definitions.**

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

"A-weighted sound level" means the sound level in decibels as measured on a sound level meter using A-weighting network. The level is displayed in decibels and is designated either dB(A) or dBA.

"ABC license" means a license to serve alcoholic beverages issued by the State of California Department of Alcoholic Beverage Control.

"Ambient music" means prerecorded, low-level, background music, which is inaudible from any portion of the exterior of the premises. Ambient music does not include music played by a "disc jockey" or "DJ."

"Ambient noise level" means the composite noise from all sources near and far. In this context, the ambient noise level constitutes a normal or existing level of environmental noise at a given location and time.

"Ambient sound" means vibrations that travels through the air and are detectible by the ear and which are inaudible from any portion of the exterior of the premises.

"Ambient television" means television programming routinely shown on broadcast, cable, satellite or other networks which now exist or which may be developed in the future which is inaudible and not visible from any portion of the exterior of the premises.

"Average sound level" means a sound level typical of the sound levels at a certain place during a given period of time, averaged by the general rule of combination for sound levels, as set forth in S1.40-1984, as amended from time to time, of the American National Standards Institute specifications for sound level meters. Average sound level is also called equivalent continuous sound level ("Leq").

"Cabaret license" means a cabaret license issued pursuant to Section 8.09.014 as it existed before the revision of this code by the enactment of this chapter, entertainment license.

"Class I entertainment establishment" means a business with an ABC license offering entertainment to patrons that does not include dancing by patrons of the entertainment establishment.

"Class II entertainment establishment" means a business with an ABC license offering entertainment to patrons that includes dancing by patrons of the entertainment establishment.

"Class III entertainment establishment" means a business that is a public premises establishment with an ABC license offering entertainment to patrons that does not include dancing by patrons of the establishment.

"Dance or dancing" means to move with rhythmical steps or movement, usually to music or an audible rhythm; except for any dance that is regulated under Chapter 8.60 (Adult Business Licenses and Operating Regulations).

"Decibel (dB)" means a unit of measure of sound noise level.

"Disturbing, excessive or offensive noise" means: (a) any noise which constitutes a nuisance involving discomfort or annoyance to persons of normal sensitivity residing in the area; or (b) any noise conflicting with the criteria or levels set forth in this chapter.

"Entertainment" means any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen, or participate, or is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing patrons, including:

1. Dancing by patron(s) to live or recorded music.
2. The presentation of music played on sound equipment operated by an agent or contractor of the establishment, commonly known as "disc jockey" or "DJ."
3. The presentation of live music whether amplified or un-amplified.
4. The presentation of music videos, music concerts or other similar forms of musical entertainment from any source.
5. Any amusement or event such as live music or other live performance which is knowingly permitted by any entertainment establishment, including presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, song or dance acts, plays, concerts, any type of contest; sporting events, exhibitions, carnival or circus acts, demonstrations of talent or items for gift or sale; shows, reviews, and any other such activity which may be attended by members of the public.

"Entertainment establishment(s)" means any commercial business, except a business entity possessing a valid cabaret license or regulated by Chapter 8.60 of this code that is open to the public wherein alcoholic beverages are served, is subject to licensing by State of California Department of Alcoholic Beverage Control and offers entertainment to patrons.

"Entertainment license" means a license obtained from the Chief of Police pursuant to the provisions of this chapter for the purposes of operating an entertainment establishment.

"Manager" means a person, regardless of the job title or description, who has discretionary powers to organize, direct, carry on, or control the operations of an entertainment establishment, including a restaurant or bar. Authority to engage in one or more of the following functions is *prima facie* evidence that a person is a manager of the entertainment establishment:

1. Hire or terminate employees;

2. Contract for the purchase of furniture, equipment, or supplies, except for the occasional replenishment of stock;
3. Disburse funds of the business, except for the receipt of regularly replaced items of stock;
4. Make or participate in making policy decisions regarding operations of the entertainment establishment.

"Noise" means and includes ambient music, ambient television, ambient sound, or entertainment.

"Noise level" has the same meaning as "Sound level."

"On-sale" has the same meaning as California Business and Professions Code Section 23038.

"Public premises establishment" has the same meaning as that used in California Business and Professions Code Section 23039.

"Responsible beverage service training course" means a course certified by the California Department of Alcoholic Beverage Control for on-sale management and on-sale professional services.

"Responsible party" means any person who is physically at the entertainment establishment and is any of the following:

1. The person who owns the entertainment establishment;
2. The person in charge of the entertainment establishment;
3. The person using the entertainment establishment under a special arrangement;
4. An employee or agent of an owner or manager of the entertainment establishment when the owner or manager is temporarily absent from the entertainment establishment;
5. The entertainment establishment's manager or on-site supervisor.

"Sound level" means in decibels, the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network as specified in S1.40-1984, as amended from time to time, of the American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting is implied.

"Sound level meter" means an instrument, including a microphone, an amplifier, a readout, and frequency weighting networks for the measurement of sound levels, which meets or exceeds the requirements pertinent for type S2A meters in S1.40-1984, as amended from time to time, of the American National Standards Institute specifications for sound level meters.

"Sound noise level" has the same meaning as "sound level."

(Ord. NS-859 § 3, 2007; Ord. CS-351 § 2, 2019)

### **§ 8.09.030. Entertainment license required.**

All entertainment establishments shall possess an entertainment license.

(Ord. NS-859 § 3, 2007)

### **§ 8.09.040. Exemptions.**

The following types of activities are exempt from the provisions of this chapter:

- A. Events for which a special event permit or park facility use permit has been issued pursuant to this

code;

- B. Ambient music;
- C. Ambient television;
- D. Ambient sound;
- E. Entertainment conducted in connection with a theme park;
- F. Entertainment conducted in connection with a hotel, so long as the hotel is subject to a specific plan or master plan development.

(Ord. NS-859 § 3, 2007)

#### **§ 8.09.050. No renewal of cabaret license.**

Any person or business entity holding a valid cabaret license issued before the effective date of the ordinance codified in this chapter may continue with the operation of that business until such time as that annual cabaret license expires or is revoked. Upon expiration or revocation of an annual cabaret license, an application for an entertainment license shall be submitted to the Chief of Police or designee pursuant to this chapter if the business desires to continue serving alcoholic beverages and providing entertainment to patrons.

The transferee or purchaser of a business holding an annual cabaret license issued before the effective date of the ordinance codified in this chapter shall be required to apply for an entertainment license, pursuant to this chapter, within 30 days of the completion of the transfer or purchase of the business holding such annual cabaret license if the transferee or purchaser desires to continue serving alcohol beverages and providing entertainment to patrons.

(Ord. NS-859 § 3, 2007)

#### **§ 8.09.060. Application/modification requirements.**

- A. Any person or business entity desiring to obtain an entertainment license or modification shall submit a complete application to the Chief of Police through the office of Community and Economic Development and pay an application fee pursuant to Section 8.09.070.
- B. The application shall be in a form approved by the Chief of Police.
- C. The application shall be filed:
  - 1. At least 45 days prior to the proposed operation of the entertainment establishment; or
  - 2. At least 45 days prior to the expiration of either a cabaret or entertainment license; or
  - 3. At any time for a modification.
- D. The application shall state the class of entertainment (Class I, Class II or Class III) that the entertainment establishment will provide to patrons.
- E. The entertainment license application shall include five copies of a floor plan. The floor plan shall be an accurate representation of the floor plan approved by the city building and fire departments as part of a formal building permit process. Any changes that have occurred to the floor plan since the original city building and fire department approval shall be identified and include a notation identifying the date the modification was approved by the city if such approval was required. The

floor plan shall show all customer seating areas, performing stages or platforms, back-of-house areas, restroom facilities, and any proposed dance areas if applying for a Class II entertainment license. The floor plan shall clearly state the legal occupant load as established as part of the formal building permit process, and all exiting systems of the premises shall be clearly shown. No floor plan change, occupant load change, or other change of use can be approved as part of an application process for an entertainment license.

- F. The application for an entertainment license shall include five copies of the proposed site plan for the entertainment establishment and the site plan shall be an accurate representation with dimensions that show the building's footprint, boundary and property lines and on site parking spaces. Any changes that have occurred to the site plan since the original city building and fire department approval shall be identified and include a notation identifying the date the modification was approved by the city if such approval was required.
- G. The application shall also include a copy of any city land use permits (e.g., conditional use permit, redevelopment permit, etc.) issued to the property owner or business entity.
- H. The entertainment license application shall include a detailed security plan. The security plan should include, but is not limited to, the following:
  - 1. The number of security personnel who will be on duty;
  - 2. The minimum level of acceptable training for security personnel;
  - 3. The patron screening procedure, if any, prior to admission to entertainment establishment;
  - 4. Identify patron access points into the entertainment establishment;
  - 5. Removal of disorderly or intoxicated patrons from premises; and
  - 6. Dispersal of patrons from the entertainment establishment, on site parking area and/or public rights-of-way (e.g., sidewalk or street) within 50 feet of any entrance to the entertainment establishment.

(Ord. NS-859 § 3, 2007; Ord. CS-351 § 3, 2019)

#### **§ 8.09.070. Fees.**

A nonrefundable fee, as set forth in the City of Carlsbad Master Fee Schedule shall accompany each application for an entertainment license. The entertainment license fee shall be in addition to the business license fee required pursuant to Chapter 5.08 of this code.

(Ord. NS-859 § 3, 2007)

#### **§ 8.09.080. Approval/denial/modification of entertainment license.**

- A. Upon completion of an investigation coordinated by the office of economic development, the Chief of Police shall issue the license subject to Section 8.09.090, as applicable, unless it is found that:
  - 1. The application fee has not been paid.
  - 2. Applicant is less than 21 years of age.
  - 3. The application does not conform to the provisions of this chapter.
  - 4. The applicant has made a material misrepresentation in the application.

5. The applicant or any of its owners, partners, officers or directors has had an entertainment license revoked within two years prior to the date of the pending application.
  6. The proposed entertainment establishment does not comply with all applicable laws, including, but not limited to: health, zoning, building, and fire code requirements. Prior to granting a license, the Chief of Police or designee shall obtain certification from the Fire Chief, City Planner, and building official that the proposed use is in compliance with the land use and zoning provisions of the applicable municipal code provisions and Village and Barrio Master Plan (if applicable), and that the structures are suitable and safe for the proposed operation of an entertainment establishment.
- B. If the Chief of Police denies the application, the applicant shall be notified of the reasons for the denial in writing within 45 days after receipt of the application. However, failure to notify the applicant within the specified time period shall not constitute a basis for granting the license. An applicant denied an entertainment license has a right to appeal the denial pursuant to Section 8.09.150 of this chapter. If such a hearing is not requested within the prescribed time period, the denial shall be final.
- C. If a conditional use permit, or any other permit or approval, except a certificate of occupancy, is required for the lawful operation of an entertainment establishment, the provisions of this chapter shall be in addition to those other permits and entitlements. An entertainment license cannot modify the terms of a conditional use permit or any other permit or approval.

(Ord. NS-859 § 3, 2007; Ord. CS-164 §§ 10, 12, 2011; Ord. CS-333 § 2, 2018; Ord. CS-351 § 4, 2019)

#### **§ 8.09.090. Entertainment license standards and conditions.**

- A. All Class I, Class II and Class III entertainment establishments shall operate in accordance with the following standards or conditions:
1. Display of License. The entertainment license shall be displayed on the premises in a conspicuous place so that law enforcement persons entering may readily see the entertainment license. A copy of the floor plan approved with the entertainment license shall be made available at all times at the request of any law enforcement officer, Fire Marshal or Deputy Fire Marshal.
  2. Hours of Operation. All entertainment establishments shall otherwise close and all patrons shall vacate the premises between 2:00 a.m. and 6:00 a.m. unless the entertainment license is conditioned for additional hours of closure.
  3. Noise Restrictions. Noise shall be measured in accordance with Section 8.09.110. Between the hours of 10:00 p.m. and 7:00 a.m. no entertainment establishment may cause, permit or maintain noise at a sound level to the extent that the one-hour average sound level exceeds 65.0 dBA Leq-1m at the property line of the entertainment establishment of which the noise is produced. The noise subject to these limits is that part of the total noise at the specified location that is due solely to the action of said responsible party.
  4. Manager and Service Training. The following persons must complete a responsible beverage service training course before the entertainment establishment may provide entertainment:
    - i. Every manager must complete a responsible beverage service training course within 90 days of hire, or by January 1, 2008, whichever is later.
    - ii. Every person who serves or sells alcoholic beverages for consumption by patrons on the

premises of an entertainment establishment shall complete a responsible beverage service training course within 90 days of hire, or by January 1, 2008, whichever is later.

- iii. Every manager and every person who serves or sells alcoholic beverages for consumption by patrons on the premises of the entertainment establishment shall maintain a current responsible beverage service training course certificate.
  - iv. A list of all persons employed as managers or persons who serve or sell alcoholic beverages for consumption by patrons on the premises of an entertainment establishment shall be maintained on the premises of the entertainment establishment. The list shall clearly identify the hire date, the date of each responsible beverage service training course was completed and the date the current training certificate will expire for every manager and every person who serves or sells alcoholic beverages for consumption by patrons on the premises of the entertainment establishment. The list shall be provided, upon request, to any police officer for inspection.
  - 5. Maximum Occupant Load. The maximum number of persons in the entertainment establishment, other than employees, shall not, at any time, exceed the maximum occupant load as established by the Fire Marshal or the city building official.
  - 6. Disturbing the Peace and Disorderly Conduct. The responsible party shall make reasonable efforts to prevent the admission of any person, whose conduct is described in California Penal Code Section 415 (fighting, loud noise, offensive words in public places) or PC 647 (disorderly conduct), inside the entertainment establishment, at any on site parking lot owned or under the control by the entertainment establishment, or on any sidewalk used by the entertainment establishment for the entertainment establishment. The responsible party shall make reasonable efforts to either call the police for assistance or remove from the entertainment establishment, parking lot or sidewalk persons exhibiting such conduct.
  - 7. Maintaining Adequate Right-of-Way. The responsible party shall ensure that patrons queuing on the public sidewalk do not obstruct the right-of-way or sidewalk from vehicular or pedestrian access. The minimum clear access for sidewalks shall be maintained at 44 inches.
  - 8. Orderly Dispersal. The responsible party shall use reasonable efforts to cause the orderly dispersal of patrons from the entertainment establishment at closing time, and shall use reasonable efforts to prevent patrons from congregating in the entertainment establishment's parking lot after closing time or permit patrons to congregate in any roadway or traffic lane within 50 feet of any entrance to the entertainment establishment.
  - 9. Obey all federal, state and local laws.
- B. In addition to the conditions set forth in subsection A of this section, the Chief of Police may impose additional conditions in the following areas which shall be based on specific, articulated facts setting forth the necessity for the conditions:
- 1. The permissible hours of operation for entertainment.
  - 2. Specific licensing qualifications and numbers of security personnel to be on duty during business hours.

(Ord. NS-859 § 3, 2007; Ord. CS-351 § 5, 2019)

**§ 8.09.100. Class II entertainment establishment conditions.**

In addition to the conditions set forth in Section 8.09.090, the following conditions shall apply to all Class II entertainment establishments:

- A. Mandatory Security Guards. There shall be at least one security guard on duty at all times the Class II entertainment establishment is allowing dancing.
- B. Designation of Dance Floor.
  - 1. The dance floor area shall be plainly marked and designated as the dancing area.
  - 2. No dancing shall be permitted outside the designated dancing area.
- C. Seating and Dance Areas. Seating areas shall not be converted to dance areas, unless the floor plan approved as part of the application process allows such conversion.

During all hours which dancing is permitted, no portion of the dancing area shall be used for any purpose other than dancing.

(Ord. NS-859 § 3, 2007)

**§ 8.09.110. Sound or noise measurement.**

- A. Any sound or noise level measurement shall be measured with a sound level meter using an A-weighted (40-phon) filter and an electrical time-constant equal to one second (i.e., "slow" meter response) pursuant to applicable manufacturer's instructions.
- B. The sound level meter shall be appropriately calibrated and adjusted both before and after a test to ensure meter accuracy within the tolerances set forth by the American National Standards Institute (ANSI) test designation S1.40-1984 for Type II instrumentation.
- C. For outdoor measurements, the microphone shall be not less than four feet above the ground, at least four feet distant from walls or other reflecting surfaces. The sound level meter shall be either mounted to a tripod, or handheld in a manner so as not to be directly in front of the abatement officer. The sound level meter shall be protected during any test from the effects of wind noises by the use of appropriate manufacturer specified windscreens.
- D. The location of the any sound level measurement used for the purposes of noise abatement shall be taken at the property line of the entertainment establishment that is creating the noise source. The sound level meter shall be oriented such that the microphone is facing the noise source and is elevated approximately 45 degrees vertically with respect to the ground. Under no circumstances should a measurement be performed closer than six feet from the noise source regardless of property line orientation.
- E. Measurements shall be performed for a period of 60 seconds at each property line of interest using a time-energy average approach (i.e., equivalent sound level or Leq based on a meter exchange rate of three dB). Each measurement shall be logged by the abatement officer on the reporting sheet as "xx.x" dBA Leq-1m, where "xx.x" is the reading from the sound level meter.
- F. If the noise source is intermittent, then for each halving of the hour in which the source is expected to occur, the effective noise level at the property line can be reduced by 3.0 dBA Leq.

(Ord. NS-859 § 3, 2007)

**§ 8.09.120. Immediate threat to public safety.**

The Chief of Police, Fire Marshal, or designee may require the responsible party to cease all or part of the entertainment establishment's operations or entertainment and disperse all patrons for a period of time up to and including the remainder of the entertainment establishment's daily operating hours whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the safety and well-being of the patrons or general public in the vicinity of the entertainment establishment.

(Ord. NS-859 § 3, 2007)

**§ 8.09.130. Term of license.**

- A. The entertainment license shall be valid for a term of three years from the date of issuance and is not transferable. Suspension of an entertainment license shall not extend the term of the entertainment license.
- B. A change in ownership of the entertainment establishment shall require the new owner to pay a new application fee and secure a new entertainment license from the Chief of Police in accordance with Section 8.09.080.
- C. An entertainment license may be renewed by a new application subject to the same requirements stated herein for obtaining the initial entertainment license, including payment of an application fee.

(Ord. NS-859 § 3, 2007)

**§ 8.09.140. Revocation/suspension for violation.**

- A. The Chief of Police may issue a letter of intent to revoke or suspend an entertainment license upon receiving satisfactory evidence that:
  1. The application for an entertainment license contains material misrepresentation; or
  2. Ownership of the entertainment establishment has changed without the new ownership securing a new entertainment license from the Chief of Police; or
  3. The entertainment establishment has, within any 12-month period, been found criminally, civilly or administratively (pursuant to Chapter 1.10 of this code), or any combination thereof, to have violated three or more of the same provisions of this chapter, or four or more of any provisions of this chapter; or
  4. Employees of the entertainment establishment, while on the premises are engaged in conduct or behavior to the extent that it constitutes a nuisance, including, but not limited to, adjudicated complaints with adverse finding(s) by the State Alcoholic Beverage Control Board or the County Health Department.
- B. Chief of police shall provide written documentation or other evidence to support the intent to revoke or suspend an entertainment license to the licensee with the letter of intent to revoke or suspend an entertainment license.
- C. The Chief of Police shall provide written notice of the intent to revoke or suspend to the holder of an entertainment license by personal service, or by certified mail. The notice shall be directed to the most current entertainment establishment address or other mailing address on file with the Chief of Police for the entertainment establishment. The notice shall provide the effective date of the revocation or suspension. No revocation or suspension shall be imposed on less than 30 days' notice to the holder of the entertainment license.

(Ord. NS-859 § 3, 2007)

**§ 8.09.150. Appeal procedure.**

- A. Any applicant or entertainment establishment aggrieved by denial, suspension or revocation, or conditions of an entertainment license may file, with the City Clerk, a written notice of appeal to the City Manager ("Notice of Appeal") within 30 days of the notification of decision by the Chief of Police or designee. The notice of appeal shall specify:
  1. The name and address of appellant;
  2. The date of application;
  3. The date of denial, suspension or revocation or condition;
  4. The factual basis for the appeal.
- B. Upon receipt of a complete and timely filed notice of appeal, the City Manager shall schedule a hearing and set forth in writing and deliver to the applicant or licensee at the address provided in the notice of appeal, by means of registered mail, certified mail or hand delivery, that within a period of not less than five days nor more than 14 days from the date of the filing of the notice of appeal with the City Clerk, a hearing shall be conducted to determine the existence of any substantial evidence which would refute the grounds for the denial, suspension, or revocation or condition of a license. The hearing notification shall include the date, time and place of the hearing.
- C. A hearing officer (hearing officer) appointed by the City Manager shall conduct the hearing based upon the notice of appeal. The applicant or licensee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant, licensee, or counsel representing the applicant or licensee, fails to present any evidence at the hearing, the evidence of the existence of facts, which constitute grounds for the denial, suspension, or revocation or condition of the entertainment license shall be deemed uncontested. Any issue not raised in the hearing is waived.
- D. Relevant evidence may be admitted and considered by the hearing officer if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the hearing officer. A copy of the recommendation of the hearing officer specifying findings of fact and the reasons for the recommendation shall be furnished to the City Manager for consideration. The City Manager shall notify the applicant or licensee or counsel representing the applicant or licensee of the decision regarding the appeal in writing as specified above within 10 days of the hearing officer's recommendation and shall also inform the party against whom a decision is rendered of the right to appeal to the City Council pursuant to this chapter. Any decision rendered by the City Manager which is not appealed within the specified time period for filing a notice to appeal to City Council is final.
- E. Any applicant, licensee or party aggrieved by a decision of the City Manager may appeal to the City Council within 10 days of the date on which the decision of the City Manager was sent, via certified mail to the applicant, licensee or party aggrieved. Upon the filing of a written notice of appeal of City Manager's decision to City Council ("Appeal to City Council") upon the City Clerk, the City Clerk shall schedule the appeal to City Council for review by the City Council as soon as practicable and advise the Police Chief who shall transmit to the clerk the complete record of the case.
- F. The City Clerk shall provide notice of the appeal to City Council, along with the date, time and

location of the appeal to City Council hearing to all parties to the appeal. The review by the City Council is de novo; and the City Council shall determine that all issues not raised in the appeal to City Council are supported by substantial evidence. The City Council shall consider the recommendations of the Police Chief and the hearing officer, the decision of the City Manager and all other relevant documentary and oral evidence as presented to the hearing officer. The City Council may affirm, modify, or reverse the action of the City Manager, and make such order, as it deems appropriate and supported by substantial evidence including remand to the City Manager with directions for further proceedings. Any action by the City Council shall be final and conclusive; provided, however, that any action reversing the decision of the City Manager shall be by the affirmative vote of at least three members of the City Council.

(Ord. NS-859 § 3, 2007)

#### **§ 8.09.160. Severability.**

If any section, subsection, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

(Ord. NS-859 § 3, 2007)

#### **§ 8.09.170. Violation—Penalty.**

- A. Any person who violates any of the provisions of this chapter is guilty of an infraction, except for the fourth and each additional violation of a provision of this chapter within one year, shall be a misdemeanor. Penalties for a violation of this chapter shall be as designated in Section 1.08.010(B) of this code.
- B. In addition to any other remedy authorized by this chapter, a violation of this chapter may be grounds for a revocation, suspension or denial of an entertainment license.

(Ord. NS-859 § 3, 2007)

## CHAPTER 8.16 FIREARMS

### **§ 8.16.010. Discharge prohibited—Exceptions.**

No person shall, without first obtaining permission from the Chief of Police, shoot or discharge any pistol, rifle, gun or other firearm, not necessary in self-defense, or in performance of official duty, within the city, unless at a legally permitted indoor shooting range.

(Ord. 3010 § 1; Ord. NS-194 § 1, 1991; Ord. CS-290 § 1, 2016)

### **§ 8.16.015. Discharge of air guns, BB guns, etc. prohibited—Where.**

- A. No person shall, without first obtaining permission from the Chief of Police as required by Section 8.16.020, shoot or discharge any air rifle, air gun, BB gun, pellet gun, gas-operated gun, spring gun or any other weapon designed to discharge or propel any projectile capable of causing injury on any public property, or on any street or sidewalk, whether public or private, or in any park, beach, golf course, shopping center, or other public gathering place within the city.
- B. No person shall shoot or discharge any air rifle, air gun, BB gun, pellet gun, gas-operated gun, spring gun or any other weapon designed to discharge or propel any projectile capable of causing injury in any unsafe or threatening manner or in any manner where the projectile may or does enter the property of another.

(Ord. NS-194 § 2, 1991)

### **§ 8.16.020. Permit to discharge firearms.**

Any person who wishes to discharge firearms referred to in Section 8.16.010 shall make written application to the Chief of Police for a permit, unless at a legally permitted indoor shooting range. Such application shall state the date on which the firearms shall be fired, the number of rounds to be fired, the place where the firearms shall be fired, and the reason or need for the permit. Within a reasonable time after receipt of such application, the Chief of Police shall approve or reject it. In the event that no action is taken by the Chief of Police within 45 days after receipt of such application, such application and request shall be deemed denied by the Chief of Police.

(Ord. 3010 § 2; Ord. 3092, 1972; Ord. NS-194 § 3, 1991; Ord. CS-290 § 2, 2016)

## CHAPTER 8.17 SPECIAL EVENTS

### **§ 8.17.010. Purpose and intent.**

The City Council recognizes that special events enhance the city's lifestyle and provide benefits to area residents, visitors, and businesses through the creation of unique venues for expression, recreation, and entertainment that are not normally provided as a part of governmental services. However, the City Council also recognizes that special events, if unregulated, can have an adverse effect on the public health, safety and welfare due to noise, traffic, safety, and health hazard impacts. The purpose and intent of this chapter is to set forth reasonable regulations by establishing a process for permitting special events within the city, to protect the rights and interest granted to special event permit holders, to ensure the health and safety of patrons of special events, to prohibit illegal activity from occurring within special event venues, and to minimize any adverse effects from special events while ensuring the orderly and efficient use of public property and city services. It is further intended to create a mechanism for cost recovery for special events without having an adverse effect on those special events that contribute to the community. It is also the intent of the council to protect the rights of citizens to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable, time, place and manner regulation of those activities within the overall context of rationally regulating special events that have an impact upon public facilities and services.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

### **§ 8.17.020. Definitions.**

Except where the context otherwise requires, for the purposes of this chapter, Chapter 8.17 et seq., the following definitions apply:

"Affected parties" means businesses and residents located within 300 feet of the area around the special event that are likely to experience impact from the special event.

"City Manager" means the City Manager or authorized designee.

"Demonstration" means any formation, procession or assembly of persons for the purposes of expressive activity.

"Event" means a special event.

"Event organizer" means any person who conducts, manages, promotes, organizes, aids or solicits attendance at a special event.

"Expressive activity" includes conduct, the sole or principal object of which is the expression of opinion, views, or ideas. Expressive activity includes, but is not limited to, public oratory and distribution of literature.

"Major event" means a special event that requires a traffic control plan for three or more intersections of any street or requires a traffic control plan for a secondary arterial, major arterial or a prime arterial.

"Minor event" means a special event that does not require a traffic control plan or that requires a traffic control plan for two or fewer intersections and does not involve a secondary arterial, major arterial or a prime arterial.

"Parade" means any march, procession or motorcade consisting of persons, vehicles or a combination thereof, upon any street, sidewalk, public park, or other public area within the city.

"Parks and Recreation Director" means the Director of Parks and Recreation or authorized designee.

"Permittee" means a person to whom a special events permit has been issued.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

"Police Chief" means the Chief of Police or authorized designee.

"Private property permit" means a minor event administrative permit issued by the Community and Economic Development Director for a function held entirely on private property that does not require a use of public property in a manner which impacts or restricts the public's normal or typical use of such property or does not comply with the normal or usual traffic regulations or controls or that require the provision of extraordinary city services and are therefore not governed by this chapter.

"Public assembly" means any meeting, picket line, rally or gathering of any kind that occupies any street, sidewalk, public park, or other public area within the city.

"Sidewalk" means any area or way set aside or open to the general public for purposes of pedestrian travel, whether or not it is paved.

"Sound-amplifying system" means any system, apparatus, equipment, device, instrument or machine designed for or intended to be used for the purpose of amplifying the sound or increasing the volume of human voice, musical tone, vibration or sound wave.

"Special event" means:

1. Any organized formation, parade, procession or public assembly consisting of 50 or more persons, and which may include animals, vehicles or any combination thereof, which is to assemble or travel in unison on any street which does not comply with normal or usual traffic regulations or controls;
2. Any commercial or noncommercial organized assemblage of 50 or more persons at any public beach, public park, public water ways, street, or sidewalk which is to gather for a common purpose under the direction and control of a person;
3. Any other organized activity conducted by a person for a common or collective use, purpose or benefit which involves the use of, or has an impact on, other public property or facilities and the provision of city public safety services in response thereto;
4. Examples of special events include concerts, parades, circuses, fairs, festivals, block parties, community events, fireworks, mass participation sports (such as marathons and running events, bicycle races or tours, tournaments), or spectator sports (such as football, baseball and basketball games, golf tournaments, surfing contests or other water competitions);
5. Organized formations, parades, processions, public assemblies, demonstrations and activities for which the principal purpose is expressive activity are not included in this definition.

"Special event permit" means a permit as required by this chapter.

"Street" means any place or way set aside or open to the general public for purposes of vehicular traffic, including, but not limited to, any berm or shoulder, parkway, public parking lot, right-of-way, alley or median.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 1, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.030. Permit required.**

No person shall engage in or conduct any special event unless a special event permit is issued by the City

Manager or authorized designee.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 3, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.040. Exceptions to special event permit requirement.**

A special event permit is not required for any of the following:

- A. Any organized activity within the scope of a conditional use permit, other land use approval or a private property permit given or required for that use;
- B. Lawful picketing;
- C. Funeral processions by a licensed mortuary; or
- D. Activities conducted by a government agency acting within the scope of its authority.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.050. Special Events Committee.**

- A. The Special Events Committee shall be comprised of the Assistant City Manager, Community and Economic Development Director, Transportation Director, Fire Chief, Police Chief, Housing and Neighborhood Services Director, Parks and Recreation Director and Risk Manager or their designated representatives. The Parks and Recreation Director will chair the Committee.
- B. The Special Events Committee is charged with reviewing and providing recommendations to the City Manager regarding the approval or modification of an application for a special event permit based upon the information required in the application with regard to considerations of public safety, traffic flow and control, the disruption to residences and businesses; availability of resources of city personnel and equipment to adequately ensure the public health, safety and welfare.
- C. The Special Events Committee shall not recommend for approval a new event for the date, time or location of a previously established reoccurring event unless the applicant of the previously established reoccurring event notifies the city of their intent to not hold the event or no application has been received by the city at the minimum application filing date.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 5, 2010; Ord. CS-164 §§ 5, 12, 14, 2011; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.060. Application.**

- A. A person requesting a special event permit shall file an application, certified by affidavit on forms provided by the parks and recreation department. The Parks and Recreation Director will forward the application to the Special Events Committee for review and recommendation to the City Manager.
- B. The application shall be filed at least 90 days and not more than two years before the special event is proposed to commence. The minimum 90-day notice requirement may be waived by the Parks and Recreation Director upon written finding that the limited scope of the event, both in size and magnitude, allows it to be adequately reviewed in the time provided.
- C. The application for a special event permit shall set forth all of the following information, if applicable:
  1. The name, address, e-mail address and telephone number of the applicant and event organizer and its officers;

2. The names, addresses and telephone numbers of the headquarters of any organization for which the special event is to be conducted, and proof of the authorized representatives of the organization;
3. An acknowledgment of financial responsibility for any city fees or costs that may be imposed for the special event by the applicant and any person authorizing the applicant to apply for the permit on its behalf;
4. A description of the nature or purpose of the special event, including a description of activities planned during the special event;
5. A statement of fees to be charged participants in the special event;
6. Identification of the Carlsbad location where special event sales will be reported to the franchise tax board, a City of Carlsbad business license or a copy of a document showing proof the applicant is a tax-exempt non-profit organization;
7. Proof of insurance required by this chapter;
8. The date(s), time(s), and location(s) where the special event is to be conducted, including assembly and disbanding;
9. A site plan, including, but not limited to:
  - a. Portable structures,
  - b. Prefabricated structures,
  - c. Site-built structures,
  - d. Staging,
  - e. Reviewing stand(s),
  - f. Elevated platforms,
  - g. Temporary pedestrian bridges,
  - h. Tents or canopies,
  - i. On-site grading,
  - j. Portable restrooms,
  - k. All on-site signs and banners that have a face area larger than 16 square feet and/or stand more than four feet above the ground,
  - l. Any travel routes,
  - m. Assembly or production areas,
  - n. Electrical sources and connections,
  - o. Fuel storage,
  - p. Cooking and open fires,

- q. Water supply,
  - r. Run-off containment features,
  - s. Solid waste, recyclable materials, and organic materials containers,
  - t. Accessible parking,
  - u. Access points and routes for disabled persons,
  - v. Access points for emergency fire and ambulance equipment,
  - w. Emergency medical services area(s),
  - x. Any vehicles located in an enclosed area,
  - y. Pyrotechnics,
  - z. Inflatable(s),
  - aa. Animals and animal rides,
  - bb. Carnival rides,
  - cc. Location to accommodate individuals desiring to express opinions not consistent with the purpose or intent of the event, and
  - dd. Other similar information that will describe the components of the event;
10. The location and description of all off-site signs, banners or attention getting devices;
  11. A detailed traffic control plan (TCP) for a major event and parking management plan, consistent with standards set forth in the National Manual on Uniform Traffic Control Devices or the California Supplement to the National Manual on Uniform Traffic Control Devices for all streets, sidewalks and parking lots which the special event will impact by restricting the public's normal, typical or customary use thereof;
  12. The approximate number of participants, spectators, animals and vehicles;
  13. The number of persons proposed or required to monitor or facilitate the special event and to provide spectator or participant control and direction for events using city streets, sidewalks, or facilities;
  14. Provisions for first aid and emergency medical services;
  15. The number, type and location of sanitation facilities;
  16. Provisions for recycling per California Public Resources Code Sections 42648 through 42648.7 and in accordance with Section 6.08.026 of this code;
  17. Pollution prevention in compliance with city's municipal National Pollutant Discharge Elimination System permit, city ordinances and the city "Jurisdictional Urban Runoff Management Plan" (JURMP);
  18. A description of any recording equipment, sound amplification equipment, or other attention-getting devices to be used in connection with the special event.

- D. Applicants for a repeated event held on private property (such as fireworks) may file one annual special event application identifying the event dates for one calendar year.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 6, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.070. Fees.**

- A. Major Event Fee. A nonrefundable fee, as set forth in the schedule of service costs approved by City Council resolution, reasonably calculated to reimburse the city for its reasonable and necessary costs in receiving, processing and reviewing applications for permits to hold a major event, must be paid to the City of Carlsbad when an application is filed.
- B. Minor Event Fee. A nonrefundable fee, as set forth in the schedule of service costs approved by City Council resolution, reasonably calculated to reimburse the city for its reasonable and necessary costs in receiving, processing and reviewing applications for permits to hold a minor event, must be paid to the City of Carlsbad when an application is filed.
- C. If the application includes the use of any city facility and/or property, or if any city services are required for the special event, the applicant must agree to pay for the services in accordance with a schedule of service costs approved by City Council resolution.
- D. Third Party Fee. If the permittee provides for or allows third party vendors to participate in the special event, the permittee shall pay an additional nonrefundable fee, as set forth in the schedule of service costs approved by City Council resolution, reasonably calculated to reimburse the city for its actual and necessary costs in receiving, processing and reviewing the application that includes third party vendors. The amount of the additional fee shall be established by resolution of the City Council and shall be based on whether the application is for a major or minor event.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 7, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.080. Police protection and other emergency services.**

- A. The Police Chief will determine whether and to what extent additional police protection, civilian traffic control personnel, private security and volunteer staff are reasonably necessary to ensure traffic control and public safety for the special event. The Police Chief will base this decision on the size, location, duration, time and date of the special event, the expected sale or service of alcoholic beverages, the number of streets and intersections blocked off from use by the public, and the need to detour or preempt pedestrian and vehicular travel from the use of public streets and sidewalks. The Police Chief shall provide, if police protection and/or other emergency and safety services or equipment is deemed necessary for the special event, an estimate of the cost of extraordinary city services and equipment required in writing. The applicant will be billed for services after the event.
- B. When the Police Chief is determining the size of the event and the security needed to protect participants and spectators, the estimate, based upon reasonably known information, of participants shall be determinative. The numbers of persons attending in response to an event, to heckle, protest or oppose the sponsor's viewpoint shall not be considered in the cost of providing police protection.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.090. Release and indemnification requirement.**

Permittee agrees to waive and release the City of Carlsbad and its officers, agents, employees and volunteers from and against any and all claims, costs, liabilities, expenses or judgments including attorney's fees and court costs arising out of the activities of this special event or any illness or injury resulting

therefrom, and hereby agree to indemnify and hold harmless the City of Carlsbad from and against any and all such claims, whether caused by negligence or otherwise, except for illness and injury resulting directly from gross negligence or willful misconduct on the part of the city or its employees.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 9, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.100. Insurance requirements.**

Whenever a special event, including, but not limited to, exhibits, fairs, athletic events, trade shows, concerts, or conventions, requires a permit under the provisions of this code, the sponsor, event organizer or person conducting the special event shall provide evidence of commercial general liability insurance in a form acceptable to the Risk Manager (and additional coverage(s) as appropriate for the activities of the event), naming the City of Carlsbad as an additional insured, and with a coverage amount to be determined by the Risk Manager according to the size and risk factors of the event. When determining the size of the event and the risk to participants and spectators, the estimate of participants shall be determinative. The person conducting the special event shall not be required to insure any risk arising from persons attending in response to an event, to heckle or oppose the sponsor's viewpoint. The insurance company or companies shall meet the requirements established by City Council resolution for all insurance required by the city. The insurance policy required by this section shall not be cancelled, limited or not renewed without 30 days' prior written notice has been given to the city.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.105. Edible food recovery.**

Special events as described in Chapter 6.08 of the Carlsbad Municipal Code must comply with Section 6.08.027 of the Carlsbad Municipal Code regarding edible food recovery.

(Ord. CS-408 § 3, 2021)

#### **§ 8.17.110. Signs.**

- A. The permittee shall post street closure notification signs at locations approved by the City Manager which include the name of the event, date, time and location of the closure and which:
  1. Shall not exceed 16 square feet in sign area with a minimum letter size of four inches;
  2. Shall be posted on any street on which more than two intersections will be closed, and any secondary arterial, major arterial, or prime arterial that will be closed as a result of the special event;
  3. Shall be posted a maximum of 15 days and a minimum of 10 days prior to the scheduled closure; and
  4. Shall be removed within two days following the conclusion of the event.
- B. The permittee may post a maximum of eight signs that promote the event at locations approved by the City Manager. Event promotion signs shall meet the following conditions:
  1. The event promotion sign(s) shall not exceed 16 square feet in sign area;
  2. Shall not be posted more than 16 days prior to the event; and
  3. Shall be removed immediately but in no event more than two days following the event.
- C. The permittee shall post traffic control and/or directional signs the day or days of the special event as

required by the permit. Traffic control and/or directional signs shall meet the following conditions:

1. The location of all traffic control and/or directional signs shall require approval of the City Manager; and
2. Traffic control and/or directional signs shall not be posted more than four hours prior to the start of the special event and shall be removed not more than four hours after the conclusion of the special event. Any sign(s) left out after four hours may be removed by city staff and disposed of without compensation to event organizer.
- D. The permittee for a special event permit may post signs and banners during the special event at the special event venue.
  1. All venue sign(s) with more than 16 square feet of sign area or signs that are more than four feet above ground level shall be identified on the site plan;
  2. Each venue signs and/or banners shall be less than 50 square feet of sign area.
- E. Signs stating "no parking/tow away" shall be posted 72 hours in advance of the event start time.  
(Ord. NS-811 § 2, 2006; Ord. CS-101 § 11, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.120. Notification.**

- A. The applicant for:
  1. A first-time major event;
  2. A major event that has not been held for more than two years;
  3. A first-time event at a city facility that is not authorized by facility use permit; or
  4. An event at a city facility that is not authorized by facility use permit and that has not been held for more than two years; shall sponsor a meeting for all affected parties. This meeting must be held not more than 180 days prior or less than 80 days prior to the special event date. Affected parties must be notified by the applicant via the United States Postal Service or by direct distribution to all affected parties of the meeting a minimum of 10 days prior to the meeting. The purpose of this meeting will be to allow the special event sponsor to identify and address concerns of affected parties regarding the time, place and manner in which the special event is to be held. Concerns regarding the message or viewpoint of the event sponsor shall not be considered. The Parks and Recreation Director may waive the minimum 80-day time limit for the affected party meeting with a written finding of good cause if, after due consideration, the Parks and Recreation Director determines that because of the limited scope and complexity of the event when considering the application criteria, there will be adequate time for review by and input of concerned affected parties.
- B. The applicant for a major special event permit that is not subject to the notification described in subsection A shall notify all affected parties of the event not more 40 days nor less than 30 days prior to the special event date via the United States Postal Service or by direct distribution to all affected parties. The notification shall contain information concerning the event and information on how to contact the applicant and the Special Events Committee before and after the event.
- C. All applicants for a special event permit shall notify via the United States Postal Service or by direct distribution to all affected parties of the event not more than 15 days prior or less than 10 days prior

to the special event date with information concerning the event and information on how to contact the applicant and the Special Events Committee before and after the event.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 12, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

**§ 8.17.130. Reasons for denial of a special event permit.**

- A. The City Manager may only deny a special event permit to an applicant when any of the following applies:
1. The application for the permit (including any attachments) is not fully completed and executed.
  2. The application for the permit contains a material falsehood or misrepresentation.
  3. The applicant has failed to conduct a previously authorized event in accordance with law or the terms of a permit, or both.
  4. The use or activity would conflict with previously planned programs organized and conducted by the city and previously scheduled for the same place and time.
  5. A fully executed prior application for the same time and place has been received and a permit has been or is likely to be granted authorizing uses or activities which do not reasonably permit multiple occupancy of the particular site or part thereof.
  6. The applicant has not complied or cannot comply with applicable federal, state or local laws, regulations, ordinances or City Council policy.
  7. The applicant has not tendered the required application, indemnification agreement and endorsement(s), insurance certificate, or security deposit for police and emergency services and equipment within the times prescribed.
  8. The applicant has not provided for the services of a required number of police officers, fire and/or paramedic personnel, private security, civilian traffic controllers or event volunteers/staff to ensure the safety of the event.
  9. The applicant has not provided adequate sanitation and other required health facilities on or adjacent to any public assembly area.
  10. The applicant has not provided sufficient off-site parking or shuttle service, or both, required to minimize any adverse impacts on public parking and traffic circulation in the vicinity of the special event.
  11. The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur.
  12. The use or activity would present an unreasonable danger to the health or safety of the applicant, other users of the site, or the public.
  13. The special event will require the exclusive use of beach or park areas during any period in a manner which will have adverse impact on the reasonable use or access to those areas by the general public.
  14. The special event will create the imminent possibility of violent disorderly conduct likely to endanger public health, safety and welfare or to result in property damage.

15. The special event will interfere with the normal access and function of businesses and/or residences during any period in a manner, which will have adverse impact on the reasonable use or access to those areas.
16. The special event will require the diversion of a great number of police employees from their normal duties, thereby preventing reasonable police protection to the remainder of the city.
17. The conduct of the special event will substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic, including public transportation, contiguous to its route or location.

B. The City Manager shall not deny a special event permit to an applicant based upon the message, content or viewpoint of the event sponsor.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.140. Notice of denial of application.**

The City Manager will act promptly upon a timely filed application for a special event permit and will make a determination not less than 28 calendar days prior to the event. The applicant will be notified within two working days of said determination.

If the City Manager does not act on a special event application at least 28 calendar days prior to the event, the application shall be deemed denied.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.150. Alternatives to permit application.**

The City Manager, in denying an application for a special event permit, may authorize the conduct of the special event at a date, time, location, or route different from that named by the applicant and shall propose alternative measures, which would cure any defects in the application. An applicant desiring to accept the modifications to the application will, within five days after notice of the action of the City Manager, file a written notice of acceptance with the City Manager.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.160. Appeal procedure.**

- A. Any applicant has the right to appeal the denial of a special event permit to the City Council. The denied applicant must make the appeal within five days after receipt of the denial by filing a written notice with the City Clerk and a copy of the notice with the Police Chief. The City Council will act upon the appeal at the next regularly scheduled meeting following receipt of the notice of appeal, which decision will be final.
  - B. In the event that the City Council denies an applicant's appeal, the applicant shall be afforded prompt judicial review of that decision as provided by California Code of Civil Procedure Section 1094.8.
- (Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.170. Notice to city and other officials.**

Immediately upon the issuance of a special event permit, the Parks and Recreation Director will send a notice thereof to the City Manager, the City Attorney, the Police Chief, the Fire Chief, the Utilities Director, the Community and Economic Development Director, and the manager or responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route or

location of the proposed special event.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 17, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.180. Special events calendar.**

The city will maintain a special events calendar. Events will be registered on the special events calendar as "approved" or as "pending."

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

#### **§ 8.17.190. Contents of permit.**

Each special event permit will contain the following information or conditions, which is pertinent to the event:

- A. The dates and times when the special event is to be held;
- B. The dates and time roads will be closed;
- C. The set-up or staging time;
- D. The time clean-up or dismantling will be completed;
- E. The location of the special event venue, including set-up or staging area, if any, and clean-up or dismantling area, if any;
- F. The specific route of the special event;
- G. The number of persons, and type and number of animals and vehicles, the number of bands, other musical elements and equipment capable of producing sound, if any, and noise limitations thereon;
- H. The location of reviewing or audience stands;
- I. A copy of the traffic control plan (TCP) and/or parking management plan including the number and location of traffic controllers, monitors, other personnel and equipment and barricades to be furnished by the special event permittee;
- J. Conditions or restrictions on the use of alcoholic beverages and authorization for the conditions of the exclusive control or regulation of vendors and related sales activity by the permittee during the special event;
- K. Provisions for any required emergency medical services;
- L. The applicant's recycling plan;
- M. The applicant's plan to control water run-off and other contaminants that may enter the city storm drain system;
- N. Provisions for cleaning-up and restoration of the area or route of the event both during and upon completion of the event;
- O. The requirement for the on-site presence of the event organizer or a designated representative for event coordination and management purposes who shall carry the special event permit upon his or her person during the special event.

(Ord. NS-811 § 2, 2006; Ord. CS-101 § 19, 2010; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

**§ 8.17.200. Violations.**

- A. Violations of the terms and conditions of any of the following prohibitions in this chapter will constitute a misdemeanor punishable by a fine of up to \$1,000.00, or by imprisonment in the county jail for a term not exceeding six months, or by both:
  - 1. To stage, present, or conduct any special event without first having obtained a permit under this chapter;
  - 2. To hamper, obstruct, impede, or interfere with any special event or with any person, vehicle or animal participating or used in the special event;
  - 3. To carry any sign, poster, plaque, or notice, whether or not mounted on a length of material, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, or cardboard material;
  - 4. For any person participating in any special event to carry or possess any length of metal, lumber, wood, or similar material for purposes of displaying a sign, poster, plaque or notice, unless such object is one and one-fourth inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, such object may not exceed three-fourths of an inch in its thickest dimension.
- B. Violations of the terms and conditions of any of the following prohibitions in this chapter will constitute an infraction and shall be punished as provided for in Chapter 1.08 of this code:
  - 1. To participate in a special event for which the person knows a permit has not been granted;
  - 2. To knowingly fail to comply with any condition of the permit;
  - 3. For a participant in or spectator at a special event to knowingly violate any conditions or prohibitions contained in the special events permit;
  - 4. For any driver of a vehicle to drive between the vehicles or persons comprising a special event when the vehicles or persons are in motion and are conspicuously designated as a special event;
  - 5. The Police Chief may prohibit or restrict the parking of vehicles along a street constituting a part of a special event if the Police Chief posts or cause to be posted signs to that effect. It is unlawful for any person to park or leave unattended any vehicle in violation of the posted signs.
- C. The Police Chief may, when reasonably necessary, waive parking regulations along a street constituting a part of a special event.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

**§ 8.17.210. Revocation of permit.**

The Police Chief may revoke a special event permit without prior notice upon violation of the permit or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the special event would have an immediate and adverse effect upon the health, safety and welfare of persons or property. Written notice of the revocation setting forth the reasons therefor, shall be hand delivered or mailed to the applicant at the address provided on the application.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

**§ 8.17.220. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause or phrase contained in it irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

(Ord. NS-811 § 2, 2006; Ord. CS-365 § 2, 2019; Ord. CS-408 § 3, 2021)

## CHAPTER 8.18 EXPRESSIVE ACTIVITY

### **§ 8.18.010. Purpose and intent.**

Establish a streamlined permitting process for expressive activities that balances the public's right to engage in such activities with the city's substantial interests in ensuring the public's peace, health, and safety and managing competing uses of city facilities by the public.

(Ord. CS-365 § 3, 2019)

### **§ 8.18.020. Definitions.**

Except where the context otherwise requires, for the purposes of this chapter, Chapter 8.18 et seq., the following definitions apply:

"City Manager" means the City Manager or authorized designee.

"Demonstration" means any formation, procession, or assembly of persons for the purposes of expressive activity.

"Event" means a parade or public assembly for the purposes of expressive activity.

"Event organizer" means any person who conducts, manages, promotes, organizes, aids or solicits attendance at an expressive activity event.

"Expressive activity" includes conduct, the sole or principal object of which is the expression of opinion, views, or ideas. Expressive activity includes, but is not limited to, public oratory and distribution of literature.

"Expressive activity event permit" means a permit as required by this chapter.

"Parade" means any march, procession or motorcade consisting of persons, vehicles or a combination thereof, upon any street, sidewalk, public park, or other public area within the city.

"Police Chief" means the Chief of Police or authorized designee.

"Public assembly" means any meeting, picket line, rally or gathering of any kind that occupies any street, sidewalk, public park, or other public area within the city.

"Risk Manager" means the Risk Manager or authorized designee.

"Sidewalk" means any area or way set aside or open to the general public for purposes of pedestrian travel, whether or not it is paved.

"Sound-amplifying system" means any system, apparatus, equipment, device, instrument or machine designed for or intended to be used for the purpose of amplifying the sound or increasing the volume of human voice, musical tone, vibration or sound wave.

"Spontaneous demonstration" means an expressive activity occasioned by news or affairs coming into public knowledge seven or less days prior to the activity.

"Street" means any place or way set aside or open to the general public for purposes of vehicular traffic, including, but not limited to, any berm or shoulder, parkway, public parking lot, right-of-way, alley or median.

(Ord. CS-365 § 3, 2019)

### **§ 8.18.030. Permit required.**

- A. An expressive activity event permit is required prior to conducting a demonstration or other event with the principal purpose of engaging in expressive activity, where the activity involves a gathering of 75 or more persons and any of the following:
1. The use of any public park or other public area; or
  2. The use of any street or sidewalk in a manner that does not comply with normal or usual traffic regulations or controls.
- B. An expressive activity event permit is not required for a spontaneous demonstration that meets the criteria of subsection A if the event organizer provides at least four hours prior notice to the Police Chief of the date, time, and location(s) where the event is to be conducted, their contact information, and an estimate of the number of persons that will be participating.
- C. Regardless of whether an expressive activity event permit is required, all persons that participate in an expressive activity event must comply with all applicable state and local laws and regulations.
- (Ord. CS-365 § 3, 2019)

**§ 8.18.040. Application.**

- A. A person requesting an expressive activity event permit shall file an application on forms provided by the City Manager. The city will not process an incomplete application unless the applicant obtains a waiver of applicable requirements.
- B. The application for an expressive activity event permit shall set forth all of the following information:
1. The name, address, email address and telephone number of the event organizer. If the event organizer is a non-individual or corporate entity, the application must identify an individual that will act as the primary contact for the event.
  2. The date(s), time(s), and location(s) where the expressive activity is to be conducted.
  3. An estimate of the number of persons who will be participating in the event.
  4. If the event requires full or partial street or sidewalk closures, the applicant shall describe whether the event intends to occupy all or only a portion of the streets and/or sidewalks proposed to be traveled.
  5. Whether the event will involve the use of vehicles, animals, fireworks, pyrotechnics or a sound-amplifying system.
- C. The application shall be filed no later than two days before commencement of the event.
- D. The City Manager may waive any of the permit application requirements where circumstances make it impractical or unnecessary to meet those requirements.
- (Ord. CS-365 § 3, 2019)

**§ 8.18.050. Permit approval or denial.**

- A. The City Manager shall act on all complete applications in the following manner:
1. In determining whether to approve or deny a permit under subsection (A)(2), or to impose conditions on a permit under subsection (A)(3), the City Manager shall not consider the message of the event, the content of the speech, the identity or associational relationships of the applicant,

or to any assumptions or predictions as the amount of hostility which may be aroused in the public by the content of the speech or message conveyed by the event.

2. After review of the application and receipt of all required documents, the City Manager shall issue the expressive activity event permit unless the City Manager finds that approving the permit would be contrary to the public peace, health, safety, or welfare for one or more of the following reasons:
    - a. The event will unduly interfere with ingress to, or egress from, or travel on a freeway or state designated highway;
    - b. The event requires a temporary street closure that will unduly interfere with the orderly and safe movement of traffic or the provision of public services, and the applicant is unable or unwilling to modify the event's scope, location, date, time, or duration to minimize such impact;
    - c. Due solely to the number of event participants and their impact on normal traffic or pedestrian flow, the event will require a significant diversion of police officers such that police protection for other areas of the city may be adversely impacted, and the applicant is unable or unwilling to modify the event's scope, location, date, time, or duration to minimize such impact; or
    - d. The anticipated number of event participants would exceed the safe capacity of the public park or other public area where the event is proposed.
  3. The City Manager may impose conditions on approval of the expressive activity event permit as he or she determines to be reasonably necessary to protect the public peace, health, safety, or welfare.
  4. The City Manager will act promptly on a timely filed and complete application. The city's review of a complete application shall take no longer than 72 hours and the City Manager will make a determination not less than one calendar day prior to the event. Any permit denial shall be made in writing.
- B. An applicant has the right to appeal the denial of an expressive activity event permit to the City Council. The denied applicant shall use the following procedures:
1. The denied applicant must make the appeal within five days after receipt of the denial by filing a written notice with the City Clerk and a copy of the notice with the Police Chief. The City Council will act upon the appeal at the next regularly scheduled meeting following receipt of the notice of appeal, which decision will be final.
  2. In the event that the City Council denies an applicant's appeal, the applicant may seek judicial review of the City Council's decision pursuant to California Code of Civil Procedure Section 1094.8.

(Ord. CS-365 § 3, 2019)

#### **§ 8.18.060. Administrative regulations.**

The City Manager may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this chapter. All such administrative regulations must be in writing.

(Ord. CS-365 § 3, 2019)

**§ 8.18.070. Violations.**

Conducting or participating in an unpermitted event for which a permit is required by this chapter, where the person knows a permit has not been granted, will constitute an infraction and shall be punished as provided for in Chapter 1.08 of this code.

(Ord. CS-365 § 3, 2019)

**§ 8.18.080. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause or phrase contained in it irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

(Ord. CS-365 § 3, 2019)

## CHAPTER 8.28 MOTOR VEHICLES

**Note: For provisions governing motor vehicle regulations generally, see Title 10.**

### **§ 8.28.010. Unlawful unless done by owner—Exceptions.**

It is unlawful for any person to do any assembly, disassembly, or repair work of any kind upon any motor vehicle of which he or she is not the registered owner unless specifically allowed by Title 21 of this code. (Ord. 3072 § 1, 1967)

### **§ 8.28.020. Nonresident on property—Unlawful—Exceptions.**

It is unlawful for any person to do any assembly, disassembly, or repair work of any kind upon any motor vehicle upon property upon which he or she does not reside, unless specifically allowed by Title 21. (Ord. 3072 § 2, 1967)

### **§ 8.28.030. Nuisance.**

It is unlawful for any person to do any assembly, disassembly, or repair work of any kind upon any motor vehicle if such repair work causes a nuisance to any persons by reason of noise, smoke, vibration, attractive nuisance to children, hazard from explosion, the creation of unsightly neighborhood conditions, or other causes.

(Ord. 3072 § 3, 1967)

### **§ 8.28.040. Driving motor vehicles on private property prohibited.**

- A. It is unlawful for any person to operate or drive or leave any vehicle in, over, or upon any private property or unimproved public property not designated for the use of motorized vehicles without the written permission of the owner thereof, or the person entitled to the immediate possession thereof, or the authorized agent of either.
- B. Whenever any person is stopped by a peace officer pursuant to this section, he or she shall, upon the request of such peace officer, display said written permission.
- C. The City Manager may designate certain areas of unimproved public property suitable for use by vehicles upon the advice of the Police Chief and Transportation Director. Such areas will be clearly designated by appropriate signs.
- D. This section does not apply to vehicles owned by a public entity or utility company when used in the course of business.

(Ord. 3082 § 1, 1970; Ord. 3113 § 1, 1979; Ord. NS-48 § 1, 1988; Ord. CS-164 § 2, 2011)

### **§ 8.28.050. Distribution or solicitation to persons in vehicles.**

- A. Except as permitted by Section 8.28.050(B), it is unlawful for any person, while on a public sidewalk or in a public roadway, to distribute, sell, or attempt to distribute or sell materials to, or to solicit, or attempt to solicit business or contributions from, any person who is traveling in any type of vehicle along a public roadway.
- B. Distributing materials or soliciting business or contributions is permitted on sidewalks adjacent to

public roadways with a speed limit of 35 miles per hour or less as shown on the map labeled Exhibit A attached to the ordinance codified in this chapter and found on file in the City Clerk's office, except:

1. When the public roadway intersects with another public roadway that has a speed limit greater than 35 miles per hour, in which case distribution or solicitation is prohibited within 100 feet of the intersection;
  2. In the commercial/visitor-serving overlay zone as shown on the map labeled Exhibit B attached to the ordinance codified in this chapter and found on file in the City Clerk's office;
  3. Anywhere on La Costa Avenue.
- C. No more than one person at a time may distribute materials or solicit business or contributions at the quadrant of any intersection where distribution or solicitation is permitted under Section 8.28.050(B). (Ord. NS-552 § 1, 2000)

#### **§ 8.28.055. Depositing handbills on vehicles.**

This section does not make it unlawful for a person to hand out or distribute without charge to the receiver thereof a handbill to any occupant of a vehicle in an otherwise lawful manner.  
(Ord. NS-290 § 1, 1994; Ord. CS-068 §§ 2—4, 2009; Ord. CS-405 § 3, 2021)

#### **§ 8.28.060. Unlawful possession of a catalytic converter.**

- A. It is unlawful for any person, other than a Core Recycler as defined in California Business and Professions Code Section 21610, to possess any catalytic converter that is not attached to a vehicle unless the person has valid proof of ownership of the catalytic converter.
- B. This section does not apply to a detached catalytic converter that has been tested, certified, and labeled or otherwise approved for reuse, and being bought or sold for purposes of reuse in accordance with the federal Clean Air Act (42 U.S.C. Sections 7401 et seq.) and regulations under the Clean Air Act, as they may, from time to time, be amended.
- C. For purposes of this section, "valid proof of ownership" shall contain all the following information:
  1. The license plate number and vehicle identification number of the car from which the catalytic converter was removed.
  2. The name, address, and telephone number of the owner of the vehicle from which the catalytic converter was removed.
  3. The signature of the vehicle owner authorizing removal of the catalytic converter.
  4. The name, address, and telephone number of the current owner of the catalytic converter.
- D. It is unlawful for any person to knowingly falsify or cause to be falsified any information in a record intended to show valid proof of ownership.
- E. Each violation of this section constitutes a separate violation and is subject to all remedies and enforcement measures authorized by the Carlsbad Municipal Code.
- F. Any person who violates any provision of this section shall be guilty of a misdemeanor punishable by a fine not to exceed \$1,000.00, imprisonment in the County Jail for a term not exceeding six months, or both.

(Ord. CS-413 § 2, 2022)

**CHAPTER 8.29**  
**SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS OR EXHIBITIONS OF**  
**SPEED**

**§ 8.29.010. Purpose.**

The City Council of the City of Carlsbad, California finds and declares:

- A. Pursuant to California Vehicle Code Section 23109, motor vehicle speed contests and exhibitions of speed conducted on public streets and highways are illegal. Motor vehicle speed contests and exhibitions of speed are more commonly known as street races or drag races.
- B. Public streets throughout the County of San Diego, including the City of Carlsbad, 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, and interferes with the right of private business owners to enjoy the use of their property. The illegal street races occur on a regular basis on various public streets throughout the County of San Diego, including the City of Carlsbad. Hundreds of racers and spectators gather on these streets late at night and in the early morning hours, blocking the streets and sidewalks to traffic, forming a racetrack area, placing bets, and otherwise encourage, aid and abet the racing process.
- C. Illegal street racers accelerate to high speeds without regard to oncoming traffic, pedestrians, or vehicles parked or moving nearby. The racers drive quickly from street to street, race for several heats, and then move to other locations upon the arrival of the police. Those who participate in this illegal activity are very sophisticated using cell phones, police scanners and other electronic devices to communicate with each other to avoid arrest. They also use the Internet to provide information on where to race, and give advice on how to avoid detection and prosecution.
- D. In most cases, illegal street races attract hundreds of spectators. The mere presence of spectators at these events fuels the illegal street racing and creates an environment in which these illegal activities can flourish.
- E. To discourage illegal street races, many cities in the County of San Diego have recently adopted ordinances prohibiting spectators at these races. Those cities who have not adopted such ordinances are experiencing an increase in illegal street races in their jurisdictions.
- F. This chapter is adopted to prohibit spectators at illegal street races with the aim of significantly curbing this criminal activity. The ordinance codified in this chapter targets a very clear, limited population and gives proper notice to citizens as to what activity is lawful and what activities are unlawful. In discouraging spectators, the act of organizing and participating in illegal street races will be discouraged.
- G. This chapter makes evidence of specified prior acts admissible to show the propensity of the defendant to be present at or attend illegal street races if the prior act or acts occurred within three years of presently charged offense.

(Ord. NS-670 § 1, 2003)

**§ 8.29.020. Definitions.**

"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).

A person is "present" at the illegal motor vehicle speed contest or exhibition of speed if that person 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.

"Preparations" for the illegal motor vehicle speed contest or exhibition of speed include, but are not limited to, situations where:

1. A group of motor vehicles or persons has arrived at a location for the purpose of participating in or being a spectator at the event;
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;
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;
4. One or more persons has impeded the free public use of a public street or highway by actions, words or physical barrier for the purpose of conducting the event;
5. Two or more vehicles have lined up with motors running for an illegal motor vehicle speed contest or exhibition of speed;
6. One or more drivers is revving his or her engine or spinning his or her tires in preparation of the event; or
7. An individual is stationed at or near one or more motor vehicles serving as a race starter.

"Spectator" means any person who is present at an illegal motor vehicle speed contest or exhibition of speed, or where preparations are being made for such activities, for the purpose of viewing, observing, watching, or witnessing the event as it progresses. A "spectator" includes any person at the location of the event without regard to whether the person arrived at the event by driving a vehicle, riding as a passenger in a vehicle, walking, or arriving by some other means.

(Ord. NS-670 § 1, 2003)

#### **§ 8.29.030. Spectator at illegal speed contest or exhibitions of speed.**

- A. Any person who is 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 is guilty of a misdemeanor punishable in accordance with Chapter 1.08 of this code.
  - B. Any person who is 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 is guilty of a misdemeanor punishable in accordance with Chapter 1.08 of this code.
  - C. Exemption: Nothing in this section prohibits law enforcement officers or their agents from being spectators at illegal speed contests or exhibitions of speed in the course of their official duties.
- (Ord. NS-670 § 1, 2003)

**§ 8.29.040. Relevant circumstances to prove a violation.**

Notwithstanding any other provisions of law, to prove a violation of this section, 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 person charged in relation to any individual or group present at the scene;
- E. The number and description of motor vehicles at the scene;
- F. That the person charged drove or was transported to the scene;
- G. That the person charged has previously participated in an illegal speed contest or exhibition of speed;
- H. That the person charged has previously aided and abetted an illegal speed contest or exhibition of speed;
- I. That the person charged has previously attended an illegal speed contest or exhibition of speed;
- J. That the person charged previously was present at a location where preparations were being made for an illegal speed contest or exhibition of speed or where an exhibition of speed or speed contest was in progress.

(Ord. NS-670 § 1, 2003)

**§ 8.29.050. Admissibility of prior acts.**

The list of circumstances set forth in Section 8.29.040 is not exclusive. Evidence of prior acts may be admissible to show the propensity of the defendant to be present at or attend a speed contest or exhibition of speed 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 or exhibition of speed was taking place at the time of the presently charged offense. Prior acts are not limited to those that occurred within the City of Carlsbad.

(Ord. NS-670 § 1, 2003)

**CHAPTER 8.32  
VENDING AND SOLICITING**

**§ 8.32.010. Purpose and findings.**

- A. The purpose of this chapter is to establish a regulatory program to comply with California State Senate Bill 946 (Chapter 459, Statutes 2018). This chapter's provisions will encourage micro-business owners to engage in the business and economic community of the City of Carlsbad by removing prohibitions against vending on public sidewalks and rights-of-way, while still maintaining regulations that protect public health, safety and welfare. The time, place and manner restrictions throughout this chapter are necessary to:
  1. Comply with the Americans with Disabilities Act (ADA) by providing clear and open sidewalks and access to public transportation areas;
  2. Successfully provide police, fire and emergency services;
  3. Ensure the safe flow of vehicular traffic and pedestrians along public roadways, sidewalks and rights-of-way, particularly along and near high traffic and narrow sidewalks and rights-of-way;
  4. Protect natural resources and preserve the utility, natural beauty and recreational value of public spaces throughout the City;
  5. Protect public health and safety by ensuring vendors utilize proper sanitation in food handling and preparation;
  6. With regard to restrictions on vending in the Carlsbad Village Sea Wall trail area as defined herein, many portions of this trail area are narrow and regularly host a high volume of pedestrians and dogs (on the upper area) traveling in each direction. Restrictions on sidewalk vending are necessary to protect the public from injury given the Sea Wall area's popularity as a destination for tourists and residents alike;
  7. With regard to restrictions on vending in public parks and recreational facilities, these restrictions are necessary to: preserve the public's free use and enjoyment of natural resources and recreational opportunities; prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of these spaces; and ensure the health, safety and welfare of persons engaged in active sports activities and spectators of active sports activities.
- B. This chapter is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3), in that the City Council finds and determines that there is nothing in this chapter or its implementation, either individually or cumulatively, which would foreseeably have any significant effect on the environment.
- C. Nothing in this chapter shall be construed to affect the existing requirements of Carlsbad Municipal Code Section 11.32.030, concerning unlawful acts and the issuing of facility use and special event permits in city parks and beaches.
- D. Nothing in this chapter shall be construed to affect the requirements of San Diego County Code Section 61.201 or Part 7 (beginning at Section 113700) of Division 104 of the California Health and Safety Code as applied to an individual who sells food or beverages.

(Ord. CS-346 § 2, 2019)

**§ 8.32.020. Definitions.**

For purposes of this chapter the following definitions apply:

"Business license" means a license issued by the City of Carlsbad pursuant to Carlsbad Municipal Code Chapters 5.04 and 5.08, authorizing an individual to conduct business within city limits.

"City" means the City of Carlsbad.

"Conveyance" means any wheeled device used to carry persons or property.

"Food truck" means a motorized vehicle specifically equipped for the sale of food or beverages used for vending purposes.

"Food truck vendor" means a person who vends food or beverages using a food truck.

"Ice cream truck" means a food truck engaged in the curbside vending or sale of frozen or refrigerated desserts, confections or novelties commonly known as ice cream, or prepackaged candies, snack foods or soft drinks, primarily intended for sale to children under 12 years of age.

"Pedestrian path" 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.

"Permittee" means the authorized recipient of a duly issued vending equipment permit.

"Residential street" means any street that adjoins one or more single-family or multifamily residentially zoned parcel(s).

"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 vendor" means a person who vends food or merchandise using nonmotorized vending equipment or from one's person, upon or along a public sidewalk or other public pedestrian path.

"Vend" or "vending" means an offer to sell or the sale of goods, merchandise, food or beverages on a public street, alley, highway, parking lot, sidewalk, pedestrian path or right-of-way.

"Vending equipment" means any motorized or non-motorized conveyance used for sidewalk or food truck vending purposes including, but not limited to: food trucks, pushcarts, pedal-driven carts, wagons, bicycles or any other free-standing conveyance.

"Vending equipment permit" means a written City of Carlsbad approval required prior to the use of vending equipment for vending purposes.

(Ord. CS-346 § 2, 2019)

**§ 8.32.030. Vending equipment permit requirement.**

- A. All sidewalk and food truck vendors wishing to utilize a motorized vehicle or non-motorized conveyance for vending, including, but not limited to, food trucks, carts, wagons, bicycles or any other miscellaneous conveyance, must obtain a vending equipment permit for each conveyance prior to use on any public street, sidewalk or right-of-way. Permits shall be issued by the Finance Director or designee, unless otherwise specified in the Carlsbad Municipal Code, including, but not limited to, Section 11.32.030.
- B. A vending equipment permit shall be valid for one calendar year from the date of issuance and must be renewed annually. Permits may only be issued for one conveyance and shall not be sold, assigned or transferred.

- C. To obtain a vending equipment permit, an applicant must submit the following information on a permit application form provided by the city's finance department:
1. The name, address and telephone number of the applicant and business owner;
  2. Proof of valid, government-issued identification (i.e., driver's license, state identification card, taxpayer identification number, social security card, birth certificate or passport);
  3. Description of the type of motorized or non-motorized vehicle or conveyance to be permitted, including license number, make, model, size, signage and design type;
  4. The nature of every good, merchandise, food or beverage the applicant intends to sell using the vehicle or non-motorized conveyance;
  5. The proposed character, location, days, hours and route of vending operations;
  6. Proof of insurance, as required by Section 8.32.060 of this chapter;
  7. Proof of a valid California Department of Tax and Fee Administration seller's permit that notes the City of Carlsbad as a location or sub-location, which shall be maintained for the duration of the vendor's permit;
  8. Proof of a valid San Diego County Health Certificate and San Diego County Food Handlers Card; and
  9. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- D. Each vending equipment permit application shall be accompanied by a non-refundable permit fee as established by resolution of the City Council.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.040. Business license requirement.**

- A. All individuals engaged in vending on any city street, alley, highway, parking lot or right-of-way subject to the provisions of this chapter are subject to the business license requirements contained in Chapters 5.04 and 5.08 of this code.
- B. A city business license shall be prominently be displayed at all times on the vendor's person or vending equipment during all vending activities.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.050. Release and indemnification requirements.**

- A. If the city issues a permittee a vending equipment permit, as a condition of such permit issuance, permittee agrees to waive and release the city and its officers, agents, employees and volunteers from and against any and all claims, costs, liabilities, expenses or judgments including attorney's fees and court costs arising out of any vending activities or any illness or injury resulting therefrom, and hereby agrees to indemnify and hold harmless the city from and against any and all such claims, whether caused by negligence or otherwise, except for illness and injury resulting directly from gross negligence or willful misconduct on the part of the city or its employees.
- B. If the city issues a permittee a vending equipment permit, as a condition of such permit issuance, permittee further must acknowledge that the use of public property is at the sidewalk vendor or food

truck vendor's own risk, the city does not take any steps to ensure public property is safe or conducive to the vending activities, and the vendor uses public property at their own risk.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.060. Insurance requirements.**

All sidewalk vendors and food truck vendors shall obtain and maintain throughout the duration of any permit issued under this chapter any insurance required by the city's Risk Manager. All vendors must provide evidence of any required insurance, including, but not limited to, commercial general liability insurance, auto insurance and worker's compensation insurance, in a form and with a coverage amount acceptable to the city's Risk Manager based on the size and risk factors of the business. With regard to any commercial general liability insurance policy, the vendor shall name the city as an additional insured, and with a coverage amount to be determined by the Risk Manager according to the size and risk factors of the business. When determining the size of the business and the risk to customers and the general public, the Risk Manager's estimates shall be determinative. The insurance policy required by this section shall not be cancelled, limited or not renewed without 30 days' prior written notice to the city.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.070. Permit denial and revocation.**

- A. Any false or misleading statements or information provided in a vending equipment permit application shall be grounds for denial of the application and/or imposition of penalties as outlined in accordance with this chapter.
- B. A vending equipment permit application may be denied if the applicant has had a prior vending equipment permit revoked within the past 36 calendar months for the same vending equipment.
- C. A vending equipment permit may be revoked for any of the following reasons:
  1. False information or facts supplied by the applicant upon which the issuance of the vending equipment permit was based;
  2. Failure of the applicant to promptly notify the City Manager or designee of any material changes to the facts provided in a vending equipment permit application subsequent to the issuance of a vending equipment permit, including, but not limited to, lapse of liability insurance;
  3. Failure of the applicant to comply with the regulations set forth in this chapter.
- D. Revocation of a vending equipment permit shall be served in writing no less than 30 days before revocation to the address listed on the initial application or to any subsequent address provided to the city by the permittee.
- E. Any applicant whose application for a vending equipment permit is denied or whose permit is revoked may appeal such decision to the City Manager or designee by filing a written notice of appeal within 10 calendar days after receipt of the notice of denial or revocation. The City Manager or designee shall review and render a decision on the appeal within 90 calendar days. The decision made by the City Manager or designee shall be final.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.080. Sidewalk vending generally.**

- A. Vending activities may occur between the hours of 8:00 a.m. and sunset in all residential zoned areas

and between the hours of 8:00 a.m. and 10:00 p.m. in industrial and commercial zoned areas.

- B. No sidewalk vending of any type shall take place to any individuals traveling within motor vehicles along a public roadway.
- C. A sidewalk vendor shall not vend on any exclusively residential street for longer than 60 minutes at any given time.
- D. No sidewalk vending of any kind shall take place in the following locations:
  - 1. In the public right-of-way or any area that blocks pedestrian or vehicle access;
  - 2. Any public property that does not meet the definition of a sidewalk, including, but not limited to, any alley, beach, pier, square, street, street end or parking lot;
  - 3. Within 50 feet of another sidewalk vendor;
  - 4. Within 18 inches from the edge of a curb;
  - 5. Any location that obstructs traffic signals or regulatory signs;
  - 6. Within 15 feet of any intersection, driveway or building entrance, or within any space designed for vehicular parking;
  - 7. Within 15 feet of any fire hydrant or fire escape;
  - 8. Within 100 feet of any vehicle entrance of any fire station, police department, hospital or any other structure involved in health and safety emergency matters;
  - 9. Within 15 feet of any loading zone, bus stop, parking space or access ramp designed for persons with disabilities;
  - 10. Within 10 feet of an outdoor dining or patio area;
  - 11. Within 500 feet of a permitted special event or street fair;
  - 12. Within one-half mile of a public school building or school grounds while children are going to or from the school, during a recess period or within 30 minutes before or after the school's opening or closing hours;
  - 13. Within 500 feet of high-traffic landmarks and venues, as determined by the City Manager or designee and published in an administrative order, which shall include justification that such restrictions are directly related to objective health, safety or welfare concerns;
  - 14. On any portion of the Carlsbad Village Sea Wall trail, which extends alongside Carlsbad Boulevard and adjacent to the beach, between the cross streets of Pine Avenue and Tamarack Avenue. This restriction on vending shall include both the upper and lower portions of the Sea Wall trail.
- E. Vending activities in public parks and recreational facilities must also comply with the following:
  - 1. Vending within public parks or recreational facilities is allowed only upon or alongside sidewalks or other paved or marked pedestrian pathways. Outside of these aforementioned areas, vending shall not take place on sand, dirt, grass or on any space which would obstruct, damage or otherwise adversely affect the public's use and enjoyment of natural resources and

recreational opportunities, or contribute to an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

2. Vending activities that adversely affect the health, safety and welfare of persons engaged in active sports activities and spectators of active sports activities are prohibited.
3. Sidewalk vending activities lasting 10 minutes or longer in duration shall not be permitted within any area of a public park if the park operator has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a specified concessionaire.
4. A valid park and facility use permit or special event permit obtained pursuant to Carlsbad Municipal Code Section 11.32.030 may waive these requirements for limited engagements or events.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.090. Sidewalk vending equipment.**

- A. Notwithstanding any specific requirements of this section, no sidewalk vendor shall use vending equipment in such a way as to endanger the safety of person or property or to cause a public or private nuisance, including, but not limited to, the use of an open flame.
- B. All non-motorized vending equipment including push carts, wagons, pedal carts or bikes shall not exceed six feet in length and four feet in width.
- C. Vendors are responsible for ensuring that the 10-foot area immediately surrounding the vending space is kept clean and free of trash and debris associated with their vending operation.
- D. Vendors are forbidden from using sound-making devices in conjunction with vending, including, but not limited to, loudspeakers, public address systems, bells, chimes or other noisemaking devices.
- E. Vendors are forbidden from erecting freestanding structures adjacent to vending activities, including, but not limited to, signs, umbrellas, ice chests, chairs, tables or benches.
- F. No vending equipment shall be attached to or make contact with any utility pole, street sign, bus stop, trash can, traffic pole or any other public structure.
- G. No vending equipment or merchandise shall be left unaccompanied, stored, parked or left overnight on a public street, alley, highway, parking lot, sidewalk or right-of-way at any time.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.100. Food truck vending requirements.**

- A. Subject to the provisions in this chapter, a food truck vendor may sell or offer to sell merchandise, food or beverages from a food truck only at the request of a bona fide purchaser and may not park or stand for longer than 60 minutes on any public street, alley, highway, parking lot, sidewalk or right-of-way.
- B. Each food truck operator is subject to the business license requirements contained in Chapters 5.04 and 5.08 of this code.
- C. Each food truck used for vending must obtain a vending equipment permit pursuant to Section 8.32.030 of this chapter.
- D. A food truck vendor may not vend in the following locations:

1. At any location that obstructs traffic signals or regulatory signs;
  2. Within 100 feet of another food truck vendor;
  3. Within any street, alley, highway or public right-of-way with a posted speed limit greater than 25 miles per hour;
  4. Within 100 feet of an intersection that contains a street, alley, highway or public right-of-way with a posted speed limit greater than 25 miles per hour;
  5. At any location that does not have an unobstructed view for 200 feet in both directions along the street, alley, highway or public right-of-way;
  6. Within 25 feet of any intersection, public driveway or building entrance;
  7. Within 25 feet of any fire hydrant or fire escape;
  8. Within 100 feet of any vehicle entrance of any fire station, police department, hospital or any other structure involved in health and safety emergency matters;
  9. Within 25 feet of an outdoor commercial dining or patio area;
  10. Within 500 feet of a permitted special event or street fair;
  11. Within one-half mile of a public school building or school grounds while children are going to or from the school, during a recess period or within 30 minutes before or after the school's opening or closing hours;
  12. Within 500 feet of high-traffic landmarks and venues, as determined by the City Manager or designee and published in an administrative order;
  13. Along any portion of the Carlsbad Village Sea Wall trail, which extends alongside Carlsbad Boulevard and adjacent to the beach, between the cross streets of Pine Avenue and Tamarack Avenue.
- E. Notwithstanding any specific requirements of this section, no vendor shall operate a food truck in such a way as to endanger the safety of person or property or to cause a public or private nuisance.
- F. All ice cream trucks must be equipped at all times with signs mounted on both the front and the rear and clearly legible from a distance of 100 feet under daylight conditions, incorporating the words "WARNING" and "CHILDREN CROSSING." Each sign shall be at least 12 inches high by 48 inches wide, with letters of a dark color and at least four inches in height, a one-inch solid border and a sharply contrasting background.
- G. All food truck vendors are forbidden from using sound-making devices in conjunction with vending, including, but not limited to, loudspeakers, public address systems, bells, chimes or other noisemaking devices.
- H. Except for department of transportation approved vehicle lights, no artificial lighting for, or installed on, food trucks is permitted.
- I. No freestanding structures may be attached to or erected adjacent to a food truck including, but not limited to, signs, umbrellas, ice chests, chairs, tables or benches.
- J. Food truck vendors are responsible for ensuring that the 10-foot area immediately surrounding any

vending space is kept clean and free of trash and debris associated with the vending operation.  
(Ord. CS-346 § 2, 2019)

**§ 8.32.110. Penalties and fines.**

- A. Any violation of any of the provisions of this chapter by any individual holding a valid vending equipment permit will constitute an infraction and shall be punished as follows:
  - 1. An administrative citation and \$100.00 penalty for a first violation.
  - 2. An administrative citation and \$200.00 penalty for a second violation.
  - 3. An administrative citation and \$500.00 penalty for a third and each subsequent violation.
- B. Any person found vending without a valid vending equipment permit is punishable by the following in lieu of the administrative fines set forth in subsection A:
  - 1. An administrative fine of \$250.00 for a first violation.
  - 2. An administrative fine of \$500.00 for a second violation within one year of the first violation.
  - 3. An administrative fine of \$1,000.00 for a third violation within one year of the first violation.
  - 4. An administrative fine of \$1,000.00 for each subsequent violation within one year of the first violation and impoundment of vending equipment pursuant to Section 8.32.120 of this chapter.
  - 5. Proof of a valid vending equipment permit issued by the city will result in a reduction of administrative fines to the administrative fine schedule set forth in subsection A.
- C. With regard to sidewalk vendors only: Failure to pay an administrative fine pursuant to subsections A and B shall not be punishable as an infraction or misdemeanor; additional fines, fees, assessments or any other financial conditions beyond those authorized in subsections A and B shall not be assessed.
- D. The issuance of four or more administrative citations or verifiable municipal code violations concerning vending equipment permit requirements within a 12-month period shall result in revocation of all vending equipment permits pursuant to this chapter.
- E. Vending equipment permit revocation is subject to a 30-day prior written notice. A permittee may appeal such decision to the City Manager or designee by filing a written notice of appeal within 10 calendar days after receipt of the notice of denial or revocation. The City Manager or designee shall review and render a decision on the appeal within 90 calendar days. The decision made by the City Manager or designee shall be final.
- F. In the event a vending equipment permit is revoked, an application to reestablish any vending equipment permit pursuant to this chapter shall not be accepted for a minimum period of 36 months from the date the prior permit was revoked.

(Ord. CS-346 § 2, 2019)

**§ 8.32.120. Impoundment of vending equipment.**

- A. In addition to the administrative fines taken pursuant to Section 8.32.110 above, any enforcement officer, as defined in the Carlsbad Municipal Code Section 1.10.010, may, upon an individual's fourth or greater violation of this chapter, impound vehicles, vending equipment and any perishable or non-

perishable goods therein.

- B. Any owner of impounded vehicles and/or vending equipment may, within 10 days, request an administrative hearing before a hearing officer appointed by the city.
- C. By 5:00 p.m. on the next business day following impoundment, a violator will be contacted regarding the details given in the impoundment citation. The equipment and/or vehicles will then be released to the owner provided that proper proof of ownership is presented and the city receives payment in full of all towing and administrative costs incurred as a result of the violation. Any unclaimed items will be considered abandoned and forfeited to the city after 90 days following impoundment.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.130. Sidewalk cafes.**

Subject to the provisions of Title 21 of the Carlsbad Municipal Code, a business located in a commercial zone may erect permanent dining and lounge areas on public sidewalks subject to the discretion of the city. If permitted by the provisions of Title 21, a permanent structure, all or part of which is located on a public street, sidewalk, parking lot or easement, may be used for the sale of goods or merchandise, provided that all appropriate permits required by Titles 6, 11, 18 and 21 have been issued.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.140. Sidewalk sales.**

The City Manager or designee may, from time to time, issue temporary permits providing for the holding of promotional sidewalk sales, subject to such restrictions as to length of time and other conditions as the City Manager or designee deems reasonably necessary for the public health, safety and welfare.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.150. Street fairs.**

The City Manager or designee may from time to time issue temporary permits for street fairs subject to such restrictions as to the length of time and other conditions as the City Manager or designee deems reasonably necessary for the public health, safety and welfare.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.160. Standing.**

Except as otherwise provided, enforcement of this chapter is at the sole discretion of the persons authorized to enforce this chapter. Nothing in this chapter shall create a right of action in any person against the city or its agents for damages or to compel public enforcement of this chapter against private parties.

(Ord. CS-346 § 2, 2019)

#### **§ 8.32.170. Severability.**

If any subsection, subdivision, clause, sentence, phrase or portion of this chapter is held unconstitutional, invalid or unenforceable by any court or tribunal, the remaining subsections, subdivisions, clauses, sentences, phrases or portions of this ordinance shall remain in full force and effect.

(Ord. CS-346 § 2, 2019)

**§ 8.32.180. Non-applicability.**

The following persons, entities or activities are exempt from the requirements of this chapter:

- A. Any vendor or person engaged solely in artistic performances, free speech and/or petitioning activities;
- B. Nonprofit educational institutions, fraternal and service clubs, bona fide religious organizations and agencies of any federal, state or local governments;
- C. Nonprofit private clubs where a basic membership fee covers the cost of the use of the facilities;
- D. Community organizations/events not otherwise regulated by the Carlsbad Municipal Code, upon approval of the City Manager or designee;
- E. Businesses and trades that are exempt from licensing and tax regulations under federal and state statutes;
- F. Any organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise to persons other than members of such organization upon the streets, in office or business buildings, by house-to-house canvass or in public places for charitable, religious, patriotic or philanthropic purpose exclusively.

(Ord. CS-346 § 2, 2019)

## CHAPTER 8.34 **SOLICITATION**

### **§ 8.34.010. Purpose.**

This chapter is intended to improve the quality of life and economic vitality of the city, and to protect the safety of the general public against certain abusive conduct of persons engaged in solicitation, by imposing reasonable time, place, and manner restrictions on solicitation while respecting the constitutional rights of free speech for all citizens. Motorists have complained of solicitation activity near signaled intersections and highway ramps, where solicitors have approached their vehicles. This carries an implicit threat to both person and property. Similarly, the city seeks to prevent threatening and dangerous solicitation in sensitive areas such as city parking lots or parking structures during the evening hours. Restricting solicitation in these places will provide a balance between the rights of solicitors and the rights of persons who wish to decline or avoid solicitations and will help prevent potential violent confrontations.

(Ord. CS-405 § 4, 2021)

### **§ 8.34.020. Definitions.**

As used in this chapter:

"Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, parkway, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, playground, open space, and any doorway, entrance, hallway, lobby, and other portion of any business establishment, an apartment house, or hotel not constituting a room or apartment designed for actual residence.

"Solicit," "ask," or "beg" includes using the spoken, written, or printed word, or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services. However, passively standing, sitting, or performing music while holding a sign, with no further conduct or spoken word, except in response to an inquiry, is exempt from this definition and regulation under this chapter. This chapter is not intended to restrict the exercise of protected free speech.

(Ord. CS-405 § 4, 2021)

### **§ 8.34.030. Aggressive solicitation prohibited.**

- A. It is unlawful to solicit, ask, beg, distribute materials, or attempt to distribute materials in an aggressive manner in any public place after first being warned by a law enforcement officer.
- B. "Aggressive manner" means persisting in soliciting, asking, begging, distributing materials, attempting to distribute materials, approaching, or closely following a person(s), after the solicitor or distributor has been informed by unequivocal or multiple words or conduct that the person does not want to be solicited, does not want to give money or any other thing of value to the solicitor, or does not want to receive any materials. All other conduct that may constitute an assault or battery in conjunction with solicitation, asking, begging, or distribution shall be charged separately as such crimes.

(Ord. CS-405 § 4, 2021)

### **§ 8.34.040. Solicitation of motor vehicles and in parking lots.**

- A. Motor Vehicles. No person shall approach an operator or occupant of a motor vehicle stopped in obedience to a traffic control sign, signal, or light for the purpose of soliciting, asking, begging,

distributing materials, or attempting to distribute materials while the vehicle is located in any public place.

- B. Parking Lots. No person shall solicit, ask, beg, distribute materials, or attempt to distribute materials in any public parking lot or parking structure any time after dark. "After dark" means any time from one-half hour after sunset to one half-hour before sunrise.
- C. Exemptions. The provisions of section 8.34.040(B) shall not apply to any of the following:
  - 1. Solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;
  - 2. Solicitations related to the lawful towing of a vehicle; or
  - 3. Solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.
- D. Penalty. After first being warned by a law enforcement officer, any violation of this subsection may be charged as a misdemeanor.

(Ord. CS-405 § 4, 2021)

#### **§ 8.34.050. Entering private property for the purpose of sale without permission.**

No person shall go onto private property within the city for the purpose of selling, offering for sale, or soliciting orders for the sale of any merchandise, product, service, or thing whatsoever when the occupant of such property has given notice or warned such persons to keep away. A sign posted by the occupant of the property, with the words "no solicitors," "no peddlers," or other similar words, at or near the front door or primary entrance to a residential structure on private property, shall constitute sufficient notice or warning pursuant to this section. For any property used for a purpose other than a residential use, such notice may be posted at each public entrance to any structure on the property in any conspicuous location on the property, in such a manner so as to provide reasonable notice of the restriction.

(Ord. CS-405 § 4, 2021)

#### **§ 8.34.060. Restriction on hours.**

No person shall go onto private property for the purposes of commercial or noncommercial peddling, soliciting or canvassing before 8:00 a.m. or after 8:00 p.m., except that while the United States is on federally mandated daylight savings time the hours shall be 8:00 a.m. to 9:00 p.m.

(Ord. CS-405 § 4, 2021)

#### **§ 8.34.070. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-405 § 4, 2021)

## CHAPTER 8.36 UNLAWFUL CAMPING, FIRES ON PUBLIC PROPERTY, AND STORAGE OF PROPERTY

### **§ 8.36.010. Purpose.**

Public places within the city should be readily accessible to residents and the public at large. The use of public places for camping can interfere with the rights of others to use these places for the purposes for which they were intended. Camping in these places can also endanger the public health and the environment when camping-related waste and human waste are disposed of improperly, particularly in environmentally sensitive areas, such as native habitat, open spaces and watercourses. Human presence in open spaces, other than on designated trails, can also increase the risk of wildfire danger and possible injuries to and from threatened wildlife. Additionally, camping on private outdoor property without permission of the owner or lessee interferes with the owner or lessee's property rights and desire to utilize the private outdoor property for lawful and authorized purposes.

The purpose of this chapter is to maintain public places and private outdoor property within the city in a clean and accessible condition and to protect the public health, safety, and environment by ensuring that camping occurs only in those designated areas where appropriate provisions have been made for handling camping-related waste, food preparation, and fires.

(Ord. NS-542 § 1, 2000; Ord. CS-405 § 2, 2021)

### **§ 8.36.020. Definitions.**

As used in this chapter:

"Beach" means those areas as defined in Carlsbad Municipal Code Section 11.32.020.

"Camp" means to use camping implements in an outdoor area or to erect or occupy a camp facility for living accommodations purposes such as sleeping activities, preparations to sleep (including the laying down of bedding for the purpose of sleeping), storing personal property, or making a camp fire. These activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants in these activities are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Camping does not include picnicking, sitting, lying, or sleeping in an outdoor area or in a camp facility that is not being used for living accommodations purposes. This definition shall not limit enforcement of Chapter 8.38 "Obstruction of Property and Trespass."

"Camp facility" means a tent, hut, tarpaulin, or other temporary outdoor shelter used for sleeping, living accommodations purposes, or carrying on cooking activities.

"Camping implements" means cots, beds, hammocks, sleeping bags, bedrolls, blankets, sheets, luggage, back-packs, kitchen utensils, cookware, clothing, and similar gear or materials.

"City personnel" means the police department and its third-party contractors and any other city employees or third-party contractors designated by the City Manager.

"Highway" means a way or place of whatever nature, publicly maintained and open to public use for purposes of vehicular travel.

"Open space" means any parcel of land or water which is unimproved and devoted to an open space use, and which is designated as an Open Space Zone in Title 21 of this code.

"Park" means those areas as defined in Carlsbad Municipal Code Section 11.32.010.

"Parkway" means the area of the street between the back of the curb and the sidewalk that typically is

planted and landscaped.

"Person" is defined as any natural person, firm, association, business, trust, organization, corporation, partnership, company, or any other entity recognized by law as the subject of rights or duties.

"Personal property" includes the following items:

1. Medication, medical devices, eyeglasses, or other prescription lenses;
2. Sleeping bag or bed roll which is sanitary and non-verminous;
3. Tents in usable and reasonably good condition;
4. Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous;
5. Nonperishable food items; and
6. Personal property with an estimated individual fair market value of at least \$50.00.

"Public place" means any property in the city-owned, leased, licensed, or operated by a public entity that is accessible to the public, including any of the following: parks, beaches, alleyways, parking lots, passageways, rights-of-way, landscaped areas or parkways, streets, highways, open space, sidewalks, curbs, and public educational institutions.

"Shelter" means a structure designed to provide homeless persons and unstably housed individuals with overnight sleeping accommodations and relief from the elements. The "shelter" may offer meals, clothing, and supportive and self-sufficiency development services. "Shelter" may include a safe parking lot owned, leased, or operated by the city, another public entity, or a non-profit entity.

"Sidewalk" means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation, for pedestrian travel.

"Store" means to put aside or accumulate for use when needed, to place for safekeeping, or to put in place or leave in a particular place, whether attended or unattended.

"Street" means every highway, avenue, lane, alley, court, place, square, sidewalk, parkway, curb, bikeway, or other public way in the city dedicated and open to public use, or such other public property so designated by state law.

"Tent" means a collapsible shelter made of fabric, such as nylon or canvas, or a tarp stretched and sustained by supports, which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the fabric.

"Unattended personal property" means no person is present with an item or items of personal property who asserts or claims ownership over the personal property. Indicia of unattended personal property includes, but is not limited to, the act of leaving the personal property in a public place so that it may be appropriated by the next comer. Personal property is not considered "unattended" if a person is present with the personal property and the person claims ownership over the personal property.

(Ord. NS-542 § 1, 2000; Ord. CS-405 § 2, 2021)

### **§ 8.36.030. Unlawful camping.**

#### A. Public Property.

1. It is unlawful for any person to:

- a. Camp or sleep in open space at any time.
  - b. Camp or sleep upon any public street, public park, public beach, or other public place, except in areas which have been specifically posted, designated, or permitted for such purposes, if the person has access to adequate temporary shelter, whether because they have the means to pay for it or because it is realistically available to them for free, and the person willfully refuses such shelter for any reason unrelated to the exercise of a state or federal constitutional right.
2. It is not the intent of this section to prohibit lawful protesting, picketing, demonstrating, signature gathering, voter registration, leafleting, or any other lawful activity.
- B. Private Property.
1. It is unlawful for any person to camp on any private outdoor property without the express written or verbal permission of the owner or lessee of such property.
  2. This subsection is not intended to:
    - a. Prohibit overnight camping on private residential property by friends or family of the property owner, so long as the owner consents to the camping activity.
    - b. Prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes.
    - c. Prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by Title 21 of this code or other applicable laws, ordinances and regulations.
- C. The City Manager or designee may issue a temporary permit to allow camping on public or private property in connection with special events (Chapter 8.17) or emergency services (Chapter 6.04).  
(Ord. NS-542 § 1, 2000; Ord. CS-405 § 2, 2021)

#### **§ 8.36.040. Fires and cooking on public property.**

- A. It is unlawful for any person to start or maintain any fire in a public place, except in such areas specifically designated by the City Manager or designee for such fires, including stoves, barbecue pits, and fire rings.
- B. It is unlawful for any person to cook food in a public place, except as otherwise allowed by this code or by license or permit, or except in locations specifically designated by the City Manager or designee.  
(Ord. CS-405 § 2, 2021)

#### **§ 8.36.050. Storage of personal property in public places.**

- A. Unlawful Storage. It is unlawful for any person to store or leave unattended any personal property, including camp facilities or camping implements, in a public place between the hours of 6:00 a.m. and 10:00 p.m., except as otherwise provided by this code or pursuant to a valid license or permit. This subsection is not intended to permit storage of personal property where otherwise prohibited by this code.

B. Property Removal. City personnel may remove and store personal property that is unlawfully stored, unattended, or otherwise found in an unlawful encampment pursuant to applicable written and publicly available police department policies and procedures.

C. Obstruction or Interference with Property Removal. It is unlawful to willfully interfere with, resist, delay, or otherwise obstruct city personnel from moving, removing, impounding, or discarding personal property pursuant to Section 8.36.050(B).

(Ord. CS-405 § 2, 2021)

**§ 8.36.060. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-405 § 2, 2021)

**CHAPTER 8.38  
OBSTRUCTION OF PROPERTY, TRESPASS, AND DISORDERLY CONDUCT**

**§ 8.38.010. Purpose.**

The purpose of this chapter is to maintain public and private property open to the patronage of the public in an orderly and accessible condition to protect public health, safety, and welfare. The obstruction of or trespass upon these areas can interfere with the rights of others to use these areas for the purposes for which they were intended. Pedestrians, the elderly, disabled, and vision-impaired are put at increased risk when they must see and navigate around individuals sitting or lying upon a public walkway or otherwise obstructing public access. In some circumstances, people sitting or lying on public walkways deter members of the public from frequenting those areas. This, in turn, contributes to an erosion of the essential economic viability of those areas. Business failures and relocations can cause vacant storefronts, contributing to deterioration and blight, which harms the public health, safety, and welfare.

The city recognizes that there is a fundamental need to rest and sleep and desires to accommodate that need while also satisfying the needs of the general public to travel freely and safely throughout the city. The limited regulation of obstruction or trespass on public property or private property open to the patronage of the public is reasonably necessary and appropriately balances the public interest and individual rights.

(Ord. CS-405 § 5, 2021)

**§ 8.38.020. Definitions.**

All definitions provided in Carlsbad Municipal Code Chapter 8.36, Section 8.36.020 are applicable to this chapter. Additionally, as used in this chapter:

"Loitering" is defined as delaying or lingering in any one place without a lawful purpose under circumstances that would warrant a reasonable person to believe that the purpose or effect is to commit a crime or to conceal illegal activities.

(Ord. CS-405 § 5, 2021)

**§ 8.38.030. Unlawful obstruction of property.**

A. It is unlawful for any person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, to loiter, stand, sit, lie, sleep, maintain, or leave any objects, possessions, or structures in any manner that partially or completely blocks, obstructs, prevents, or otherwise hinders the free movement of people who may or may not yet be present at the location in question, or in any manner that impedes passage in contravention of federal or state disability access laws, either:

1. Upon any public sidewalk, street, curb, parkway, crosswalk, walkway or pathway area, highway, or park, or
2. Upon any shopping center or other private property open to the patronage of the public.

B. It is unlawful for any person, object, or possession to partially or completely block, obstruct, prevent, or otherwise hinder the free access to the entrance to any building open to the public, whether or not other persons are present at the location in question.

(Ord. CS-405 § 5, 2021)

**§ 8.38.040. Trespass on parking lots, shopping center property, and other private property open to**

**the patronage of the public.**

It is unlawful for any person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, to remain on, wander, idle, or loiter on any parking lot, shopping center property, or any other private property open to the patronage of the public, without visible or lawful business with the owner or occupant or without the written permission of the owner, the person entitled to immediate possession or the authorized agent of either. This section does not apply to a public officer or employee acting within the course and scope of employment.

(Ord. CS-405 § 5, 2021)

**§ 8.38.050. Disorderly conduct.**

- A. It is unlawful for a person to commit any of the following acts with the intent to cause another person annoyance, alarm, or disturbance, or with the intent to interfere with another person's lawful discharge or pursuit of any lawful business or occupation:
  1. Engaging in fighting or in violent, tumultuous, or threatening behavior that would put a reasonable person in fear for the person's safety; or
  2. Using language that a reasonable person would consider offensive, lewd, vulgar, profane, threatening, abusive, or insulting, within the hearing range of another person in any public place or any place open to the patronage of the public; or
  3. Uttering or using within the hearing of another person any language, words, epithets, expressions, or remarks, either intended to or likely to incite or create a breach of the peace; or
  4. Encouraging by words or conduct, disobedience to any lawful order or request of any law enforcement officer pursuant to and in the performance of the officer's duties; or
  5. Making or participating in making any unreasonably loud noise or engaging in offensive conduct or behavior, as measured by an objectively reasonable person standard, in any public place or any place open to the patronage of the public.
- B. It is unlawful for a person to commit any of the acts specified in Section 8.38.050(A) with reckless disregard for the risk of causing another person annoyance, alarm, or disturbance, or of interfering with another person's lawful discharge or pursuit of any lawful business or occupation.
- C. It is unlawful for a person to congregate with two or more other persons in any public place, or in any place open to the patronage of the public, when the purpose of congregating is, by words, acts, or conduct generally offensive to the community, to annoy, disturb, or interfere with another person's lawful discharge or pursuit of a lawful business or occupation, or to maliciously interfere with or annoy another person lawfully at the place.

(Ord. CS-405 § 5, 2021)

**§ 8.38.060. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-405 § 5, 2021)

## CHAPTER 8.44 ALCOHOLIC BEVERAGES

### **§ 8.44.010. Alcoholic beverages defined.**

"Alcoholic beverages," for the purposes of this chapter, includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer and which contains one-half of one percent or more of alcohol by volume, and which is fit for consumption either alone or when diluted, mixed or combined with other substances.

(Ord. 3106 § 1, 1977)

### **§ 8.44.020. Drinking on beach prohibited.**

No person shall consume any alcoholic beverage on any public beach or beach which is open to the public; or on any street, sidewalk, alley, highway, public parking lot or bluff-top whether improved or unimproved adjacent to such beach. This section shall not be deemed to make punishable any act or acts which are prohibited by any law of the state. This section shall not apply to the consumption of alcoholic beverages on any private residential property, including hotels or motels, located in any area specified in this section, or on the South Carlsbad State Beach Campgrounds.

(Ord. 3106 § 1, 1977; Ord. 3174, 1984; Ord. 3188 § 1, 1985)

### **§ 8.44.030. Possession of open containers of alcoholic beverages on or near premises where liquor sold prohibited.**

- A. No person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, shall enter, be, or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9, commencing with Section 23000, of the Business and Professions Code, or on any public sidewalk immediately adjacent to the licensed and posted premises. Any person violating this section shall be guilty of an infraction and shall be punished as provided in Chapter 1.08 of this code.
- B. As used in subsection A of this section, "posted premises" means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises on which clearly visible notices indicate to the patrons of the licensee and parking lot and to persons on the public sidewalk, that the provisions of subsection A of this section are applicable.
- C. The provisions of this section shall not apply to a private residential parking lot which is immediately adjacent to the posted premises, or to any premises which are not posted as provided in this section.

(Ord. 3173 § 1, 1984)

### **§ 8.44.040. Consuming or possessing an open container of alcoholic beverages in certain public places and parks owned by the city prohibited.**

- A. No person shall possess any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, nor shall any person consume any alcoholic beverage in any city-owned public place or city-owned park identified in this section as:
  1. Any public street, sidewalk, alley, highway, public parking lot, or public open space owned by, leased to, licensed to, or operated by the city in the V-B Village Barrio Zone, as that zone is

designated in Chapter 21.35 of this code, as amended, and specifically within or adjacent to the VC, VG, HOSP, FC, and PT districts and the VBO district (Magee and Maxton Brown parks) of the Village and Barrio Master Plan.

2. Rotary Park located at the 2900 block of Washington Street, bordered to the west by Washington Street, bordered to the east by the west alley of State Street immediately east of the Atchison, Topeka and Santa Fe Rail Road tracks, bordered to the south by Carlsbad Village Drive and bordered to the north by Grand Avenue in the City of Carlsbad.
  3. Holiday Park and Pine Avenue Community Park.
- B. Unlawful possession of an open container of an alcoholic beverage as described in Section 8.44.040(A) shall be charged as an infraction; unlawful consumption of an open container of an alcoholic beverage as described in Section 8.44.040(A) may be charged as a misdemeanor.
- C. Any of the prohibitions set forth in this section may be waived when a special event permit or a park and facility use permit requesting a waiver has been granted by the City Manager or designee.
- D. This section does not apply when an individual is in possession of an alcoholic beverage container within a sidewalk café or curb café that is approved and permitted as required by the Village and Barrio Master Plan and the California Department of Alcoholic Beverage Control, or any temporary permits issued under state or local emergency orders.
- E. This section does not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related disposal activity.

(Ord. NS-860 § 1, 2007; Ord. CS-333 § 3, 2018; Ord. CS-405 § 6, 2021)

#### **§ 8.44.050. Severability.**

If any section, subsection, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

(Ord. NS-860 § 1, 2007)

**CHAPTER 8.45  
CONSUMPTION OF ALCOHOL OR CONTROLLED SUBSTANCES BY MINORS AT  
PARTIES, EVENTS OR GATHERINGS**

**§ 8.45.010. Definitions.**

"Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

"Alcoholic beverages," for the purposes of this chapter, includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer and which contains one-half of one percent or more of alcohol by volume, and which is fit for consumption either alone or when diluted, mixed or combined with other substances.

"Control" means any form of dominion, including, but not limited to, ownership, tenancy or other possessory right.

"Controlled substances or illegal drugs" shall include all narcotics or drugs, the possession of which is illegal under the laws of the State of California as defined under the Penal Code, Health and Safety Code, and related statutes.

"Guardian" means (1) a person who, under court order, is the guardian of the subject juvenile, or (2) a public or private agency with which the court has placed the subject juvenile.

"Marijuana" means all parts, as a whole or in part, of the cannabis plant, whether the plant is still growing or not, the seeds thereof, and/or the resin extracted from the cannabis plant and every compound, derivative and/or preparation of the cannabis plant in any form. The prohibition contained in this chapter includes marijuana in any form, including, but not limited to, cigarettes, vapor, food products and/or any other form where the marijuana can be smoked and/or consumed in any way.

"Minor" means any person under the age of 21.

"Parent" means a person who is a natural parent, adoptive parent, or stepparent of the subject minor.

"Party, gathering or event" means a group of persons who have assembled or are assembling for a party, social occasion or social activity.

"Person responsible for the party, gathering or event" includes, but is not limited to: (1) the person(s) who owns, rents, leases, or otherwise has control of the premises where the party, gathering or event takes place; (2) the person(s) in charge of the premises; or (3) the person(s) who organized the event.

"Premises" means any residence or other private property, place, or premises including any commercial or business premises.

(Ord. CS-053 § 1, 2009; Ord. CS-366 § 2, 2019)

**§ 8.45.020. Unsupervised consumption of alcohol by minor.**

Except as permitted by state law, no minor shall:

- A. Consume and/or ingest in any public place or any place open to the public any alcoholic beverage, marijuana, controlled substance and/or any combination of said substances; or
- B. Consume and/or ingest in any place not open to the public any alcoholic beverage, marijuana, controlled substance and/or any combination of said substances.

(Ord. CS-053 § 1, 2009; Ord. CS-366 § 3, 2019)

**§ 8.45.030. Hosting, permitting, or allowing a party, gathering or event where minors consume alcoholic beverages or controlled substances prohibited.**

- A. It is unlawful for any person having control of any premises to knowingly suffer, permit, allow, or host a party, gathering, or event at said premises where three or more persons are present whenever the person having control of the premises either knows a minor consumed an alcoholic beverage, marijuana and/or a controlled substance or reasonably should have known that a minor consumed an alcoholic beverage, marijuana and/or controlled substance. For purposes of this subsection, a person reasonably should have known that a minor consumed an alcoholic beverage, marijuana and/or a controlled substance if that person did not take reasonable steps to prevent the consumption of an alcoholic beverage, marijuana and/or controlled substance by a minor as set forth in subsection B of this section. This section shall not apply to conduct involving the use of alcohol which occurs exclusively between a minor child and his or her parent or legal guardian, as permitted by Article 1, Section 4 of the California Constitution, or conduct which is otherwise permitted under state or federal law.
- B. Reasonable steps include controlling access to alcoholic beverages and/or controlled substances and/or marijuana at the party, gathering or event when minors are present; controlling the quantity of alcoholic beverages and/or marijuana and/or controlled substances at the party, gathering or event when minors are present; verifying the age of persons attending the party, gathering or event by inspecting driver's licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages, marijuana and/or controlled substances while at the party, gathering or event; and supervising the activities of minors at the party, gathering or event.

(Ord. CS-053 § 1, 2009; Ord. CS-366 § 4, 2019)

**§ 8.45.040. Penalties.**

- A. Except as otherwise provided in subsection B of this section, any person violating any provision of this chapter is guilty of a misdemeanor punishable by a fine of \$1,000.00 or by imprisonment for a period of not to exceed six months, or by both fine and imprisonment.
- B. Notwithstanding any provision to the contrary, the City Attorney shall have the discretion to reduce to an infraction any act made unlawful pursuant to subsection A of this section, if the City Attorney determines such a reduction is warranted in the interest of justice. The factors the City Attorney may consider in determining whether to reduce the charge to an infraction, include but are not limited to, the following:
  - 1. The number of persons attending the party, gathering or event.
  - 2. The number of minors attending the party, gathering or event.
  - 3. The source of the alcoholic beverages or controlled substances.
- C. Penalties for a violation of this chapter shall supersede the penalties set forth in Section 1.08.010 of this code.

(Ord. CS-053 § 1, 2009)

**§ 8.45.045. Cost recovery for law enforcement services.**

- A. When any party, gathering or event occurs on private property as described in Section 8.45.030 and a police officer at the scene determines that there is a threat or detriment to the public peace, health, safety or general welfare, the person(s) responsible for the party, gathering or event shall be liable for

the actual cost of enforcement services provided during a response by the law enforcement personnel.

- B. The actual cost of the law enforcement services, described in Section 8.45.030, shall be deemed a debt owed to the city by the responsible person for the party, gathering or event.
- C. For the purpose of this section, the following definitions shall apply:

"Actual costs" include the salaries of the police officers for the amount of time actually spent in responding to or remaining at the party, gathering or event, at a rate established by the City Manager plus the actual cost of any medical treatment to injured city employees and the cost of repairing any damaged city equipment or property.

"Responsible person" is the person or persons who own the property where the party takes place or who are in charge of the premises or who organized the party, gathering or event. If the responsible person is a person under the age of 18, then that person's parents or guardians will jointly and severally be liable for the actual costs.

- D. If the police are required to make a response to a party, gathering or event, then the city shall compute the costs of such response. A bill for the costs incurred by the city for its response shall be prepared and delivered to the responsible person who shall be liable for its payment. The amount of the charge shall be deemed a debt to the city of the responsible person who shall be liable in an action brought in the name of the city for recovery of such amount, including reasonable attorney's fees and costs.
- E. The City Manager is authorized to adopt appropriate procedures for billing and other matters necessary for the administration of this section.
- F. Any person aggrieved by any decision of the City Manager to bill for costs of a response may appeal to the City Council by filing a notice of appeal with the City Clerk within 15 days of the date of the billing. Failure to file an appeal shall be deemed a waiver of the appellant's right to contest the bill for costs. Upon the filing of such request, the City Clerk shall set a time and place for the hearing and shall notify the appellant thereof. At the hearing, any person may present evidence in opposition to or in support of the appellant's case. At the conclusion of the hearing, the City Council may affirm, reverse or modify the decision and the decision of the City Council shall be final.

(Ord. CS-152 § 1, 2011)

#### **§ 8.45.050. Severability.**

If any section, subsection, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

(Ord. CS-053 § 1, 2009)

#### **§ 8.45.060. Reservation of legal options.**

The City of Carlsbad does not waive its right to seek reimbursement for actual costs of enforcement services through other legal remedies or procedures. The procedure provided for in this chapter is in addition to any other statute, ordinance or law, civil or criminal. This chapter in no way limits the statutory authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this chapter.

(Ord. CS-053 § 1, 2009)

## CHAPTER 8.48 NOISE

### **§ 8.48.010. Construction hours limitations.**

It shall be unlawful to operate equipment or perform any construction in the erection, demolition, alteration, or repair of any building or structure or the grading or excavation of land during the following hours, except as hereinafter provided:

- A. After 6:00 p.m. on any day, and before 7:00 a.m., Monday through Friday, and before 8:00 a.m. on Saturday;
- B. All day on Sunday; and
- C. On any federal holiday.

(Ord. 3109 § 1, 1978; Ord. CS-211 § 2, 2013)

### **§ 8.48.020. Exceptions.**

- A. An owner/occupant or resident/tenant of residential property may engage in a home improvement or home construction project between the hours of 8:00 a.m. and 6:00 p.m. on Sundays and holidays, subject to modification by subsection B of this section, provided such project is for the benefit of said residential property and is personally carried out by said owner/occupant or resident/tenant.
- B. The building official, City Engineer, or other official designated by the City Manager may modify the hours of construction specified in Section 8.48.010. In making a determination to lengthen or shorten the hours of construction, the city official shall consider the following:
  1. Whether the project is an emergency repair required to protect the health and safety of any member of the community;
  2. Whether the construction would be less objectionable at night than during daylight hours;
  3. The character and nature of the neighborhood in the vicinity of the work site;
  4. The potential for great economic hardship;
  5. If the work is in the interest of the general public;
  6. Whether there is a previously unforeseen effect on the health, safety or welfare of the public; and
  7. Any history of complaints regarding compliance with the limitation on hours of construction.

C. As used in this section, "City Engineer" shall mean the City Engineer or designee, who is the Deputy City Engineer, construction management and inspection.

(Ord. 3109 § 1, 1978; Ord. CS-211 § 2, 2013; Ord. CS-389 § 6, 2021)

### **§ 8.48.030. Signage.**

Signs shall be posted at jobsite entrance(s) indicating hours of work as prescribed by this title or as modified by the designated city official. Letters shall be a minimum of four inches high with a minimum stroke width of one-half inch.

(Ord. CS-211 § 2, 2013)

## CHAPTER 8.50 ALARM SYSTEMS

### **§ 8.50.005. Authority.**

This chapter is adopted pursuant to Business and Professions Code Section 7592.8.

(Ord. 1278 § 1, 1985)

### **§ 8.50.010. Definitions.**

For the purpose of this chapter, the following words and phrases shall be construed as set forth in this section unless it is apparent from the context that a different meaning is intended.

"Alarm agent" means any person employed by an alarm business whose duties include selling, altering, installing, maintaining, moving, repairing, replacing, servicing, monitoring, responding to or causing others to respond to an alarm system, in or on any building, structure or facility or the supervisor or manager of a person employed by an alarm business to perform any of those duties. This definition shall not apply to any person employed by the city police department or fire department while the person is acting within the course and scope of his or her employment.

"Alarm business" means the business carried on by an individual, partnership, corporation or other entity of leasing, selling, maintaining, servicing, repairing, altering, replacing, moving, monitoring, responding to or causing the response to, or installing any alarm system or causing to be leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility. Alarm business does not include any business excluded from Business and Professions Code Section 7590.2.

"Alarm system" means any electrical or mechanical device which is designed or used for the detection of any emergency condition, except fire, at a building, structure or facility, when such detection causes a local audible signal or transmission of a signal or message, or which is used to evoke a police or medical emergency response. Fire alarm systems are specifically excluded from this definition. Devices which are not used or designed to be audible, visible or perceptible outside of the protected building, structure or facility, and auxiliary devices installed by a telephone company to protect a telephone system from damage or disruption are not included in this definition.

"Audible alarm" means the sound generated by a device for the detection of an emergency condition at a building, structure or facility.

"City" means the City of Carlsbad.

"Day" means one calendar day.

"Emergency condition" means any condition which may exist requiring immediate police or fire department response to safeguard lives and/or property.

"False alarm" means the activation of an alarm system through mechanical failure or malfunction, or accidental tripping, misoperation or misuse by the lessee or owner of the alarm system or his/her employee or agent, including mechanical failure or malfunction caused by negligent maintenance of the system. False alarm shall not include alarms caused by malfunction of telephone line circuits or external causes beyond the control of the owner or lessee of the system.

"Fire alarm system" means any system, equipment or device designed or used to warn occupants or notify other persons of a fire condition in or on any building, structure or facility. Fire alarms are exempt from this chapter.

"Lessee" means any person who leases an alarm system or subscriber service for the purpose of detecting an emergency condition at any building, structure or facility.

"Person" means any person, firm, corporation, association, partnership, individual, organization or company.

"Silent alarm" means any alarm system activation that cannot be detected at the building, structure or facility of activation.

"Smoke detector" means a device which senses visible or invisible particles of combustion and is designed to emit upon activation an audible sound sufficient only to provide warning to the occupants of the building, structure or facility in which such device is situated. This chapter shall not apply to smoke detectors.

For the purpose of this chapter, whenever the singular or masculine is used, the term shall be deemed to include the plural, feminine or body corporate as necessary.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.020. Registration of alarm agents.**

No person shall be employed or operate as an alarm agent or an alarm business without first registering his or her name and a copy of his or her state issued identification card with the Chief of Police. Every alarm agent while so engaged shall carry on his or her person the state issued identification card and shall display such card to any police officer upon demand.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.030. Alarm permits.**

No person shall install, maintain, lease, service, repair, alter, replace, move, use any security or emergency alarm system without first obtaining a city alarm permit. A fee established by the City Council by resolution and an application approved by the Chief of Police shall be required for such permit. The alarm permit application shall include the alarm location, type of alarm system (silent or audible activation), type of response requested (robbery, burglary or medical emergency), name of business (if applicable), name, home address, phone number of alarm user, subscriber or owner, telephone number at alarm location and additional names, addresses, and phone numbers of responsible persons for emergency notification. The alarm permit shall be required for each building, structure or facility that uses an alarm system that could evoke an emergency response. Alarm permits are issued indefinitely to the alarm user, subscriber, or owner provided the requirements of this chapter are not violated. A new permit shall be required upon sale or transfer of alarm location.

(Ord. 1278 § 1, 1985; Ord. NS-53 § 1, 1989; Ord. NS-68 § 7, 1989)

#### **§ 8.50.035. Owner or lessee responsibilities.**

The owner or lessee of an alarm system or systems shall provide the Chief of Police with his or her current mailing address and the names, addresses and phone numbers of two persons to contact in the event of an emergency. In the event his or her own mailing address or the names, addresses and phone numbers of such persons change, the owner, or lessee shall supply the changes to the Chief of Police within two days of the change. The person or persons listed shall be required to be present at the alarm location within 20 minutes after being advised that the city police department has received any signal or message of alarm activation indicating an emergency condition. Violation of this section is grounds for revocation of an alarm permit.

(Ord. 1278 § 1, 1985)

**§ 8.50.040. Direct dial telephone devices.**

No person shall lease, maintain, service, repair, alter, move, install or use any alarm system which directly dials any telephone number of the city police department or the city fire department.

(Ord. 1278 § 1, 1985)

**§ 8.50.050. Suspension of alarm permits.**

If, at any time it shall come to the attention of the Chief of Police that the owner or lessee of an alarm system has violated any provision of this chapter, rules or regulations made pursuant to this chapter, including, but not limited to, false alarms which exceed the numbers permitted pursuant to Section 8.50.080 of this chapter, or has failed or refused to pay the false alarm penalty assessment fee as provided in this chapter, the Chief of Police may serve such owner or lessee with a written order of permit suspension, which shall state the reason or reasons for such suspension. The order shall be effective immediately if personally served or 72 hours after the order has been deposited by certified mail in any branch of the United States Post Office, addressed to the owner or lessee of such alarm system. The order shall contain notice of the appeal procedure established by this chapter. Immediately upon an order becoming effective, the owner or lessee shall discontinue using the alarm system. The alarm system or systems shall not thereafter be used until all necessary repairs have been made and verified by the Chief of Police, or the owner or lessee satisfied the Chief of Police that such system or systems shall be properly used in the future and the Chief of Police has authorized in writing use of the system or systems.

(Ord. 1278 § 1, 1985; Ord. NS-53 § 2, 1989)

**§ 8.50.055. Appeals to the Chief of Police.**

Any action taken pursuant to this chapter may be appealed to the Chief of Police in writing within 10 days of notice of the action. The appeal shall be addressed to the Chief of Police and shall set forth the facts and circumstances regarding the action. The Chief of Police shall notify the appellant in writing of the time and place set for hearing the appeal. The Chief of Police or designate shall consider all relevant evidence and shall determine the merits of the appeal. The action appealed shall be stayed during the pendency of the appeal.

(Ord. 1278 § 1, 1985)

**§ 8.50.060. Appeals to City Council.**

Any action which has been appealed to the Chief of Police may be appealed to the City Council by filing a written appeal with the City Clerk within 10 days of the Police Chief's action. The City Clerk shall notify the appellant in writing of the time and place set for hearing of the appeal. The City Council, at its next regular meeting, held not less than 10 days from the date on which such appeal has been filed with the City Clerk, shall hear the appellant and the Chief of Police shall consider all relevant evidence and shall determine the merits of the appeal. The City Council may affirm, overrule or modify the decision of the Chief of Police and the decision of the City Council shall be final.

(Ord. 1278 § 1, 1985)

**§ 8.50.070. Unauthorized alarm.**

When an audible alarm message or signal is received by the city police or fire department that fails to comply with any of the requirements of this chapter, the Chief of Police is authorized to demand that the owner, lessee or the representative of the alarm system initiating such audible alarm, message or signal disconnect the alarm system until it is made to comply with the requirements of this chapter.

(Ord. 1278 § 1, 1985)

**§ 8.50.080. False alarm penalty assessment.**

Except as provided in this chapter, any person maintaining, using or possessing an alarm system which results in a police response in which the alarm proved to be a false alarm, shall pay a penalty assessment fee to the city as follows:

- A. A written warning for the first false alarm;
- B. For the second false alarm occurring within a one-year period following the written warning above, a penalty shall be assessed the amount of which shall be established by resolution of the City Council;
- C. For the third and subsequent false alarms occurring within a one-year period following the written warning above, a penalty shall be assessed the amount of which shall be established by resolution of the City Council;
- D. In addition to the foregoing, for the fourth and subsequent false alarms occurring within a one-year period following the written warning above, the Chief of Police may discontinue any response to an alarm at the business or residence location until satisfactory proof of correction has been provided. Proof of correction shall be a written letter from the resident, occupant or person residing at the property or from the alarm company stating that the problem has been corrected and that all occupants or employees are aware of the alarm, its location, its method of activation and have been trained regarding its use to prevent its accidental activation. Upon receipt of satisfactory evidence of correction of a faulty system or upon installation of a new alarm system, the Chief of Police shall initiate a new one-year period for the purposes of counting false alarms.

The time periods specified above shall not commence until three months after the issuance of an alarm permit;

- E. In addition to any other relief, for those alarms which are designed to be activated while a business is open to the public or occupied and which require activation by an employee or a residential alarm which is designed to be activated by a person from within the residence which alarms indicate the commission of a crime defined by California Penal Code Section 211 (robbery) or Section 459 (burglary) and which exceed the maximum allowable number of false alarms as set forth in this section shall pay a penalty assessment of \$100.00.

(Ord. 1278 § 1, 1985; Ord. NS-53 § 3, 1989; Ord. NS-230 §§ 1, 2, 1993)

**§ 8.50.090. Alarm systems standards and regulations.**

The city reserves the right to inspect all alarm systems installed within the city to assure compliance with this chapter.

(Ord. 1278 § 1, 1985)

**§ 8.50.100. Automatic shut-off requirements.**

All alarm systems, excluding fire alarms, shall include a device which will limit the generation of audible sound to not longer than 15 minutes after activation.

(Ord. 1278 § 1, 1985)

**§ 8.50.110. Delay device requirements.**

All burglary detection alarm systems, excluding such alarm systems which generate an audible alarm, shall include a device on all entry and exit doors which will provide a 30 second delay before the original alarm

transmission and immediately upon being activated shall emit a signal in such a manner as to be perceptible to a person lawfully entering, leaving or occupying the premises. Such a device is intended to provide an opportunity for the person having lawful control of the alarm system to terminate its operation after activation but prior to the transmission of a false alarm.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.120. Power supply requirements.**

A security or emergency alarm system shall be supplied with an uninterruptible power supply in such a manner that the failure or interruption of the normal utility electric service will not activate the alarm system. The backup power supply must be capable of at least four hours of continuous operation.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.130. Alarm testing.**

An owner or lessee of an alarm system shall notify his or her central receiving station or answering service and the city police or fire department prior to any service, test, repair, maintenance, adjustment, alteration or installation of the alarm system which might activate a false alarm and result in a police or fire department response. Any alarm system activated when such prior notice has been given shall not constitute a false alarm.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.140. Prohibitions.**

- A. After the effective date of the ordinance codified in this chapter, it shall be unlawful to install or modify an alarm system which upon activation emits sounds similar to sirens used on emergency vehicles or for civil defense purposes.
- B. It shall be unlawful to transmit an alarm indicating that an emergency exists without being specific as to the type of emergency, such as robbery, burglary, fire or medical emergency.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.150. Limitation on liability.**

The city is under no obligation or duty to any owner or lessee of an alarm system or any other person by reason of any provision in this chapter, or the exercise of any privilege by any owner or lessee of an alarm system, including, but not limited to, any defects in a security or emergency alarm system, any delay in transmission of an alarm message to any emergency unit, or damage caused by nonresponse or in responding to any alarm by any city officer, employee or agent.

(Ord. 1278 § 1, 1985)

#### **§ 8.50.160. Administrative regulations.**

The Chief of Police may adopt and administer such regulations as are necessary and convenient in order to carry out the provisions of this chapter.

(Ord. NS-53 § 4, 1989)

#### **§ 8.50.170. Criminal penalties.**

Any person who wilfully violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00, or imprisonment in the county jail

not exceeding six months, or both. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person.

(Ord. 1278 § 1, 1985; Ord. NS-53 § 5, 1989)

## CHAPTER 8.54 PICKETING

### **§ 8.54.010. Intent and purpose.**

It is the intent of the City Council in enacting Section 8.54.020 to adopt a limited prohibition against targeted residential picketing which shall be construed and applied in accordance with the interpretation given to a similar ordinance by the United States Supreme Court in *Frisby v. Schultz* (1988) 487 U.S. 474. Section 8.54.020 shall only prohibit picketing focused on and taking place in front of a particular residence. The limited purpose of the prohibition is to preclude intrusion upon the constitutionally protected privacy rights of the targeted resident.

(Ord. NS-241 § 1, 1993; Ord. NS-314 § 1, 1995)

### **§ 8.54.020. Targeted residential picketing prohibited.**

It is unlawful for any person to engage in picketing activity that is targeted at and is within 300 feet of a residential dwelling.

- A. For purposes of this section, the term "residential dwelling" means any permanent building being used by its occupants solely for nontransient residential uses.
- B. For purposes of this section, the term "targeted picketing" means picketing activity that is targeted at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling.
- C. This section does not and shall not be interpreted to preclude picketing in a residential area that is not targeted at a particular residential dwelling.

(Ord. NS-241 § 1, 1993; Ord. NS-314 § 2, 1995)

**CHAPTER 8.60  
ADULT BUSINESS LICENSES AND OPERATING REGULATIONS**

**§ 8.60.010. Purpose.**

It is the purpose and intent of this chapter to regulate the operations of adult businesses, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of adult businesses; decreases in property values in the vicinity of adult businesses; increases in vacancies in residential and commercial areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of adult businesses as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of adult businesses while at the same time protecting the First Amendment rights of those individuals who desire to own, operate or patronize adult businesses.

It is, therefore, the purpose of this chapter to establish reasonable and uniform operational standards for adult businesses.

(Ord. NS-761 § 3, 2005)

**§ 8.60.020. Definitions.**

In addition to any other definitions contained in this code, the following words and phrases shall, for the purpose of this chapter and Chapters 11.28 and 21.43 be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with any current provisions of this code, these definitions shall prevail.

"Adult arcade" means a business establishment to which the public is permitted or invited and where coin, card or slug-operated or electronically, electrically or mechanically controlled devices, still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image-producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas." Such devices shall be referred to as "adult arcade devices."

"Adult booth/individual viewing area" means a partitioned or partially enclosed portion of an adult business used for any of the following purposes:

1. Where a live or taped performance is presented or viewed, where the performances and/or images displayed or presented are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas";
2. Where "adult arcade devices" are located.

"Adult business" means:

1. A business establishment or concern that as a regular and substantial course of conduct operates as an adult retail store, adult motion picture theater, adult arcade, adult cabaret, adult motel or hotel, adult modeling studio; or
2. A business establishment or concern which as a regular and substantial course of conduct offers, sells or distributes "adult oriented material" or "sexually oriented merchandise," or which offers to its patrons materials, products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or

"specified anatomical areas" but not including those uses or activities which are preempted by state law.

"Adult cabaret" means a business establishment (whether or not serving alcoholic beverages) that features "adult live entertainment."

"Adult cabaret dancer" means any person who is an employee or independent contractor of an "adult cabaret" or "adult business" and who, with or without any compensation or other form of consideration, performs as a sexually-oriented dancer, exotic dancer, stripper, go-go dancer or similar dancer whose performance on a regular and substantial basis focuses on or emphasizes the adult cabaret dancer's breasts, genitals, and or buttocks, but does not involve exposure of "specified anatomical areas" or depicting or engaging in "specified sexual activities." "Adult cabaret dancer" does not include a patron.

"Adult hotel/motel" means a "hotel" or "motel" (as defined in this code) that is used for presenting on a regular and substantial basis images through closed circuit television, cable television, still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image-producing devices that are distinguished or characterized by the emphasis on matter depicting or describing or relating to "specified sexual activities" or "specified anatomical areas."

"Adult live entertainment" means any physical human body activity, whether performed or engaged in, alone or with other persons, including, but not limited to, singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which: (1) the performer (including, but not limited to, topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar performers) exposes to public view, without opaque covering, "specified anatomical areas," and/or (2) the performance or physical human body activity depicts, describes, or relates to "specified sexual activities" whether or not the specified anatomical areas are covered.

"Adult modeling studio" means a business establishment which provides for any form of consideration, the services of a live human model, who, for the purposes of sexual stimulation of patrons, displays "specified anatomical areas" to be observed, sketched, photographed, filmed, painted, sculpted, or otherwise depicted by persons paying for such services. "Adult modeling studio" does not include schools maintained pursuant to standards set by the Board of Education of the State of California.

"Adult motion picture theater" means a business establishment, with or without a stage or proscenium, where, on a regular and substantial basis and for any form of consideration, material is presented through films, motion pictures, video cassettes, slides, laser disks, digital video disks, holograms, virtual reality devices, or similar electronically-generated reproductions that is characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

"Adult oriented material" means accessories, paraphernalia, books, magazines, laser disks, compact discs, digital video disks, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, holograms or electronically generated images or devices including computer software, or any combination thereof that is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." "Adult oriented material" shall include "sexually oriented merchandise."

"Adult retail store" means a business establishment having as a regular and substantial portion of its stock in trade, "adult oriented material."

"Establishment of an adult business" means any of the following:

1. The opening or commencement of any "adult business" (as defined above) as a new business;
2. The conversion of an existing business, whether or not an "adult business," to any "adult business";

3. The addition of any "adult business" to any other existing "adult business";
4. The relocation of any "adult business"; or
5. Physical changes that expand the square footage of an existing "adult business" by more than 10%.

"Owner/license holder" means any of the following: (1) the sole proprietor of an adult business; (2) any general partner of a partnership that owns and operates an adult business; (3) the owner of a controlling interest in a corporation or L.L.C. that owns and operates an adult business; or (4) the person designated by the officers of a corporation or the members of an L.L.C. to be the license holder for an adult business owned and operated by the corporation.

"Performer" means a person who is an employee or independent contractor of an adult business or any other person who, with or without any compensation or other form of consideration, provides adult live entertainment for patrons of an adult business.

"Sexually oriented merchandise" means sexually oriented implements, paraphernalia, or novelty items, such as, but not limited to: dildos, auto sucks, sexually oriented vibrators, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sadomasochistic activity or distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

"Specified anatomical areas" means and includes any of the following:

1. Less than completely and opaquely covered, and/or simulated to be reasonably anatomically correct, even if completely and opaquely covered human:
  - a. Genitals, pubic region;
  - b. Buttocks, anus; or
  - c. Female breasts below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

"Specified sexual activities" means and includes any of the following, irrespective of whether performed directly or indirectly through clothing or other covering:

1. Human genitals in a state of sexual stimulation or arousal; and/or
2. Acts of human masturbation, sexual stimulation or arousal; and/or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or
4. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain, or bondage and/or restraints; and/or
5. Human excretion, urination, menstruation, vaginal or anal irrigation; and/or
6. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

(Ord. NS-761 § 3, 2005)

#### **§ 8.60.030. Operating standards.**

- A. Hours of Operation. It shall be unlawful for any owner, operator, manager, employee or independent contractor of an adult business to allow such adult business to remain open for business, or to license any employee, independent contractor or performer to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 12:00 a.m. and 10:00 a.m. of any day excepting herefrom an "adult hotel/motel."
- B. Exterior Lighting Requirements. All exterior areas, including parking lots, of the adult business shall be illuminated at a minimum of 1.50 foot-candle, maintained and evenly distributed at ground level with appropriate devices to screen, deflect or diffuse the lighting in such manner as to prevent glare or reflected light from creating adverse impacts on adjoining and nearby public and private properties. Inoperable and/or broken lights shall be replaced within 24 hours.
- C. Interior Lighting Requirements. All interior areas of the adult business excepting therefrom adult hotels/motels shall be illuminated at a minimum of 1.00 foot-candle, maintained and evenly distributed at floor level. Inoperable and/or broken lights shall be replaced within 24 hours, excepting herefrom an "adult hotel/motel."
- D. Regulation of Adult Booth/Individual Viewing Area.
  - 1. No adult booth/individual viewing area shall be occupied by more than one individual at a time.
  - 2. Each adult booth/individual viewing area within the adult business shall be visible from a continuous and accessible main aisle in a public portion of the establishment, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the adult booth/individual viewing area from the main aisle. A manager shall be stationed in the main aisle at all times. Further, no one shall maintain any adult booth/individual viewing area in any configuration unless the entire interior wherein the picture or entertainment that is viewed is visible from one main aisle. The entire body of any patron in any adult booth/individual viewing area must be visible from the main aisle without the assistance of mirrors or any other device.
  - 3. No doors are permitted on an adult booth/individual viewing area. No partially or fully enclosed adult booth/individual viewing areas or partially or fully concealed adult booth/individual viewing areas shall be maintained.
  - 4. No holes or other openings shall be permitted between adult booths/individual viewing areas. Any such hole or opening shall be repaired within 24 hours using "pop" rivets to secure metal plates over the hole or opening to prevent patrons from removing the metal plates.
  - 5. No beds, couches or chairs with a sitting area greater than 24 inches wide shall be permitted in an adult booth/individual viewing area.
- E. On-Site Manager; Security Measures. All adult businesses shall have a responsible person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. No performer may serve as the manager. The individual(s) designated as the on-site manager shall provide his or her name to the Chief of Police to receive all complaints and be given by the owner and/or operator the responsibility and duty to address and immediately resolve all violations taking place on the premises.

All adult businesses shall provide a security system that visually records and monitors all parking lot areas, or in the alternative, state-licensed, uniformed security guards to patrol and monitor the parking lot areas during all times during which the business is open. If the business employs security

guards, they shall provide written confirmation to the Chief of Police prior to their employment that the guards are duly registered. No performer may serve as a security guard.

- F. Interior of Premises. No exterior door or window on the premises of an adult business shall be propped or kept open at anytime while the business is open and any exterior windows shall be covered with opaque coverings at all times.
- G. Signs. All adult businesses shall comply with the following sign requirements, in addition to those of this code. Should a conflict exist between the requirements of this code and this subsection, the more restrictive shall prevail.
  - 1. If an adult business does not serve alcohol, it shall post a notice inside the establishment, within 10 feet of every entrance used by customers for access to the establishment, stating that persons below the age of 18 years of age are prohibited from entering onto the premises or within the confines of the adult business. This notice shall be posted on a wall in a place of prominence. The dimensions of the notice shall be no less than six inches by six inches, with a minimum typeface of 25 points. If the adult business serves alcohol, it shall comply with all notice and posting requirements of the Alcoholic Beverage Control Department.
  - 2. No adult-oriented material shall be displayed in window areas or any area where it would be visible from any location other than within the confines of the adult business.
- H. Regulation of Public Restroom Facilities. If the adult business provides restrooms for patron use, it shall provide separate restroom facilities for male and female patrons. The restrooms shall be free from adult oriented material. Only one person shall be allowed in each restroom at any time, unless otherwise required by law, in which case the adult business shall employ a restroom attendant of the same sex as the restroom users who shall be present in the public portion of the restroom during operating hours. The attendant shall insure that no person of the opposite sex is permitted into the restroom, and that not more than one person is permitted to enter a restroom stall, unless otherwise required by law, and that the restroom facilities are used only for their intended sanitary purposes. Access to restrooms for patron use shall not require passage through an area used as a dressing area by performers.
- I. Trash. All interior trash cans shall be emptied into a single locked trash bin lined with a plastic bag or with individually bagged trash at least once a day. At least four times a day, the front and rear exteriors of any adult business, along with the parking lot, shall be inspected for trash and debris and any trash and debris found shall be immediately removed and placed into a single locked trash bin lined with a plastic bag.
- J. Adult Business Offering Adult Live Entertainment—Additional Operating Requirements. The following additional requirements shall apply to adult businesses providing adult live entertainment:
  - 1. No person shall perform adult live entertainment for patrons of an adult business except upon a permanently fixed stage at least 18 inches above the level of the floor, and surrounded with a three foot high barrier or by a fixed rail at least 30 inches in height. No patron shall be permitted on the stage while the stage is occupied by a performer(s) and/or adult cabaret dancer(s). This provision shall not apply to an individual viewing area where the performer is completely separated from the area in which the performer is viewed by an individual by a permanent, floor to ceiling, solid barrier.
  - 2. No performer or adult cabaret dancer shall be within six feet of a patron, measured horizontally, while the performer or adult cabaret dancer is performing adult live entertainment. While on-

stage, no performer or adult cabaret dancer shall have physical contact with any patron, and no patron shall have physical contact with any performer or adult cabaret dancer.

3. As to off-stage performances, no performer or adult cabaret dancer shall perform "adult live entertainment" off-stage. As to an adult cabaret dancer performing off-stage, a distance of at least six feet shall be maintained between the adult cabaret dancer and the patron(s) at all times. During off-stage performances, no adult cabaret dancer shall have physical contact with any patron, and no patron shall have physical contact with any adult cabaret dancer.
4. In addition, while on the premises, no performer or adult cabaret dancer shall have physical contact with a patron and no patron shall have physical contact with a performer or adult cabaret dancer, which physical contact involves the touching of the clothed or unclothed genitals, pubic area, buttocks, cleft of the buttocks, perineum, anal region, or female breast with any part or area of any other person's body either before or after any adult live entertainment or off stage performances by such performer or adult cabaret dancer. Patrons shall be advised of the no touching requirements by signs and, if necessary, by employees, independent contractors, performers, or adult cabaret dancers of the establishment. This prohibition does not extend to incidental touching.
5. Patrons shall be advised of the separation and no touching requirements by signs conspicuously displayed and placed on the barrier between patrons and performers and utilizing red or black printing of letters not less than one inch in size. And, if necessary, patrons shall also be advised of the separation and no touching requirements by employees or independent contractors of the establishment.
6. All employees and independent contractors of the adult facility, except therefrom performers while performing on the fixed stage, while on or about the premises or tenant space, shall wear at a minimum an opaque covering which covers their specified anatomical areas.
7. Patrons shall not throw money to performers, place monies in the performers' costumes or otherwise place or throw monies on the stage. If patrons wish to pay or tip performers, payment or tips may be placed in containers. Patrons shall be advised of this requirement by signs conspicuously displayed and placed on the barrier between patrons and performers and utilizing red or black printing of letters not less than one inch in size. If necessary, patrons shall also be advised of the tipping and gratuity requirements by employees or independent contractors of the adult business.
8. The adult business shall provide dressing rooms for performers, that are separated by gender and exclusively dedicated to the performers' use and which the performers shall use. Same-gender performers may share a dressing room. Patrons shall not be permitted in dressing rooms.
9. The adult business shall provide an entrance/exit to the establishment for performers that is separate from the entrance/exit used by patrons, which the performers shall use at all times.
10. The adult business shall provide access for performers between the stage and the dressing rooms that is completely separated from the patrons. If such separate access is not physically feasible, the adult business shall provide a minimum three foot wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers capable of (and which actually results in) preventing any physical contact between patrons and performers and the patrons must also be three feet away from the walk aisle. Nothing in this section is intended to exempt the adult business from compliance with the provisions of Title 24 of the California Code of Regulations pertaining to handicapped

accessibility.

K. Adult Motion Picture Theater—Additional Operating Requirements. The following additional requirements shall apply to adult motion picture theaters:

1. If the theater contains a hall or auditorium area, the area shall comply with each of the following provisions:
  - a. Have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons who may occupy the hall or auditorium area;
  - b. Have a continuous main aisle alongside the seating areas in order that each person seated in the hall or auditorium area shall be visible from the aisle at all times; and
  - c. Have a sign posted in a conspicuous place at or near each entrance to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area.
2. If an adult motion picture theater is designed to permit outdoor viewing by patrons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by those patrons may not be seen from any public right-of-way, child day care facility, public park, school, or religious institution or any residentially zoned property occupied with a residence.

(Ord. NS-761 § 3, 2005)

#### **§ 8.60.040. Adult business license.**

All adult businesses are subject to the adult business license requirements of this chapter as well as all other applicable ordinances of the city and laws of the State of California.

It shall be unlawful for any person to establish, operate, engage in, conduct, or carry on any adult business within the City of Carlsbad unless the person first obtains, and continues to maintain in full force and effect, an adult business license as herein required. Any "establishment of an adult business" as defined in Section 8.60.020 of this chapter shall require a new application for an adult business license. The adult business license shall be subject to the development and operational standards of this chapter and the regulations of the zoning district in which the facility is located.

If the license applicant is a corporation or L.L.C., the applicant shall provide its complete name, the date of its organization, evidence that the entity is in good standing under the laws of the State of California, the names and capacities of all officers, directors and individuals with managerial control over the facility, the name of the registered agent, and the address of the registered officer or member for service of process.

(Ord. NS-761 § 3, 2005)

#### **§ 8.60.050. Felony and misdemeanor convictions.**

- A. An application for an adult business license shall include a signed and verified statement made by the applicant that the license applicant, if an individual, or by all of the partners, officers, directors, if an L.L.C., partnership or corporation, declaring that none of them has pled guilty or nolo contendere or been convicted of an offense classified by this or any other state as a sex or sex-related offense, and (1) more than two years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date, if the conviction is a

misdemeanor; or (2) more than five years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date, if the conviction is a felony; or (3) more than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.

- B. The adult business owner/license holder shall annually submit a signed and verified statement and processing fee to the Chief of Police declaring that there has been no change with respect to the owner/license holder having within this state or any other state: (1) pled guilty or nolo contendere of a sex or sex-related offense, or (2) been convicted of a sex or sex-related offense. Any plea of guilty or nolo contendere to or conviction of a sex or sex-related offense may be grounds for suspension or revocation of the adult business license, subject to Section 8.60.090 of this chapter.

(Ord. NS-761 § 3, 2005; Ord. CS-062 § III, 2009)

#### **§ 8.60.060. Adult business license applications.**

- A. The completeness of an application for an adult license shall be determined by the Chief of Police within five working days of its submittal. If the Chief of Police determines that the license application is incomplete, the Chief of Police shall immediately notify in writing the license applicant of such fact and the reasons therefor, including any additional information necessary to render the application complete. Such writing shall be deposited in the U.S. mail, postage prepaid, immediately upon determination that the application is incomplete. Within five working days following the receipt of an amended application or supplemental information, the Chief of Police shall again determine whether the application is complete in accordance with the provisions set forth above. Evaluation and notification shall occur as provided herein until such time as the application is found to be complete.
- B. Upon receipt of a completed application and payment of the application and license fees, the Chief of Police shall immediately write or stamp the application "Received" and, in conjunction with city staff, shall promptly investigate the information contained in the application to determine whether an adult business license shall be granted. Investigation shall not be grounds for the city to unilaterally delay in reviewing a completed application, nor is it grounds to extend the time period to conduct a hearing pursuant to this section.
- C. Within 30 days of receipt of the completed application, the Chief of Police shall issue or deny the license.
- D. In reaching a decision, the Chief of Police shall not be bound by the formal rules of evidence in the California Evidence Code.
- E. The failure of the Chief of Police to render any decision within the time frames established in any part of this section shall be deemed to constitute an approval, subject to appeal to the City Manager pursuant to Section 8.60.080. The Chief of Police's decision shall be hand delivered or mailed to the applicant at the address provided in the application, and shall be provided in accordance with the requirements of this code.
- F. Notwithstanding any provisions in this section regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this section or may request a continuance regarding any decision or consideration by the city of the pending application. Extensions of time sought by applicants shall not be considered delay on the part of the city or constitute failure by the city to provide for prompt decisions on applications.

G. The Chief of Police shall 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 the denial.
3. If the application is granted, the Chief of Police shall attach to the application an adult business license.

H. The Chief of Police shall grant the application and issue the adult business license upon findings that the proposed business meets, or will meet, all of the development and operational standards and requirements of this chapter, unless the application is denied based upon one or more of the criteria set forth below.

I. If the Chief of Police grants the application, the applicant may begin operating the adult business for which the license was sought, subject to strict compliance with the development and operational standards and requirements of this chapter. The license holder shall post the license conspicuously in the premises of the adult business.

J. The Chief of Police shall deny the application if the applicant fails to establish any of the following:

1. The adult business complies with the city's zoning requirements as to its underlying zoning designation.
2. The adult business complies with the development, operational or performance standards found in this chapter.
3. The license applicant is at least 18 years of age.
4. The required application fees have been paid.
5. The application complies with Section 8.60.040 (status of an L.L.C.).
6. The license applicant complies with Section 8.60.050(A) of this chapter.

K. An applicant, including, if an L.L.C., partnership or corporation, any of the partners, officers, or directors, cannot re-apply for an adult business license for a particular location within one year from the date of prior denial.

L. Any affected person may appeal the decision of the Chief of Police in writing in accordance with the provisions of Section 8.60.080.

(Ord. NS-761 § 3, 2005; Ord. CS-062 § IV, 2009)

#### **§ 8.60.070. Transfer of adult business license.**

- A. A license holder shall not operate an adult business under the authority of an adult business license at any place other than the address of the adult business stated in the application for the license.
- B. In the event of a transfer of ownership of the adult business, the new owner shall be fully informed of the requirements of this chapter, including the operational and development standards herein.
- C. In the event of a transfer of the adult business or the adult business license, the transferee must

provide the Chief of Police with the following information within seven days of the transfer:

1. If the transferee is an individual, the individual shall state his or her legal name, including any aliases, and address, and shall submit satisfactory written proof that he or she is at least 18 years of age.
2. If the transferee is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, and whether the partnership is general or limited; and shall attach a copy of the partnership agreement, if any.
- D. If the transferee is a corporation or L.L.C., the entity shall provide its complete name, the date of its incorporation or organization, evidence that it is in good standing under the laws of the State of California, the names and capacities of all officers and directors, managers or members asserting supervisory or managerial control over the facility, the name of the registered agent, and the address of the registered office for service of process.

(Ord. NS-761 § 3, 2005)

#### **§ 8.60.080. Appeal procedures.**

- A. The decision of the Chief of Police shall be appealable to the City Manager by the filing of a written appeal with the City Clerk within 15 days following the day of mailing of the Chief of Police's decision and paying the fee for appeals provided under this code. All such appeals shall be filed with the City Clerk and shall be public records. The City Manager or a designated hearing officer designated by him or her which can include a retired judge shall, at a duly noticed meeting within 30 days from the date the written appeal was filed, independently review the entire record, including the transcript of the hearing and any oral or written arguments which may be offered to the City Manager or designated hearing officer by the appellant and respondent. No additional testimony or other evidence shall be received or considered by the City Manager or designated hearing officer. At the conclusion of the review, the City Manager or designated hearing officer shall decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Manager or designated hearing officer finds is supported by the entire record. The action of the City Manager or designated hearing officer shall be final and conclusive, shall be rendered in writing within four working days, and such written decision shall be immediately mailed or delivered to the appellant(s) and there shall be no additional right of appeal.
- B. Notwithstanding any provisions in this section regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this division or may request a continuance regarding any decision or consideration by the city of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the city or constitute failure by the city to provide for prompt decisions on applications.
- C. Failure of the City Manager or designated hearing officer to render a decision to grant or deny an appeal of a license denial within the time frames established by this section shall be deemed to constitute an approval of the adult business license.
- D. The time for a court challenge to a decision of the City Manager or designated hearing officer is governed by California Code of Civil Procedure Section 1094.8.
- E. Notice of the City Manager or designated hearing officer's decision and its findings shall include citation to California Code of Civil Procedure Section 1094.8.
- F. Any applicant or license holder whose license has been denied pursuant to this section shall be

afforded prompt judicial review of that decision as provided by California Code of Civil Procedure Section 1094.8.

- G. The City Manager or designated hearing officer's decision shall be final. Section 1.20.600 of the Municipal Code shall not apply to any decisions made under Section 8.60.080.  
(Ord. NS-761 § 3, 2005)

**§ 8.60.090. Suspension or revocation of adult business license.**

- A. On determining that grounds for license suspension or revocation exist, the Chief of Police or designee shall furnish written notice of the proposed suspension or revocation to the license holder. 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 municipal code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the license holder, or shall be delivered to the license holder personally, at least 10 days prior to the hearing date. Hearings pursuant to this section shall be conducted by the City Manager or a designated hearing officer designated by him or her which can include a retired judge. Hearings pursuant to this section shall be conducted in accordance with procedures established by the City Manager or designated hearing officer but, at a minimum shall include the following:
1. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues and may be represented by counsel.
  2. The City Manager or designated hearing officer shall not be bound by the formal rules of evidence.
  3. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness at the request of the license holder. Extensions of time or continuances sought by a license holder shall not be considered delay on the part of the city or constitute failure by the city to provide for prompt decisions on license suspensions or revocations.
  4. The City Manager or designated hearing officer's decision shall be final. Section 1.20.600 of this code shall not apply to any decisions made under this section.
- B. A license may be suspended or revoked based on the following causes arising from the acts or omissions of the license holder, or an employee, independent contractor, partner, director, or manager of the license holder:
1. The building, structure, equipment, or location used by the adult business fails to comply with all provisions of these regulations and this section relating to adult businesses, including the adult business operational standards contained in Section 8.60.030 and the zoning requirements of Chapter 21.43, and all other applicable building, fire, electrical, plumbing, health, and zoning requirements of this code.
  2. The license holder has failed to obtain or maintain all required city licenses.
  3. The license holder has made any false, misleading, or fraudulent statement of material fact in the application for an adult business license.
  4. The license is being used to conduct an activity different from that for which it was issued.
  5. That an individual employed by, or performing in, the adult business (whether classified as an employee or independent contractor) has been convicted of two or more sex-related offenses

that occurred in or on the licensed premises within a 12-month period and was employed by, or performing in, the adult business at the time the offenses were committed.

6. That the use for which the approval was granted has ceased to exist or has been suspended for six months or more.
7. The license holder has:
  - a. Within the past two years, pled guilty or nolo contendere, or been convicted of, or released from confinement of conviction of, whichever is the later date, an offense classified by this or any other state as a sex or sex-related offense, if the conviction is a misdemeanor; or
  - b. Within the past five years, pled guilty or nolo contendere, or been convicted of, or released from confinement of conviction of, whichever is the later date, an offense classified by this or any other state as a sex or sex-related offense, if the conviction is a felony; or
  - c. Within the past five years, pled guilty or nolo contendere, or been convicted of, or released from confinement of conviction of, whichever is the later date, two or more offenses classified by this or any other state as sex or sex-related offenses if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.
8. That the transferee/new owner of an adult business or adult business license failed to comply with the requirements of this chapter.
9. The license holder, partner, director, or manager 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 business; or a licensee has been convicted of violating any of the following state laws on the premises of the adult business:
  - a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.
  - b. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.
  - c. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.
  - d. The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316 and 318 of the California Penal Code.
  - 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.
  - f. Any act constituting a felony involving the sale, use, possession, or possession for sale of any controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code.
  - g. An act or omission in violation of any of the requirements of this chapter if such act or omission is with the knowledge, authorization, or approval of the license holder or is as a result of the license holder's negligent supervision of the employees or independent contractors of the adult facility. This includes the allowance of activities that are or become a public nuisance which includes the disruptive conduct of business patrons whether on or

immediately off the premises where such patrons disturb the peace, obstruct traffic, damage property, engage in criminal conduct, violate the law and otherwise impair the free enjoyment of life and property.

- C. After holding the hearing in accordance with the provisions of this section, if the City Manager or designated hearing officer finds and determines that there are grounds for suspension or revocation, the City Manager or designated hearing officer shall impose one of the following:
1. Suspension of the license for a specified period not to exceed six months; or
  2. Revocation of the license.

The City Manager or designated hearing officer shall render a written decision that shall be hand delivered or overnight mailed to the license holder within five days of the public hearing.

- D. In the event a license is revoked pursuant to this section, another adult business license to operate an adult business shall not be granted to the licensee within 12 months after the date of such revocation.
- E. The time for a court challenge to a decision of the City Manager or designated hearing officer is governed by California Code of Civil Procedure Section 1094.8.
- F. Notice of the City Manager or designated hearing officer's decision and its findings shall include citation to California Code of Civil Procedure Section 1094.8.
- G. Any applicant or license holder whose license has been suspended or revoked pursuant to this section shall be afforded prompt judicial review of that decision as provided by California Code of Civil Procedure Section 1094.8.

(Ord. NS-761 § 3, 2005; Ord. CS-062 § V, 2009)

**§ 8.60.100. Employment of and services rendered to persons under the age of 18 years prohibited; 21 if liquor is served.**

- A. Employees/Independent Contractors. Employees and independent contractors of an adult business must be at least 18 years of age. It shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a 10% or greater interest, employees, or other person in charge of any adult business to employ, contract with, or otherwise retain any services in connection with the adult business with or from any person who is not at least 18 years of age. If liquor is served at the adult business, employees and independent contractors of the adult business must be at least 21 years of age. If liquor is served at the adult business, it shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a 10% or greater interest, employee, or other person in charge of any adult business to employ, contract with, or otherwise retain any services in connection with the adult business with or from any person who is not 21 years of age. And said persons shall exercise reasonable care in ascertaining the true age of persons seeking to contract with, be employed by, or otherwise service the adult business.
- B. Patrons. Patrons of an adult business must be at least 18 years of age. It shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a 10% or greater interest, employee, independent contractor, or other person in charge of any adult business to permit to enter or remain within the adult business any person who is not at least 18 years of age. If liquor is served at the adult business, patrons must be at least 21 years of age. If liquor is served at the adult business, it shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a 10% or greater interest, employee, independent contractor, or other person in charge of any adult business to permit to enter or remain within the adult business any person who is not at least 21 years

of age. And said persons shall exercise reasonable care in ascertaining the true age of persons entering the adult business.

- C. X-rated Movies. The selling, renting and/or displaying of x-rated movies, videotapes, digital video disks (DVDs), compact disks (CDs) and laser disks shall be restricted to persons over 18 years of age. If an establishment that is not otherwise prohibited from providing access to the establishment to persons under 18 years of age sells, rents, or displays movies, videos, DVDs, or laser disks that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images that are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, said movies, videos, DVDs, CDs, and laser disks shall be located in a specific section of the establishment where these items are not visible to persons under the age of 18 and from which persons under the age of 18 shall be prohibited.

(Ord. 761 § 3, 2005)

#### **§ 8.60.110. Regulations non-exclusive.**

The provisions of this chapter regulating adult businesses are not intended to be exclusive, and compliance therewith shall not excuse non-compliance with any other provisions of this code and/or any other regulations pertaining to the operation of businesses as adopted by the City Council of the City of Carlsbad. (Ord. NS-761 § 3, 2005)

#### **§ 8.60.120. Violations.**

- A. Any owner, operator, manager, employee or independent contractor of an adult business violating or permitting, counseling, or assisting the violation of any of these provisions regulating adult businesses shall be subject to any and all civil remedies, including license revocation. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.
- B. In addition to the remedies set forth in subsection A of this section, any adult business that is operating in violation of these provisions regulating adult businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.
- C. The restrictions imposed pursuant to this section constitute a licensing process, and do not constitute a criminal offense. Notwithstanding any other provision of this code, the city does not impose a criminal penalty for violations of the provisions of this ordinance related to sexual conduct or activities.

(Ord. NS-761 § 3, 2005)

#### **§ 8.60.130. Public nuisance.**

In addition to the penalties set forth in this chapter, any adult business that is operating in violation of these provisions regulating adult businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.

(Ord. NS-761 § 3, 2005)

#### **§ 8.60.140. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter and the ordinance to which

it is a part, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The City Council hereby declares that it would have adopted this chapter and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective. (Ord. NS-761 § 3, 2005)

**CHAPTER 8.70  
ADULT BUSINESS PERFORMER LICENSE**

**§ 8.70.010. Purpose.**

It is the purpose and intent of this chapter to provide for the licensing of adult business performers in order to promote the health, safety, and general welfare of the city. The goals of the performer licensing provisions are (1) to protect minors by requiring that all performers be over the age of 18 years; (2) to assure the correct identification of persons performing in adult businesses; (3) to enable the city to deploy law enforcement resources effectively; and (4) to detect and discourage the involvement of crime in adult businesses by precluding the licensing of performers with certain sex-related convictions in a set time period. It is neither the intent nor the effect of these regulations to invade the privacy of performers or to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent nor the effect of these regulations to restrict or deny access by adults to communicative materials or to deny access by the distributors or exhibitors of adult businesses to their intended lawful market. Nothing in these regulations is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any city ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

The definitions contained in Chapter 8.60 of this code, shall govern for purposes of these regulations.  
(Ord. NS-761 § 4, 2005)

**§ 8.70.020. Adult business performer license.**

- A. No performer shall be employed, hired, engaged, or otherwise retained in an adult business to participate in or give any live performance displaying "specified anatomical areas" or "specified sexual activities" without first having a valid adult business performer license issued by the city.
- B. The Chief of Police or designee shall grant, deny, and renew adult business performer licenses in accordance with these regulations.
- C. License applicants shall file a written, signed, and verified application or renewal application on a form provided by the Chief of Police. Such application shall contain the following information:
  1. The license applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
  2. Principal place of residence;
  3. Age, date and place of birth;
  4. Height, weight, hair and eye color and tattoo descriptions and locations;
  5. Each present and/or proposed business address(es) and telephone number(s) of the establishments at which the applicant intends to work;
  6. Driver's license or identification number and state of issuance;
  7. Social security number;
  8. Satisfactory written proof that the license applicant is at least 18 years of age;
  9. The license applicant's fingerprints on a form provided by the San Diego County Sheriff's

Department and two color two-by-two inch photographs clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant. Fingerprints and photograph shall be taken within six months of the date of application;

10. Whether the license applicant has pled guilty or nolo contendere or been convicted of an offense classified by this or any other state as a sex-related offense and (a) less than two years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date, if the conviction is a misdemeanor; or (b) less than five years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of conviction, whichever is the later date, if the conviction is a felony; or (c) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period;
  11. If the application is made for the purpose of renewing a license, the license applicant shall attach a copy of the license to be renewed.
- D. The information provided in subsection C of this section which is personal, private, confidential or the disclosure of which could expose the applicant to the risk of harm will not be disclosed under the California Public Records Act. Such information includes, but is not limited to, the applicant's residence address, telephone number, date of birth and age, driver's license and social security number. The City Council in adopting the application and licensing and/or permit system set forth herein has determined in accordance with Government Code Section 6255 that the public interest in disclosure of the information set forth above is outweighed by the public interest in achieving compliance with this chapter by ensuring that the applicant's privacy, confidentiality or security interest are protected. The City Clerk shall cause the same to be redacted from any copy of a completed application form made available to any member of the public, the above mentioned information.
- E. The completed application shall be accompanied by a non-refundable application fee and an annual license fee. The amount of such fees shall be as set forth in the schedule of fees established by resolution from time to time by the City Council.
- F. The completeness of an application shall be determined within two working days by the Chief of Police. The Chief of Police must be available during normal working hours Monday through Friday to accept adult business performer applications. If the Chief of Police determines that the application is incomplete, the Chief of Police shall immediately inform the applicant of such fact and the reasons therefor, including any additional information necessary to render the application complete. Upon receipt of a completed adult business performer application and payment of the license fee specified in subsection E of this section, the Chief of Police shall immediately issue a temporary license which shall expire of its own accord 10 business days from the date of issuance and shall only be extended as provided in Section 8.70.030.
- G. This temporary adult business performer license shall authorize a performer to commence performance at an adult business establishment that possesses a valid adult business license authorized to provide live entertainment.
- H. The fact that a license applicant possesses other types of state or city permits or licenses does not exempt the license applicant from the requirement of obtaining an adult business performer license.  
(Ord. NS-761 § 4, 2005)

**§ 8.70.030. Investigation and action on application for adult business performer license.**

- A. Upon submission of a completed application, payment of license fees, and issuance of a temporary adult business performer license pursuant to Section 8.70.010, the Chief of Police shall immediately stamp the application "Received" and in conjunction with city staff, including members of the police department, shall promptly investigate the information contained in the application to determine whether the license applicant should be issued an adult business performer license.
- B. Investigation shall not be grounds for the city to unilaterally delay in reviewing a completed application. The Chief of Police's decision to grant or deny the adult business performer license shall be made within 10 business days from the date the temporary license was issued. In the event the Chief of Police is unable to complete the investigation within 10 business days, the chief shall promptly notify the license applicant and extend the temporary license for up to 10 additional business days. In no case shall the investigation exceed 20 days, nor shall the decision to grant or deny the license application be made after the expiration of the temporary license.
- C. The Chief of Police shall render a written decision to grant or deny the license within the time period set forth in subsection B of this section. Said decision shall be mailed first class postage prepaid or hand delivered to the applicant, within the foregoing 10-day period (or 20-day period if extended pursuant to subsection B of this section) at the address provided by the applicant in the application.
- D. The Chief of Police shall 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 the denial. Such notice shall also provide that the license applicant may appeal the denial to the City Manager. The City Manager or a designated hearing officer shall conduct a hearing as described in Section 8.70.040.
  - 3. If the application is granted, the Chief of Police shall attach to the application an adult business performer license.
  - 4. The application, as acted upon, and the license, if any, shall be placed in the United States mail, first class postage prepaid, or hand delivered, addressed to the license applicant at the residence address stated in the application in accordance with the time frames established herein.
- E. The Chief of Police shall grant the application and issue the license unless the application is denied based on one of the grounds set forth in subsection F of this section.
- F. The Chief of Police shall deny the application based on any of the following grounds:
  - 1. The license applicant has made false, misleading, or fraudulent statement of material fact in the application for an adult business performer license.
  - 2. The license applicant is under 18 years of age.
  - 3. The adult business performer license is to be used for performing in a business prohibited by laws of the state or city or a business that does not have a valid adult business license.
  - 4. The license applicant has pled guilty, nolo contendere or been convicted of an offense classified by this or any other state as a sex-related offense and (a) less than two years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of

application, whichever is the later date, if the conviction is a misdemeanor, or (b) less than five years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date, if the conviction is a felony; or (c) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.

- G. Failure of the Chief of Police to render a decision on the license within the timeframes established by this section shall be deemed to constitute an approval.
- H. Each adult business performer license, other than the temporary license described in Section 8.70.020(F), 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 license fee and a copy of the license to be renewed. If said application conforms to the previously approved application and there has been no change with respect to the license holder being convicted of any crime classified by this or any other state as a sex-related offense, the finance officer or designee shall renew the license for one year. Any plea to or conviction of a sex-related offense requires the renewal application to be set for hearing before the Chief of Police in accordance with the provisions of this section. The request for renewal shall be made at least 30 days before the expiration date of the license. Applications for renewal shall be acted upon as provided herein for action upon applications for license. The Chief of Police's denial of a renewal application is subject to the hearing provisions of Section 8.70.040.

(Ord. NS-761 § 4, 2005)

#### **§ 8.70.040. Revocation/suspension/denial of adult business performer license.**

- A. On determining that grounds for denial of a license, license revocation or suspension exist, the Chief of Police or designee shall furnish written notice of the proposed action to the applicant/license holder. Such notice shall set forth the time and place of a hearing before the City Manager or a designated hearing officer 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 last known address of the applicant/license holder, or shall be delivered to the license holder personally, at least 10 days prior to the hearing date.
- B. On determining that grounds for denial of a license exist, the Chief of Police shall furnish written notice of the proposed action to the applicant/license holder. The decision of the Chief of Police shall be appealable to the City Manager by filing a written request for a hearing with the City Clerk within 15 days following the day of mailing of the Chief of Police's decision and paying the fee for appeals provided under this code. All such appeals shall be filed with the City Clerk and shall be public records. The City Manager shall issue a notice which shall set forth the time and place of a hearing before the City Manager or a designated hearing officer which is within 30 days from the date the appeal was filed 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 last known address of the applicant/license holder, or shall be delivered to the license holder personally, at least 10 days prior to the hearing date.
- C. The applicant shall have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues and may be represented by counsel. The City Manager or designated hearing officer shall not be bound by the formal rules of evidence. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness at the request of the licensee.

Extensions of time or continuances sought by a licensee/appellant shall not be considered delay on the part of the city or constitute failure by the city to provide for prompt decisions on license suspensions or revocations.

- D. A license may be revoked, based on any of the following causes arising from the acts or omissions of the license holder:
1. The licensee has made any false, misleading, or fraudulent statement of material fact in the application for a performer license.
  2. The licensee has pled guilty, nolo contendere or been convicted of an offense classified by this or any other state as a sex-related offense and (a) less than two years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date, if the conviction is a misdemeanor, or (b) less than five years have elapsed since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date, if the conviction is a felony; or (c) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.
  3. Failure to comply with the operating standards of Chapter 8.60 or the requirements of this chapter.
- E. After holding the hearing in accordance with the provisions of this section, if the City Manager or designated hearing officer finds and determines that there are grounds for revocation or suspension, the City Manager or designated hearing officer shall revoke or suspend the license. After holding the hearing in accordance with the provisions of this section on the denial of a license, the City Manager or designated hearing officer shall decide to sustain the decision, modify the decision or order the decision stricken and issue such order as the City Manager or designated hearing officer finds is supported by the entire record. The City Manager or designated hearing officer shall render a written decision that shall be hand delivered or overnight mailed to the applicant/license holder within four working days of the hearing. The City Manager or designated hearing officer's failure to render such a decision within this time frame shall constitute an approval or reinstatement of the license.
- F. In the event a license is revoked pursuant to this section, another adult business performer license shall not be granted to the licensee within 12 months after the date of such revocation.
- G. The decision of the City Manager or designated hearing officer shall be final. Section 1.20.600 of this code shall not apply to any decisions made under Section 8.70.040.
- H. The time for a court challenge to a decision of the City Manager or designated hearing officer is governed by California Code of Civil Procedure Section 1094.8.
- I. Notice of the City Manager's or designated hearing officer's decision and findings shall include citation to California Code of Civil Procedure Section 1094.8.
- J. Any applicant or license holder whose license has been denied, suspended, or revoked, pursuant to this section shall be afforded prompt judicial review of that decision as provided by California Code of Civil Procedure Section 1094.8.

(Ord. NS-761 § 4, 2005)

**§ 8.70.050. Display of license identification cards.**

The Chief of Police shall provide each adult business performer required to have a license pursuant to this chapter with an identification card containing the name, address, photograph, and license number of such performer. Every performer shall have such card available for inspection at all times during which the performer is on the premises of the adult business at which he or she performs.

(Ord. NS-761 § 4, 2005)

**§ 8.70.060. Adult business performer license non-transferable.**

No adult business performer license may be sold, transferred, or assigned by any licensee or by operation of law, to any other person, group, partnership, corporation, or any other entity. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of the adult business performer license, and the license thereafter shall be null and void.

(Ord. NS-761 § 4, 2005)

**§ 8.70.070. Time limit for filing application for license.**

All persons required by this chapter to obtain an adult business performer license must apply for and obtain such adult business performer license within 14 days of the effective date of this section. Failure to do so and continued performance that displays "specified anatomical areas" or "specified sexual activities" in an adult business after such time without a permit or license shall constitute a violation of this section.

(Ord. NS-761 § 4, 2005)

**§ 8.70.080. Violations.**

- A. Any licensee violating or causing the violation of any of these provisions regulating adult business performer licenses shall be subject to license revocation/suspension pursuant to Section 8.70.040 of this chapter, a fine of not more than \$1,000.00 pursuant to Government Code Sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.
- B. In addition to the remedies set forth in subsection A of this section, any violation of any of these provisions regulating adult business performer licenses is hereby declared to constitute a public nuisance and may be abated or enjoined.
- C. The restrictions imposed pursuant to this section are part of a regulatory licensing process, and do not constitute a criminal offense. Notwithstanding any other provision of this code, the city does not impose a criminal penalty for violations of the provisions of this ordinance related to sexual conduct or activities.

(Ord. NS-761 § 4, 2005)

**§ 8.70.090. Regulations non-exclusive.**

The provisions of this chapter regulating adult business performer licenses are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the licensing provisions as adopted by the City Council of the City of Carlsbad.

(Ord. NS-761 § 4, 2005)

**§ 8.70.100. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter and the ordinance to which it is a part, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The City Council hereby declares that it would have adopted this chapter and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective. (Ord. NS-761 § 4, 2005)

**CHAPTER 8.80  
MINI-SATELLITE WAGERING**

**§ 8.80.010. Purpose.**

It is the purpose of this chapter to protect public health, safety and welfare by broadly prohibiting mini-satellite wagering within the city.

(Ord. CS-252 § 2, 2014)

**§ 8.80.020. Definitions.**

"Mini-satellite wagering site" means any facility used for mini-satellite wagering as defined by California Business and Professions Code Section 19410.7.

(Ord. CS-252 § 3, 2014)

**§ 8.80.030. Prohibition.**

Mini-satellite wagering sites shall be prohibited within the City of Carlsbad.

(Ord. CS-252 § 4, 2014)

## CHAPTER 8.90 CANNABIS

### **§ 8.90.010. Purpose.**

This chapter is declarative of existing law. The Carlsbad Municipal Code, Title 21 (Zoning), only allows land uses permitted by the code. No provision of the Carlsbad Municipal Code allows any cannabis operation or land use of any kind within any zone, with the exception of medicinal cannabis deliveries pursuant to California Code of Regulations, Title 16, Division 42, Section 5416, and licensed medicinal cannabis delivery service businesses pursuant to Chapter 8.95 of this code. The purpose and intent of this chapter is to clarify the intent of the Carlsbad Municipal Code to prevent the cultivation, delivery, distribution, and sale of cannabis within Carlsbad city limits to the fullest extent of the law. Commercial cannabis activity has judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of or as a result of the commercial cannabis activity; increases of fraud in obtaining or using state-issued identification cards and licenses; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of commercial cannabis activity as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Prohibition of commercial cannabis activity is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of commercial cannabis activity, while at the same time protecting the rights of those individuals who desire to use cannabis within a private residence as authorized under the Adult Use of Marijuana Act.

Further, it is the intent of this chapter to limit the demands on police and other city resources and allow time for the state to establish and implement its regulatory and licensing programs under the Medical Cannabis Regulation and Safety Act of 2015, the Adult Use of Marijuana Act of 2016, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017.

This chapter is not intended to conflict with federal or state law. The city council intends that this chapter be interpreted to be compatible with federal and state law. To the extent that this chapter may be deemed to conflict with any provision of state law, the city council has determined that the subject of the conflict is a municipal affair.

(Ord. CS-323 § 2, 2017; Ord. CS-460, 10/24/2023)

### **§ 8.90.020. Definitions.**

For the purposes of this chapter and Chapter 8.95 of this code, the following definitions apply:

"Applicant" means a person or entity who has submitted an application for a medicinal cannabis delivery service license under Chapter 8.95 of this code.

"Business owner" or "business ownership" means any of the following: (1) A person with an aggregate ownership interest of 20% or more in the medicinal cannabis delivery service business, unless the interest is solely a security, lien, or encumbrance; (2) the chief executive officer of a nonprofit or other entity applying for, or holding, such license; (3) a member of the board of directors of a nonprofit applying for, or holding, such license; or (4) an individual participating in the direction, control, or management of the person applying for, or holding, such license.

"Cannabis" means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant, whether crude or purified; every compound, manufacture, salt, derivative, mixture, concentrate, or preparation of the plant, its seeds, or resin; and edible or topical products containing any of the above. "Cannabis" does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5.

"Cannabis products" has the same meaning as in Section 26001 of the California Business and Professions Code.

"Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

"Commercial cannabis activity" means any cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, distribution, delivery, or sale of cannabis requiring a license from the state under Division 10 of the California Business and Professions Code, whether or not carried on for profit and including medical cannabis cooperatives and collectives, except as approved by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Delivery" means the transfer of cannabis, including the use of any technology platform to arrange for or facilitate the transfer of cannabis by any business, cooperative, or collective, whether or not carried on for profit, to or from any location within the City of Carlsbad.

"Delivery personnel" means persons employed by a state and locally licensed cannabis business who deliver cannabis and cannabis products from the business premises to customers, or in the case of medicinal cannabis to qualified patients or caregivers, at a physical address location.

"Distribution" means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the MAUCRSA and any subsequent State of California legislation regarding the same.

"Indoors" means a code compliant space within a building, greenhouse, or other structure which is fully enclosed, with a complete roof enclosure supported by connecting walls extending from the ground to the roof that is secured against unauthorized entry and accessible only through one or more locking doors.

"MAUCRSA" means the Medical and Adult Use Cannabis Regulation and Safety Act or Senate Bill 94, signed into state law in 2017.

"Medicinal cannabis activity" means cultivation, manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of medicinal cannabis or a medicinal cannabis product, within the meaning of California Business and Professions Code Section 19300 et seq.

"Medicinal cannabis delivery service business" means a business or operation, whether for profit or nonprofit, whose premises are closed to the public and which sells medicinal cannabis and/or medicinal cannabis products exclusively by delivery, which requires a state license (Type 9-Non-storefront Retailer) under California Business and Professions Code Section 26000 et seq. and which requires a medicinal cannabis delivery service license issued by the City of Carlsbad to legally operate. This definition does not include any storefront component whereby customers purchase or pick up medicinal cannabis or medicinal cannabis products at the physical premises of a retail establishment.

"Medicinal cannabis delivery service license" means a City of Carlsbad regulatory license issued pursuant to Chapter 8.95 of this code to a medicinal cannabis delivery service business.

"Medicinal cannabis delivery service vehicle" means a vehicle used by a medicinal cannabis delivery service business to deliver medicinal cannabis or medicinal cannabis products. A medicinal cannabis delivery service vehicle must comply with all requirements of Chapter 8.95 of this code and California Code of Regulations, Title 4, Division 19, to legally operate.

"Medicinal cannabis" or "medicinal cannabis product" means medicinal cannabis or medicinal cannabis products, as those terms are defined in Section 26001 of the California Business and Professions Code.

Medicinal cannabis does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code. This definition does not include cannabis accessories, branded merchandise of the licensee, or promotional materials, which are prohibited from delivery within the City of Carlsbad by medicinal cannabis delivery service businesses.

"Person with an identification card" means a qualified patient, caregiver, or primary caregiver who possesses a valid identification card as described in California Health and Safety Code Section 11362.7.

"Physical address location" means a real property structure from where a medicinal cannabis delivery service business conducts its operations. This location may be one of several business locations and does not need to be the primary business location or headquarters.

"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling unit.

"Property owner" or "property ownership" means the individual or entity who is the record owner of the property or premises where a medicinal cannabis delivery service business may be located or is proposed to be located.

"Public park" means an area created, established, designated, or maintained by a special district, county, the state, or the federal government for public play, recreation, enjoyment, or for the protection of natural resources and features at the site.

"Qualified patient" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code, a person who possesses a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the California Business and Professions Code, or a primary caregiver for a qualified patient.

"State license" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA to engage in medicinal cannabis activity.

"Transport" means the transfer of medicinal cannabis or medicinal cannabis products from the licensed business location of one licensee to the licensed business location of another licensee, for the purpose of conducting medicinal cannabis activity authorized by the MAUCRSA.

"Transporter" means a person authorized to transport medicinal cannabis or medicinal cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MAUCRSA.

"Youth center" has the same meaning as that term is defined in California Health and Safety Code Section 11353.1.

(Ord. CS-323 § 2, 2017; Ord. CS-460, 10/24/2023)

### **§ 8.90.030. Prohibited activities.**

- A. Commercial cannabis activity is prohibited within the City of Carlsbad. No person shall engage in any commercial cannabis activity. No permit, license, or other authorization shall be issued for any commercial cannabis activity. This prohibition does not apply to licensed medicinal cannabis delivery service businesses pursuant to Chapter 8.95 of this code, cannabis delivery businesses pursuant to California Code of Regulations, Title 16, Division 42, Section 5416, and the carriage of cannabis on public roads in the City of Carlsbad to the limited extent required by Sections 26080(b) and 26090(e) of the California Business and Professions Code.
- B. Cultivation of cannabis is prohibited, except indoors at a private residence as authorized by Section 11362.2(a) of the California Health and Safety Code. Cannabis grown indoors shall be completely screened from view from public places and neighboring properties. Nothing in this chapter is intended

to, nor shall it be construed to, preclude any owner of real property from limiting or prohibiting cannabis cultivation by its tenants.

C. No person shall smoke or ingest cannabis in any public place.

(Ord. CS-323 § 2, 2017; Ord. CS-460, 10/24/2023)

**§ 8.90.040. Public nuisance.**

Any violation of this chapter is hereby declared a public nuisance and, as such, may be abated or enjoined from further operation within the city of Carlsbad.

(Ord. CS-323 § 2, 2017)

**§ 8.90.050. Violations.**

A. Any person who violates this chapter shall be guilty of a misdemeanor except: where Division 10, Chapter 6, Article 2 of California Health and Safety Code limits punishment to an infraction; or where the limited exemptions from criminal prosecution under Section 11362.71 or 11362.775 of the California Health and Safety Code, related to qualified patients and designated primary caregivers, apply. Under Section 1.08.010(C) of this code, each and every day during which a violation occurs shall be a separate offense.

B. The city may impose administrative penalties under Chapter 1.10 of this code for violations of this chapter.

(Ord. CS-323 § 2, 2017)

**§ 8.90.060. Severability.**

If any section, subsection, sentence, or clause of this chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. CS-323 § 2, 2017)

## CHAPTER 8.95 MEDICINAL CANNABIS DELIVERY SERVICE BUSINESSES

### **§ 8.95.010. Purpose and intent.**

The purpose and intent of this chapter is to implement the provisions of Chapter 26 (commencing with Section 26320) to Division 10 of the California Business and Professions Code, referred to as the Medicinal Cannabis Patients' Right to Access Act, which, as of January 1, 2024, prohibits a city from adopting or enforcing any regulations that prohibit or have the effect of prohibiting the delivery of medicinal cannabis to patients or their primary caregivers by licensed medicinal cannabis delivery service businesses in a timely and readily accessible manner. This chapter also imposes a regulatory licensing scheme and reasonable regulations to protect the city's neighborhoods, residents, and businesses from negative impacts associated with the transporting, delivery, and distribution of medicinal cannabis and medicinal cannabis products.

(Ord. CS-460, 10/24/2023)

### **§ 8.95.020. Definitions.**

All definitions in Chapter 8.90 of this code also apply to this chapter.

(Ord. CS-460, 10/24/2023)

### **§ 8.95.030. License required.**

- A. No person shall engage in or conduct any medicinal cannabis delivery service business within the city without an approved medicinal cannabis delivery service license under this chapter.
- B. A separate medicinal cannabis delivery service license shall be required for each physical address location within the city.
- C. An application for a medicinal cannabis delivery service license shall be on forms provided by the Community Development Department and/or the Chief of Police or designee, which require all information, permits, licenses, criminal background check results, and other approvals necessary to verify compliance with this chapter and all applicable laws. The Chief of Police or designee reserves the right to request and obtain additional information from any business owner and property owner submitting a medicinal cannabis delivery service license application to show compliance with relevant codes and regulations.
- D. The business owner and the property owner, if different, shall sign the medicinal cannabis delivery service license application form.

(Ord. CS-460, 10/24/2023)

### **§ 8.95.040. Fees.**

The City Council may impose by resolution a nonrefundable fee to reimburse the city for its reasonable and necessary costs in receiving, processing, reviewing, and inspecting applications and appeals for a medicinal cannabis delivery service license. This fee shall be in addition to the business license fees and taxes required by this chapter and Chapter 5.08 of this code.

(Ord. CS-460, 10/24/2023)

### **§ 8.95.050. Operational standards.**

In addition to all applicable state and local codes and regulations, medicinal cannabis delivery service

businesses shall be subject to the following standards. The license application shall specify evidence required to demonstrate that the applicant meets these standards prior to approval of the medicinal cannabis delivery service license.

A. Structure and Use Standards.

1. Medicinal cannabis delivery service businesses shall be allowed in zones listed in Title 21 that expressly authorize "storage, wholesale, and distribution facilities" as a permitted use.
2. Medicinal cannabis delivery service businesses shall be located at least 1,000 feet from the following sensitive receptors. All measurements shall be taken from the closest property line of the medicinal cannabis delivery service business to the closest property line of the sensitive receptor.
  - a. Residential zones or private residences;
  - b. Public or private schools;
  - c. Daycare centers;
  - d. Churches;
  - e. Public parks;
  - f. Youth centers;
  - g. Any other medicinal cannabis delivery service business;
3. The cumulative size of all structures associated with a medicinal cannabis delivery service business shall not exceed 3,000 square feet.
4. All medicinal cannabis or medicinal cannabis products shall be stored in an enclosed permanent structure. Outdoor storage of medicinal cannabis or medicinal cannabis products is prohibited.
5. No markings or indications of cannabis or cannabis products shall be visible from the public right-of-way and/or exterior of the structure(s) associated with the medicinal cannabis delivery service business.

B. Site Operations Standards.

1. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or cannabis at or within 200 feet of the physical address location.
2. There shall not be a physician located in or near the physical address location at any time for the purpose of evaluating patients for the issuance of a medicinal cannabis prescription or card.
3. Odor control devices and techniques shall be incorporated and maintained in all delivery businesses to ensure that odors from cannabis are not detectable off site.
4. All cannabis and cannabis products sold or distributed in the city shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with state and local regulations.
5. Display of Licenses. The original copy of a medicinal cannabis delivery service license issued by the city pursuant to this chapter, along with the medicinal cannabis delivery business's state

cannabis license and city-issued business license, shall be readily available upon request by the chief of police or designee and not visible to the public.

6. Recordkeeping Requirements.

- a. Medicinal cannabis delivery service businesses shall comply with all provisions of Chapters 5.04 and 5.08 of this code relating to business license taxes, recordkeeping, and auditing.
  - b. Reporting and Tracking of Product and of Gross Sales. Pursuant to California Code of Regulations, Title 16, Division 42, Section 5048, all medicinal cannabis delivery service businesses shall use a track-and-trace system to track and report on all aspects of the medicinal cannabis delivery service business, including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The system must have the capability to produce historical transactional data relevant to the City of Carlsbad for review by the Chief of Police or designee.
  - c. In accordance with California Code of Regulations, Title 16, Division 42, Section 5002, all medicinal cannabis delivery service businesses shall maintain a current register of the names and contact information (including the address and telephone number) of anyone owning or holding an interest in the medicinal cannabis delivery service business and all officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the medicinal cannabis delivery service business. The register required by this paragraph shall be provided to the Chief of Police or designee(s) upon a reasonable request.
  - d. All medicinal cannabis delivery service businesses shall maintain a record of all persons, qualified patients, collectives, and primary caregivers served by the business for a period of no less than four years.
  - e. All medicinal cannabis delivery service businesses shall maintain records of their inventory acquired, including the name and address of each supplier, the date of acquisition and the quantity acquired from each supplier, and the location of the cultivation of the supplier, and shall maintain a copy of the supplier's state license to cultivate (if required) for a period of no less than four years.
  - f. Subject to any restrictions under state or federal law, all medicinal cannabis delivery service businesses shall allow the chief of police or designee to have access to the business's books, records, and accounts, together with any other data or documents, for a period of no less than four years for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents must be produced no later than 24 hours after receipt of the city's request, unless otherwise stipulated by the city.
7. Security measures. Medicinal cannabis delivery service businesses shall implement security measures that comply with all state law requirements, that deter and prevent the unauthorized entrance into areas containing medicinal cannabis or medicinal cannabis products, and that deter and prevent the theft of such products. These security measures include, but are not limited to, the following, to the satisfaction of the Chief of Police or designee:
- a. Ensure that all medicinal cannabis and medicinal cannabis products are kept in a manner to prevent diversion, theft, and loss.

- b. Install and maintain surveillance cameras that comply with California Code of Regulations, Title 16, Division 42, Section 5044. The medicinal cannabis delivery service business shall be responsible for ensuring that the security surveillance camera's footage is accessible by the City Manager or designee and the city's police department upon request, and that it is compatible with the city's software and hardware.
  - c. Ensure that all entrances and exits of the medicinal cannabis delivery service business are locked at all times, with entry strictly controlled.
  - d. Make available a designated security representative/liaison who can meet with the Chief of Police or designee regarding any security related measures and/or operational issues.
8. The business owner and property owner may not be convicted of any crimes listed in California Business and Professions Code Section 19323(b)(5) while operating a medicinal cannabis delivery service business. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction or diversion following a plea of nolo contendere.
9. Reporting Legal Matters. The business owner and property owner shall notify the Chief of Police or designee in writing of the following legal matters pending against them, in their individual capacity or otherwise, within 48 hours of the date of conviction, judgment, order, or final decision:
  - a. Criminal Conviction. The written notification to the city shall include the date of the conviction, the court docket number, the name of the court in which the conviction was entered, and the specific offense(s) resulting in a conviction(s).
  - b. Civil Penalty or Judgment. The written notification shall include the date of verdict, entry of judgment, or order, the court docket number, the name of the court in which the matter was adjudicated, and a description of the civil penalty or judgment rendered.
  - c. Administrative Order. The written notification shall include the date of the order, the name of the agency issuing the order, and a description of the administrative penalty or decision rendered against the business owner or property owner.
  - d. Revocation or Suspension of a State or Local License, Permit, or other authorization. The written notification shall include the name of the local agency involved, a written explanation of the proceeding or enforcement action, and the specific violation(s) that led to the revocation or suspension.

C. Delivery Operations Standards.

1. In accordance with California Code of Regulations, Title 4, Division 19, Section 15417(a), all medicinal cannabis delivery service vehicles shall not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery personnel is carrying cannabis goods for delivery.
2. All deliveries of medicinal cannabis and medicinal cannabis products must be to a physical address location other than the cannabis delivery business's physical address location.
3. All deliveries of medicinal cannabis and medicinal cannabis products shall only be made to the customer's residence. Deliveries of medicinal cannabis and medicinal cannabis products are prohibited to schools, day care centers, youth centers, public parks and open space, public buildings, and commercial establishments, including but not limited to, restaurants and places

of work, whether or not members of the public are present.

4. Medicinal cannabis and medicinal cannabis products may be transported by one medicinal cannabis delivery service business's physical address location to another medicinal cannabis delivery service business's physical address location if the state retail licenses for both locations are held by the same licensee.
  5. Deliveries of medicinal cannabis and medicinal cannabis products are only permitted during the hours specified under state law.
  6. Only direct employees of a medicinal cannabis delivery service business may serve as delivery personnel. An independent contractor, third-party courier service, or an individual employed through a staffing agency does not qualify as a direct employee.
  7. Before dispensing any medicinal cannabis or medicinal cannabis products to persons requesting delivery, delivery personnel must verify that the requestor and recipient is 18 years of age or older and is a person with an identification card, as defined in this chapter. Any person who causes or permits a delivery of medicinal cannabis or medicinal cannabis products within the City of Carlsbad to be made to a person other than a person with an identification card may be charged with a violation of this section.
- D. Additional standards and regulations. The city manager or designee may adopt any necessary rules, regulations, and processes governing medicinal cannabis delivery service licenses and the operations of medicinal cannabis delivery service businesses.

(Ord. CS-460, 10/24/2023)

#### **§ 8.95.060. Decision on the application; license suspension and revocation.**

- A. The Chief of Police or designee is authorized to approve, deny, suspend, or revoke a medicinal cannabis delivery service license.
- B. Following receipt of a complete medicinal cannabis delivery service license application, the Chief of Police or designee shall notify the applicant of the decision that approves the license, conditionally approves the license, or denies the license with the reasons for denial stated.
- C. A medicinal cannabis delivery service license issued pursuant to this chapter shall expire 12 months after the date of its issuance, after which time a new license application must be submitted to continue the medicinal cannabis delivery service business. License renewals are not permitted.
- D. License approval and modifications.
  1. A medicinal cannabis delivery service license shall not be issued unless the property owner(s) and business owner(s) successfully pass a criminal background check verifying that they have not been convicted of any crimes listed in California Business and Professions Code Section 19323(b)(5). The criminal background check shall be conducted by the chief of police or designee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction or diversion following a plea of nolo contendere.
  2. The Chief of Police or designee is authorized to impose additional conditions on a medicinal cannabis delivery service license as necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety, or welfare. Any additional license conditions will be provided in writing to the applicant by the chief of police or designee and may be appealed in accordance with Section 8.95.080 of this chapter.

3. Modifications or changes to an approved medicinal cannabis delivery service license, including, but not limited to, modifications to the physical address location or premises, business ownership, or property ownership, require approval of a new medicinal cannabis delivery service license pursuant to this chapter prior to the modifications or changes taking effect. Any such modifications or changes made without approval of a new license constitutes a violation of this chapter.
- E. License Denial. The Chief of Police or designee may deny a medicinal cannabis delivery service license for any of the following reasons:
1. Any of the reasons provided in California Business and Professions Code Section 26057(b).
  2. Application Deficiencies. The medicinal cannabis delivery service license application requirements cannot be satisfied by the applicant's proposed business, the application is incomplete, supportive documentation was not provided, and/or the applicant failed to correct deficiencies in the application or provide additional application information within the response timeframe requested.
  3. The applicant made a false or misleading statement on the application.
  4. The property owner or business owner has violated any law related to the operations of the medicinal cannabis delivery service business or laws related to any state or local licensure or permitting. In considering whether past violations of law warrant denial of a license, the Chief of Police or designee may consider the following factors with respect to the property owner or business owner:
    - a. The nature of the prior violation(s).
    - b. The number and/or variety of violations.
    - c. Whether the violation(s) were willful.
    - d. All circumstances surrounding the violation(s).
    - e. Previous sanctions imposed.
    - f. Any actual or potential harm to the public.
    - g. Any corrective action(s) taken.
    - h. The likelihood of recurrence of the violation(s).
    - i. The length of time a cannabis license or permit had been held at the time of the violation(s).
    - j. Any other factor that makes the situation unique or the violation(s) of greater concern.
  5. The property owner has failed to take appropriate action to evict or otherwise remove the business owner and persons conducting commercial cannabis activities at the medicinal cannabis delivery service business who do not maintain permits or licenses in good standing with the city or state.
  6. The property owner or business owner has been denied a license, permit, or other authorization to engage in commercial cannabis activity by a state or local licensing authority, or such license, permit or other authorization is currently suspended, revoked, or non-renewable.

7. The city or state has determined, based on substantial evidence, that the property owner or business owner is currently in violation of the requirements of this chapter, of this code, state law, or any other applicable law. The property owner or business owner may file a new application pursuant to this chapter once the city or state authority determines that the violation has been corrected.
8. Facts or circumstances exist which indicate that the property owner or business owner has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
9. Facts or circumstances exist which indicate that the medicinal cannabis delivery service business does or would very likely constitute a threat to public health, safety, and/or welfare.

F. License Revocation or Suspension.

1. The chief of police or designee may revoke or suspend a medicinal cannabis delivery service license for any of the reasons listed in subsection E of this section.
2. The issuance of three or more administrative citations, verifiable municipal code violations, verifiable violations of a state permit, state license or other state law, or hearing officer determinations concerning medicinal cannabis delivery service license requirements within a 12-month period shall result in revocation of a medicinal cannabis delivery service license. In the event of license revocation, an application to reestablish a medicinal cannabis delivery service license for the same location and/or entity shall not be accepted for a minimum period of 36 months.
3. Any attempt to transfer a medicinal cannabis delivery service license, or any transfer of business ownership, property ownership, or possession or control of either a medicinal cannabis delivery service business or the real property in the City of Carlsbad where the business is located and continued use of a previously issued medicinal cannabis delivery service license, shall result in revocation of the medicinal cannabis delivery service license.
4. Revocation or suspension of a license is subject to a 10-calendar day prior written notice and an opportunity to appeal, if the appeal is requested within 10 calendar days of the date of the written revocation or suspension notice. The appeal procedures shall follow those outlined in Section 8.95.080 of this chapter.
5. Suspension or expiration without timely renewal of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a medicinal cannabis delivery service business to operate within the city until the State of California, or any of its departments or divisions, reinstates or reissues the state license. Revocation or termination of the license of a medicinal cannabis delivery service business by the State of California, or any of its departments or divisions, shall immediately revoke or terminate the ability of a medicinal cannabis delivery service business to operate within the city without notice. If the city becomes aware that a state license has expired or been suspended, revoked, or terminated, it will initiate proceedings under subsection (F)(4) of this section to suspend or revoke a medicinal cannabis delivery service license.

(Ord. CS-460, 10/24/2023)

**§ 8.95.070. Violations, inspections, and enforcement.**

- A. Violations Declared a Public Nuisance. Each and every violation of the provisions of this chapter is deemed unlawful and a public nuisance.

- B. Each Violation a Separate Offense. Each and every violation of this chapter shall constitute a separate violation, and the city may pursue any and all remedies and actions available under state and local law for any violations committed by a medicinal cannabis delivery service business, a business owner, a property owner, or any other persons related to or associated with any commercial cannabis activity, including suspension or revocation of any license pursuant to Section 8.95.060(F) of this code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to disgorgement and payment to the city of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity.
- C. Remedies are Cumulative and Not Exclusive. The remedies provided in this chapter or this code are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.
- D. Business Owner and Property Owner Responsible for Violations. The business owner and property owner shall be responsible for all local and state law violations that occur in or about a physical address location, a medicinal cannabis delivery service vehicle, or related to delivery personnel, whether or not the violations occur within the presence of the business owner or property owner.
- E. Inspections and Enforcement.
1. The Chief of Police or designee(s), including code enforcement officers and peace officers, are charged with enforcing the provisions of this code and shall be authorized to enter a medicinal cannabis delivery service business or a medicinal cannabis delivery service vehicle operating in the City of Carlsbad at any time during the business's hours of operation with or without notice, subject to constitutional limitations, to do either or both of the following:
    - a. Inspect the medicinal cannabis delivery service business and medicinal cannabis delivery service vehicle as well as any recordings and records required to be maintained pursuant to this chapter or under applicable provisions of state law.
    - b. Obtain cannabis product samples to test for public safety purposes. Any samples obtained by the city shall be logged, recorded, and maintained in accordance with the police department's standards for evidence.
  2. The building official and fire marshal, or their designee, reserve the right to schedule a building code or fire code inspection at any time before, during, or after the medicinal cannabis delivery service licensing process.
  3. It is unlawful for any person having responsibility over the operation of a medicinal cannabis delivery service business to impede, obstruct, interfere with, or otherwise not allow the city to conduct an inspection, review or copy records, recordings, or other documents required to be maintained by such business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings, or other documents required to be maintained by a medicinal cannabis delivery service business under this chapter or under state or local law.

(Ord. CS-460, 10/24/2023)

#### **§ 8.95.080. Appeals.**

- A. Whenever an appeal is provided for in this chapter from a decision of the Chief of Police or designee, the appeal shall be conducted as prescribed in this section.

- B. Within 10 calendar days after the date of a decision of the Chief of Police or designee to revoke, suspend or deny a license, or to add conditions to a medicinal cannabis delivery service license, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper. The notice of appeal shall specify:
1. The name and address of the appellant;
  2. The date that the medicinal cannabis delivery service license application was filed with the city;
  3. The date of the decision to deny, suspend, revoke, or condition the license which is being appealed; and
  4. The factual basis for the appeal.
- C. Upon receipt of a complete and timely filed notice of appeal, the Police Chief or designee shall schedule a hearing and send written notice to the appellant at the address provided in the notice of appeal, by means of registered mail, certified mail, or hand delivery, that within a period of not less than five days nor more than 14 days from the date of the filing of the notice of appeal with the City Clerk, a hearing shall be conducted to determine the existence of any substantial evidence which would refute the grounds for the denial of, suspension of, revocation of, or conditions imposed on a medicinal cannabis delivery service license. The hearing notification shall include the date, time, and place of the hearing.
- D. An administrative hearing officer contracted with the city shall be assigned to the hearing in accordance with the city's administrative order governing administrative hearing officers. The hearing shall be conducted pursuant to Chapter 1.10 of this code and any corresponding administrative orders. If the appellant or their legal counsel fails to present any evidence at the hearing, any evidence supporting facts which constitute grounds for the medicinal cannabis delivery service license's denial, suspension, revocation, or additional conditions placed on the license shall be deemed uncontested. Any issue not raised in the hearing is waived. The hearing officer's decision is final.

(Ord. CS-460, 10/24/2023)

#### **§ 8.95.090. Limitations of city's liability.**

To the fullest extent permitted by law, the city shall not assume any liability whatsoever with respect to having issued a medicinal cannabis delivery service license pursuant to this chapter or otherwise approving the operation of any medicinal cannabis delivery service business. As a condition to the approval of any medicinal cannabis delivery service license, the applicant shall be required to meet all of the following conditions before they can receive the medicinal cannabis delivery service license:

- A. Execute an agreement, in a form approved by the city attorney, agreeing to the fullest extent permitted by law to indemnify, defend (at the applicant's sole cost and expense), and hold the City of Carlsbad, and its officers, elected and appointed officials, employees, volunteers, and agents harmless, from any and all claims, losses, damages, injuries, including death, liabilities or losses which arise out of, or which are in any way related to, the city's issuance of the medicinal cannabis delivery service license, the city's decision to approve the medicinal cannabis activity, the process used by the city in making its licensing decision, or the alleged violation of any laws by the medicinal cannabis delivery service business or any of its officers, employees, or agents.
- B. Maintain insurance at coverage limits established by the city's risk manager and with conditions determined necessary and appropriate from time to time by the City Attorney.

- C. Reimburse the city for all costs and expenses, including, but not limited to, attorneys fees and costs and court costs, which the city may be required to pay as a result of any legal challenge related to the city's approval of the applicant's medicinal cannabis delivery service license, or related to the city's approval of a medicinal cannabis activity. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed under this section.
- D. Nothing in this chapter creates a mandate to issue a medicinal cannabis delivery service license to a medicinal cannabis delivery service business.

(Ord. CS-460, 10/24/2023)

**§ 8.95.100. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-460, 10/24/2023)



## VEHICLES AND TRAFFIC

## Title 10

## VEHICLES AND TRAFFIC

	Chapter 10.04 <b>DEFINITIONS</b>	§ 10.12.030.	Obedience to police and firefighters.
§ 10.04.010.	<b>Generally.</b>	§ 10.12.040.	Persons other than officials not to direct traffic.
§ 10.04.020.	<b>Highway.</b>	§ 10.12.050.	Public employees to obey traffic regulations.
§ 10.04.030.	<b>Loading zone.</b>	§ 10.12.060.	Exemptions to certain vehicles.
§ 10.04.040.	<b>Official time standard.</b>	§ 10.12.070.	Enforcement of California .
§ 10.04.050.	<b>Official traffic-control devices.</b>		
§ 10.04.060.	<b>Official traffic signal.</b>		
§ 10.04.070.	<b>Park.</b>		Chapter 10.16
§ 10.04.080.	<b>Parkway.</b>		<b>TRAFFIC-CONTROL DEVICES</b>
§ 10.04.090.	<b>Passenger loading zone.</b>	§ 10.16.010.	Authority to install.
§ 10.04.100.	<b>Pedestrian.</b>	§ 10.16.020.	Enforcement.
§ 10.04.110.	<b>Police officer.</b>	§ 10.16.030.	Obedience to traffic-control devices.
§ 10.04.120.	<b>Stop.</b>	§ 10.16.040.	Installation of traffic signals.
§ 10.04.130.	<b>Stop or stand.</b>	§ 10.16.050.	Lane markings.
§ 10.04.140.	<b>Traffic.</b>	§ 10.16.060.	Distinctive roadway markings.
§ 10.04.150.	<b>Vehicle.</b>	§ 10.16.070.	Removal—Relocation—Discontinuance.
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	Chapter 10.08 <b>TRAFFIC ADMINISTRATION</b>		
§ 10.08.010.	<b>Police administration.</b>		Chapter 10.20
§ 10.08.020.	<b>Duty of traffic division.</b>		<b>TURNING MOVEMENTS</b>
§ 10.08.030.	<b>Traffic accident studies.</b>	§ 10.20.010.	Authority to place—Obedience.
§ 10.08.040.	<b>Traffic accident reports.</b>	§ 10.20.020.	Authority to place restricted turn signs.
§ 10.08.050.	<b>Traffic division to submit annual traffic safety reports.</b>	§ 10.20.030.	Obedience to no-turn signs.
§ 10.08.060.	<b>City Traffic Engineer—Office established—Powers and duties generally.</b>	§ 10.20.040.	Authority to prohibit right turns against traffic stop signal—Obedience.
§ 10.08.070.	<b>Additional powers and duties of Traffic Engineer.</b>		
	Chapter 10.12 <b>TRAFFIC</b>		
	<b>REGULATIONS—ENFORCEMENT AND OBEDIENCE</b>		
§ 10.12.010.	<b>Authority of police and firefighters.</b>	§ 10.24.010.	Erection and contents of signs.
		§ 10.24.020.	Alley from Carlsbad Village Drive to Grand Avenue.
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## CARLSBAD CODE

	Chapter 10.28	§ 10.28.280.	Valley Street.
	<b>SPECIAL STOPS</b>	§ 10.28.290.	Forest Avenue.
		§ 10.28.295.	Cannon Road.
	Article I	§ 10.28.300.	Buena Vista Way.
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§ 10.28.010.	Erection and location of stop signs.	§ 10.28.320.	Alga Road.
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§ 10.28.030.	Emerging from alley, driveway or building.	§ 10.28.322.	Corintia Street.
§ 10.28.040.	Compliance with signals of properly appointed persons wearing insignia.	§ 10.28.323.	Paseo del Norte.
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	<b>Streets Designated</b>	§ 10.28.380.	Corintia Street.
§ 10.28.060.	Streets—Generally.	§ 10.28.390.	Nueva Castilla Way.
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§ 10.28.080.	Grand Avenue.	§ 10.28.410.	Spokane Way.
§ 10.28.090.	Tamarack Avenue.	§ 10.28.420.	Victoria Avenue.
§ 10.28.100.	Highland Drive.	§ 10.28.430.	Forest View Way.
§ 10.28.110.	Jefferson Street.	§ 10.28.440.	Plum Tree Road.
§ 10.28.120.	Chestnut Avenue.	§ 10.28.450.	Alderwood Drive.
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§ 10.28.140.	El Camino Real.	§ 10.28.470.	Paseo Escuela.
§ 10.28.150.	Monroe Street.	§ 10.28.480.	Avenida de Louisa.
§ 10.28.151.	Lancer Way/Monroe Street.	§ 10.28.490.	Via Naranja.
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§ 10.28.170.	Basswood Avenue.	§ 10.28.520.	Via Vera.
§ 10.28.180.	Chinquapin Avenue.	§ 10.28.530.	Segovia Way.
§ 10.28.190.	Laguna Drive.	§ 10.28.540.	Torrejon Place (east).
§ 10.28.200.	Adams Street.	§ 10.28.541.	Torrejon Place (west).
§ 10.28.210.	Elmwood Street.	§ 10.28.550.	Escenico Terrace.
§ 10.28.220.	Carlsbad Village Drive.	§ 10.28.560.	Hidden Valley Road.
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§ 10.28.240.	Corintia Street.	§ 10.28.580.	(Reserved)
§ 10.28.250.	Pine Avenue.	§ 10.28.590.	Sunnyhill Drive.
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## VEHICLES AND TRAFFIC

§ 10.28.650.	Strata Drive.	§ 10.28.972.	Garfield Street.
§ 10.28.660.	Calle Cordoba.	§ 10.28.973.	Via Adelfa.
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§ 10.28.680.	Paseo Aliso.	§ 10.28.975.	Sombrosa Street.
§ 10.28.690.	Camino Robledo.	§ 10.28.976.	Grecourt Way.
§ 10.28.700.	Marlin Lane.	§ 10.28.977.	Piragua Street.
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§ 10.28.780.	Carrillo Way.	§ 10.28.985.	Primavera Way.
§ 10.28.790.	Lemon Leaf Drive.	§ 10.28.986.	Galleon Way.
§ 10.28.800.	Lonicera Street.	§ 10.28.987.	Estancia Street.
§ 10.28.810.	Madison Street.	§ 10.28.988.	Las Flores Drive.
§ 10.28.820.	Lighthouse Road.	§ 10.28.989.	Edinburgh Drive.
§ 10.28.830.	Wintergreen Drive.	§ 10.28.990.	Buena Vista Circle.
§ 10.28.840.	Grove Avenue.	§ 10.28.991.	York Road.
§ 10.28.850.	Lynch Court.	§ 10.28.992.	Haverhill Street.
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§ 10.28.962.	Falcon Drive.	§ 10.32.060.	Restriction on use of freeways.
§ 10.28.963.	Gayle Way.	§ 10.32.070.	Certain vehicles prohibited in business district.
§ 10.28.964.	Belle Lane.	§ 10.32.080.	Riding horse on sidewalk.
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Chapter 10.32  
MISCELLANEOUS DRIVING RULES

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§ 10.32.030.	Driving vehicles on sidewalks or parkways prohibited.
§ 10.32.040.	New pavement.
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§ 10.32.060.	Restriction on use of freeways.
§ 10.32.070.	Certain vehicles prohibited in business district.
§ 10.32.080.	Riding horse on sidewalk.
§ 10.32.090.	Truck routes—Generally.
§ 10.32.091.	Truck routes—Streets designated.

<b>§ 10.32.092.</b>	<b>Truck routes—Vehicles allowed.</b>	Chapter 10.40 <b>STOPPING, STANDING AND PARKING</b>
<b>§ 10.32.093.</b>	<b>Truck routes—Posting.</b>	Article I <b>Generally</b>
	Chapter 10.33 <b>OVERSIZE VEHICLE OR LOAD PERMIT</b>	
<b>§ 10.33.010.</b>	<b>Purpose and intent.</b>	<b>§ 10.40.005.</b>
<b>§ 10.33.020.</b>	<b>Definitions.</b>	<b>§ 10.40.010.</b>
<b>§ 10.33.030.</b>	<b>Permit required.</b>	
<b>§ 10.33.040.</b>	<b>Insurance required.</b>	<b>§ 10.40.015.</b>
<b>§ 10.33.050.</b>	<b>Emergency moves.</b>	<b>§ 10.40.020.</b>
<b>§ 10.33.060.</b>	<b>Permit denial.</b>	<b>§ 10.40.025.</b>
<b>§ 10.33.070.</b>	<b>Permit regulations.</b>	
<b>§ 10.33.080.</b>	<b>Exceptions.</b>	<b>§ 10.40.030.</b>
<b>§ 10.33.090.</b>	<b>Permit fees.</b>	<b>§ 10.40.035.</b>
<b>§ 10.33.100.</b>	<b>Violations.</b>	
<b>§ 10.33.110.</b>	<b>Appeal.</b>	<b>§ 10.40.040.</b>
<b>§ 10.33.120.</b>	<b>Exclusions from applicability of provisions.</b>	<b>§ 10.40.041.</b>
	Chapter 10.34 <b>INTERSTATE TRUCKS</b>	
<b>§ 10.34.010.</b>	<b>Definitions.</b>	<b>§ 10.40.043.</b>
<b>§ 10.34.020.</b>	<b>Purpose.</b>	<b>§ 10.40.045.</b>
<b>§ 10.34.030.</b>	<b>Application.</b>	<b>§ 10.40.046.</b>
<b>§ 10.34.040.</b>	<b>Fees and costs.</b>	
<b>§ 10.34.050.</b>	<b>Retrofitting.</b>	<b>§ 10.40.047.</b>
<b>§ 10.34.060.</b>	<b>Revocation of route.</b>	
<b>§ 10.34.070.</b>	<b>Appeal process.</b>	<b>§ 10.40.048.</b>
	Chapter 10.36 <b>PEDESTRIANS</b>	
<b>§ 10.36.010.</b>	<b>Establishment of crosswalks.</b>	<b>§ 10.40.049.</b>
<b>§ 10.36.020.</b>	<b>Use of crosswalks.</b>	<b>§ 10.40.050.</b>
<b>§ 10.36.030.</b>	<b>Crossing at right angles.</b>	<b>§ 10.40.051.</b>
<b>§ 10.36.040.</b>	<b>Standing in roadways.</b>	
		<b>§ 10.40.052.</b>
		<b>§ 10.40.053.</b>
		<b>§ 10.40.054.</b>
		<b>§ 10.40.055.</b>

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<b>§ 10.40.056.</b>	<b>Parking restricted on portion of Roosevelt Street.</b>	<b>§ 10.40.078.</b>	<b>Parking restricted in the front parking lot west of the Carlsbad Safety Center.</b>
<b>§ 10.40.057.</b>	<b>Parking restricted on portion of Grand Avenue.</b>	<b>§ 10.40.079.</b>	<b>One-hour parking on Ocean Street.</b>
<b>§ 10.40.058.</b>	<b>Parking restricted on portion of Alga Road.</b>	<b>§ 10.40.080.</b>	<b>Angle parking.</b>
<b>§ 10.40.059.</b>	<b>Parking restricted on Tamarack Avenue.</b>	<b>§ 10.40.081.</b>	<b>Parking restricted on Camino Vida Roble.</b>
<b>§ 10.40.060.</b>	<b>Parking restricted on Palisades Drive.</b>	<b>§ 10.40.082.</b>	<b>Parking time limit on Oak Avenue.</b>
<b>§ 10.40.061.</b>	<b>Parking restricted on Carlsbad Boulevard.</b>	<b>§ 10.40.083.</b>	<b>Parking time limit on Bayshore Drive.</b>
<b>§ 10.40.062.</b>	<b>Parking time limit on Marjorie Lane.</b>	<b>§ 10.40.084.</b>	<b>Parking time limit on Christiansen Way.</b>
<b>§ 10.40.063.</b>	<b>Parking time restricted in alley located west of State Street.</b>	<b>Article II Stopping for Loading or Unloading</b>	
<b>§ 10.40.064.</b>	<b>Parking restricted on Middleton Drive.</b>	<b>§ 10.40.085.</b>	<b>Authority to establish loading zones.</b>
<b>§ 10.40.065.</b>	<b>Emergency parking signs.</b>	<b>§ 10.40.090.</b>	<b>Curb markings.</b>
<b>§ 10.40.066.</b>	<b>Parking restricted on Woodstock Street.</b>	<b>§ 10.40.095.</b>	<b>Permit for loading or unloading at angle to curb.</b>
<b>§ 10.40.067.</b>	<b>Parking restricted on Avenida Encinas.</b>	<b>§ 10.40.100.</b>	<b>Effect of permission to load or unload.</b>
<b>§ 10.40.068.</b>	<b>Parking restricted on Marron Road.</b>	<b>§ 10.40.105.</b>	<b>Standing for loading or unloading only.</b>
<b>§ 10.40.069.</b>	<b>Parking restricted on Poinsettia Lane.</b>	<b>§ 10.40.110.</b>	<b>Standing in passenger loading zone.</b>
<b>§ 10.40.070.</b>	<b>Parking restricted on Cannon Road.</b>	<b>§ 10.40.115.</b>	<b>Standing in any alley.</b>
<b>§ 10.40.071.</b>	<b>Parking restricted on Manzano Drive.</b>	<b>§ 10.40.120.</b>	<b>Bus zones.</b>
<b>§ 10.40.072.</b>	<b>Parking restricted on Paseo Del Norte.</b>	<b>Article III Restricted or Prohibited Parking</b>	
<b>§ 10.40.073.</b>	<b>Parking restricted on Car Country Drive.</b>	<b>§ 10.40.125.</b>	<b>Parking time limited in business districts.</b>
<b>§ 10.40.074.</b>	<b>Parking restricted on Pontiac Drive.</b>	<b>§ 10.40.126.</b>	<b>Parking time limited in business district.</b>
<b>§ 10.40.075.</b>	<b>Commercial vehicles in residential district.</b>	<b>§ 10.40.127.</b>	<b>Parking time limit on Ponto Drive (south).</b>
<b>§ 10.40.076.</b>	<b>Parking restricted in the parking lot at the Monroe Street Pool.</b>	<b>§ 10.40.128.</b>	<b>Parking restricted on Cassia Road.</b>
<b>§ 10.40.077.</b>	<b>Parking restricted on Calle Barcelona.</b>	<b>§ 10.40.129.</b>	<b>Parking restricted on Afton Way.</b>
		<b>§ 10.40.130.</b>	<b>Overnight parking.</b>

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<b>§ 10.40.131.</b>	<b>Parking restricted on Camino de los Coches.</b>	<b>§ 10.40.168.</b>	<b>Parking time limit on Shawn Court.</b>
<b>§ 10.40.135.</b>	<b>Parking prohibited at all times on certain streets.</b>	<b>§ 10.40.169.</b>	<b>Parking time limit on Dana Court.</b>
<b>§ 10.40.140.</b>	<b>Parking prohibited on certain streets on Saturdays, Sundays and holidays.</b>	<b>§ 10.40.170.</b>	<b>Parking time limit on Paseo Descanso from Carrillo Way to Paseo Cerro.</b>
<b>§ 10.40.145.</b>	<b>Parking space markings.</b>	<b>§ 10.40.171.</b>	<b>Parking restricted on Van Allen Way.</b>
<b>§ 10.40.150.</b>	<b>Parking restricted at certain times to facilitate street sweeping.</b>	<b>§ 10.40.180.</b>	<b>Parking of oversized vehicles.</b>
<b>§ 10.40.151.</b>	<b>Parking prohibited of unattached trailers or semi-trailers.</b>	<b>§ 10.40.190.</b>	<b>Electric vehicle charging stations in public parking areas.</b>
<b>§ 10.40.155.</b>	<b>Parking time limit on Beech Avenue.</b>	<b>§ 10.40.300.</b>	<b>Parking restricted on Carlsbad Boulevard between Pine Avenue and La Costa Avenue, on Ponto Drive from Ponto Road to the south terminus, and on Ponto Road.</b>
<b>§ 10.40.156.</b>	<b>Parking time limit on Grand Avenue.</b>	<b>§ 10.40.301.</b>	<b>Parking restricted on Armada Drive.</b>
<b>§ 10.40.157.</b>	<b>Parking time limit on Washington Street.</b>	<b>§ 10.40.302.</b>	<b>Parking restricted on Surfside Lane and Island Way.</b>
<b>§ 10.40.159.</b>	<b>Parking time limit on Roosevelt Street.</b>		<b>Chapter 10.42</b>
<b>§ 10.40.160.</b>	<b>Parking time limit on Madison Street.</b>		<b>PARKING VIOLATION ENFORCEMENT</b>
<b>§ 10.40.161.</b>	<b>Parking time limit on Beech Avenue.</b>	<b>§ 10.42.010.</b>	<b>Parking violation enforcement.</b>
<b>§ 10.40.162.</b>	<b>Parking time limit for parking lots at the Village Old Depot building.</b>	<b>§ 10.42.020.</b>	<b>Special enforcement unit for disabled parking violations.</b>
<b>§ 10.40.163.</b>	<b>Parking time limit for the parking lot located on the corner of Grand Avenue and State Street.</b>		<b>Chapter 10.44</b>
<b>§ 10.40.164.</b>	<b>Parking time limit on the access drive between Carlsbad Village Drive and Grand Avenue.</b>		<b>SPEED RESTRICTIONS</b>
<b>§ 10.40.165.</b>	<b>Parking time limit in the four parking spaces on the east side of the alley north of Christiansen Way.</b>	<b>§ 10.44.010.</b>	<b>Article I Generally</b>
<b>§ 10.40.166.</b>	<b>Parking time limit on a portion of Celinda Drive.</b>		<b>Traffic signal timing.</b>
<b>§ 10.40.167.</b>	<b>Parking time limit on Kimberly Court.</b>	<b>§ 10.44.020.</b>	<b>Article II Speed Limits</b>
		<b>§ 10.44.030.</b>	<b>Generally.</b>
		<b>§ 10.44.040.</b>	<b>Carlsbad Boulevard.</b>
		<b>§ 10.44.050.</b>	<b>Chestnut Avenue.</b>
		<b>§ 10.44.060.</b>	<b>Jefferson Street.</b>
			<b>El Camino Real.</b>

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§ 10.44.070.	<b>La Costa Avenue.</b>	§ 10.44.510.	<b>Calle Acervo.</b>
§ 10.44.080.	<b>Carlsbad Village Drive.</b>	§ 10.44.520.	<b>Batiquitos Drive.</b>
§ 10.44.090.	<b>Alga Road.</b>	§ 10.44.530.	<b>Kestrel Drive.</b>
§ 10.44.100.	<b>Levante Street.</b>	§ 10.44.540.	<b>Armada Drive.</b>
§ 10.44.110.	<b>Paseo Del Norte.</b>	§ 10.44.550.	<b>Paseo Candelero.</b>
§ 10.44.120.	<b>Park Drive.</b>	§ 10.44.560.	<b>Las Flores Drive.</b>
§ 10.44.130.	<b>Marron Road.</b>	§ 10.44.570.	<b>Hidden Valley Road.</b>
§ 10.44.140.	<b>Hosp Way.</b>	§ 10.44.580.	<b>Laguna Drive.</b>
§ 10.44.150.	<b>Monroe Street.</b>	§ 10.44.590.	<b>Adams Street.</b>
§ 10.44.160.	<b>Camino Vida Roble.</b>	§ 10.44.600.	<b>Jackspar Drive.</b>
§ 10.44.170.	<b>Palomar Airport Road.</b>	§ 10.44.610.	<b>Camino Hills Drive.</b>
§ 10.44.190.	<b>Rancho Santa Fe Road.</b>	§ 10.44.620.	<b>Calle Timiteo Drive.</b>
§ 10.44.200.	<b>Cadencia Street.</b>	§ 10.44.630.	<b>Anillo Way.</b>
§ 10.44.210.	<b>Alicante Road.</b>	§ 10.44.640.	<b>Paseo Aliso.</b>
§ 10.44.220.	<b>El Fuerte Street.</b>	§ 10.44.650.	<b>Windrose Circle.</b>
§ 10.44.230.	<b>Yarrow Drive.</b>	§ 10.44.660.	<b>Rancho Bravado.</b>
§ 10.44.240.	<b>Melrose Drive.</b>	§ 10.44.670.	<b>Gabbiano Lane.</b>
§ 10.44.250.	<b>Camino de las Ondas.</b>	§ 10.44.680.	<b>Black Rail Road.</b>
§ 10.44.260.	<b>Eureka Place.</b>	§ 10.44.690.	<b>Ambrosia Lane.</b>
§ 10.44.270.	<b>Pontiac Drive.</b>	§ 10.44.700.	<b>Cassia Road.</b>
§ 10.44.280.	<b>Avenida Encinas.</b>	§ 10.44.710.	<b>Woodstock Street.</b>
§ 10.44.290.	<b>Hillside Drive.</b>	§ 10.44.720.	<b>Middleton Drive.</b>
§ 10.44.300.	<b>Tamarack Avenue.</b>	§ 10.44.730.	<b>Paseo Acampo.</b>
§ 10.44.310.	<b>Pio Pico Drive.</b>	§ 10.44.740.	<b>Paseo Avellano.</b>
§ 10.44.320.	<b>Faraday Avenue.</b>	§ 10.44.750.	<b>Glasgow Drive.</b>
§ 10.44.330.	<b>Aviara Parkway.</b>	§ 10.44.760.	<b>Aston Avenue.</b>
§ 10.44.340.	<b>Calle Barcelona.</b>	§ 10.44.770.	<b>Camino Junipero.</b>
§ 10.44.350.	<b>College Boulevard.</b>	§ 10.44.780.	<b>Palomar Oaks Way.</b>
§ 10.44.360.	<b>Poinsettia Lane.</b>	§ 10.44.790.	<b>Dove Lane.</b>
§ 10.44.370.	<b>Car Country Drive.</b>	§ 10.44.800.	<b>Impala Drive.</b>
§ 10.44.380.	<b>Cannon Road.</b>	§ 10.44.810.	<b>Palmer Way.</b>
§ 10.44.390.	<b>Gibraltar Street.</b>	§ 10.44.820.	<b>Town Garden Road.</b>
§ 10.44.400.	<b>Romeria Street.</b>	§ 10.44.830.	<b>Gateway Road.</b>
§ 10.44.410.	<b>Viejo Castilla Way.</b>	§ 10.44.840.	<b>Eagle Drive.</b>
§ 10.44.420.	<b>Estrella De Mar Road.</b>	§ 10.44.850.	<b>Lionshead Avenue.</b>
§ 10.44.430.	<b>Corintia Street.</b>	§ 10.44.860.	<b>The Crossings Drive.</b>
§ 10.44.440.	<b>Grand Avenue.</b>	§ 10.44.870.	<b>Corte de la Vista.</b>
§ 10.44.450.	<b>Rutherford Road.</b>	§ 10.44.871.	<b>Hummingbird Road.</b>
§ 10.44.460.	<b>Loker Avenue West.</b>		Chapter 10.48
§ 10.44.470.	<b>Loker Avenue East.</b>		<b>TRAINS</b>
§ 10.44.480.	<b>Chatham Road.</b>		
§ 10.44.490.	<b>Xana Way.</b>	§ 10.48.010.	<b>Not to block streets.</b>
§ 10.44.500.	<b>Camino De Los Coches.</b>		

Chapter 10.52  
**ABANDONED VEHICLES**

- § 10.52.010.** General—Definitions.
- § 10.52.020.** When chapter not applicable.
- § 10.52.030.** Intent of chapter.
- § 10.52.040.** Administration—Enforcement.
- § 10.52.050.** Franchises.
- § 10.52.060.** Administrative costs.
- § 10.52.065.** City Manager—Authority to abate.
- § 10.52.070.** Notice.
- § 10.52.080.** Hearing notice to be given to highway patrol.
- § 10.52.085.** Request for hearing.
- § 10.52.090.** Hearing procedure—Determination.
- § 10.52.100.** Disposal of vehicle declared nuisance.
- § 10.52.110.** Notification to be given to Department of Motor Vehicles.
- § 10.52.120.** Nonpayment of removal costs—Assessment against land.
- § 10.52.125.** Summary abatement procedure.
- § 10.52.130.** Unlawful and an infraction to abandon, park, store or leave vehicle in excess of three days.
- § 10.52.140.** Unlawful and an infraction not to remove vehicle or abate nuisance.

Chapter 10.56  
**OPERATION OF REGULATED MOBILITY DEVICES**

- § 10.56.010.** Definitions.
- § 10.56.020.** Operation of regulated mobility devices.
- § 10.56.030.** Enforcement.
- § 10.56.040.** Exemptions.
- § 10.56.050.** Severability.

Chapter 10.58  
**SKATEBOARDING, INLINE SKATES, ROLLER SKATES, TOY VEHICLE, COASTER, AND SIMILAR FORMS OF TRANSPORTATION**

- § 10.58.010.** Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited in commercial zone.
- § 10.58.015.** Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited on school grounds.
- § 10.58.020.** Skateboarding, coaster, and similar forms of transportation prohibited in Carlsbad village area.
- § 10.58.025.** Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited where posted.
- § 10.58.030.** Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited at public buildings.
- § 10.58.040.** Prohibition for public drainage and sports facilities.
- § 10.58.050.** Interference with pedestrians and traffic.
- § 10.58.060.** Safety equipment required in skateboard parks.

Chapter 10.60  
**SHARED MOBILITY DEVICES**

- § 10.60.010.** Purpose.
- § 10.60.020.** Definitions.
- § 10.60.030.** Prohibited conduct.
- § 10.60.040.** Shared mobility service provider agreement—Indemnity and insurance requirements.

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<b>§ 10.60.050.</b>	<b>Impoundment of devices.</b>	<b>§ 10.60.070.</b>	<b>Administrative regulations.</b>
<b>§ 10.60.060.</b>	<b>Post summary abatement hearing procedures.</b>	<b>§ 10.60.080.</b>	<b>Enforcement.</b>
		<b>§ 10.60.090.</b>	<b>Severability.</b>

## CHAPTER 10.04 DEFINITIONS

### **§ 10.04.010. Generally.**

- A. The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them by this section.
- B. Whenever any words or phrases used in this chapter are not defined herein, but are now defined in the vehicle code of the state, such definitions are incorporated in this chapter and shall be deemed to apply to such words and phrases used as though set forth herein in full.

(Ord. 3005)

### **§ 10.04.020. Highway.**

"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.

(Ord. 5042 § 1(b), 1968)

### **§ 10.04.030. Loading zone.**

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

(Ord. 3005)

### **§ 10.04.040. Official time standard.**

Whenever certain hours are named in this title, they shall mean standard time or daylight saving time as may be in current use in the city.

(Ord. 3005)

### **§ 10.04.050. Official traffic-control devices.**

"Official traffic-control devices" mean all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

(Ord. 3005)

### **§ 10.04.060. Official traffic signal.**

"Official traffic signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction.

(Ord. 3005)

### **§ 10.04.070. Park.**

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

(Ord. 3005)

**§ 10.04.080. Parkway.**

"Parkway" means that portion of a street other than a roadway or a sidewalk.  
(Ord. 3005)

**§ 10.04.090. Passenger loading zone.**

"Passenger loading zone" means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.  
(Ord. 3005)

**§ 10.04.100. Pedestrian.**

"Pedestrian" means any person afoot.  
(Ord. 3005)

**§ 10.04.110. Police officer.**

"Police officer" means every officer of the police department of the city.  
(Ord. 3005)

**§ 10.04.120. Stop.**

"Stop," when required, means complete cessation of movement.  
(Ord. 3005)

**§ 10.04.130. Stop or stand.**

"Stop or stand," when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.  
(Ord. 3005)

**§ 10.04.140. Traffic.**

"Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any street for purposes of travel.  
(Ord. 3005)

**§ 10.04.150. Vehicle.**

"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. 5042 § 2(a), 1968)

## CHAPTER 10.08 TRAFFIC ADMINISTRATION

### **§ 10.08.010. Police administration.**

There is established in the police department of the city a traffic division to be under the control of an officer of police appointed by and directly responsible to the Chief of Police.  
(Ord. 3005 § 15)

### **§ 10.08.020. Duty of traffic division.**

It shall be the duty of the traffic division with such aid as may be rendered by other members of the police department to enforce the street traffic regulations in the city, and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations, to investigate traffic accidents and to cooperate with the city Traffic Engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the division by this chapter and the traffic ordinances of the city.  
(Ord. 3005 § 16)

### **§ 10.08.030. Traffic accident studies.**

Whenever accidents at any particular location become numerous, the traffic division shall cooperate with the city Traffic Engineer in conducting studies of such accidents and determining remedial measures.  
(Ord. 3005 § 17)

### **§ 10.08.040. Traffic accident reports.**

The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the city Traffic Engineer.  
(Ord. 3005 § 18)

### **§ 10.08.050. Traffic division to submit annual traffic safety reports.**

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

- A. The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent traffic accident data;
- B. The number of traffic accidents investigated and other pertinent data on the safety activities of the police;
- C. The plans and recommendations of the division for future traffic safety activities.  
(Ord. 3005 § 19)

### **§ 10.08.060. City Traffic Engineer—Office established—Powers and duties generally.**

The office of city Traffic Engineer is established. The city Traffic Engineer as used in this code is defined as the city employee that directs the traffic division of the transportation department of the City of Carlsbad. The city Traffic Engineer shall exercise the powers and duties with respect to traffic as provided in this chapter and elsewhere in this code.

(Ord. 3005 § 20; Ord. 3087, 1971; Ord. CS-164 § 2, 2011; Ord. CS-361 § 5, 2019)

**§ 10.08.070. Additional powers and duties of Traffic Engineer.**

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

(Ord. 3005 § 21)

**CHAPTER 10.12  
TRAFFIC REGULATIONS—ENFORCEMENT AND OBEDIENCE**

**§ 10.12.010. Authority of police and firefighters.**

- A. It shall be the duty of the officers of the police department or such officers as are assigned by the Chief of Police to enforce all street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.
- B. Officers of the police department or such officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.
- C. Firefighters, when at the scene of an emergency, while engaged in outside training activities, or to facilitate the safe movement of apparatus; may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Ord. 3005 § 22; Ord. 2028 § 1(0), 1969)

**§ 10.12.030. Obedience to police and firefighters.**

No person shall wilfully fail or refuse to comply with any lawful order of a police officer or fire department official when directing traffic.

(Ord. 3005 § 24)

**§ 10.12.040. Persons other than officials not to direct traffic.**

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

(Ord. 3005 § 25)

**§ 10.12.050. Public employees to obey traffic regulations.**

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, any county or city and it is unlawful for any such driver to violate any of the provisions of this chapter except as otherwise permitted in this chapter or by state statute.

(Ord. 3005 § 26)

**§ 10.12.060. Exemptions to certain vehicles.**

- A. The provisions of this chapter regulating the operation, parking and standing of vehicles shall not apply to any vehicle of the police department or fire department, any public ambulance or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this section is operated in the manner specified in the state Vehicle Code in response to an emergency call.
- B. The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his or her wilful disregard of the safety of others.

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

(Ord. 3005 § 27)

**§ 10.12.070. Enforcement of California Vehicle Code.**

Pursuant to California Vehicle Code Section 21107.6, the provisions of Division 11 of the Vehicle Code entitled "Rules of the Road" shall apply to the following privately owned and maintained roads:

All those privately owned and maintained roads within the Poinsettia Village shopping center generally located at the southeast intersection of Avenida Encinas and Poinsettia Road.

(Ord. NS-544 § 1, 2000)

## CHAPTER 10.16 TRAFFIC-CONTROL DEVICES

### **§ 10.16.010. Authority to install.**

- A. The city Traffic Engineer shall have the exclusive power and duty to place and maintain or cause to be placed and maintained official traffic-control devices when and as required under the traffic ordinances of the city to make effective the provisions of such ordinances.
- B. Whenever the Vehicle Code of the state 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 Traffic Engineer is authorized to install the necessary devices subject to any limitations or restrictions set forth in the law applicable thereto.
- C. The city Traffic Engineer may also place and maintain such additional traffic-control devices as the Traffic Engineer may deem necessary 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 the traffic ordinances of the city or as may be determined by ordinance or resolution of the City Council.  
(Ord. 3005 § 29)

### **§ 10.16.020. Enforcement.**

No provision of the state Vehicle Code or of this chapter for which signs are required shall be enforced against an alleged violator unless appropriate signs are in place and sufficiently legible to be seen by an ordinarily observant person, giving notice of such provisions of the traffic laws.  
(Ord. 3005 § 30)

### **§ 10.16.030. Obedience to traffic-control devices.**

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances of the city unless otherwise directed by a police officer subject to the exemptions granted the driver of an authorized emergency vehicle when responding to emergency calls.  
(Ord. 3005 § 31)

### **§ 10.16.040. Installation of traffic signals.**

- A. The city Traffic Engineer is directed to install and maintain official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.
- B. The city Traffic Engineer shall ascertain and determine the locations where such signals are required by resort to field observation, traffic counts and other traffic information as may be pertinent and his or her determinations therefrom shall be made in accordance with those Traffic Engineering and safety standards and instructions set forth in the California Maintenance Manual issued by the division of highways of the state department of public works.
- C. Whenever the city Traffic Engineer installs and maintains an official traffic signal at any intersection, the Traffic Engineer shall likewise erect and maintain at such intersection street name signs visible to the principal flow of traffic unless such street name signs have previously been placed and are

maintained at any intersection.  
(Ord. 3005 § 32)

**§ 10.16.050. Lane markings.**

The city Traffic Engineer is authorized to mark centerlines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the highway.  
(Ord. 3005 § 33)

**§ 10.16.060. Distinctive roadway markings.**

Whenever the state department of public works determines by resolution and designates a distinctive roadway marking which shall indicate no driving over such marking, the city Traffic Engineer is authorized to designate by such marking those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. Such marking or signs and markings shall have the same effect as similar markings placed by the state department of public works pursuant to provisions of the state Vehicle Code.  
(Ord. 3005 § 34)

**§ 10.16.070. Removal—Relocation—Discontinuance.**

The city Traffic Engineer is authorized to remove, relocate or discontinue the operation of any traffic-control device not specifically required by state law or this chapter whenever the Traffic Engineer shall determine in any particular case that the conditions which warranted or required the installation no longer exist or obtain.  
(Ord. 3005 § 35)

**§ 10.16.080. Hours of operation.**

The city Traffic Engineer shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this chapter.  
(Ord. 3005 § 36)

## CHAPTER 10.20 TURNING MOVEMENTS

### **§ 10.20.010. Authority to place—Obedience.**

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

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

(Ord. 3005 § 37)

### **§ 10.20.020. Authority to place restricted turn signs.**

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

(Ord. 3005 § 38)

### **§ 10.20.030. Obedience to no-turn signs.**

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

(Ord. 3005 § 39)

### **§ 10.20.040. Authority to prohibit right turns against traffic stop signal—Obedience.**

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

(Ord. 3005 § 40)

**CHAPTER 10.24  
ONE-WAY STREETS AND ALLEYS**

**§ 10.24.010. Erection and contents of signs.**

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

(Ord. 3005 § 41)

**§ 10.24.020. Alley from Carlsbad Village Drive to Grand Avenue.**

In accordance with Section 10.24.010, and when properly sign posted, all traffic shall proceed only in a northerly direction on the alley extending from Carlsbad Village Drive to Grand Avenue between State Street and the Santa Fe right-of-way.

(Ord. 3008 § 1; Ord. NS-534 § 3, 2000)

**§ 10.24.021. Washington Street.**

In accordance with Section 10.24.010, and when proper signs are in place, all traffic shall proceed only in a northerly direction on Washington Street from Grand Avenue to its intersection with Beech Avenue.

(Ord. NS-395 § 1, 1997)

## CHAPTER 10.28 SPECIAL STOPS

### Article I General Regulations

#### **§ 10.28.010. Erection and location of stop signs.**

Whenever any ordinance or resolution of the city designates and describes any street or portion thereof as a through street, or any intersection at which vehicles are required to stop at one or more entrances thereto, or any railroad grade crossing at which vehicles are required to stop, the city Traffic Engineer shall erect and maintain stop signs as follows:

A stop sign shall be erected on each and every street intersecting such through street or portion thereof so designated and at those entrances of other intersections where a stop is required and at any railroad grade crossing so designated. Every such sign shall conform with and shall be placed as provided in Sections 21352 to 21355 of the Vehicle Code of the state.

(Ord. 3005 § 42)

#### **§ 10.28.020. Where stops required.**

- A. Those streets and parts of streets described in Article II of this chapter, are declared to be through streets for the purposes of this section.
- B. The provisions of this section shall also apply at one or more entrances to the intersections as such entrances and intersections are described in Sections 10.28.060 through 10.28.280.

(Ord. 3005 § 43)

#### **§ 10.28.030. 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.

(Ord. 3005 § 44)

#### **§ 10.28.040. Compliance with signals of properly appointed persons wearing insignia.**

It is unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of any person appointed by the Chief of Police to control traffic at school crossings; provided, that such person giving any order, signal or direction at such crossings shall at the time be wearing some insignia, indicating such appointment. It is unlawful for any minor to direct or attempt to direct traffic unless authorized to do so by order of the Chief of Police.

(Ord. 3031 § 1)

#### **§ 10.28.050. Stopping in school pedestrian lanes.**

It is unlawful for any person driving or operating, propelling or causing to be propelled, any vehicle, to fail to stop not less than 50 feet from the nearest side of a school pedestrian lane where any signal device, flagger or other person is stationed, giving warning that children are about to cross or are crossing the street; and it is further declared unlawful to proceed until such signal has stopped, raised, or been removed, or the flagger or person stationed at such pedestrian lane has given a signal to go, or has left the locality.

(Ord. 3031 § 2)

**Article II  
Streets Designated**

**§ 10.28.060. Streets—Generally.**

In accordance with the provisions of Section 10.28.020 and when signs are erected giving notice thereof, drivers of vehicles shall stop at the intersections designated in this article.

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.070. Carlsbad Boulevard.**

Drivers shall stop where the following described streets intersect Carlsbad Boulevard:

Acacia Avenue

Beech Avenue

Carlsbad Village

Drive Cedar Avenue

Cerezo Drive

Cherry Avenue

Chestnut Avenue

Cypress Avenue

Grand Avenue

Hemlock Avenue

Juniper Avenue

Lincoln Street

Manzano Drive

Maple Avenue

Mountain View Drive

Ocean Street

Pine Avenue

Redwood Avenue

Sequoia Avenue

Shore Drive

Sycamore Avenue

Tamarack Avenue

Terramar Drive

Tierra del Oro Street

Walnut Avenue

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. NS-534 § 4, 2000)

**§ 10.28.080. Grand Avenue.**

Drivers shall stop when the following described streets intersect Grand Avenue:

Carlsbad Boulevard

Harding Street:

1. Where the alley between State Street and Roosevelt Street intersects Grand Avenue and Carlsbad Village Drive;
2. Where the alley between the railroad track and State Street intersects Grand Avenue and Carlsbad Village Drive;
3. Where the alley between Harding Street and the 101 Freeway intersects Grand Avenue and Carlsbad Village Drive;

Hope Street

Jefferson Street

Madison Street

Roosevelt Street

State Street

Washington Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. NS-534 § 5, 2000)

**§ 10.28.090. Tamarack Avenue.**

Drivers shall stop where the following described streets intersect Tamarack Avenue:

Adams Street

Garfield Street

Jefferson Street

Pio Pico Street

Palisades Drive

Skyline Drive

Levee Drive

Knollwood Drive

Strata Drive (east)

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3177 § 1, 1984; Ord. 3179 § 1, 1984; Ord. NS-633 § 1, 2002)

**§ 10.28.100. Highland Drive.**

Drivers shall stop where the following described streets intersect Highland Drive:

Adams Street

Arland Road

Basswood Avenue

Buena Vista Way

Carlsbad Village Drive

Chestnut Avenue

Chinquapin Avenue

Elmwood Street

Forest Avenue

Hillside Drive

Magnolia Avenue

Oak Avenue

Pine Avenue

Tamarack Avenue

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3136 § 1, 1981; Ord. NS-534 § 6, 2000; Ord. CS-180 § 1, 2012)

**§ 10.28.110. Jefferson Street.**

Drivers shall stop where the following described streets intersect Jefferson Street:

Arbuckle Place

Buena Vista Avenue

Home Avenue

Knowles Avenue

Laguna Drive

Las Flores Drive

Magnolia Avenue

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3129 § 1, 1981)

**§ 10.28.120. Chestnut Avenue.**

Drivers shall stop where the following described streets intersect Chestnut Avenue:

Adams Street

Ames Place

Donna Drive

Eureka Street

Highland Drive

Monroe Street

Pio Pico Drive

Pontiac Drive

Sierra Morena Avenue

Valley Street

West Haven Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. CS-082 § 1, 2010; Ord. CS-083 § 6, 2010; Ord. CS-238 § 1, 2014)

**§ 10.28.130. Magnolia Avenue.**

Drivers shall stop where the following described streets intersect Magnolia Avenue:

Adams Street

Grecourt Way

Northwest corner of Madison Street

Valley Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. CS-202 § 1, 2013)

**§ 10.28.140. El Camino Real.**

Drivers shall stop where the following described street intersects El Camino Real:

Chestnut Avenue

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.150. Monroe Street.**

Drivers shall stop where the following described streets intersect Monroe Street:

Magnolia Avenue

Park Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.151. Lancer Way/Monroe Street.**

Drivers shall stop where the following described street intersects with Lancer Way/Monroe Street:

Gayle Way

(Ord. CS-141 § 1, 2011)

**§ 10.28.153. Ocean Street.**

Drivers shall stop where the following described streets intersect Ocean Street:

Cypress Avenue

Grand Avenue

(Ord. 3125 § 1, 1981; Ord. NS-714 § 2, 2004)

**§ 10.28.160. State Street.**

Drivers shall stop where the following described street intersects State Street:

Laguna Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3056 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3094, 1972)

**§ 10.28.170. Basswood Avenue.**

Drivers shall stop where the following described streets intersect Basswood Avenue:

Adams Street

Belle Lane

Donna Drive

Eureka Street

Valley Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. CS-083 § 1, 2010)

**§ 10.28.180. Chinquapin Avenue.**

Drivers shall stop where the following described street intersects Chinquapin Avenue:

Adams Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.190. Laguna Drive.**

Drivers shall stop where the following described streets intersect Laguna Drive:

Buena Vista Circle

Davis Avenue

Madison Street

Roosevelt Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. CS-222 § 1, 2013)

**§ 10.28.200. Adams Street.**

Drivers shall stop where the following described streets intersect Adams Street:

Magnolia Avenue

Highland Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. CS-202 § 2, 2013)

**§ 10.28.210. Elmwood Street.**

Drivers shall stop where the following described street intersects Elmwood Street:

Northbound traffic on Highland Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.220. Carlsbad Village Drive.**

Drivers shall stop where the following described streets intersect Carlsbad Village Drive:

Carlsbad Boulevard

Harding Street

Jefferson Street

Madison Street

Roosevelt Street

State Street

Washington Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. NS-534 § 7, 2000)

**§ 10.28.230. Pio Pico Drive.**

Drivers shall stop where the following described streets intersect Pio Pico Drive:

Buena Vista Avenue

Chestnut Avenue

Knowles Avenue

Laguna Drive Magnolia Avenue

Oak Avenue

Palm Avenue

Pine Avenue

Stratford Lane

Las Flores Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. CS-181 § 1, 2012; Ord. CS-210 § 1, 2013)

**§ 10.28.240. Corintia Street.**

Drivers shall stop where the following described streets intersect Corintia Street:

Luciernaga Street

Cazadero Street

Llama Street

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3134 § 1, 1981; Ord. NS-789 § 1, 2006)

**§ 10.28.250. Pine Avenue.**

Drivers shall stop where the following described street intersects Pine Avenue:

Basswood Avenue

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.260. Monroe Street.**

Drivers shall stop where the following described streets intersect Monroe Street:

Alder Avenue

Basswood Avenue

Gayle Avenue

Sunnyhill Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3149 § 1, 1982; Ord. NS-534 § 8, 2000; Ord. NS-609 § 1, 2001; Ord. CS-083 § 6, 2010)

**§ 10.28.270. Roosevelt Street.**

Drivers shall stop where the following described streets intersect Roosevelt Street:

Beech Avenue

Grand Avenue

Laguna Drive

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5; Ord. 3130 § 1, 1981; Ord. CS-222 § 2, 2013)

**§ 10.28.280. Valley Street.**

Drivers shall stop where the following described street intersects Valley Street:

Oak Avenue

(Ord. 3042 §§ 1, 2; Ord. 3045 § 1; Ord. 3050 § 3; Ord. 3057 § 1; Ord. 3061 § 1; Ord. 3063 § 5)

**§ 10.28.290. Forest Avenue.**

Drivers shall stop where the following described street intersects Forest Avenue:

Highland Drive

(Ord. 3136 § 2, 1981)

**§ 10.28.295. Cannon Road.**

Drivers shall stop where the following described street intersects Cannon Road:

Avenida Encinas

(Ord. 3137 § 1, 1981)

**§ 10.28.300. Buena Vista Way.**

Drivers shall stop where the following described streets intersect Buena Vista Way:

Arland Road

Highland Drive

(Ord. 3138 § 1, 1981; Ord. CS-223, 2013)

**§ 10.28.310. Ridgecrest Court.**

Drivers shall stop where the following described street intersects Ridgecrest Court:

Seacrest Drive

(Ord. 3141 § 1, 1981)

**§ 10.28.320. Alga Road.**

Drivers shall stop where the following described streets intersect Alga Road:

Almaden Lane

Cazadero Drive

Corintia Street

El Fuerte Street

Estrella De Mar Road

Manzanita Street

Santa Isabel Street

Xana Way

(Ord. 3159 § 1, 1983; Ord. 3184 § 1, 1985)

**§ 10.28.321. Poinsettia Lane.**

Drivers shall stop where the following described streets intersect Poinsettia Lane:

Paseo Del Norte

Batiquitos Drive

(Ord. 3165 § 1, 1984; Ord. 3186 § 1, 1985)

**§ 10.28.322. Corintia Street.**

Drivers shall stop where the following described street intersects Corintia Street:

Unicornio Street

(Ord. 3168 § 1, 1984)

**§ 10.28.323. Paseo del Norte.**

Drivers shall stop at the all-way stop-controlled intersection where the following described street intersects Paseo del Norte:

Unnamed private street located 1,950 feet south of Cannon Road in Car Country Carlsbad  
(Ord. 3186 § 2, 1985; Ord. NS-728 § 1, 2004; Ord. CS-239 § 1, 2014)

**§ 10.28.324. El Fuerte Street.**

Drivers shall stop where the following described street intersects El Fuerte Street:

Unicornio Street

(Ord. 3178 § 1, 1984; Ord. 3187 § 1, 1985)

**§ 10.28.325. Batiquitos Drive.**

Drivers shall stop where the following described street intersects Batiquitos Drive:

Poinsettia Lane

(Ord. 3186 § 3, 1985)

**§ 10.28.326. La Portalada Drive.**

Drivers shall stop where the following described street intersects La Portalada Drive:

Milano Court  
(Ord. 3189 § 1, 1985)

**§ 10.28.330. Skyline Drive.**

Drivers shall stop where the following described street intersects Skyline Drive:

Tamarack Avenue  
(Ord. 3179 § 2, 1984)

**§ 10.28.340. El Fuerte Street.**

Drivers shall stop where the following described streets intersect El Fuerte Street:

Alga Road  
Santa Isabel Street  
Babilonia Street  
Corintia Street  
Luciernaga Street  
Bolero Street  
Acuna Court  
Marmol Court  
(Ord. 3183 § 1, 1985; Ord. 3200 § 1, 1986)

**§ 10.28.350. Westhaven Drive.**

Drivers shall stop where the following described street intersects Westhaven Drive:

Skyline Road  
(Ord. 3194 § 1, 1985)

**§ 10.28.360. Alicante Road.**

Drivers shall stop where the following described streets intersect Alicante Road:

Alga Road  
Altisma Way  
Pomplona Way  
Zamora Way  
Altiva Place

Corte De La Vista  
(Ord. 3199 § 1, 1986)

**§ 10.28.370. Romeria Street.**

Drivers shall stop where the following described streets intersect Romeria Street:

Levante Street

Cadencia Street  
(Ord. 3202 § 1, 1986; Ord. NS-742 § 1, 2005)

**§ 10.28.380. Corintia Street.**

Drivers shall stop where the following described street intersects Corintia Street:

El Fuerte Street  
(Ord. 3205 § 1, 1986)

**§ 10.28.390. Nueva Castilla Way.**

Drivers shall stop where the following described street intersects Nueva Castilla Way:

Levante Street  
(Ord. 3206 § 1, 1986)

**§ 10.28.400. Pontiac Drive.**

Drivers shall stop where the following described streets intersect Pontiac Drive:

Olympic Drive

Spokane Way

Chestnut Avenue

Athens Avenue

York Road

Victoria Avenue

Avalon Avenue

Sausalito Avenue

Tiburon Avenue

Brighton Road

Mayfair Court

Southampton Road

Coventry Road

Regent Road  
(Ord. 3225 § 1, 1988)

**§ 10.28.410. Spokane Way.**

Drivers shall stop where the following described street intersects Spokane Way:

Pontiac Drive  
(Ord. NS-163 § 1, 1991)

**§ 10.28.420. Victoria Avenue.**

Drivers shall stop where the following described streets intersect Victoria Avenue:

Haverhill Street

Pontiac Drive  
(Ord. CS-238 § 2, 2014; Ord. NS-164 § 1, 1991)

**§ 10.28.430. Forest View Way.**

Drivers shall stop where the following described street intersects Forest View Way:

Hosp Way  
(Ord. NS-472 § 1, 1999)

**§ 10.28.440. Plum Tree Road.**

Drivers shall stop where the following described streets intersect Plum Tree Road:

Hidden Valley Road

Red Knot Road

Robinea Drive

Bluebonnet Drive

Windflower Drive

Coneflower Drive  
(Ord. NS-489 § 1, 1999; Ord. NS-568 § 1, 2001)

**§ 10.28.450. Alderwood Drive.**

Drivers shall stop where the following described street intersects Alderwood Drive:

Camino de las Ondas  
(Ord. NS-490 § 1, 1999)

**§ 10.28.460. Levante Street.**

Drivers shall stop where the following described streets intersect Levante Street:

Caminito Monarca

Falda Place

Anillo Way

Cumbre Court

Cima Court

Ladera Court

Escenio Terrace

Reposado Drive

Torrejon Place

Burgos Court

Sacada Circle

Oviedo Place

Nueva Castilla Way

Galicia Way

Madrilena Way

La Gran Via

Segovia Way

Calle Madero

Primavera Way

Galleon Way

Romeria Street

Morada Street

Estancia Street

Centella Street

(Ord. NS-496 § 1, 1999)

**§ 10.28.470. Paseo Escuela.**

Drivers shall stop where the following described street intersects Paseo Escuela:

Poinsettia Lane

(Ord. NS-497 § 1, 1999)

**§ 10.28.480. Avenida de Louisa.**

Drivers shall stop where the following described street intersects Avenida de Louisa:

Avenida de Anita  
(Ord. NS-500 § 1, 1999)

**§ 10.28.490. Via Naranja.**

Drivers shall stop where the following described street intersects Via Naranja:

Avenida de Anita  
(Ord. NS-500 § 2, 1999)

**§ 10.28.500. Calle Susana.**

Drivers shall stop where the following described street intersects Calle Susana:

Avenida de Anita  
(Ord. NS-500 § 3, 1999)

**§ 10.28.510. Via Esparta.**

Drivers shall stop where the following described street intersects Via Esparta:

Avenida de Anita  
(Ord. NS-500 § 4, 1999)

**§ 10.28.520. Via Vera.**

Drivers shall stop where the following described street intersects Via Vera:

Avenida de Anita  
(Ord. NS-500 § 5, 1999)

**§ 10.28.530. Segovia Way.**

Drivers shall stop where the following described street intersects Segovia Way:

Levante Street  
(Ord. NS-501 § 1, 1999)

**§ 10.28.540. Torrejon Place (east).**

Drivers shall stop where the following described street intersects Torrejon Place (east):

Levante Street  
(Ord. NS-501 § 2, 1999)

**§ 10.28.541. Torrejon Place (west).**

Drivers shall stop where the following described street intersects Torrejon Place (west):

Levante Street  
(Ord. CS-203 § 1, 2013)

**§ 10.28.550. Escenico Terrace.**

Drivers shall stop where the following described street intersects Escenico Terrace:

Levante Street

(Ord. NS-501 § 3, 1999)

**§ 10.28.560. Hidden Valley Road.**

Drivers shall stop where the following described street intersects Hidden Valley Road:

Camino de las Ondas

(Ord. NS-508 § 1, 1999)

**§ 10.28.570. Paseo Aliso.**

Drivers shall stop where the following described street intersects Paseo Aliso:

Camino Robledo

Via Adelfa

(Ord. NS-540 § 1, 2000; Ord. CS-179 § 1, 2012)

**§ 10.28.580. (Reserved)**

**§ 10.28.590. Sunnyhill Drive.**

Drivers shall stop where the following described streets intersect Sunnyhill Drive:

Alder Avenue

Monroe Street

(Ord. NS-567 § 1, 2001; Ord. NS-609 § 2, 2001)

**§ 10.28.600. Alder Avenue.**

Drivers shall stop where the following described streets intersect Alder Avenue:

Monroe Street

Sunnyhill Drive

(Ord. NS-567 § 2, 2001; Ord. NS-609 § 3, 2001)

**§ 10.28.630. Levee Drive.**

Drivers shall stop where the following described street intersects Levee Drive:

Tamarack Avenue

(Ord. NS-632 § 1, 2002)

**§ 10.28.640. Knollwood Drive.**

Drivers shall stop where the following described street intersects Knollwood Drive:

Tamarack Avenue  
(Ord. NS-632 § 2, 2002)

**§ 10.28.650. Strata Drive.**

Drivers shall stop where the following described streets intersect Strata Drive:

Tamarack Avenue (east)

Contour Place  
(Ord. NS-632 § 3, 2002; Ord. NS-876 § 1, 2008)

**§ 10.28.660. Calle Cordoba.**

Drivers shall stop where the following described street intersects Calle Cordoba:

Calle Acervo  
(Ord. NS-668 § 1, 2003)

**§ 10.28.670. Calle Acervo.**

Drivers shall stop where the following described street intersects Calle Acervo:

Calle Cordoba  
(Ord. NS-669 § 1, 2003)

**§ 10.28.680. Paseo Aliso.**

Drivers shall stop where the following described street intersects Paseo Aliso:

Camino Robledo  
(Ord. NS-686 § 1, 2004)

**§ 10.28.690. Camino Robledo.**

Drivers shall stop where the following described street intersects Camino Robledo:

Paseo Aliso  
(Ord. NS-687 § 1, 2004)

**§ 10.28.700. Marlin Lane.**

Drivers shall stop where the following described street intersects Marlin Lane:

Avenida Encinas  
(Ord. NS-713 § 1, 2004)

**§ 10.28.710. Portage Way.**

Drivers shall stop where the following described street intersects Portage Way:

Avenida Encinas  
(Ord. NS-713 § 2, 2004)

**§ 10.28.720. Avenida Encinas.**

Drivers shall stop where the following described streets intersect Avenida Encinas:

Portage Way

Marlin Lane

(Ord. NS-713 § 3, 2004)

**§ 10.28.730. Cypress Avenue.**

Drivers shall stop where the following described street intersects Cypress Avenue:

Ocean Street

(Ord. NS-714 § 1, 2004)

**§ 10.28.740. Paseo Almendro.**

Drivers shall stop where the following described street intersects Paseo Almendro:

Avenida Ciruela

(Ord. NS-716 § 1, 2004)

**§ 10.28.750. Camino Serbal.**

Drivers shall stop where the following described street intersects Camino Serbal:

Paseo Almendro

(Ord. NS-716 § 2, 2004)

**§ 10.28.760. Garboso Street.**

Drivers shall stop where the following described street intersects Garboso Street:

Morada Street

(Ord. NS-739 § 1, 2005)

**§ 10.28.770. Rancho Cortes.**

Drivers shall stop where the following described street intersects Rancho Cortes:

Unicornio Street

(Ord. NS-741 § 1, 2005)

**§ 10.28.780. Carrillo Way.**

Drivers shall stop where the following described street intersects Carrillo Way:

Rancho Cortes

(Ord. NS-750 § 1, 2005)

**§ 10.28.790. Lemon Leaf Drive.**

Drivers shall stop where the following described street intersects Lemon Leaf Drive:

Camino de las Ondas  
(Ord. NS-759 § 1, 2005)

**§ 10.28.800. Lonicera Street.**

Drivers shall stop where the following described street intersects Lonicera Street:

Camino de las Ondas  
(Ord. NS-759 § 2, 2005)

**§ 10.28.810. Madison Street.**

Drivers shall stop where the following described street intersects Madison Street:

Walnut Avenue

Chestnut Avenue

Pine Avenue

Oak Avenue  
(Ord. NS-763 § 1, 2005)

**§ 10.28.820. Lighthouse Road.**

Drivers shall stop where the following described street intersects Lighthouse Road:

Hidden Valley Road  
(Ord. NS-764 § 1, 2005)

**§ 10.28.830. Wintergreen Drive.**

Drivers shall stop where the following described street intersects Wintergreen Drive:

Hosp Way  
(Ord. NS-786 § 1, 2006)

**§ 10.28.840. Grove Avenue.**

Drivers shall stop where the following described street intersects Grove Avenue:

Hosp Way  
(Ord. NS-787 § 1, 2006)

**§ 10.28.850. Lynch Court.**

Drivers shall stop where the following described street intersects Lynch Court:

Hillyer Street  
(Ord. NS-802 § 1, 2006)

**§ 10.28.860. Mimosa Drive.**

Drivers shall stop where the following described streets intersect Mimosa Drive:

Geranium Street

Lupine Road

Catalpa Road

Aster Place

(Ord. NS-815 § 1, 2006)

**§ 10.28.870. Palomar Oaks Way.**

Drivers shall stop where the following described streets intersect Palomar Oaks Way:

Camino Vida Roble

Wright Place

(Ord. NS-830 § 1, 2007)

**§ 10.28.880. Unicornio Street.**

Drivers shall stop where the following described street intersects Unicornio Street:

El Fuerte Street

(Ord. NS-843 § 1, 2007)

**§ 10.28.890. Chorlito Street.**

Drivers shall stop where the following described street intersects Chorlito Street:

El Fuerte Street

(Ord. NS-843 § 2, 2007)

**§ 10.28.900. Orion Street.**

Drivers shall stop where the following described street intersects Orion Street:

Impala Drive

(Ord. NS-846 § 1, 2007)

**§ 10.28.910. Impala Drive.**

Drivers shall stop where the following described street intersects Impala Drive:

Orion Street

(Ord. NS-846 § 2, 2007)

**§ 10.28.920. Palmer Way.**

Drivers shall stop where the following described street intersects Palmer Way:

Impala Drive

(Ord. NS-846 § 3, 2007)

**§ 10.28.930. Donna Drive.**

Drivers shall stop where the following described streets intersect Donna Drive:

Falcon Drive

Basswood Avenue

Gayle Way

Janis Way

(Ord. NS-856 § 1, 2007)

**§ 10.28.940. Spoonbill Lane.**

Drivers shall stop where the following described street intersects Spoonbill Lane:

Tern Place

(Ord. NS-877 § 1, 2008)

**§ 10.28.950. Knowles Avenue.**

Drivers shall stop where the following described street intersects Knowles Avenue:

Davis Avenue (west)

(Ord. CS-049 § 1, 2009)

**§ 10.28.960. Valewood Avenue.**

Drivers shall stop where the following street intersects Valewood Avenue:

Sierra Morena Avenue

(Ord. CS-082 § 2, 2010)

**§ 10.28.961. Sierra Morena Avenue.**

Drivers shall stop where the following streets intersect Sierra Morena Avenue:

Chestnut Avenue

Valewood Avenue

(Ord. CS-082 § 3, 2010)

**§ 10.28.962. Falcon Drive.**

Drivers shall stop where the following described street intersects Falcon Drive:

Donna Drive

(Ord. CS-083 § 2, 2010)

**§ 10.28.963. Gayle Way.**

Drivers shall stop where the following described streets intersect Gayle Way:

Ann Drive

Donna Drive  
(Ord. CS-083 § 3, 2010)

**§ 10.28.964. Belle Lane.**

Drivers shall stop where the following described street intersects Belle Lane:

Basswood Avenue.  
(Ord. CS-083 § 4, 2010)

**§ 10.28.965. Ann Drive.**

Drivers shall stop where the following described street intersects Ann Drive:

Gayle Way  
(Ord. CS-083 § 5, 2010)

**§ 10.28.966. Viejo Castilla Way.**

Drivers shall stop where the following described street intersects Viejo Castilla Way:

Navarra Drive  
(Ord. CS-098 § 1, 2010)

**§ 10.28.967. Yosemite Street.**

Drivers shall stop where the following described street intersects Yosemite Street:

Valewood Avenue  
(Ord. CS-107 § 1, 2010)

**§ 10.28.968. Beech Avenue.**

Drivers shall stop where the following described street intersects Beech Avenue:

Ocean Street  
(Ord. CS-136, 2011)

**§ 10.28.969. Calle San Felipe.**

Drivers shall stop where the following described street intersects Calle San Felipe:

Calle Posada  
(Ord. CS-143, 2011)

**§ 10.28.970. Glasgow Drive.**

Drivers shall stop where the following described streets intersect Glasgow Drive:

Edinburgh Drive  
Middleton Drive  
(Ord. CS-161, 2011; Ord. CS-216 § 1, 2013)

**§ 10.28.971. Lincoln Street.**

Drivers shall stop where the following described street intersects Lincoln Street:

Pine Avenue

(Ord. CS-176 § 1, 2012)

**§ 10.28.972. Garfield Street.**

Drivers shall stop where the following described street intersects Garfield Street:

Chestnut Avenue

Juniper Avenue

(Ord. CS-176 § 2, 2012)

**§ 10.28.973. Via Adelfa.**

Drivers shall stop where the following described street intersects Via Adelfa:

Paseo Aliso

(Ord. CS-179 § 2, 2012)

**§ 10.28.974. Stratford Lane.**

Drivers shall stop where the following described street intersects Stratford Lane:

Pio Pico Drive

(Ord. CS-181 § 2, 2012)

**§ 10.28.975. Sombrosa Street.**

Drivers shall stop where the following described street intersects Sombrosa Street:

Camino Alvaro

(Ord. CS-187, 2012)

**§ 10.28.976. Grecourt Way.**

Drivers shall stop where the following described street intersects Grecourt Way:

Magnolia Avenue

(Ord. CS-202 § 3, 2013)

**§ 10.28.977. Piragua Street.**

Drivers shall stop where the following described street intersects Piragua Street:

Esfera Street

(Ord. CS-201 § 1, 2013)

**§ 10.28.978. Trigo Lane.**

Drivers shall stop where the following described street intersects Trigo Lane:

Esfera Street  
(Ord. CS-201 § 2, 2013)

**§ 10.28.979. Fosca Street.**

Drivers shall stop where the following described street intersects Fosca Street:

Esfera Street  
(Ord. CS-201 § 3, 2013)

**§ 10.28.980. Fosca Way.**

Drivers shall stop where the following described street intersects Fosca Way:

Esfera Street  
(Ord. CS-201 § 4, 2013)

**§ 10.28.981. Esfera Street.**

Drivers shall stop where the following described streets intersect Esfera Street:

Piragua Street

Trigo Lane

Fosca Street

Fosca Way  
(Ord. CS-201 § 5, 2013)

**§ 10.28.982. Oviedo Place.**

Drivers shall stop where the following described street intersects Oviedo Place:

Levante Street  
(Ord. CS-203 § 2, 2013)

**§ 10.28.983. Madrilena Way.**

Drivers shall stop where the following described street intersects Madrilena Way:

Levante Street  
(Ord. CS-203 § 3, 2013)

**§ 10.28.984. Galicia Way (east).**

Drivers shall stop where the following described street intersects Galicia Way (east):

Levante Street  
(Ord. CS-203 § 4, 2013)

**§ 10.28.985. Primavera Way.**

Drivers shall stop where the following described street intersects Primavera Way:

Levante Street  
(Ord. CS-203 § 5, 2013)

**§ 10.28.986. Galleon Way.**

Drivers shall stop where the following described street intersects Galleon Way:

Levante Street  
(Ord. CS-203 § 6, 2013)

**§ 10.28.987. Estancia Street.**

Drivers shall stop where the following described street intersects Estancia Street:

Levante Street  
(Ord. CS-203 § 7, 2013)

**§ 10.28.988. Las Flores Drive.**

Drivers shall stop where the following described streets intersect Las Flores Drive:

Chuparosa Way

Highland Drive

Morning Glory Lane

Pio Pico Drive  
(Ord. CS-210 § 2, 2013)

**§ 10.28.989. Edinburgh Drive.**

Drivers shall stop where the following described street intersects Edinburgh Drive:

Glasgow Drive  
(Ord. CS-216 § 2, 2013)

**§ 10.28.990. Buena Vista Circle.**

Drivers shall stop where the following described street intersects Buena Vista Circle:

Laguna Drive  
(Ord. CS-222 § 3, 2013)

**§ 10.28.991. York Road.**

Drivers shall stop where the following described street intersects York Road:

Pontiac Drive  
(Ord. CS-238 § 3, 2014)

**§ 10.28.992. Haverhill Street.**

Drivers shall stop where the following described street intersects Haverhill Street:

Victoria Avenue  
(Ord. CS-238 § 4, 2014)

**§ 10.28.993. Hillside Drive.**

Drivers shall stop where the following described street intersects Hillside Drive:

Park Drive  
(Ord. CS-256 § 1, 2014)

**§ 10.28.994. Park Drive.**

Drivers shall stop where the following described street intersects Park Drive:

Hillside Drive  
(Ord. CS-256 § 2, 2014)

**§ 10.28.995. Arland Road.**

Drivers shall stop where the following described streets intersect Arland Road:

Buena Vista Way  
(Ord. CS-306 § 1, 2016)

**§ 10.28.996. Cerezo Drive.**

Drivers shall stop where the following described street intersects Cerezo Drive:

Los Robles Drive.  
(Ord. CS-409 § 1, 2021)

**§ 10.28.997. Oak Avenue.**

Drivers shall stop where the following described street intersects Oak Avenue: Madison Street.  
(Ord. CS-461, 11/14/2023)

## CHAPTER 10.32 MISCELLANEOUS DRIVING RULES

### **§ 10.32.010. Driving through funeral processions.**

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

(Ord. 3005 § 45)

### **§ 10.32.030. Driving vehicles on sidewalks or parkways prohibited.**

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

(Ord. 3005 § 47)

### **§ 10.32.040. New pavement.**

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

(Ord. 3005 § 48)

### **§ 10.32.050. Restricted access.**

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

(Ord. 3005 § 49)

### **§ 10.32.060. Restriction on use of freeways.**

No person shall drive or operate any bicycle, motor-driven cycle, or any vehicle which is not drawn by a motor vehicle upon any street established as a freeway, as defined by Section 332 of the state Vehicle Code, nor shall any pedestrian walk across or along any such street so designated and described except in a space set aside for the use of pedestrians; provided, that official signs are in place giving notice of such restrictions.

(Ord. 3005 § 50; Ord. 1296 § 16, 1980)

### **§ 10.32.070. Certain vehicles prohibited in business district.**

- A. No person shall operate any of the following vehicles in the business district between the hours of 7:00 a.m. and 6:00 p.m. of any day:

Any freight vehicle more than eight and one-half feet in width, with load, or any freight vehicle so loaded that any part of its load extends more than 20 feet to the front or rear of the vehicle.

- B. Provided, that the Chief of Police may by written permit authorize the operation of any such vehicle for the purpose of making necessary emergency deliveries to or from points within the business district.

(Ord. 3005 § 78)

**§ 10.32.080. Riding horse on sidewalk.**

It is unlawful for any person to ride, drive, propel or cause to be propelled any horse across or upon any paved sidewalk.

(Ord. 3049 § 1)

**§ 10.32.090. Truck routes—Generally.**

The use of all streets within the city, excepting those streets described in Section 10.32.091, is prohibited as to all commercial vehicles exceeding a maximum gross vehicle weight rating of 14,000 pounds.

(Ord. 3005 § 50; Ord. 3210 § 1, 1987; Ord. NS-827 § 1, 2007)

**§ 10.32.091. Truck routes—Streets designated.**

The prohibition set forth in Section 10.32.090 shall not apply to the following streets and portions of streets which are designated and established truck routes, as follows:

- A. Carlsbad Boulevard from the northerly city limits to the southerly city limits;
- B. Carlsbad Village Drive from Carlsbad Boulevard east to Interstate 5 Freeway;
- C. Tamarack Avenue from Interstate 5 Freeway to Carlsbad Boulevard;
- D. Cannon Road, from Carlsbad Boulevard to El Camino Real;
- E. Interstate 5 Freeway, northerly city limits to southerly city limits;
- F. Palomar Airport Road from Carlsbad Boulevard to easterly city limits;
- G. El Camino Real from northerly city limits to southerly city limits;
- H. Repealed by Ord. 3216 § 1;
- I. La Costa Avenue from the westerly city limits to El Camino Real;
- J. Rancho Santa Fe Road from the southerly city limits to the northerly city limits;
- K. Olivenhain Road from the westerly city limits to Rancho Santa Fe Road;
- L. Deleted;
- M. Melrose Drive from Palomar Airport Road to the northerly city limits;
- N. Faraday Avenue from Cannon Road to the easterly city limits;
- O. College Boulevard from Palomar Airport Road to El Camino Real;
- P. El Fuerte Street from Palomar Airport Road to Faraday Avenue.

(Ord. 3090, 1972; Ord. 3146 § 1, 1982; Ord. 3198 § 1, 1986; Ord. 3209 § 1, 1987; Ord. 3216 § 1, 1987; Ord. NS-534 § 9, 2000; Ord. NS-781 § 1, 2005; Ord. CS-015 § 1, 2008)

**§ 10.32.092. Truck routes—Vehicles allowed.**

Section 10.32.090 shall not apply to the following vehicles:

- A. Vehicles subject to the provisions of Sections 1031 to 1036 inclusive of the California Public Utilities

Code;

- B. Vehicles described in Section 35703 of the Vehicle Code; and
- C. Vehicles traveling to or from permanent commercial parking facilities provided for them within the city.

(Ord. 3090, 1972)

**§ 10.32.093. Truck routes—Posting.**

All streets and portions thereof established by this chapter as truck routes, shall be posted with appropriate signs displaying in letters not less than four inches in height, the words "truck route."

(Ord. 3090, 1972)

## CHAPTER 10.33 OVERSIZE VEHICLE OR LOAD PERMIT

### **§ 10.33.010. Purpose and intent.**

The purpose and intent of this chapter is for the City Council to permit the controlled operation and moving of vehicles or loads upon highways under its jurisdiction in excess of size, height and weight of vehicles allowed to be moved or operated on highways under the provisions of the Vehicle Code of the state, and protect the public safety and welfare by requiring a permit and the filing of a policy of insurance protecting the public against personal injury and property damage.

(Ord. NS-471 § 1, 1999)

### **§ 10.33.020. Definitions.**

Whenever in this chapter the following words or phrases are used they shall mean:

"City Engineer" means the City Engineer or designee, who is the City Traffic Engineer.

"Oversize" means any vehicle and/or load in excess of the size and weight of vehicles and/or loads allowed to be moved or operated on highways under the provisions of the Vehicle Code of the State of California.

(Ord. NS-471 § 1, 1999; Ord. CS-389 § 7, 2021)

### **§ 10.33.030. Permit required.**

No person shall move or cause to be moved over or across any public right-of-way under the jurisdiction of the city any vehicle, load, trailer, or combination thereof, which exceeds the height, width, length, size or weight of vehicle or load limitations provided in Division 15 of the Vehicle Code of the state, without first obtaining an oversize load permit therefrom from the City Engineer, which will be subject to the following regulations:

- A. An oversize load permit may be designated by the City Engineer as either a single-move permit for the movement of an oversized vehicle or load over a designated route on a specified date, or an annual or repetitive permit issued for the period specified on the oversize load permit. Repetitive oversize load permits may be issued on the type of vehicle carrying the load in the case of non-self-propelled vehicles, and on the specific vehicle in the case of self-propelled vehicles. Repetitive oversize load permits shall authorize the movement of the vehicles, or loads specified on the permit; provided however, that the vehicle or load shall not exceed a width of 13 feet, a height of 16 feet, or a length of 100 feet. If the load proposed under the repetitive load transportation permit exceeds the weight limits as prescribed in Division 15 of the Vehicle Code of the state by more than 25%, such move shall be subject to such route restrictions as are designated by the City Engineer.
- B. The City Engineer shall use a standard transportation permit form established by the California Department of Transportation.
- C. The applicant for an oversize load permit shall be a person licensed as a specialty contractor by the state to engage in the business of moving oversized vehicles and/or loads.
- D. Application for an oversize load permit shall be made to the office of the City Engineer a minimum of 72 hours prior to the time proposed for the move.
- E. On the oversize load permit, the permittee shall designate the specific route or routes, the specific date or dates, and the hours in which the move will occur.

(Ord. NS-471 § 1, 1999)

**§ 10.33.040. Insurance required.**

The applicant shall comply with the following insurance requirements:

- A. At the time of making application for a permit pursuant to this chapter, the applicant shall attach or have on file with the city, a certificate of insurance showing auto liability insurance covering all bodily injury and property liability incurred during the moving period, with a coverage limit of not less than one million dollars per accident; such vehicle insurance shall include non-owned autos.
- B. The certificate of insurance shall further indicate the city will be entitled to at least 10 days' written notice of cancellation of the policy of insurance.
- C. Governmental agencies, including the state and its political subdivisions, will not be required to provide the insurance required by this section, but shall be required to indemnify and hold the city harmless from any loss arising out of injury to persons, or damage to property, resulting directly or indirectly from the operation permitted by the oversize load permit, including the defense of any action arising therefrom, at no cost to the city.

(Ord. NS-471 § 1, 1999)

**§ 10.33.050. Emergency moves.**

For moves which, because of their emergency nature, require approval during periods other than the regularly scheduled working hours of the City Engineer or Chief of Police, authorized representatives thereof may grant interim approval for such moves on the condition that a permit will be acquired during the next regularly scheduled working day. Failure to acquire such permits may result in disqualification for obtaining future permits.

(Ord. NS-471 § 1, 1999)

**§ 10.33.060. Permit denial.**

The City Engineer shall not issue an oversize load permit if any one of the following conditions exists:

- A. If the overweight per axle exceeds the limits provided in Division 15 of the Vehicle Code of the state by 50%;
- B. If the move is determined by the City Engineer to be prohibitive from the standpoint of public safety or contrary to the public interests;
- C. If the applicant has repeatedly violated conditions of previously issued permits, or the applicant has unsettled claims against him or her for damages resulting from past moves;
- D. If the applicant has failed to obtain a permit on the next regularly scheduled working day following interim approval for an emergency move.

(Ord. NS-471 § 1, 1999)

**§ 10.33.070. Permit regulations.**

Any person desiring an oversize load permit shall comply with the following regulations:

- A. The permittee shall have the responsibility to ascertain the adequacy of the route requested for the move. When an over-height load is authorized (over 13 feet, six inches), the permittee shall check all under-passes, bridges, overhead wires and other limiting structures or facilities for adequate clearance. The permittee shall notify the owners of all overhead lines or structures subject to

disturbances or damage by his or her move and shall make arrangements for the temporary removal or relocation of the conflicting facility if required. The permittee shall bear all costs for such relocation where the facility is located in accordance with state and local regulations.

- B. For any move involving a load or vehicle whose vertical height is 18 feet or over, or whose width is 30 feet or more, the permittee shall submit to the agencies whose facilities will be affected by such move the proposed route for approval at least 72 hours in advance of the move. No permit shall be issued until clearances have been received from the power company and telephone company or other agency owning such facility. Permittee shall be responsible for obtaining such clearance prior to permit issuance.
- C. Oversize load permits shall be carried in the vehicle whose movement is authorized by such permit, and shall be available for inspection by any police officer, or any authorized agent of the city. Oversize load permits issued pursuant to this chapter shall be nontransferable.
- D. All moving operations under an oversize load permit shall be in conformance with all general and special conditions set forth by the City Engineer on such permit.
- E. In case of damage to any street or other public street improvement by reason of the moving of any vehicle or load under the oversize load permit, the city shall cause such work to be done as may be necessary to restore the public street improvement to as good a condition as the same was in prior to such damage, and shall charge the cost thereof to the permittee. Such damages as occur may be recovered from the insurance required under Section 10.33.040.
- F. Movement of oversize loads or vehicles shall be prohibited during the hours of darkness (one-half hour after sunset to one-half hour before sunrise), and between the hours of 6:00 a.m. and 9:00 a.m., and 3:30 p.m. and 6:30 p.m., or as stipulated in the permit.
- G. The City Engineer shall have the right to inspect all rollers, trucks, wheels, dollies, tractors or other apparatus proposed to be used in the moving operations. The City Engineer shall be the sole judge as to the adequacy of such equipment, and may require the use of such apparatus as in his or her judgment will not cause injury to streets or pavements. Any permit issued under this chapter shall stipulate that all equipment used in moving operations shall be subject to the approval of the City Engineer.
- H. Temporary "No Parking Tow Away" signs shall be posted 72 hours prior to the move by the permittee as designated on the permit.
- I. The permittee shall comply at all times with the provisions of the Vehicle Code of the state.  
(Ord. NS-471 § 1, 1999)

#### **§ 10.33.080. Exceptions.**

The City Engineer shall not require an oversize load permit if any of the following conditions exists:

- A. Oversized load vehicles shall have ingress or egress by direct route to and from such restricted streets for the purpose of ordinary commerce of making pickups or deliveries of goods, wares and merchandise.
- B. Oversized load vehicles coming from an unrestricted street having ingress or egress by direct route to and from such restricted streets when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure for the purpose of delivering materials to be used in the actual bona fide repair, alteration, remodeling or construction of any

building or structure for which a building permit has previously been obtained, or any vehicle owned by a public utility in use in construction, installation or repair of any public utility.

(Ord. NS-471 § 1, 1999)

#### **§ 10.33.090. Permit fees.**

Permit fees required subject to the following regulations:

- A. The fees for an oversize load permit shall be set by resolution of the City Council upon the recommendation of the City Manager. The fee shall not exceed the fee schedule developed by the California Department of Transportation.
- B. A copy of the fee schedule established by resolution of the City Council shall be placed on file in the office of the City Clerk.
- C. An extension of the effective date or an amendment to the oversize load permit may be made without payment of additional fees, if approved by the City Engineer, and if requested prior to the expiration date of the original permit.
- D. Government agencies, including the State of California and any of its political subdivisions, shall be required to make application for permits as provided under the provisions of this chapter, and if approved, shall be issued a no-fee permit in accordance with the provisions of this chapter. Independent contractors engaged in government contracts shall not be exempt from permit fees.

(Ord. NS-471 § 1, 1999)

#### **§ 10.33.100. Violations.**

Any person or corporation proceeding without a permit or in violation of a permit is guilty of an infraction.  
(Ord. NS-471 § 1, 1999)

#### **§ 10.33.110. Appeal.**

The City Engineer may deny issuance of a permit or revoke or suspend a permit issued to any person who violates any provision of this chapter. Within 10 calendar days after receipt of the decision of City Engineer, any party affected by the decision may file with the City Clerk a written request for a hearing before the City Council. Fees for appeal shall be established by resolution of the City Council. Upon the filing of such a request and payment of fees, the City Clerk shall set the matter for a hearing and shall notify the appellant of the date, time and place of such hearing at least five days before the hearing date. At the hearing, any person may present evidence in opposition to, or in support of, appellant's case.  
(Ord. NS-471 § 1, 1999)

#### **§ 10.33.120. Exclusions from applicability of provisions.**

The requirements of this chapter shall not affect the requirements of any other chapter of this code requiring permits, fees and bonds, including the requirements for moving and relocating structures.

(Ord. NS-471 § 1, 1999)

## CHAPTER 10.34 INTERSTATE TRUCKS

### **§ 10.34.010. 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 meaning 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 Traffic Engineer" means the city Traffic Engineer of the city or an authorized representative.

"Interstate truck" means a truck tractor and semitrailer or truck tractor, semi-trailer 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. 3193 § 1, 1985)

### **§ 10.34.020. 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. 3193 § 1, 1985)

### **§ 10.34.030. 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 city Traffic Engineer and appropriate fees to the City of Carlsbad.
- B. Upon receipt of the application, the city Traffic Engineer will cause an investigation to be made to ascertain whether or not the proposed terminal facility meets the requirements for an interstate truck terminal. Upon the Transportation Director's approval of that designation, the city Traffic Engineer 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 of Carlsbad 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 terminals land use. Costs for trailblazer signs shall be as provided in Section 10.34.040.

(Ord. 3193 § 1, 1985; Ord. CS-164 § 2, 2011)

### **§ 10.34.040. 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 of Carlsbad sufficient funds as estimated by the city Traffic Engineer to pay for the purchase and installation of terminal access signs and trailblazer signs. Trailblazer signs will be required at every decision point in the city en route to the terminal. Upon completion of the installation of the signs, the actual cost shall be computed; 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.

(Ord. 3193 § 1, 1985)

#### **§ 10.34.050. Retrofitting.**

- A. If all feasible routes to a requested terminal are found unsatisfactory by the city Traffic Engineer, 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.
- B. If at any time within five years from the date of completion of the retrofitting by the applicant, should any new applicant seek approval of a terminal which would use the rate upon which such retrofitting was accomplished, the new applicant may be required to pay a fee to the city equal to the proportionate share of the cost of the previously completed retrofitting, as determined by the city Traffic Engineer, which fee shall be disbursed by the City of Carlsbad 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 city Traffic Engineer required by this subsection.

(Ord. 3193 § 1, 1985)

#### **§ 10.34.060. Revocation of route.**

The city Traffic Engineer may revoke any approved terminal or route if the terminal or route becomes a safety 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. 3193 § 1, 1985)

#### **§ 10.34.070. Appeal process.**

- A. If the city Traffic Engineer 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 decision of the city Traffic Engineer, may appeal said decision to the City Council in writing. An appeal shall be made on a form prescribed by the transportation department and shall be filed with the City Clerk. The appeal shall state specifically wherein there was an error or abuse of discretion by the city Traffic Engineer or wherein its decision is not supported by the evidence in the record. Within five days of the filing of an appeal, the city Traffic Engineer shall transmit to the City Clerk the terminal application, the sketches of the revoked route and all other data filed therewith, the report of the city Traffic Engineer, the findings of the city Traffic Engineer and the city Traffic Engineer's decision on the application.
- B. The City Clerk shall make copies of the data provided by the city Traffic Engineer available to the

applicant and to the appellant (if the applicant is not the appellant) for inspection and may give notice to any other interested party who requested notice of the time when the appeal will be considered by the City Council.

- C. If Caltrans and not the city Traffic Engineer 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. 3193 § 1, 1985)

## CHAPTER 10.36 PEDESTRIANS

### **§ 10.36.010. Establishment of crosswalks.**

- A. The city Traffic Engineer shall establish, designate and maintain crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway as follows:

Crosswalks shall be established and maintained where the city Traffic Engineer determines that there is particular hazard to pedestrians crossing the roadway subject to the limitation contained in subsection B of this section.

- B. Other than crosswalks at intersections, no crosswalk shall be established in any block which is less than 400 feet in length, except that the city Traffic Engineer may establish a crosswalk on Grand Avenue between State and Roosevelt Streets. Elsewhere not more than one additional crosswalk shall be established in any one block and such crosswalk shall be located as nearly as practicable at midblock.

(Ord. 3005 § 51)

### **§ 10.36.020. Use of crosswalks.**

No pedestrian shall cross a roadway other than by a crosswalk in any business district.

(Ord. 3005 § 52)

### **§ 10.36.030. Crossing at right angles.**

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

(Ord. 3005 § 53)

### **§ 10.36.040. Standing in roadways.**

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

(Ord. 3005 § 54)

**CHAPTER 10.40  
STOPPING, STANDING AND PARKING**

**Article I  
Generally**

**§ 10.40.005. Application of regulations.**

- A. The provisions of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times specified in this chapter, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.
- B. The provisions of this chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the state Vehicle Code or the ordinances of the city, prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

(Ord. 3005 § 55)

**§ 10.40.010. Parking for 72 or more consecutive hours prohibited—Removal of vehicle.**

- A. No person shall cause or allow any vehicle owned by him or her or in his/her possession, custody or control, to be parked upon any street, alley or publicly owned parking lot for 72 or more consecutive hours.
- B. For the purpose of this section, a vehicle shall be deemed to be left standing when such vehicle has not been moved more than one-tenth of a mile (528 feet) under its own power from its original stopped position.
- C. Any member of the police department may remove any vehicle parked upon any street, alley or publicly owned parking lot for 72 or more consecutive hours and shall, upon such removal, deal with such vehicle as provided in Sections 22650 through 22856 of the Vehicle Code of the state.

(Ord. 3005 § 56; Ord. 3067 § 1; Ord. 3135 § 1, 1981; NS-238 § 1, 1993)

**§ 10.40.015. Prohibited purposes for parking on roadway.**

- A. No person shall stand or park any commercial vehicle on any street for the purpose of loading or unloading any merchandise or goods except in authorized loading zones as provided in Section 10.40.085.
- B. No person shall stand or park any vehicle on any street or public right-of-way when it appears because of a sign or placard on the vehicle that the primary purpose of parking the vehicle at that location is to advertise to the public the private sale of that vehicle.
- C. Any peace officer or regularly employed and salaried employee engaged in directing traffic or enforcing parking laws and regulations of the city may remove a vehicle located within the territorial limits in which the officer or employee may act when the vehicle is found upon a street or public lands if:
  - 1. Because of a sign or placard on the vehicle it appears that the primary purpose of parking the vehicle at that location is to advertise to the public the private sale of that vehicle; and

2. Within the past 30 days the vehicle is known to have been previously issued a notice of parking violation, under subsection B of this section which was accompanied by a notice containing all of the following:
  - a. A warning that an additional parking violation may result in the impoundment of the vehicle,
  - b. A warning that the vehicle may be impounded pursuant to Vehicle Code Section 22651.9, even if moved to another street, so long as the signs or placards offering the vehicle for sale remain on the vehicle,
  - c. A statement that all city streets and public lands are subject to the provisions of Section 10.40.015(B) and (C);
3. The notice of parking violation was issued at least 24 hours prior to the removal of the vehicle;
4. Vehicle Code Section 22852, incorporated herein by reference, applies to the removal of any vehicle pursuant to this section.

(Ord. 3005 § 57; Ord. 3175 § 1, 1984; Ord. NS-358 § 1, 1996; Ord. NS-608 § 1, 2001; Ord. NS-625 § 1, 2002)

#### **§ 10.40.020. Parking parallel with curb.**

- 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 Traffic 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 roadway of a highway having two or more separate roadways and shall erect signs giving notice thereof.

(Ord. 3005 § 58)

#### **§ 10.40.025. Signs or markings indicating angle parking.**

- A. Whenever any ordinance of this city designates and describes any street or portion thereof upon which angle parking shall be permitted, the city Traffic Engineer shall mark or sign such street indicating the angle at which vehicles shall be parked.
- B. When signs or markings are in place indicating angle parking as provided in this section, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.
- C. Angle parking shall be permitted upon those streets and parts of streets described in Section 10.40.080.

(Ord. 3005 § 59)

#### **§ 10.40.030. Parking adjacent to schools.**

- A. The city Traffic 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 indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.
- (Ord. 3005 § 61)

**§ 10.40.035. Parking prohibited on narrow streets.**

- A. The city Traffic 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. 3005 § 62)

**§ 10.40.040. Parking restricted on certain parts of Ocean Street.**

It is unlawful for any person to park his or her vehicle upon the east and south side of Ocean Street between Pacific Avenue and Garfield Street. It is unlawful for any person to park his or her vehicle upon the south side of Ocean Street between Garfield Street and Mountain View Drive.

(Ord. 3056 § 1)

**§ 10.40.041. Parking restricted on certain parts of Carlsbad Boulevard.**

- A. The parking of vehicles is prohibited during all hours of the day and night at the following locations along Carlsbad Boulevard:
  1. The east side between the south city limits and a point 250 feet north of Pine Avenue;
  2. The east side between a point 150 feet south of Carlsbad Village Drive and a point 390 feet north of Cypress Avenue;
  3. The east side between a point 530 feet north of Cypress Avenue and the north city limits;
  4. The west side between the south city limits and a point 160 feet north of Redwood Avenue, except at those locations where parking is permitted between certain hours of the day as provided in subsection B of this section;
  5. The west side between Cherry Avenue and Carlsbad Village Drive;
  6. The west side between Cypress Avenue and Beech Avenue;
  7. The west side between Mountain View Drive and the north city limits.
- B. The parking of vehicles is prohibited between certain hours of the day at the following locations along Carlsbad Boulevard:
  1. On the west side between a point 300 feet north of Tierra Del Oro Street and a point 1,230 feet south of Tamarack Avenue there will be no parking between 11:00 p.m. and 5:00 a.m.;
  2. On the west side between a point 160 feet north of Redwood Avenue to Cherry Avenue there

- will be no parking between 2:00 a.m. and 5:00 a.m.;
3. On the west side between Grand Avenue and Carlsbad Village Drive there will be no parking between 2:00 a.m. and 5:00 a.m.;
  4. On the west side of Carlsbad Boulevard between Shore Drive (south) and a point 345 feet southerly of Manzano Drive there will be no parking between 11:00 p.m. and 5:00 a.m.;
  5. On the easterly side of the southbound lane of Carlsbad Boulevard from Palomar Airport Road to a point 535 feet southerly of Palomar Airport Road there will be no parking between 11:00 p.m. and 5:00 a.m.;
  6. On the westerly side of the southbound lane of Carlsbad Boulevard from a point 77 feet southerly of Avenida Encinas to a point 287 feet southerly of Avenida Encinas there will be no parking between 11:00 p.m. and 5:00 a.m.;
  7. On the westerly side of the southbound lane of Carlsbad Boulevard from a point 613 feet southerly of Avenida Encinas to a point 1,432 feet southerly of Avenida Encinas there will be no parking between 11:00 p.m. and 5:00 a.m.;
  8. On the westerly side of the southbound lane of Carlsbad Boulevard from a point 2,070 feet southerly of Avenida Encinas to a point 2,664 feet southerly of Avenida Encinas there will be no parking between 11:00 p.m. and 5:00 a.m.;
  9. On the easterly side of the northbound lane of Carlsbad Boulevard from a point 100 feet north of Christiansen Way to Beech Avenue there will be no parking between 2:00 a.m. and 5:00 a.m.
- C. Unless otherwise prohibited or restricted, vehicles shall be parked off the paved roadway at the following locations along Carlsbad Boulevard:
1. The west side between a point 940 feet north of the south city limits and a point 1,500 feet north of the south city limits;
  2. The west side between a point 350 feet north of Descanso Boulevard and a point 1,170 feet north of Descanso Boulevard;
  3. The west side between a point 3,125 feet north of Descanso Boulevard and a point 3,860 feet north of Descanso Boulevard;
  4. The east side of the southbound lane between a point 515 feet south of Palomar Airport Road and Palomar Airport Road;
  5. The west side between a point 1,250 feet south of Cerezo Drive and a point 35 feet south of Cerezo Drive;
  6. The west side between a point 140 feet north of Cerezo Drive and Shore Drive (north).
- D. The Carlsbad police department is authorized to remove any such illegally parked vehicles.
- E. These will be two-hour parking between the hours of 5:00 a.m. to 6:00 p.m. on the west side of Carlsbad Boulevard between Carlsbad Village Drive and Grand Avenue.
- F. There will be three-hour parking on the east side of Carlsbad Boulevard from a point 100 feet north of Christiansen Way to Beech Avenue between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

G. Parking of oversized vehicles is prohibited on the west side of Carlsbad Boulevard between Redwood Avenue and Cherry Avenue from Memorial Day to Labor Day.

For the purposes of this section only, "oversized vehicles" shall mean any vehicle that exceeds:

1. Seven feet in height, as measured from the street and including any item affixed to the top of the vehicle; or
2. Twenty-two feet in length, as measured from bumper to bumper and including any trailered attachment; or
3. Seven feet in width. Any extension(s) caused by accessories attached to the side(s) of such a vehicle, not including vehicle mirrors, shall be considered part of the measured width.

(Ord. 3088, 1972; Ord. 3176 § 1, 1984; Ord. NS-401 § 1, 1997; Ord. NS-486 § 1, 1999; Ord. NS-543 § 1, 2000; Ord. NS-712 § 1, 2004; Ord. NS-756 §§ 1-7, 2005; Ord. CS-120 § 1, 2011)

#### **§ 10.40.043. Parking restricted on certain parts of Carlsbad Village Drive.**

A. Parking of vehicles is prohibited during all hours of the day and night on the northerly side of Carlsbad Village Drive:

1. Between Highland Drive and Valley Street;
2. Between Valley Street and Monroe Street.

B. Parking of vehicles is prohibited during all hours of the day and night on the southerly side of Carlsbad Village Drive:

1. Between Highland Drive and Valley Street;
2. Between Valley Street and Monroe Street.

(Ord. 3121 § 1, 1980; Ord. NS-534 § 10, 2000)

#### **§ 10.40.045. Parking restricted on portion of Highland Drive.**

It is unlawful for any person to park his or her vehicle upon the east side of Highland Drive between Arland Road and Forest Avenue.

(Ord. 3063 § 4)

#### **§ 10.40.046. Parking restricted on portion of Avenida Encinas.**

- A. Parking of vehicles is prohibited during all hours of the day and night on the westerly and easterly sides of Avenida Encinas between Palomar Airport Road and Cannon Road.
- B. Parking of vehicles is prohibited between 11:00 p.m. and 5:00 a.m. on the westerly and easterly sides of Avenida Encinas between Palomar Airport Road and Poinsettia Lane.
- C. Parking of vehicles is prohibited between 11:00 p.m. and 5:00 a.m. on the northerly and southerly sides of Macadamia Drive east of the intersection with Avenida Encinas.
- D. Parking of vehicles is prohibited between 11:00 p.m. and 5:00 a.m. on the northerly and southerly sides of Raintree Drive east of the intersection with Avenida Encinas.

(Ord. 3137 § 2, 1981; Ord. CS-398 § 2, 2021)

**§ 10.40.047. Parking restricted on El Camino Real.**

Parking of vehicles is prohibited during all hours of the day and night on both sides of El Camino Real in the city limits.

(Ord. 3139 § 1, 1981; Ord. 3148 § 1, 1982)

**§ 10.40.048. Parking restricted on portion of Paseo del Norte.**

Parking of vehicles is prohibited during all hours of the day and night on the west side of Paseo del Norte between Palomar Airport Road and Caminito Madrigal; and on the east side of Paseo del Norte south of Palomar Airport Road to 2,650 feet south.

(Ord. 3145 § 1, 1982)

**§ 10.40.049. Parking restricted on Hosp Way.**

Parking of vehicles is prohibited during all hours of the day and night on both sides of Hosp Way from El Camino Real to Calle Arroyo and from 550 feet west of Avenida Magnifica to Monroe Street.

(Ord. 3152 § 1, 1982; Ord. CS-229 § 1, 2013)

**§ 10.40.050. Parking on hills.**

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding three percent within any business or residence district without blocking the wheels of the vehicle by turning them against the curb or by other means.

(Ord. 3005 § 63)

**§ 10.40.051. Parking restricted on Monroe Street.**

There shall be no parking on both sides of Monroe Street from Carlsbad Village Drive to Marron Road.  
(Ord. 3151 § 1, 1982; Ord. 3160 § 1, 1983; Ord. NS-534 § 11, 2000)

**§ 10.40.052. Parking restricted on Buena Vista Way.**

Parking of vehicles is prohibited during all hours of the day and night on both sides of Buena Vista Way from 280 feet east of Pio Pico to Highland Avenue.

(Ord. 3155 § 1, 1983)

**§ 10.40.053. Parking restricted on Carlsbad Village Drive.**

Parking of vehicles is prohibited during all hours of the day and night on both sides of Carlsbad Village Drive from Carlsbad Boulevard to its intersection with Pio Pico Drive.

(Ord. 3155 § 1, 1983; Ord. NS-91 § 1, 1989; Ord. NS-534 § 12, 2000)

**§ 10.40.054. Parking restricted on portion of Madison Street.**

Parking of vehicles is prohibited during all hours of the day and night on both sides of Madison Street between Carlsbad Village Drive and Grand Avenue where planter areas protrude into the streets.

(Ord. 3158, 1983; Ord. NS-534 § 13, 2000)

**§ 10.40.055. Parking prohibited at all times where signs are erected.**

The city Traffic Engineer shall appropriately sign or mark the following places and when so signed or

marked no person shall stop, stand or park a vehicle in any such places:

- A. At any place within 20 feet of a point on the curb immediately opposite the mid-block end of a safety zone;
- B. At any place within 25 feet of an intersection in any business district except that a bus may stop at a designated bus stop;
- C. Within 25 feet of the approach to any traffic signal, boulevard, stop sign or official electric flashing device;
- D. At any place where the city Traffic Engineer determines that it is necessary in order to eliminate dangerous traffic hazards.

(Ord. 3005 § 64)

**§ 10.40.056. Parking restricted on portion of Roosevelt Street.**

Parking of vehicles is prohibited during all hours of the day and night on both sides of Roosevelt Street between Carlsbad Village Drive and Grand Avenue where planter areas protrude into the street.

(Ord. 3158, 1983; Ord. NS-534 § 14, 2000)

**§ 10.40.057. Parking restricted on portion of Grand Avenue.**

Parking of vehicles is prohibited during all hours of the day and night on the south side of Grande Avenue at Madison Street and Roosevelt Street where planter areas protrude into the street.

(Ord. 3158, 1983)

**§ 10.40.058. Parking restricted on portion of Alga Road.**

A no parking zone is declared on Alga Road as follows: North side from Mimosa Drive to Melrose Drive; and south side from Mimosa Drive to El Camino Real and from Alicante Road to Melrose Drive.

(Ord. 3180 § 1, 1984)

**§ 10.40.059. Parking restricted on Tamarack Avenue.**

- A. There will no parking on both sides of Tamarack Avenue from Skyline Road to Carlsbad Village Drive.
- B. There will be no parking on the easterly side of Tamarack Avenue from Carlsbad Village Drive to Wilshire Avenue and no parking on the westerly side of Tamarack Avenue from Carlsbad Village Drive to a point 170 feet southerly of Wilshire Avenue.

(Ord. 3182 § 1, 1985; Ord. NS-50 § 1, 1988; Ord. NS-534 § 15, 2000)

**§ 10.40.060. Parking restricted on Palisades Drive.**

There will be no parking on the easterly side of Palisades Drive from Tamarack Avenue to a point 60 feet north of the most northerly intersection of Driftwood Circle.

(Ord. 3207 § 1, 1986)

**§ 10.40.061. Parking restricted on Carlsbad Boulevard.**

There will be no parking on the easterly side of Carlsbad Boulevard from Palomar Airport Road to the

southerly city limit near La Costa Avenue.

(Ord. 3214 § 1, 1987)

**§ 10.40.062. Parking time limit on Marjorie Lane.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Marjorie Lane, Monday through Friday between the hours of 7:00 a.m. and 4:00 p.m.

(Ord. 3215 § 1, 1987; Ord. NS-13 § 1, 1988)

**§ 10.40.063. Parking time restricted in alley located west of State Street.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on the easterly side of the alley located west of State Street from Christiansen Way (Cedar Street) to a point 1,270 feet northerly and no person shall stop, stand or park any vehicle on the westerly side of said alley within designated limits between the hours of 10:00 p.m. and 6:00 a.m., seven days a week.

(Ord. 3219 § 1, 1987)

**§ 10.40.064. Parking restricted on Middleton Drive.**

There will be no parking on the northerly and easterly sides of Middleton Drive from Glasgow Drive to Woodstock Street.

(Ord. 3224 § 1, 1988)

**§ 10.40.065. Emergency parking signs.**

- A. Whenever the city Traffic 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 city Traffic Engineer shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the city Traffic Engineer shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency and the city Traffic Engineer shall cause such signs to be removed promptly thereafter.
- B. When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs.

(Ord. 3005 § 66)

**§ 10.40.066. Parking restricted on Woodstock Street.**

There will be no parking on the northerly and easterly sides of Woodstock Street from Glasgow Drive to Lancaster Road.

(Ord. 3223 § 1, 1988)

**§ 10.40.067. Parking restricted on Avenida Encinas.**

There will be no parking on the easterly and westerly sides of Avenida Encinas from Poinsettia Lane to Windrose Circle.

(Ord. NS-40 § 1, 1988)

**§ 10.40.068. Parking restricted on Marron Road.**

There will be no parking on the northerly and southerly sides of Marron Road from Jefferson Street to Avenida de Anita.

(Ord. NS-41 § 1, 1988)

**§ 10.40.069. Parking restricted on Poinsettia Lane.**

There will be no parking on both sides of Poinsettia Lane from Carlsbad Boulevard to a point 440 feet easterly of Snapdragon Drive.

(Ord. NS-64 § 1, 1989)

**§ 10.40.070. Parking restricted on Cannon Road.**

There will be no parking on the southerly side of Cannon Road from Carlsbad Boulevard to Car Country Drive and no parking on the northerly side of Cannon Road from El Arbol Drive to Car Country Drive.

(Ord. NS-65 § 1, 1989)

**§ 10.40.071. Parking restricted on Manzano Drive.**

There will be no parking on both sides of Manzano Drive from Carlsbad Boulevard to El Arbol Drive.

(Ord. NS-79 § 1, 1989)

**§ 10.40.072. Parking restricted on Paseo Del Norte.**

- A. There will be no parking on both sides of Paseo del Norte between the hours of midnight and 6:00 a.m., seven days a week, from Cannon Road to its intersection with Car Country Drive.
- B. There will be no parking on both sides of Paseo del Norte from Poinsettia Lane southerly to the Sea Cliff entrance gate.
- C. There will be no parking on both sides of Paseo Del Norte between midnight and 5:00 a.m., seven days a week, from Poinsettia Lane to Camino de las Ondas.

(Ord. NS-88 § 1, 1989; Ord. NS-270 § 1, 1994; Ord. NS-724 § 1, 2004; Ord. CS-386 § 3, 2020)

**§ 10.40.073. Parking restricted on Car Country Drive.**

There will be no parking on both sides of Car Country Drive between the hours of midnight and 6:00 a.m., seven days a week, from Cannon Road to its intersection with Paseo Del Norte.

(Ord. NS-89, 1989; Ord. NS-231, 1993; Ord. CS-386 § 4, 2020)

**§ 10.40.074. Parking restricted on Pontiac Drive.**

There will be no parking on the easterly side of Pontiac Drive from Tamarack Avenue to Victoria Avenue and on the westerly side of Pontiac Drive from Tamarack Avenue to a point 140 feet south of the southerly boundary of the right-of-way of Victoria Avenue.

(Ord. NS-90 § 1, 1989)

**§ 10.40.075. Commercial vehicles in residential district.**

- A. No person shall stop, park or leave standing any commercial vehicle having a manufacturer's gross vehicle weight rating of 10,000 pounds or more on a street in any residential district whether attended

or unattended except:

1. While making pickups or deliveries of goods, wares and merchandise from or to any building or structure located within any residential district; or
2. While delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building within 200 feet of the parked vehicle when a permit has previously been obtained; or
3. When such vehicle is parked in connection with, and in aid of, the performance of a service to or on a property on the block in which such vehicle is parked, so long as the commercial vehicle's presence is required to provide the service; or
4. Buses when loading or unloading passengers at established zones.

B. For the purpose of this section:

1. A "commercial vehicle" is a motor vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property.
2. Passenger vehicles which are not used for the transportation of persons for hire, compensation or profit and housecars are not commercial vehicles. This subdivision shall not apply to California Vehicle Code Chapter 4 (commencing with Section 6700) of Division 3.
3. Any vanpool vehicle is not a commercial vehicle.
4. The term "residential district" shall be defined as any property or portion thereof zoned R-A (residential agricultural zone), R-E (rural residential estate zone), R-1 (one-family residential zone), R-2 (two-family residential zone), R-3 (multiple-family residential zone), R-T (residential tourist zone), R-W (residential waterway zone), P-C (planned community zone), or RD-M (residential density multiple zone) as defined in Title 21 of this code.

(Ord. 3037 § 1; Ord. NS-650 § 1, 2002)

**§ 10.40.076. Parking restricted in the parking lot at the Monroe Street Pool.**

- A. Parking will be restricted to current users of the Monroe Street Pool between the hours of 5:00 a.m. and 11:00 p.m. for all parking spaces located between the north entry and the south exit of the Monroe Street Pool parking lot. Vehicles must be registered at the pool office with name of driver, license plate number, and time of arrival.
- B. There will be 90-minute parking 24 hours per day, seven days per week for all the parking spaces located immediately south of and adjacent to the swimming pool at the Carlsbad Community Swim Complex.

(Ord. NS-92 § 1, 1989; Ord. NS-304 § 1, 1995; Ord. NS-417 § 1, 1997; Ord. NS-461 § 1, 1998; Ord. CS-104 § 1, 2010)

**§ 10.40.077. Parking restricted on Calle Barcelona.**

There will be no parking on both sides of Calle Barcelona from Rancho Santa Fe Road to Calle San Felipe.  
(Ord. NS-96 § 1, 1989)

**§ 10.40.078. Parking restricted in the front parking lot west of the Carlsbad Safety Center.**

There will be two-hour parking, Monday through Friday, from 7:00 a.m. to 5:00 p.m. for the eight parking spaces in the front parking lot located westerly of the Carlsbad Safety Center.  
(Ord. NS-112 § 1, 1990)

**§ 10.40.079. One-hour parking on Ocean Street.**

There will be one-hour parking for the five parking spaces on each side of Ocean Street at its southern terminus adjacent to the Sculpture Park, excluding handicap spaces.  
(Ord. NS-191 § 1, 1992)

**§ 10.40.080. Angle parking.**

In accordance with Section 10.40.025, and when signs or markings are in place giving notice thereof, drivers of vehicles may stand or park a vehicle only as indicated by such marks or signs on the following street or portions thereof:

- A. On both sides of State Street commencing at the intersection of State Street and Grand Avenue and extending northward 325 feet;
  - B. On both sides of State Street between the intersection of Carlsbad Village Drive and Grand Avenue;
  - C. Repealed by Ord. 3157 § 1;
  - D. On the south side of Grand Avenue from 150 feet west of Roosevelt Street to Harding Street;
  - E. On the north side of Grand Avenue from Jefferson Street to Hope Avenue;
  - F. On both sides of Grand Avenue from Ocean Street to Carlsbad Boulevard;
  - G. On the north side of Beech Avenue from Carlsbad Boulevard to Washington Street.
- (Ord. 3005 § 84; Ord. 3012 § 1; Ord. 3063 §§ 2, 3; Ord. 3126 § 1, 1981; Ord. 3157 § 1, 1983; Ord. NS-119 § 1, 1990; Ord. NS-534 § 16, 2000; Ord. CS-029 § 1, 2009; Ord. CS-331 § 2, 2018)

**§ 10.40.081. Parking restricted on Camino Vida Roble.**

There will be no parking on both sides of Camino Vida Roble from El Camino Real to Palomar Oaks Way, except for the easterly side of Camino Vida Roble from Palomar Airport Road to a point 100 feet south of Owens Avenue.

(Ord. NS-190 § 1, 1992; Ord. NS-217 § 1, 1992)

**§ 10.40.082. Parking time limit on Oak Avenue.**

There will be three-hour parking on each side of Oak Avenue from the railroad parking lot easterly to Roosevelt Street between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.  
(Ord. NS-265 § 1, 1993; Ord. NS-525 § 1, 2000)

**§ 10.40.083. Parking time limit on Bayshore Drive.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Bayshore Drive between the hours of 11:00 p.m. and 5:00 a.m., seven days a week.  
(Ord. NS-285 § 1, 1994)

**§ 10.40.084. Parking time limit on Christiansen Way.**

- A. There will be three-hour parking on each side of Christiansen Way from State Street westerly to the alley between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.
- B. There will be three-hour parking on the north side of Christiansen Way from a point 96 feet east of Carlsbad Boulevard to Washington Street between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-316 § 1, 1995; Ord. NS-525 § 2, 2000; Ord. NS-712 § 2, 2004)

**Article II**  
**Stopping for Loading or Unloading**

**§ 10.40.085. Authority to establish loading zones.**

- A. The city Traffic Engineer is authorized to determine and to mark loading zones and passenger loading zones as follows:
  1. At any place in any business district;
  2. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.
- B. In no event shall more than one-half of the total curb length in any block be reserved for loading zone purposes.
- C. Loading zones shall be indicated by a yellow paint line stenciled with black letters, "LOADING ONLY," upon the top of all curbs within such zones.
- D. Passenger loading zones shall be indicated by a white line stenciled with black letters, "PASSENGER LOADING ONLY," upon the top of all curbs within such zones.

(Ord. 3005 § 68)

**§ 10.40.090. Curb markings.**

- A. The city Traffic Engineer is authorized, subject to the provisions and limitations of this chapter to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and such curb markings shall have the meanings as set forth in this section:
  1. Red means no stopping, standing or parking at any time except as permitted by the state Vehicle Code, and except that a bus may stop in a red zone marked or signed as a bus zone;
  2. Yellow means no stopping, standing or parking at any time between 7:00 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 materials; provided, that the loading or unloading of passengers shall not consume more than three minutes nor the loading or unloading of materials more than 20 minutes;
  3. White means no stopping, standing or parking for any purpose other than loading or unloading of passengers which shall not exceed three minutes and such restrictions shall apply between 7:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays, and except as follows:
    - a. When such zone is in front of a hotel the restrictions shall apply at all times;
    - b. When such zone is in front of a theater the restrictions shall apply at all times except when such theater is closed;
  4. Green means no standing or parking for longer than 20 minutes at any time between 7:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays.
- B. When the city Traffic Engineer as authorized under this chapter has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this section.

(Ord. 3005 § 69)

**§ 10.40.095. Permit for loading or unloading at angle to curb.**

The city Traffic Engineer is authorized to issue special permits to allow the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein, and it is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

(Ord. 3005 § 60)

**§ 10.40.100. Effect of permission to load or unload.**

- A. Permission granted in this chapter to stop or stand a vehicle for purposes of loading or unloading of materials shall apply only to commercial vehicles and shall not extend beyond the time necessary therefor, and in no event for more than 20 minutes.
- B. The loading or unloading of materials shall apply only to commercial deliveries, also the delivery or pickup of express and parcel post packages and United States mail.
- 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 above specified the provisions of this section shall be enforced so as to accommodate necessary and reasonable loading or unloading but without permitting abuse of the privileges granted in this chapter.

(Ord. 3005 § 70)

**§ 10.40.105. 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 material for such time as is permitted in Section 10.40.100.

(Ord. 3005 § 71)

**§ 10.40.110. Standing in passenger loading zone.**

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in Section 10.40.100.

(Ord. 3005 § 72)

**§ 10.40.115. 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 materials in any alley.

(Ord. 3005 § 73)

**§ 10.40.120. Bus zones.**

- A. The city Traffic Engineer is authorized to establish bus zones opposite curb space for the loading and unloading of buses of common carriers of passengers and to determine the location thereof subject to the directives and limitations set forth in this chapter.

- B. The word "bus" as used in this section means any motorbus, motor coach, trackless trolley coach or passenger stage used as a common carrier of passengers.
- C. No bus zone shall exceed 80 feet in length, except that when satisfactory evidence has been presented to the city Traffic Engineer showing the necessity therefor, the city Traffic Engineer may extend bus zones not to exceed a total length of 125 feet.
- D. Bus zones shall normally be established on the far side of an intersection.
- E. No bus zone shall be established opposite and to the right of a safety zone.
- F. The city Traffic Engineer shall paint a red line stenciled with white letters "NO STANDING," together with the words "BUS ZONE" upon the top or side of all curbs and places specified as a bus zone.
- G. No person shall stop, stand or park any vehicle except a bus in a bus zone.
- H. No person shall park a vehicle at any time upon the easterly side of Carlsbad Boulevard between the intersection of Carlsbad Village Drive and Carlsbad Boulevard to a point 60 feet south of Carlsbad Village Drive. This area shall be designated as "bus stop" and shall be used only for the loading and unloading of bus passengers.

(Ord. 3005 § 74; Ord. 3041 § 3; Ord. NS-534 § 17, 2000)

## Article III Restricted or Prohibited Parking

### **§ 10.40.125. Parking time limited in business districts.**

When authorized signs are in place giving notice thereof no person shall stop, stand or park any vehicle within a business district between the hours of 7:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays, for a period of time longer than two hours.

No person shall stop, stand or park any vehicle for a period of time longer than two hours on both sides of Carlsbad Village Drive from the railroad crossing west to Carlsbad Boulevard; and from a point 60 feet south of Carlsbad Village Drive on the easterly side of Carlsbad Boulevard to the intersection of Carlsbad Boulevard and Lincoln Street, and 30 feet south on the easterly side of Lincoln Street.

(Ord. 3005 § 75; Ord. 3041 § 4; Ord. NS-534 § 18, 2000)

### **§ 10.40.126. Parking time limited in business district.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle within a business district between the hours of 7:00 a.m. and 6:00 p.m. of any day, for a period of time longer than two hours.

No person shall stop, stand or park any vehicle for a period of time longer than two hours on the westerly side of Carlsbad Boulevard between Grand Avenue and Carlsbad Village Drive.

(Ord. 3212 § 1, 1987; Ord. NS-534 § 19, 2000)

### **§ 10.40.127. Parking time limit on Ponto Drive (south).**

- A. There will be no parking on the west side of Ponto Drive from Avenida Encinas to its intersection with Carlsbad Boulevard.
- B. When authorized signs are in place giving notice thereof, no person shall stop, stand, or park any vehicle on Ponto Drive (south) from a point 266 feet south of Avenida Encinas and continuing northerly to its intersection with Carlsbad Boulevard between the hours of 11:00 p.m. and 5:00 a.m., seven days a week.

(Ord. NS-431 § 1, 1997; Ord. NS-539 § 1, 2000)

### **§ 10.40.128. Parking restricted on Cassia Road.**

There will be no parking on each side of Cassia Road from Poinsettia Lane to its intersection with El Camino Real.

(Ord. NS-672 § 1, 2003; Ord. NS-831 § 1, 2007)

### **§ 10.40.129. Parking restricted on Afton Way.**

There will be no parking on each side of Afton Way from Celinda Drive to its westerly terminus.

(Ord. NS-884 § 1, 2008)

### **§ 10.40.130. Overnight parking.**

It is unlawful for any person to park or leave parked any automobile or other vehicle between the hours of 3:00 a.m. to 5:00 a.m. on the hereinafter described streets:

- A. On State Street between Oak Avenue and Laguna Drive;
- B. On Roosevelt Street between Oak Avenue and Grand Avenue;
- C. On Carlsbad Boulevard between Grand Avenue and Carlsbad Village Drive;
- D. On Grand Avenue between Roosevelt Street and Carlsbad Boulevard;
- E. On Carlsbad Village Drive between U.S. Freeway 101 and Carlsbad Boulevard.

The traffic safety engineer and the maintenance director are instructed to erect signs giving notice of the provisions of this section.

(Ord. 3018 § 1; Ord. 1261 § 12, 1983; Ord. NS-534 § 20, 2000)

#### **§ 10.40.131. Parking restricted on Camino de los Coches.**

There will be no parking on the southerly side of Camino de los Coches from Rancho Santa Fe Road to its intersection with Maverick Way.

(Ord. NS-895 § 1, 2008)

#### **§ 10.40.135. Parking prohibited at all times on certain streets.**

When signs are erected giving notice thereof no person shall park a vehicle at any time upon the following streets:

- A. On both sides of Garfield Street from the intersection of Garfield Street with Olive Avenue to the southerly terminus of Garfield Street;
- B. On both sides of Harrison Street from the intersection of Chinquapin Avenue with Harrison Street to the intersection of Adams Street with Harrison Street.

(Ord. 3005 § 76; Ord. 3030 § 1; Ord. 3041 § 5)

#### **§ 10.40.140. Parking prohibited on certain streets on Saturdays, Sundays and holidays.**

When signs are erected giving notice thereof, it is unlawful for any person to park or leave parked any automobile or other vehicle on Saturdays, Sundays and holidays on the hereinafter described streets:

On both sides of Adams Street from the intersection of Adams Street with the Northwesterly Lot 6, Block "D" of Bella Vista Tract, easterly to the intersection of Adams Street with the center line of Lot 9, Block "D," Bella Vista Tract.

(Ord. 3019 § 1)

#### **§ 10.40.145. Parking space markings.**

The city Traffic Engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs where authorized parking is permitted, and to indicate those locations wherein the parking of vehicles beyond the marked parking space is prohibited.

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

Where signs or markings are installed to indicate that stopping, standing and/or parking vehicles beyond the marked parking space is prohibited or restricted, no vehicle shall be stopped, left standing and/or parked contrary to such prohibition or restriction or within an area designated as prohibited or restricted.  
(Ord. 3005 § 77; Ord. CS-328 § 2, 2017)

**§ 10.40.150. Parking restricted at certain times to facilitate street sweeping.**

- A. It is unlawful to park or leave parked any vehicle on any street or portion thereof during the hours and on the day or days of the month indicated on signs containing the words "NO PARKING," which signs have been placed in appropriate locations designating the parking restriction pursuant to the provisions of this section.
- B. When such markings or signs are in place, no person shall stop, stand or park a vehicle upon any street or highway in violation of the restrictions contained on said sign or markings.
- C. The city Traffic Engineer is authorized to determine the locations of and to place and maintain, or cause to be placed and maintained, signs designating the hours during which, and day or days of the month on which, parking is prohibited in order to sweep city streets. In the event temporary signs are employed to prohibit parking on any street or highway or portion thereof pursuant to the foregoing, no vehicle parked in violation of the directions set forth on the temporary signs shall be removed unless such signs have been erected or placed on the street or portion thereof at least 72 hours prior to such removal.
- D. Section 10.40.150(A) shall not apply to the parking or standing of commercial vehicles in a residential district making pickups or deliveries of goods, wares or merchandise from or to any building or structure located on the restricted street or highway, or for the purpose of delivering materials to be used in the repair, alteration, remodeling or reconstruction of any building or structure for which a building permit has previously been obtained.

(Ord. NS-213 § 1, 1992)

**§ 10.40.151. Parking prohibited of unattached trailers or semi-trailers.**

No person shall park an unattached trailer or semi-trailer upon any street or public place except for the purpose of loading or unloading.

(Ord. NS-261 § 1, 1993)

**§ 10.40.155. Parking time limit on Beech Avenue.**

There will be three-hour parking on each side of Beech Avenue from Roosevelt Street to State Street between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 3, 2000)

**§ 10.40.156. Parking time limit on Grand Avenue.**

There will be three-hour parking on each side of Grand Avenue from Carlsbad Boulevard to the alley located between Madison Street and Jefferson Street between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 4, 2000)

**§ 10.40.157. Parking time limit on Washington Street.**

- A. There will be three-hour parking on the west side of Washington Street from Grand Avenue to Beech

Avenue between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

- B. There will be three-hour parking on the east side of Washington Street from Carlsbad Village Drive to Grand Avenue between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.  
(Ord. NS-525 § 5, 2000)

**§ 10.40.158. Parking time limit on State Street.**

There will be three-hour parking on each side of State Street from Oak Avenue to Carlsbad Boulevard between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 6, 2000; Ord. NS-584 § 1, 2001)

**§ 10.40.159. Parking time limit on Roosevelt Street.**

A. There will be three-hour parking on the west side of Roosevelt Street from Oak Avenue to Carlsbad Village Drive between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

B. There will be three-hour parking on each side of Roosevelt Street from Carlsbad Village Drive to Beech Avenue between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 7, 2000)

**§ 10.40.160. Parking time limit on Madison Street.**

There will be three-hour parking on the west side of Madison Street from Grand Avenue to a point 50 feet north of Arbuckle Place between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 8, 2000)

**§ 10.40.161. Parking time limit on Beech Avenue.**

There will be three-hour parking on each side of Beech Avenue from State Street to Roosevelt Street between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 9, 2000)

**§ 10.40.162. Parking time limit for parking lots at the Village Old Depot building.**

There will be three-hour parking in the parking lots adjacent to the railroad tracks located between Carlsbad Village Drive and Grand Avenue both north and south of the Village Old Depot building between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 10, 2000)

**§ 10.40.163. Parking time limit for the parking lot located on the corner of Grand Avenue and State Street.**

There will be three-hour parking in the parking lot located on the northwest corner of Grand Avenue and State Street between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.

(Ord. NS-525 § 11, 2000)

**§ 10.40.164. Parking time limit on the access drive between Carlsbad Village Drive and Grand Avenue.**

There will be three-hour parking on the west side of the access drive located easterly of the Village Old Depot building between Carlsbad Village Drive and Grand Avenue between the hours of 7:00 a.m. and

6:00 p.m. except for Sundays and holidays.  
(Ord. NS-525 § 12, 2000)

**§ 10.40.165. Parking time limit in the four parking spaces on the east side of the alley north of Christiansen Way.**

There will be three-hour parking in the four parking spaces located on the east side of the alley north of Christiansen Way between the hours of 7:00 a.m. and 6:00 p.m. except for Sundays and holidays.  
(Ord. NS-525 § 13, 2000)

**§ 10.40.166. Parking time limit on a portion of Celinda Drive.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Celinda Drive from Carlsbad Village Drive to the south property line of 3481 Celinda Drive and 3482 Celinda Drive, seven days a week between the hours of midnight and 5:00 a.m.  
(Ord. NS-886 § 1, 2008)

**§ 10.40.167. Parking time limit on Kimberly Court.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Kimberly Court, seven days a week between the hours of midnight and 5:00 a.m.  
(Ord. NS-886 § 2, 2008)

**§ 10.40.168. Parking time limit on Shawn Court.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Shawn Court, seven days a week between the hours of midnight and 5:00 a.m.  
(Ord. NS-886 § 3, 2008)

**§ 10.40.169. Parking time limit on Dana Court.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Dana Court, seven days a week between the hours of midnight and 5:00 a.m.  
(Ord. NS-886 § 4, 2008)

**§ 10.40.170. Parking time limit on Paseo Descanso from Carrillo Way to Paseo Cerro.**

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on Paseo Descanso from Carrillo Way to Paseo Cerro, seven days a week, between the hours of 2:00 a.m. and 5:00 a.m.  
(Ord. CS-048 § 1, 2009)

**§ 10.40.171. Parking restricted on Van Allen Way.**

There will be no parking on each side of Van Allen Way from Faraday Avenue to its northerly terminus.  
(CS-118, 2011)

**§ 10.40.180. Parking of oversized vehicles.**

A. Definitions. For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Loading and unloading" shall mean actively moving items to or from an oversized vehicle including the activities required to prepare the vehicle for travel or storage.

"Out-of-town visitor" shall mean any person who does not reside in the City of Carlsbad, who is temporarily visiting as a guest of a resident of the city, and who has applied for and obtained an oversized vehicle overnight parking permit.

"Oversized vehicle" shall mean any motorized vehicle as defined of Section 670 of the Vehicle Code or combination of motorized vehicles and/or non-motorized vehicles or trailers that meets or exceeds 22 feet in length at any time or a combination of the two following criteria, exclusive of fixtures, accessories or property: seven feet in height and seven feet in width.

- a. To determine the height, width or length of the vehicles defined in this section, any extension to the vehicle caused by mirrors, air conditioners, or similar attachments as allowed by Section 35109, 35110 or 35111 of the Vehicle Code as may be amended shall not be included.
- b. Oversized vehicle does not include pickup trucks, vans, or sport utility vehicles, which are less than 25 feet in length and eight feet in height.

"Resident" shall mean a person who customarily resides and maintains a place of abode or who owns land within the City of Carlsbad. It shall not mean a person who maintains an address at a post office box, mailbox drop, or who rents a room without it being the primary place of abode.

- B. Overnight Parking Prohibition. No person shall stop, stand, park or leave standing any oversized vehicle on any public highway, street or city parking lot at any time between the hours of 2:00 a.m. and 5:00 a.m. unless otherwise authorized by this article.
- C. Utility Connections Prohibited. No person shall permit, cause or allow any electrical, water, gas, telephone or other utility connection (such as electrical cords, extension cords, hoses, cables, or other items) to encroach into any public right-of-way including across or above any street or sidewalk from a residential or commercial property to an oversized vehicle or trailer parked on a public highway, street or city parking lot.
- D. Overnight Parking Exceptions to Prohibitions. The provisions of Section 10.40.180(B) shall not apply to any of the following:
  1. Oversized vehicles owned by a resident or out-of-town visitor displaying a permit for overnight parking issued by the City Manager or designee in accordance with this article. The issuance of a permit shall not allow any other activity otherwise prohibited by law.
  2. Oversized vehicles displaying a permit issued by the City Manager to a hotel as defined in Carlsbad Municipal Code Section 21.04.185 or a motel as defined in Carlsbad Municipal Code Section 21.04.273 for the exclusive use of its registered guests.
  3. Oversized vehicles involved in an emergency or being repaired under emergency conditions. Emergency parking may be allowed for 24 consecutive hours where an oversized vehicle is left standing at the roadside because of mechanical breakdown or because of the driver's physical incapacity to proceed.
  4. Oversized vehicles belonging to federal, state or local authorities or public utilities that are temporarily parked while the operator of the oversized vehicle is conducting official business.
  5. Oversized vehicles actively engaged in the loading and unloading and deliveries of person,

merchandise, wares, supplies, goods or other materials in the course of construction or other work from or to any adjacent building or structure.

6. As part of a proclamation of a local emergency issued pursuant to Chapter 6.04, the Director of Emergency Services may suspend any provision of this section applicable to the parking of oversized vehicles. The suspension shall expire upon the termination of the local state of emergency unless an earlier time for expiration is provided in the proclamation of local emergency.
- E. Overnight Parking Permit Conditions. Any resident may obtain an oversized vehicle overnight parking permit to park an oversized vehicle registered to them adjacent to his or her residence. Any resident may obtain an oversized vehicle overnight parking permit to park an oversized vehicle belonging to an out-of-town visitor.

The City Manager or designee may issue a permit for overnight parking of an oversized vehicle to any resident or out-of-town visitor subject to the following provisions:

1. The oversized vehicle shall be owned, leased, rented by, or registered to, a resident or out-of-town visitor.
2. The oversized vehicle shall park at the street curb immediately adjacent to the residence, or within 400 feet of that person's residence if this area is not available for parking due to curb configuration or codified parking restrictions.
3. The oversized vehicle overnight parking permit shall be prominently displayed in the lower driver's side of the windshield or the nearest window of the vehicle. The permit shall be clearly visible from the exterior of the oversized vehicle and shall not cover the vehicle identification number. Trailers shall display the permit on the side of the trailer so that the permit is visible from the street.
4. The oversized vehicle shall not be used for camping, lodging, residing or for accommodation purposes. Nothing in this section shall be construed to permit sleeping or camping in a vehicle as prohibited by the Carlsbad Municipal Code.
5. All oversized vehicle permit holders shall comply with the City of Carlsbad street sweeping parking regulations pursuant to Carlsbad Municipal Code Section 10.40.150.
6. The City Manager or designee may deny or revoke an oversized vehicle overnight parking permit if, upon a review of the location where the oversized vehicle will be parked, the City Manager or designee determines that it would create a traffic hazard or otherwise would adversely affect public safety, traffic flow or access.

F. Overnight Parking Permit Duration.

1. Each resident oversized vehicle overnight parking permit shall be valid for one year. A resident oversized vehicle permit allows a resident to park an oversized vehicle for four periods of up to 72 consecutive hours per calendar month. The oversized vehicle must be absent from the location authorized by subsection (E)(2) of this section for a minimum of 24 consecutive hours to be lawfully parked overnight at the location again.
2. Each oversized vehicle overnight parking permit issued to an out-of-town visitor shall be valid for a maximum of 72 hours.

3. No more than six out-of-town visitor permits shall be issued to a resident in a calendar year.
- G. Fraudulent Permit Penalty. Every person who displays a fraudulent, forged, altered or counterfeit oversized vehicle parking permit or permit number is guilty of a misdemeanor.
- H. Overnight Parking Permit Denial. The city may deny the issuance of an oversized vehicle overnight parking permit for up to one year if the City Manager or designee finds that any of the following conditions exist:
1. The applicant or the person the applicant is visiting is not a bona fide resident.
  2. The resident or out-of-town visitor guests of a resident have been issued two or more citations in the same calendar year for either exceeding the allotted 72-hour permit time and/or parking greater than 400 feet from the designated residence or land owned address.
  3. The out-of-town visitor is not a guest of the resident applicant.
  4. An owner of an oversized vehicle has procured any oversized vehicle parking permit through fraud or misrepresentation, for example, the information submitted by the applicant is materially false.
  5. The hotel or motel establishment is issuing oversized vehicle permits to non-paying guests of the commercial establishment and/or the guests are camping in the vehicle rather than residing in the commercial establishment.

(Ord. CS-204 § I, 2013)

#### **§ 10.40.190. Electric vehicle charging stations in public parking areas.**

- A. Definitions. For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Actively charging" means the time during which the connector from the charger at a charging station is inserted into the inlet and electrical power is being transferred for the purpose of recharging the electric vehicle's onboard batteries.

"Battery electric vehicle" means a vehicle fueled entirely by electricity stored in the onboard battery. This type of vehicle is often referred to as a zero emission vehicle.

"Charger" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries or other energy storage devices within electric vehicles.

"Connected" means the connector of an electric vehicle charging station is inserted into the inlet for an electric vehicle.

"Connector" means a device inserted into the inlet for an electric vehicle that establishes an electrical connection from the charger to the electric vehicle for the purpose of charging and exchanging information.

"Electric vehicle" means either a battery electric vehicle or a plug-in hybrid electric vehicle.

"Electric vehicle charging equipment" means fueling equipment which provides electric energy for the purpose of charging electric vehicles.

"Electric vehicle charging station" means a parking stall or space designated by the city Traffic Engineer or designee in accordance with State Vehicle Code Section 22511 for the exclusive purpose of charging an electric vehicle located on a public street or a publicly owned or operated off-street

parking facility.

"Inlet" means the device on the electric vehicle into which the connector is inserted for charging and information exchange.

"Off-street parking facility" means any publicly or privately owned off-street parking facility held open for use by the public for parking vehicles where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

"Park or parking" has the same meaning as defined in State Vehicle Code Section 463, as it may be amended from time to time.

"Plug-in hybrid electric vehicle" means a vehicle that is fueled by both a battery and another fuel source, such as a gasoline-powered internal combustion engine. Plug-in hybrid electric vehicles run on electricity from the onboard battery until the battery is exhausted and then switches to an alternate power source.

"Storage garage" has the same meaning as "garage" as defined in State Vehicle Code Section 340, as it may be amended from time to time.

"Vehicle enforcement official" means a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the State Penal Code, as it may be amended from time to time, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of the City of Carlsbad.

"Vehicle owner" means the vehicle's registered and legal owners of record, or their agents.

B. Restrictions.

1. It is unlawful to park or leave standing any vehicle in an electric vehicle charging station, unless the vehicle is an electric vehicle that is actively charging as indicated by the electric vehicle charging station monitor display, or unless the connected electric vehicle has not exceeded any applicable parking time limit, whichever duration is greater.
2. It is unlawful to obstruct, block or otherwise bar access to an electric vehicle charging station, unless as otherwise authorized by subsection (B)(1) above.

C. Vehicle Removal and Storage.

1. Removal. Subject to the signage requirements set forth in State Vehicle Code Section 22511, a vehicle enforcement official may remove, or cause to be removed, any vehicle found in violation of this section. The Carlsbad Police Department must be notified in the event of any such vehicle removal.
2. Storage. Any unauthorized vehicle shall be removed to the nearest storage garage.
3. Post-storage notice and hearing.
  - a. Whenever a vehicle enforcement official directs the storage of an unauthorized vehicle as permitted by this section, the vehicle enforcement official shall provide the vehicle owner(s) with the opportunity for a post-storage hearing.
  - b. A notice of the storage shall be mailed or personally delivered to the vehicle owner(s) within 48 hours, excluding weekends and holidays, and shall include all of the following information:

- i. The name, address, and telephone number of the vehicle enforcement official's agency providing the notice.
  - ii. The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
  - iii. The authority and purpose for the removal of the vehicle.
  - iv. A statement that, in order to receive their post-storage hearing, the vehicle owner(s) shall request an administrative hearing within 10 days of the date appearing on the notice using a request for hearing form (available on the city's website) and returning it to the office of the City Clerk.
- c. The post-storage hearing shall be conducted within 48 hours of the request, excluding weekends and holidays.
  - d. The post-storage hearing shall be conducted by an administrative hearing officer in accordance with the following provisions:
    - i. The failure of a vehicle owner(s) to appear at the hearing shall constitute a failure to exhaust their administrative remedies.
    - ii. The failure of a vehicle owner(s) to file an appeal shall constitute a waiver of any rights to an administrative determination of the merits of the vehicle storage notice and the amount of any administrative costs and fees.
    - iii. At the hearing, the vehicle owner(s) shall be given the opportunity to testify and to present evidence concerning the vehicle storage notice.
    - iv. The vehicle storage notice and any additional report submitted by the vehicle enforcement officer shall constitute *prima facie* evidence of the respective facts contained in those documents.
    - v. The administrative hearing officer may continue the hearing and request additional information from the vehicle enforcement officer or the vehicle owner(s) prior to issuing a written decision.
    - vi. After considering all of the testimony and evidence submitted at the hearing, the administrative hearing officer shall issue a written decision that lists his/her reasons for upholding or canceling the vehicle storage notice. A written copy of the administrative hearing officer's decision shall be provided to the vehicle owner(s).
    - vii. The administrative hearing officer may assess the city's reasonable administrative costs, including any impound and storage fees and all costs incurred by the city from first discovery of the violations through the appeal process and until compliance is achieved, such as staff time for inspection of the violations, sending notices, and for preparing and attending any appeal hearing.
    - viii. The agency employing the vehicle enforcement official who directed the storage shall be responsible for the costs incurred for removal and storage if it is determined in the post-storage hearing that reasonable grounds for the storage are not established.

- e. The administrative hearing officer's decision is the final administrative remedy without further administrative appeals.
  4. This section does not apply to vehicles abated under the Abandoned Vehicle Abatement Program pursuant to State Vehicle Code Sections 22660 to 22668, inclusive, and Section 22710, or to vehicles impounded for investigation pursuant to State Vehicle Code Section 22655; nor does this section apply to abandoned vehicles removed pursuant to State Vehicle Code Section 22669 that are determined by the public agency to have an estimated value of \$500.00 or less.
- D. Severability. If any subsection, sentence, clause, or phrase of this section is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

(CS-360 § 2, 2019)

**§ 10.40.300. Parking restricted on Carlsbad Boulevard between Pine Avenue and La Costa Avenue, on Ponto Drive from Ponto Road to the south terminus, and on Ponto Road.**

There will be no parking on each side of Carlsbad Boulevard from Pine Avenue to La Costa Avenue, on each side of Ponto Drive from Ponto Road to the south terminus, and on each side of Ponto Road.  
(Ord. CS-372 § 2, 2020)

**§ 10.40.301. Parking restricted on Armada Drive.**

Parking of vehicles is prohibited between 11:00 p.m. and 5:00 a.m. on the westerly and easterly sides of Armada Drive between Palomar Airport Road and Legoland Drive.  
(Ord. CS-412 § 2, 2022)

**§ 10.40.302. Parking restricted on Surfside Lane and Island Way.**

Parking of vehicles is prohibited between 11:00 p.m. and 5:00 a.m. on both sides of Surfside Lane, north of Island Way and both sides of Island Way, east of Carlsbad Boulevard.  
(Ord. CS-430 § 2, 2022)

**CHAPTER 10.42  
PARKING VIOLATION ENFORCEMENT**

**§ 10.42.010. Parking violation enforcement.**

- A. Enforcement. Every police officer and every city employee charged with enforcement of the provisions of Chapter 10.40, 11.24 or 17.04 of this code relating to illegal parking, the provisions of the California Vehicle Code, and the other laws of the state applicable to parking violations within the city, shall have the duty, when any vehicle is illegally parked, to issue written notice of violation thereof stating the state vehicle license number, the registration expiration date, make and color of such vehicle, the time and date of such illegal parking, street location, a reference to the appropriate section of the code, a time and place for appearance by the registered owner to answer the notice, and the last four digits of the vehicle identification number, if that number is visible through the windshield. The notice shall be attached to the vehicle either under the windshield wiper or in another conspicuous place upon the vehicle as to be easily observed by the person in charge of such vehicle upon the return of that person.
- B. Fees. The parking penalties for parking violations under this chapter shall be established by resolution of the City Council pursuant to Vehicle Code Section 40203.5.
- C. Contesting Notices of Violations—Failure to Pay. The City Council shall establish, by resolution, an administrative review process for contesting notices of parking violations, which complies with the requirements of the vehicle code.

Failure to pay the appropriate fee as provided herein shall result in the filing of an itemization of penalties, administrative and service fees for collection by the Department of Motor Vehicles with the registration of the vehicle pursuant to Vehicle Code Section 4760, or in a civil action against the registered owner if more than \$400.00 in unpaid penalties and fees have accrued, or in any other action allowed by law.

(Ord. 3144 § 1, 1982; Ord. 3150 § 1, 1982; Ord. 3167 § 1, 1984; Ord. 3195 § 1, 1985; Ord. NS-181 § 1, 1991; Ord. NS-248 § 1, 1993)

**§ 10.42.020. Special enforcement unit for disabled parking violations.**

A special enforcement unit is established for the enforcement of violations of state and local disabled parking laws. The members of the special enforcement unit shall be volunteers of the police department and shall be designated by the Chief of Police, subject to the requirements of California Vehicle Code Section 22507.9. The Chief of Police shall also determine the equipment and uniforms to be issued to members of the unit, subject to the requirements of California Vehicle Code Section 22507.9.

Nothing in this section shall preclude city police officers or authorized city employees from engaging in similar enforcement activities.

(Ord. NS-538 § 1, 2000)

**CHAPTER 10.44  
SPEED RESTRICTIONS**

**Article I  
Generally**

**§ 10.44.010. Traffic signal timing.**

The city Traffic Engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections, and shall erect appropriate signs giving notice thereof.

(Ord. 3005 § 81)

## Article II Speed Limits

### **§ 10.44.020. Generally.**

It is determined upon the basis of an engineering and traffic investigation that the speeds hereinafter set forth upon the following streets or portions thereof would facilitate the orderly movement of vehicular traffic upon the streets hereinafter set forth. Accordingly, the prima facie speed limits are set forth upon such streets or portions thereof as follows.

(Ord. 3027 § 2; Ord. 3044 § 1; Ord. 3060 § 1; Ord. 3063 § 2)

### **§ 10.44.030. Carlsbad Boulevard.**

- A. Upon Carlsbad Boulevard from the north boundary of the city to its intersection with State Street, the prima facie speed limit shall be 35 miles per hour.
- B. Upon Carlsbad Boulevard from its intersection with State Street to its intersection with Walnut Avenue, the prima facie speed limit shall be 30 miles per hour.
- C. Upon Carlsbad Boulevard from its intersection with Walnut Avenue to its intersection with Tamarack Avenue, the prima facie speed limit shall be 30 miles per hour.
- D. Upon Carlsbad Boulevard from its intersection with Tamarack Avenue to a point 1,400 feet south of the southerly boundary of the right-of-way of Manzano Drive, for both the southbound and northbound lanes, the prima facie speed limit shall be 35 miles per hour.
- E. Upon the northbound lanes of Carlsbad Boulevard from a point 1,400 feet south of the southerly boundary of the right-of-way of Manzano Drive to Island Way, the prima facie speed limit shall be 50 miles per hour.
- F. Upon the southbound lanes of Carlsbad Boulevard from a point 1,400 feet south of the southerly boundary of the right-of-way of Manzano Drive to Island Way, the prima facie speed limit shall be 45 miles per hour.
- G. Upon Carlsbad Boulevard from Island Way to the south boundary of the city, the prima facie speed limit shall be 50 miles per hour.

(Ord. 3027 § 2; Ord. 3044 § 1; Ord. 3060 § 1; Ord. 3063 § 2; Ord. 3115 § 1, 1979; Ord. NS-85 § 1, 1989; Ord. NS-251 § 1, 1993; Ord. NS-362 § 1, 1996; Ord. NS-888 § 1, 2008; Ord. CS-304 § 1, 2016; Ord. CS-456 § 2, 2023)

### **§ 10.44.040. Chestnut Avenue.**

- A. Upon Chestnut Avenue from Pio Pico Drive to its intersection with El Camino Real, the prima facie speed limit shall be 30 miles per hour.
  - B. Upon Chestnut Avenue from El Camino Real to its intersection with Sierra Morena Avenue, the prima facie speed limit shall be 30 miles per hour.
- (Ord. 3027 § 2; Ord. 3044 § 1; Ord. 3063 § 2; Ord. 3077 §§ 1, 2, 1968; Ord. 3104 § 1, 1976; Ord. NS-649 § 1, 2002; Ord. CS-213, 2013)

### **§ 10.44.050. Jefferson Street.**

The prima facie speed limit on Jefferson Street from its intersection with Grand Avenue to the northerly

city boundary is 35 miles per hour.

(Ord. 3081 §§ 1, 2, 1970; Ord. 3104 § 1, 1976)

#### **§ 10.44.060. El Camino Real.**

- A. Upon El Camino Real from Hosp Way to the south city limit the prima facie speed limit shall be 55 miles per hour.
- B. Upon El Camino Real from the north city limits to Hosp Way the prima facie speed limit shall be 35 miles per hour.

(Ord. 3104 § 1, 1976; Ord. 3192 § 1, 1985; Ord. NS-116 § 1, 1990; Ord. NS-147 § 1, 1991; Ord. NS-359 § 1, 1996)

#### **§ 10.44.070. La Costa Avenue.**

- A. Upon La Costa Avenue from El Camino Real to a point 1,000 feet easterly the prima facie speed limit shall be 35 miles per hour.
- B. Upon La Costa Avenue from a point 1,000 feet easterly of El Camino Real to its intersection with Rancho Santa Fe Road shall be 40 miles per hour.
- C. Upon La Costa Avenue from Rancho Santa Fe Road to its intersection with Camino de Los Coches shall be 45 miles per hour.
- D. Upon La Costa Avenue from Interstate Highway 5 to its intersection with El Camino Real the prima facie speed limit shall be 55 miles per hour.
- E. Upon La Costa Avenue from Camino de Los Coches to Circulo Sequoia the prima facie speed limit shall be 35 miles per hour.

(Ord. 3107, 1977; Ord. 3181, 1984; Ord. NS-114 § 1, 1990; Ord. NS-368 § 1, 1996; Ord. NS-511 § 1, 1999; Ord. CS-165, 2011; Ord. CS-305 § 1, 2016)

#### **§ 10.44.080. Carlsbad Village Drive.**

- A. Upon Carlsbad Village Drive from Pio Pico Drive to its intersection with Highland Drive, the prima facie speed limit shall be 35 miles per hour.
- B. Upon Carlsbad Village Drive from Highland Drive to its intersection with College Boulevard, the prima facie speed limit shall be 40 miles per hour.

(Ord. 3108 § 1, 1977; Ord. 3197 § 1, 1986; Ord. NS-3 § 1, 1988; Ord. NS-410 § 1, 1997; Ord. NS-680 § 1, 2003)

#### **§ 10.44.090. Alga Road.**

Upon Alga Road from El Camino Real to its intersection with Melrose Drive the prima facie speed limit shall be 50 miles per hour.

(Ord. 3131 § 1, 1981; Ord. 3164 § 1, 1983; Ord. 3196 § 1, 1985; Ord. 3217 § 1, 1987; Ord. NS-599 § 1, 2001)

#### **§ 10.44.100. Levante Street.**

- A. Upon Levante Street from Escenico Terrace east to its intersection with La Costa Avenue, the prima

prima facie speed limit shall be 25 miles per hour.

- B. Upon Levante Street from Escenico Terrace west to its intersection with El Camino Real, the prima facie speed limit shall be 35 miles per hour.

(Ord. 3140 § 1, 1981)

**§ 10.44.110. Paseo Del Norte.**

- A. Upon Paseo Del Norte from Cannon Road to its intersection with Car Country Drive, the prima facie speed limit shall be 35 miles per hour.
- B. Upon Paseo Del Norte from Car Country Drive to its intersection with Poinsettia Lane, the prima facie speed limit shall be 40 miles per hour.

(Ord. 3147 § 1, 1982; Ord. 3171 § 1, 1984; Ord. NS-309 § 1, 1995)

**§ 10.44.120. Park Drive.**

Upon Park Drive from Hillside Drive to its intersection with Valencia Avenue, the prima facie speed limit shall be 35 miles per hour.

(Ord. 3156 § 1, 1983; Ord. NS-220 § 1, 1993)

**§ 10.44.130. Marron Road.**

- A. Upon Marron Road from 140 feet east of Avenida de Anita to its intersection with El Camino Real, the prima facie speed limit shall be 35 miles per hour.
- B. Upon Marron Road from El Camino Real to the city limits at Highway 78, the prima facie speed limit shall be 40 miles per hour.

(Ord. 3162 § 1, 1983; Ord. NS-821 § 1, 2006; Ord. NS-867 § 1, 2007)

**§ 10.44.140. Hosp Way.**

Upon Hosp Way from El Camino Real to its intersection with Monroe Street, the prima facie speed limit shall be 30 miles per hour.

(Ord. 3163 § 1, 1983; Ord. NS-202 § 1, 1992)

**§ 10.44.150. Monroe Street.**

Upon Monroe Street from Carlsbad Village Drive to its intersection with Marron Road, the prima facie speed limit shall be 45 miles per hour.

(Ord. 3170 § 1, 1984; Ord. NS-534 § 21, 2000)

**§ 10.44.160. Camino Vida Roble.**

Upon Camino Vida Roble from Palomar Oaks Way to its intersection with El Camino Real the prima facie speed limit shall be 40 miles per hour.

(Ord. 3172 § 1, 1984; Ord. 3191 § 1, 1985; Ord. NS-554 § 1, 2000)

**§ 10.44.170. Palomar Airport Road.**

- A. Upon Palomar Airport Road from Carlsbad Boulevard to its intersection with Paseo Del Norte, the prima facie speed limit shall be 35 miles per hour.

B. Upon Palomar Airport Road from Paseo Del Norte to its intersection with the Price Club signalized intersection (approximately 1,800 feet easterly), the prima facie speed limit shall be 45 miles per hour.

C. Upon Palomar Airport Road from the Price Club signalized intersection to the easterly city limit, the prima facie speed limit shall be 55 miles per hour.

(Ord. 3169 § 1, 1984; Ord. NS-47 § 1, 1988; Ord. NS-67 § 1, 1989; Ord. NS-222 § 1, 1993; Ord. NS-298 § 1, 1994)

#### **§ 10.44.190. Rancho Santa Fe Road.**

A. Upon Rancho Santa Fe Road from the north city limits to its intersection with La Costa Avenue, the prima facie speed limit shall be 55 miles per hour.

B. Upon Rancho Santa Fe Road from La Costa Avenue to its intersection with Olivenhain Road, the prima facie speed limit shall be 50 miles per hour.

C. Upon Rancho Santa Fe Road from Olivenhain Road to the south city limits, the prima facie speed limit shall be 45 miles per hour.

(Ord. 3185 § 1, 1985; Ord. NS-308 § 1, 1995; Ord. NS-820 § 1, 2006)

#### **§ 10.44.200. Cadencia Street.**

Upon Cadencia Street from Del Rey Avenue northerly to a point 500 feet west of Perdiz Street, the prima facie speed limit shall be 35 miles per hour.

(Ord. 3201 § 1, 1986; Ord. NS-7 § 1, 1988; Ord. CS-275, 2015; Ord. CS-440 § 2, 2022)

#### **§ 10.44.210. Alicante Road.**

A. Upon Alicante Road from Alga Road to its intersection with Corte de la Vista, the prima facie speed limit shall be 40 miles per hour.

B. Upon Alicante Road from Alga Road to its intersection with Poinsettia Lane, the prima facie speed limit shall be 40 miles per hour.

C. Upon Alicante Road from Poinsettia Lane to its intersection with Gateway Road, the prima facie speed limit shall be 30 miles per hour.

(Ord. 3203 § 1, 1986; Ord. NS-594 § 1, 2001; Ord. NS-784 § 1, 2006; Ord. NS-865 § 1, 2007; Ord. CS-247, 2014)

#### **§ 10.44.220. El Fuerte Street.**

A. Upon El Fuerte Street from Corte De La Vista to its intersection with Alga Road, the prima facie speed limit shall be 35 miles per hour.

B. Upon El Fuerte Street from Alga Road to its intersection with Palomar Airport Road, the prima facie speed limit shall be 45 miles per hour.

C. Upon El Fuerte Street from Palomar Airport Road to its intersection with Faraday Avenue, the prima facie speed limit shall be 45 miles per hour.

(Ord. 3204 § 1, 1986; Ord. NS-829 § 1, 2007; Ord. CS-013 § 1, 2008)

**§ 10.44.230. Yarrow Drive.**

Upon Yarrow Drive from Palomar Airport Road to its intersection with Camino Vida Roble, the prima facie speed limit shall be 40 miles per hour.

(Ord. 3211 § 1, 1987)

**§ 10.44.240. Melrose Drive.**

Upon Melrose Drive from Rancho Santa Fe Road to the north city limit, the prima facie speed limit shall be 55 miles per hour.

(Ord. 3218 § 1, 1987; Ord. NS-465 § 2, 1998; Ord. NS-832 § 1, 2007)

**§ 10.44.250. Camino de las Ondas.**

Upon Camino de las Ondas from Paseo del Norte to its intersection with Aviara Parkway, the prima facie speed limit shall be 35 miles per hour.

(Ord. 3221 § 1, 1987; Ord. NS-436 § 1, 1997; Ord. CS-233 § 2, 2013)

**§ 10.44.260. Eureka Place.**

Upon Eureka Place from Chestnut Avenue to its intersection with Basswood Avenue, the prima facie speed limit will be 25 miles per hour.

(Ord. 3220 § 1, 1987)

**§ 10.44.270. Pontiac Drive.**

Upon Pontiac Drive from Tamarack Avenue to its intersection with Victoria Avenue, the prima facie speed limit shall be 35 miles per hour.

(Ord. 3226 § 1, 1988)

**§ 10.44.280. Avenida Encinas.**

- A. Upon Avenida Encinas from Carlsbad Boulevard to a point 3,000 feet northerly of Poinsettia Lane, the prima facie speed limit shall be 35 miles per hour.
- B. Upon Avenida Encinas from a point 3,000 feet northerly of Poinsettia Lane to a point 3,500 feet southerly of Palomar Airport Road, the prima facie speed limit shall be 30 miles per hour.
- C. Upon Avenida Encinas from a point 3,500 feet southerly of Palomar Airport Road to its intersection with Palomar Airport Road, the prima facie speed limit shall be 40 miles per hour.
- D. Upon Avenida Encinas from Palomar Airport Road to its intersection with Cannon Road, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-16 § 1, 1988; Ord. NS-306 § 1, 1995; Ord. NS-408 § 1, 1997; Ord. NS-648 § 1, 2002; Ord. CS-111 § 1, 2010; Ord. CS-233 § 1, 2013; Ord. CS-378 § 1, 2020)

**§ 10.44.290. Hillside Drive.**

Upon Hillside Drive from Highland Drive to its intersection with Neblina Drive, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-26 § 1, 1988; Ord. NS-644 § 1, 2002)

**§ 10.44.300. Tamarack Avenue.**

- A. Upon Tamarack Avenue from Carlsbad Boulevard to its intersection with Interstate Highway 5, the prima facie speed limit shall be 30 miles per hour.
- B. Upon Tamarack Avenue from Interstate Highway 5 to its intersection with Skyline Road, the prima facie speed limit shall be 30 miles per hour.
- C. Upon Tamarack Avenue from Skyline Road to its intersection with El Camino Real, the prima facie speed limit shall be 35 miles per hour.
- D. Upon Tamarack Avenue from El Camino Real to its intersection with Carlsbad Village Drive, the prima facie speed limit shall be 45 miles per hour.
- E. Upon Tamarack Avenue from Carlsbad Village Drive to its intersection with College Boulevard, the prima facie speed limit shall be 35 miles per hour.
- F. Upon Tamarack Avenue from College Boulevard (south) to its intersection with College Boulevard (north), the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-267 § 1, 1994; Ord. NS-277 § 1, 1994; Ord. NS-706 § 1, 2004; Ord. NS-826 § 1, 2007)

**§ 10.44.310. Pio Pico Drive.**

Upon Pio Pico Drive from Tamarack Avenue to its intersection with Elm Avenue the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-34 § 1, 1988)

**§ 10.44.320. Faraday Avenue.**

- A. Upon Faraday Avenue from College Boulevard to its intersection with Orion Street, the prima facie speed limit shall be 40 miles per hour.
- B. Upon Faraday Avenue from College Boulevard to Cannon Road, the prima facie speed limit shall be 40 miles per hour.
- C. Upon Faraday Avenue from Orion Street to the east city limit, the prima facie speed limit shall be 50 miles per hour.

(Ord. NS-33 § 1, 1988; Ord. NS-357 § 1, 1996; Ord. NS-435 § 1, 1997; Ord. NS-583 § 1, 2001; Ord. CS-007 § 1, 2008; Ord. CS-103 § 1, 2010)

**§ 10.44.330. Aviara Parkway.**

- A. Upon Aviara Parkway from Poinsettia Lane to its intersection with El Camino Real, the prima facie speed limit shall be 40 miles per hour.
  - B. Upon Aviara Parkway from Poinsettia Lane to its intersection with Palomar Airport Road, the prima facie speed limit shall be 45 miles per hour.
- (Ord. NS-146 § 1, 1991; Ord. NS-581 § 1, 2002)

**§ 10.44.340. Calle Barcelona.**

- A. Upon Calle Barcelona from El Camino Real to its intersection with Rancho Santa Fe Road, the prima facie speed limit shall be 45 miles per hour.

- B. Upon Calle Barcelona from Rancho Santa Fe Road to its intersection with Calle Acervo, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-94 § 1, 1989; Ord. NS-331 § 1, 1995; Ord. NS-512 § 1, 1999)

#### **§ 10.44.350. College Boulevard.**

- A. Upon College Boulevard from Palomar Airport Road to its intersection with El Camino Real, the prima facie speed limit shall be 50 miles per hour.
- B. Upon College Boulevard, from Cannon Road to the north city limit, the prima facie speed limit shall be 45 miles per hour.

(Ord. NS-102 § 1, 1990; Ord. NS-578 § 1, 2001; Ord. NS-731 § 1, 2004)

#### **§ 10.44.360. Poinsettia Lane.**

- A. Upon Poinsettia Lane from Carlsbad Boulevard to its intersection with Paseo del Norte the prima facie speed limit shall be 35 miles per hour.
- B. Upon Poinsettia Lane from Paseo del Norte to its intersection with Cassia Road the prima facie speed limit shall be 50 miles per hour.
- C. Upon Poinsettia Lane from Cassia Road to its intersection with El Camino Real the prima facie speed limit shall be 45 miles per hour.
- D. Upon Poinsettia Lane from El Camino Real to its intersection with Melrose Drive the prima facie speed limit shall be 50 miles per hour.

(Ord. NS-145 § 1, 1991; Ord. NS-523 § 1, 1999; Ord. NS-773 § 1, 2005; Ord. CS-033 § 1, 2009; Ord. CS-097 § 1, 2010; Ord. CS-401 § 2, 2021)

#### **§ 10.44.370. Car Country Drive.**

Upon Car Country Drive from Cannon Road to its intersection with Paseo Del Norte the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-162 § 1, 1991)

#### **§ 10.44.380. Cannon Road.**

- A. Upon Cannon Road from Carlsbad Boulevard to its intersection with Paseo del Norte, the prima facie speed limit shall be 35 miles per hour.
- B. Upon Cannon Road from Paseo del Norte to its intersection with El Camino Real, the prima facie speed limit shall be 50 miles per hour.
- C. Upon Cannon Road from El Camino Real to its intersection with College Boulevard, the prima facie speed limit shall be 50 miles per hour.

(Ord. NS-187 § 1, 1991; Ord. NS-429 § 1, 1997; Ord. NS-564 § 1, 2000; Ord. NS-674 § 1, 2003; Ord. NS-732 § 1, 2004)

#### **§ 10.44.390. Gibraltar Street.**

Upon Gibraltar Street from La Costa Avenue to its terminus 0.1 miles easterly of Romeria Street the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-215 § 1, 1992)

**§ 10.44.400. Romeria Street.**

Upon Romeria Street from La Costa Avenue to its intersection with Gibraltar Street the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-215 § 1, 1992)

**§ 10.44.410. Viejo Castilla Way.**

Upon Viejo Castilla Way from La Costa Avenue to its intersection with Navarra Drive the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-215 § 1, 1992)

**§ 10.44.420. Estrella De Mar Road.**

A. Upon Estrella De Mar Road from Alga Road to its intersection with Costa Del Mar Road, the prima facie speed limit shall be 25 miles per hour.

B. Upon Estrella De Mar Road from Alga Road to 675 feet north of Beryl Way, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-215 § 1, 1992; Ord. CS-341 § 1, 2018)

**§ 10.44.430. Corintia Street.**

Upon Corintia Street from Alga Road to its intersection with Socorro Land the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-215 § 1, 1992)

**§ 10.44.440. Grand Avenue.**

Upon Grand Avenue from Ocean Street to its terminus at Interstate Highway 5, the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-252 § 1, 1993)

**§ 10.44.450. Rutherford Road.**

Upon Rutherford Road from Faraday Avenue to its terminus at Priestly Drive, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-276 § 1, 1994)

**§ 10.44.460. Loker Avenue West.**

Upon Loker Avenue West from Palomar Airport Road to its intersection with El Fuerte Street, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-281 § 1, 1994; Ord. CS-140, 2011; Ord. CS-233 § 4, 2013)

**§ 10.44.470. Loker Avenue East.**

Upon Loker Avenue East from El Fuerte Street to its intersection with Palomar Airport Road, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-280 § 1, 1994; Ord. CS-140, 2011; Ord. CS-233 § 5, 2013)

**§ 10.44.480. Chatham Road.**

Upon Chatham Road from Carlsbad Village Drive to its intersection with Tamarack Avenue, the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-295 § 1, 1994)

**§ 10.44.490. Xana Way.**

Upon Xana Way from Alga Road to its intersection with Unicornio Street, the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-318 § 1, 1995)

**§ 10.44.500. Camino De Los Coches.**

Upon Camino De Los Coches from Rancho Santa Fe Road to its intersection with La Costa Avenue, the prima facie speed limit shall be 40 miles per hour.

(Ord. NS-325 § 1, 1995)

**§ 10.44.510. Calle Acervo.**

Upon Calle Acervo from Camino De Los Coches to its intersection with Rancho Santa Fe Road, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-338 § 1, 1995; Ord. NS-404 § 1, 1997)

**§ 10.44.520. Batiquitos Drive.**

A. Upon Batiquitos Drive from Aviara Parkway to its intersection with Golden Star Lane, the prima facie speed limit shall be 40 miles per hour.

B. Upon Batiquitos Drive from Golden Star Lane to its intersection with Poinsettia Lane, the prima facie speed limit shall be 40 miles per hour.

C. Upon Batiquitos Drive from Poinsettia Lane to its intersection with Camino de las Ondas, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-403 § 1, 1997; Ord. NS-419 § 1, 1997; Ord. NS-462 § 1, 1998; Ord. CS-108 § 1, 2010; Ord. CS-230, 2013)

**§ 10.44.530. Kestrel Drive.**

Upon Kestrel Drive from Batiquitos Drive to its intersection with Aviara Parkway, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-405 § 1, 1997; Ord. NS-652 § 1, 2002)

**§ 10.44.540. Armada Drive.**

Upon Armada Drive from Palomar Airport Road to its intersection with LEGOLAND Drive, the prima facie speed limit shall be 40 miles per hour.

(Ord. NS-428 § 1, 1997; Ord. NS-866 § 1, 2007)

**§ 10.44.550. Paseo Candelero.**

Upon Paseo Candelero from Alicante Road to its intersection with Alga Road, the prima facie speed limit

shall be 30 miles per hour.  
(Ord. NS-443 § 1, 1998)

**§ 10.44.560. Las Flores Drive.**

Upon Las Flores Drive from Jefferson Street to its intersection with Highland Drive, the prima facie speed limit shall be 30 miles per hour.  
(Ord. NS-447 § 1, 1998)

**§ 10.44.570. Hidden Valley Road.**

Upon Hidden Valley Road from Camino de las Ondas to its intersection with Palomar Airport Road, the prima facie speed limit shall be 35 miles per hour.  
(Ord. NS-451 § 1, 1998; Ord. CS-233 § 3, 2013)

**§ 10.44.580. Laguna Drive.**

Upon Laguna Drive from State Street to its intersection with Jefferson Street, the prima facie speed limit shall be 30 miles per hour.  
(Ord. NS-457 § 1, 1998)

**§ 10.44.590. Adams Street.**

Upon Adams Street from Chinquapin Avenue to its intersection with Park Drive, the prima facie speed limit shall be 25 miles per hour.  
(Ord. NS-493 § 1, 1999)

**§ 10.44.600. Jackspar Drive.**

Upon Jackspar Drive from Camino Hills Drive to its intersection with El Camino Real, the prima facie speed limit shall be 35 miles per hour.  
(Ord. NS-504 § 1, 1999)

**§ 10.44.610. Camino Hills Drive.**

Upon Camino Hills Drive from Faraday Avenue to its intersection with Browning Road, the prima facie speed limit shall be 35 miles per hour.  
(Ord. NS-503 § 1, 1999)

**§ 10.44.620. Calle Timito Drive.**

Upon Calle Timito Drive from Camino de los Coches to its intersection with La Costa Avenue, the prima facie speed limit shall be 30 miles per hour.  
(Ord. NS-513 § 1, 1999)

**§ 10.44.630. Anillo Way.**

Upon Anillo Way from Levante Street to its intersection with Madrilena Way the prima facie speed limit shall be 35 miles per hour.  
(Ord. NS-522 § 1, 1999)

**§ 10.44.640. Paseo Aliso.**

Upon Paseo Aliso from Olivenhain Road to its intersection with Camino Robledo the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-548 § 1, 2000)

**§ 10.44.650. Windrose Circle.**

Upon Windrose Circle from Avenida Encinas to its intersection with Navigator Circle (S)/Capstan Drive the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-550 § 1, 2000)

**§ 10.44.660. Rancho Bravado.**

Upon Rancho Bravado from Melrose Drive to its intersection with Paseo Monona, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-566 § 1, 2000)

**§ 10.44.670. Gabbiano Lane.**

Upon Gabbiano Lane from Batiquitos Drive to its terminus, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-614 § 1, 2001)

**§ 10.44.680. Black Rail Road.**

Upon Black Rail Road from Aviara Parkway to its intersection with Poinsettia Lane, the prima facie speed limit shall be 40 miles per hour.

(Ord. NS-621 § 1, 2002; Ord. CS-310 § 2, 2016)

**§ 10.44.690. Ambrosia Lane.**

A. Upon Ambrosia Lane from Aviara Parkway to its intersection with Conosa Way, the prima facie speed limit shall be 35 miles per hour.

B. Upon Ambrosia Lane from Conosa Way to its intersection with Poinsettia Lane, the prima facie speed limit shall be 40 miles per hour.

(Ord. NS-628 § 1, 2002)

**§ 10.44.700. Cassia Road.**

Upon Cassia Road from Poinsettia Lane to its intersection with El Camino Real, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-656 § 1, 2003)

**§ 10.44.710. Woodstock Street.**

Upon Woodstock Street from Glasgow Drive to its intersection with Lancaster Road, the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-695 § 1, 2004)

**§ 10.44.720. Middleton Drive.**

Upon Middleton Drive from Glasgow Drive to its intersection with Woodstock Street, the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-694 § 1, 2004)

**§ 10.44.730. Paseo Acampo.**

Upon Paseo Acampo from Rancho Bravado to its intersection with Paseo Hermosa, the prima facie speed limit shall be 25 miles per hour.

(Ord. NS-698 § 1, 2004)

**§ 10.44.740. Paseo Avellano.**

Upon Paseo Avellano from Calle Barcelona to its intersection with Segovia Way, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-771 § 1, 2005)

**§ 10.44.750. Glasgow Drive.**

Upon Glasgow Drive from Edinburgh Drive to its intersection with Carlsbad Village Drive, the prima facie speed limit shall be 30 miles per hour.

(Ord. NS-795 § 1, 2006)

**§ 10.44.760. Aston Avenue.**

Upon Aston Avenue from College Boulevard to its intersection with Rutherford Road, the prima facie speed limit shall be 40 miles per hour.

(Ord. NS-804 § 1, 2006)

**§ 10.44.770. Camino Junipero.**

Upon Camino Junipero from Rancho Santa Fe Road to its intersection with Paseo Encino, the prima facie speed limit shall be 45 miles per hour.

(Ord. NS-812 § 1, 2006; Ord. CS-303 § 1, 2016)

**§ 10.44.780. Palomar Oaks Way.**

Upon Palomar Oaks Way from Palomar Airport Road to its northerly terminus, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-825 § 1, 2007)

**§ 10.44.790. Dove Lane.**

Upon Dove Lane from Moorhen Place to its intersection with El Camino Real, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-845 § 1, 2007)

**§ 10.44.800. Impala Drive.**

Upon Impala Drive from Palmer Way to Orion Street, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-854 § 1, 2007)

**§ 10.44.810. Palmer Way.**

Upon Palmer Way from Faraday Avenue to Cougar Drive, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-853 § 1, 2007)

**§ 10.44.820. Town Garden Road.**

Upon Town Garden Road from El Camino Real to Alicante Road, the prima facie speed limit shall be 40 miles per hour.

(Ord. NS-857 § 1, 2007)

**§ 10.44.830. Gateway Road.**

Upon Gateway Road from El Camino Real to its intersection with El Fuerte Street, the prima facie speed limit shall be 35 miles per hour.

(Ord. NS-864 § 1, 2007; Ord. CS-440 § 3, 2022)

**§ 10.44.840. Eagle Drive.**

Upon Eagle Drive from Palomar Airport Road to its intersection with Lionshead Avenue, the prima facie speed limit shall be 35 miles per hour.

(Ord. CS-006 § 1, 2008)

**§ 10.44.850. Lionshead Avenue.**

Upon Lionshead Avenue from Melrose Drive to the east city limit, the prima facie speed limit shall be 50 miles per hour.

(Ord. CS-008 § 1, 2008)

**§ 10.44.860. The Crossings Drive.**

Upon The Crossings Drive from Palomar Airport Road to its northerly terminus, the prima facie speed limit shall be 40 miles per hour.

(Ord. CS-014 § 1, 2008)

**§ 10.44.870. Corte de la Vista.**

Upon Corte de la Vista from the Alicante Road/El Fuerte Street intersection to its terminus, the prima facie speed limit shall be 35 miles per hour.

(Ord. CS-019 § 1, 2008)

**§ 10.44.871. Hummingbird Road.**

Upon Hummingbird Road from Batiquitos Drive to Rock Dove Street, the prima facie speed limit shall be 30 miles per hour.

(Ord. CS-267 § 1, 2015)

CHAPTER 10.48  
**TRAINS**

**§ 10.48.010. Not to block streets.**

No person shall operate any train or train of cars, or permit the same to remain standing, so as to block the movement of traffic upon any street for a period of time longer than five minutes.  
(Ord. 3005 § 79)

**CHAPTER 10.52  
ABANDONED VEHICLES**

**§ 10.52.010. General—Definitions.**

- A. In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property not including highways is 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 not including highways, except as expressly hereinafter permitted, is a public nuisance which may be abated as such in accordance with the provisions of this chapter.

- B. As used in this chapter:

"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.

"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.

"Public property" does not include "highway."

"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.

"City" means the City of Carlsbad.

(Ord. 5042 § 1, 1968; Ord. 3101 § 1, 1975)

**§ 10.52.020. When chapter not applicable.**

This chapter shall not apply to:

- A. A vehicle or part 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 part 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 provisions of law other than Chapter 10 commencing with Section 22650 of Division 11 of the Vehicle Code and this chapter.

(Ord. 5042 § 2, 1968)

**§ 10.52.030. Intent of chapter.**

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. 5042 § 3, 1968)

**§ 10.52.040. Administration—Enforcement.**

- A. Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the City Manager or some other regularly salaried full-time employee of the city designated by the City Manager as his or her representative. The removal of vehicles or parts thereof from property may be by any duly authorized person. Any such authorized person may enter upon private property for the purposes specified in this chapter to examine a vehicle or parts thereof, obtain information as to the identity of a vehicle, and remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this chapter.
- B. Wherever the term "City Manager" is used in this chapter, it includes any such person or public entity as the City Council may, by resolution, designate. In accord with Section 22665 of the Vehicle Code, the City Council may, by resolution, request the California Highway Patrol to administer this chapter. (Ord. 5042 § 4, 1967; Ord. 3101 § 1, 1975; Ord. 5052 § 1, 1977)

**§ 10.52.050. Franchises.**

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. 5042 § 5, 1968)

**§ 10.52.060. 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 part thereof) under this chapter. (Ord. 5042 § 6, 1968)

**§ 10.52.065. City Manager—Authority to abate.**

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 City Manager shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. (Ord. 3101 § 2, 1975)

**§ 10.52.070. Notice.**

A 10-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered or certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED,  
DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to \_\_\_\_\_, license number \_\_\_\_\_ which constitutes a public nuisance pursuant to the provisions of Chapter 10.52 of the Carlsbad 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, together with administrative costs, 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 City Council within such 10-day period, the City Manager shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed \_\_\_\_\_  
(date)

s/  
\_\_\_\_\_  
City Manager, City of Carlsbad.

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 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 10.52 of the Carlsbad 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.

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 City Council within such 10-day period, the City Manager shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice Mailed \_\_\_\_\_  
(date)

s/

\_\_\_\_\_  
City Manager, City of Carlsbad.

(Ord. 5042 § 7, 1968; Ord. 3101 § 1, 1975)

**§ 10.52.080. Hearing notice to be given to highway patrol.**

Notice of hearing shall also be given to the California Highway Patrol identifying the vehicle or part thereof proposed for removal, such notice to be mailed at least 10 days prior to the public hearing.

(Ord. 5042 § 8, 1968)

**§ 10.52.085. Request for hearing.**

- A. Upon request by the owner of the vehicle or owner of the land received by the City Council within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the City Council 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.
- B. 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 the owner's presence. Notice of the hearing shall be mailed, by registered or certified mail, at least 10 days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. 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. 3101 § 2, 1975)

**§ 10.52.090. Hearing procedure—Determination.**

All hearings under this chapter shall be held before the City Council which shall hear all facts and testimony it deems pertinent. The facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location on the said private property or public property. The City Council shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the hearing or present a 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 City Council 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 part thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the City Council may find that a vehicle or part thereof has been abandoned, wrecked, or 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 provided in Section 10.52.100, and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part 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 land owner and that he or she has not subsequently acquiesced in its presence, the City Council shall not assess

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 land owner.

If an interested party makes a written presentation to the City Council but does not appear, he or she shall be notified in writing of the decision.

(Ord. 5042 § 9, 1968)

**§ 10.52.100. Disposal of vehicle declared nuisance.**

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, and five days from the date of mailing of the notice of the decision if such notice is required by Section 10.52.090, the vehicles or parts thereof may be disposed of by removal to a scrapyard, automobile dismantler's yard, or any suitable site operated by a local authority or any other final disposition consistent with Subsection (e) of Section 22661 of the Vehicle Code. After a vehicle has been removed it shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Section 5004 of the Vehicle Code, in which case the vehicle may be reconstructed or made operable.

(Ord. 5042 § 10, 1968; Ord. 5052 § 1, 1977)

**§ 10.52.110. Notification to be given to Department of Motor Vehicles.**

Within five days after the date of removal of the vehicle or part thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or part 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. 5042 § 11, 1968)

**§ 10.52.120. Nonpayment of removal costs—Assessment against land.**

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 10.52.090 are not paid within 30 days of the date of the order, 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. 5042 § 12, 1968)

**§ 10.52.125. Summary abatement procedure.**

- A. The notice of intention to abate and remove a vehicle or part thereof need not be given if:
  1. The vehicle or part thereof is located upon a parcel of land zoned for agricultural use or not improved with a residential structure containing one or more dwelling units; and
  2. The property owner and owner of the vehicle have signed releases authorizing removal and waiving any further interest in the vehicle or part thereof; or
  3. The vehicle or part thereof is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, is valued at less than \$200.00 by a person designated by Section 22855 of the State Vehicle Code, is determined by the City Council to be a public nuisance presenting an immediate threat to public health or safety, and the property owner has signed a release authorizing removal and waiving any further interest in the vehicle or part thereof. Prior to final disposition of the vehicle or part thereof, the City Manager shall give the notice specified

in Section 22661(c) of the State Vehicle Code.

- B. If the owner of the property or vehicle desires a hearing pursuant to this chapter the request therefor shall be filed at the time of signing the release provided for in this section.

(Ord. 3166 § 1, 1984)

**§ 10.52.130. Unlawful and an infraction to abandon, park, store or leave vehicle in excess of three days.**

It is unlawful for any person to abandon, park, store, or leave or permit the abandonment, parking, storing or leaving of any licensed or unlicensed vehicle or part thereof, which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property within the city for a period in excess of three days, unless such vehicle or part thereof is completely enclosed within a building in a lawful manner, where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on a private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junkyard.

(Ord. 5062 § 1, 1981; Ord. NS-35 § 1, 1988)

**§ 10.52.140. Unlawful and an infraction not to remove vehicle or abate nuisance.**

- A. It is unlawful for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter, or state law where such state law is applicable.

- B. Violations shall be punished according to the provisions of Section 1.08.010 of this code.

(Ord. 5062 § 1, 1981)

## CHAPTER 10.56 OPERATION OF REGULATED MOBILITY DEVICES

### **§ 10.56.010. Definitions.**

"Bicycle" has the same meaning as in California Vehicle Code Section 231, as it may be amended from time to time.

"Electric bicycle" has the same meaning as in California Vehicle Code Section 312.5, as it may be amended from time to time.

"Electric personal assistive mobility device" has the same meaning as in California Vehicle Code Section 313, as it may be amended from time to time.

"Electrically motorized boards" has the same meaning as in California Vehicle Code Section 313.5, as it may be amended from time to time.

"Low speed vehicle" has the same meaning as in California Vehicle Code Section 385.5, as it may be amended from time to time.

"Motorized scooter" has the same meaning as in California Vehicle Code Section 407.5, as it may be amended from time to time.

"Operator" means a person who owns, operates, and/or controls a regulated mobility device.

"Public area" means any outdoor area that is open to the members of the public for public use, whether owned or operated by the city or a private party.

"Regulated mobility device" means a bicycle, electric bicycle, electric personal assistive mobility device, electrically motorized board, low-speed vehicle, motorized scooter, shared mobility device, and any other similar vehicle.

"Rider" means a traveler riding in or on a regulated mobility device who is not operating it.

"Shared mobility device" has the same meaning as in California Civil Code Section 2505, as it may be amended from time to time.

"Vehicle" has the same meaning as in California Vehicle Code Section 670, as it may be amended from time to time.

(Ord. CS-419 § 2, 2022)

### **§ 10.56.020. Operation of regulated mobility devices.**

- A. Prohibition of Regulated Mobility Devices Where Posted. It is prohibited to operate or ride on a regulated mobility device in public areas where such prohibition is posted by signs or as otherwise set forth in this chapter. A list of public locations where regulated mobility devices are prohibited shall be on file in the City Clerk's office. The list may be amended from time to time by resolution of the City Council.
- B. No Operating or Riding on Sidewalks and Public Facilities. No person shall operate or ride a regulated mobility device upon any sidewalk, in any public drainage facility, culvert, ditch, channel, or any other public athletic/sports court, or gymnasium in the city.
- C. Duty to Operate with Due Care, Reduce Speed.
  1. The operator of a regulated mobility device shall exercise all due care and shall reduce the speed of the device, obey all traffic control devices, and take all other action relating to operation of

the device as necessary to safeguard the operator, passengers, and any persons or other vehicles or devices in the immediate area. It shall also be unlawful to transport any other person upon the bar, handle bars, floorboard or other area of regulated mobility device not designed for passenger riding or designed for a single person, or cling to or attach oneself or one's regulated mobility device with an operator or rider on board to any moving vehicle or motorized or non-motorized wheeled device.

2. Persons operating or riding a regulated mobility device on a city trail must dismount the regulated mobility device where the trail width is less than five feet and a pedestrian or equine is within a distance of 50 feet from the regulated mobility device.

(Ord. 3062 § 8; Ord. NS-151 § 1, 1991; Ord. CS-139 § 1, 2011; Ord. CS-419 § 2, 2022)

#### **§ 10.56.030. Enforcement.**

In lieu of a fine or administrative citation as authorized by this code, and in lieu of filing charges in any court having jurisdiction over a violation, the Police Chief or designee may allow a violator of this chapter to complete a police department provided safety course for regulated mobility devices.

(Ord. 3062 § 11; Ord. 3064 § 3; Ord. CS-419 § 2, 2022)

#### **§ 10.56.040. Exemptions.**

- A. Public Agency Personnel. Notwithstanding any other provision of this chapter, or any other section of this code, city and public agency personnel may operate regulated mobility devices or other vehicles at any place in the city in the performance of their official duties.
- B. Disability. This chapter is not intended to apply to or otherwise restrict regulated mobility devices used in a safe manner by physically disabled persons as defined under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.).

(Ord. CS-419 § 2, 2022)

#### **§ 10.56.050. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-419 § 2, 2022)

**CHAPTER 10.58**  
**SKATEBOARDING, INLINE SKATES, ROLLER SKATES, TOY VEHICLE, COASTER, AND**  
**SIMILAR FORMS OF TRANSPORTATION**

**Note: Prior ordinance history: Ord. Nos. 3143, NS-246, NS-339, and NS-475.**

**§ 10.58.010. Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited in commercial zone.**

It is unlawful for any person to ride a skateboard, inline skates, roller skates, toy vehicle, coaster or any other similar form of transportation on private property open to the public in a general commercial zone, a neighborhood commercial zone, or in a tourist commercial zone where signs prohibiting such activity are posted by the owner of the property.

(Ord. CS-139 § 2, 2011)

**§ 10.58.015. Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited on school grounds.**

It is unlawful for any person to ride a skateboard, inline skates, roller skates, toy vehicle, coaster or any other similar form of transportation on public school property located within the City of Carlsbad when the school district has enacted a policy prohibiting such activities and posted signs on school grounds.

(Ord. CS-139 § 2, 2011)

**§ 10.58.020. Skateboarding, coaster, and similar forms of transportation prohibited in Carlsbad village area.**

It is unlawful for any person to ride a skateboard, coaster or any other similar form of transportation at the following locations:

On any sidewalk, public street, public parking lot or public property in the Carlsbad village area as shown on the map labeled Exhibit A and found on file in the City Clerk's office.

(Ord. CS-139 § 2, 2011)

**§ 10.58.025. Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited where posted.**

Skateboarding, inline skates, roller skates, toy vehicles, coaster or any other similar form of transportation is prohibited on public real property where such prohibition is posted by signs. A list of locations where skateboarding, inline skates, roller skates, toy vehicles, coaster or any other similar form of transportation is posted prohibited shall be on file in the City Clerk's office. The list may be amended from time to time by resolution of the City Council.

(Ord. CS-139 § 2, 2011)

**§ 10.58.030. Skateboarding, inline skates, roller skates, toy vehicle, coaster, and similar forms of transportation prohibited at public buildings.**

It is unlawful for any person to ride a skateboard, inline skates, roller skates, toy vehicle, coaster or any other similar form of transportation at the Carlsbad City Hall, the senior center located at 801 Pine Avenue, the safety center, fire stations, libraries and their adjacent sidewalks, landscape barriers and parking lots.

(Ord. CS-139 § 2, 2011)

**§ 10.58.040. Prohibition for public drainage and sports facilities.**

No person shall ride a skateboard, inline skates, roller skates, coaster, toy vehicle or any other similar form of transportation in any public drainage facility, culvert, ditch, or channel; or any other athletic/sports courts, or gymnasiums.

(Ord. CS-139 § 2, 2011)

**§ 10.58.050. Interference with pedestrians and traffic.**

- A. Any person upon a skateboard, inline skates, roller skates, toy vehicle, coaster or any other similar form of transportation or device, shall exercise due caution and shall yield the right-of-way to and not interfere with pedestrians on any sidewalk or public right-of-way.
- B. No person shall ride skateboard, inline skates, roller skates, toy vehicle, coaster, or similar form of transportation on any public right-of-way in such a manner as to interfere with or prevent the lawful use of a public right-of-way by vehicular traffic.

(Ord. CS-139 § 2, 2011)

**§ 10.58.060. Safety equipment required in skateboard parks.**

It is unlawful for a person to ride anything other than a skateboard, roller skates, or inline skates in the city-owned skateboard park and to neglect to wear safety equipment including a helmet, elbow pads and knee pads where the requirement for wearing such safety equipment in the skateboard park is posted by a sign.

(Ord. CS-139 § 2, 2011)

## CHAPTER 10.60 SHARED MOBILITY DEVICES

### **§ 10.60.010. Purpose.**

The purpose of this chapter is to declare that, unless specifically permitted by this code, shared mobility devices are prohibited from constituting a public nuisance and from being abandoned or placed for rent in the public right-of-way or other public areas, so as to allow for adequate pedestrian traffic flow, ensure public safety, and to maintain public areas free of public nuisances.

The City of Carlsbad is host to many visitors and residents who have a need for transportation to various destinations in the city. One of the means to accommodate this demand for transportation is through shared mobility devices. The ability of visitors and residents to access the various areas of the city is important to the enjoyment of the community and to the local economy. The purpose of this chapter is to balance these transportation demands and needs of the public with consumer protection and public safety concerns. The purpose of this chapter is to: (1) impose basic safety and insurance requirements on properly-licensed shared mobility device providers to meet statewide standards; and (2) regulate the operation of shared mobility device providers by requiring that rental of shared mobility devices occur on private property.  
(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

### **§ 10.60.020. Definitions.**

For the purposes of this chapter, the following definitions apply:

"Abandon" means leaving a shared mobility device unattended in the public right-of-way upon termination of a shared mobility device rental use.

"City Manager" means the City Manager or authorized designee.

"Enforcement official" means any city employee or agent of the city with the authority to enforce any provision of the municipal code.

"Imminent life safety hazard" means any condition which creates a present, extreme and immediate danger to life, property, health or public safety.

"Operator" means a person who manages, owns, or operates a shared mobility device business.

"Person" means any natural person, firm, association, business, trust, organization, corporation, partnership, company, or any other entity, which is recognized by law as the subject of rights or duties.

"Public area" means any outdoor area that is open to the members of the public for public use, whether owned or operated by the city or a private party.

"Public nuisance" has the same meaning as in Section 6.16.010 which includes, but is not limited to, obstructing travel upon or blocking access to the public right-of-way and posing an imminent life safety hazard.

"Public right-of-way" means any public alley, parkway, public transportation path, roadway, sidewalk or street that is owned, granted by easement, operated or controlled by the city.

"Shared mobility device" has the same meaning as in California Civil Code Section 2505, as it may be amended from time to time.

"Shared mobility service provider" has the same meaning as in California Civil Code Section 2505, as it may be amended from time to time.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

**§ 10.60.030. Prohibited conduct.**

Notwithstanding any other provision of this code, no person may:

- A. Display, offer or make available for rent any shared mobility device in any public area or public right-of-way;
- B. Display, offer or make available for rent any shared mobility device in any public area or public right-of-way via a digital application or other electronic or digital platform;
- C. Abandon a shared mobility device in the public right-of-way or a public area; or
- D. Park, leave standing, leave lying, or otherwise place a shared mobility device in the public right-of-way or a public area in a manner that constitutes a public nuisance.

Excepted from this subsection are shared mobility device providers who display, offer or make available for rent any shared mobility device on private property via a digital application or other electronic or digital platform if shared mobility device users pickup and return shared mobility devices on private property.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

**§ 10.60.040. Shared mobility service provider agreement—Indemnity and insurance requirements.**

- A. Before distribution of a shared mobility device, a shared mobility service provider shall enter into an agreement with the city. The agreement shall be in a form as prescribed by the City Attorney and shall include, but not be limited to, all requirements of California Civil Code Section 2505. The City Attorney may update the form of the agreement based on any amendments to California Civil Code Section 2505, or any other provision of law affecting shared mobility devices. The City Manager, or designee, is authorized to sign agreements required by this section on behalf of the city.
- B. Shared mobility service providers shall maintain commercial general liability insurance coverage with a carrier doing business in California, with limits not less than \$1,000,000 for each occurrence for bodily injury or property damage, including contractual liability, personal injury, and product liability and completed operations, and not less than \$5,000,000 aggregate for all occurrences during the policy period. The insurance shall not exclude coverage for injuries or damages caused by the shared mobility service provider to the shared mobility device user.
- C. The cancellation of any insurance policy required by this section constitutes a violation of this subsection 10.60.040(C) and all shared mobility service provider operations shall cease. In order to cure a violation of this subsection, the shared mobility service provider shall provide the City Manager, or designee, with a new, valid certificate and policy of insurance that satisfies the requirements of this subsection 10.60.040(C).

(Ord. CS-410 § 2, 2021)

**§ 10.60.050. Impoundment of devices.**

- A. In accordance with California Government Code Section 38771 et seq., any shared mobility device that is in violation of this chapter shall constitute a public nuisance and shall be subject to immediate impoundment by the City Manager without prior notice.
- B. As soon as practicable, the City Manager shall provide written notice of the impoundment to the operator. An operator shall retrieve its impounded shared mobility device within 72 hours of written

notice from the City Manager.

- C. No operator may retrieve any impounded shared mobility device from the city except upon demonstrating proper proof of ownership of the device and payment of any applicable impound fees.
- D. The City Council may adopt impound fees by resolution, which shall reflect the city's enforcement, investigation, administration, storage and impound costs. Operators shall bear the city's costs through a fee charged on any impounded shared mobility device.
- E. Any shared mobility device not retrieved from the city within 30 calendar days of being impounded shall be deemed unclaimed property and may, in the City Manager's discretion, be destroyed or auctioned in accordance with applicable state and local law. A pending post summary abatement hearing under Section 10.60.060 tolls the operation of this section.
- F. The foregoing provisions do not limit the city's authority to otherwise impound shared mobility devices in accordance with the California Vehicle Code.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

#### **§ 10.60.060. Post summary abatement hearing procedures.**

- A. The operator of a shared mobility device that has been impounded in accordance with Section 10.60.050 may request a post summary abatement hearing. The request must be submitted in writing to the City Manager within 10 calendar days of the date of the City Manager's written notice of impoundment.
- B. The City Manager shall schedule a post summary abatement hearing not less than 15 days and not more than 60 days from the date of the operator's written request.
- C. A notice of the post summary abatement hearing shall be served on the operator at least 10 calendar days prior to the date of the hearing. The notice of hearing shall be served by any of the methods of service listed in Section 1.10.040.
- D. The post summary abatement hearing shall be conducted by an administrative hearing officer in accordance with the following provisions:
  1. The failure of any recipient of an impoundment notice to appear at the hearing shall constitute a failure to exhaust administrative remedies.
  2. An operator's failure to file an appeal shall constitute a waiver of any rights to an administrative determination of the merits of the impoundment notice and the amount of the impoundment fees.
  3. At the hearing, the operator shall be given the opportunity to testify and to present evidence concerning the impoundment notice.
  4. The impoundment notice and any additional report submitted by the enforcement officer shall constitute *prima facie* evidence of the respective facts contained in those documents.
  5. The administrative hearing officer may continue the hearing and request additional information from the enforcement officer or the operator prior to issuing a written decision.
  6. After considering all of the testimony and evidence submitted at the hearing, the administrative hearing officer shall issue a written decision that lists the hearing officer's reasons for upholding or canceling the impoundment notice. A written copy of the administrative hearing officer's

decision shall be provided to the operator.

7. The administrative hearing officer may assess the city's reasonable administrative costs, including any impound fees and all costs incurred by the city from first discovery of the violations through the appeal process and until compliance is achieved, such as staff time for inspection of the violations, sending notices, and for preparing and attending any appeal hearing.
- E. The administrative hearing officer's decision is the final administrative remedy without further administrative appeals.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

#### **§ 10.60.070. Administrative regulations.**

The City Manager may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this chapter. All such administrative regulations must be in writing.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

#### **§ 10.60.080. Enforcement.**

Violation of any provision of this chapter is punishable pursuant to Chapter 1.08 of this code, or by the administrative code enforcement remedies of Chapter 1.10 of this code.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

#### **§ 10.60.090. Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

(Ord. CS-354 § 2, 2019; Ord. CS-410 § 2, 2021)

## VEHICLES AND TRAFFIC

**Title 11****PUBLIC PROPERTY**

Chapter 11.02  
**LEASE OF CITY PROPERTY**

- § 11.02.010. Long-term lease of city property.
  
- Chapter 11.04  
**STREETS AND SIDEWALKS AND TRAILS**
  
- § 11.04.010. Sidewalks to be installed noncontiguous to curb—Exception.
- § 11.04.020. Sidewalk width requirements.
- § 11.04.030. Street tree wells.
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Chapter 11.08  
**UNDERGROUND UTILITY DISTRICTS**

- § 11.08.010. Definitions.
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- § 11.08.060. Other exceptions.
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- § 11.12.010. Purpose and intent.
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Chapter 11.16  
**PERMITS FOR WORK OR ENCROACHMENTS IN PUBLIC PLACES**

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- § 11.16.030. City Engineer's authority and responsibilities.
- § 11.16.050. Permits—Required.
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**PUBLIC PROPERTY**

<b>§ 11.16.100.</b>	<b>Permits—Acceptance of work.</b>	<b>§ 11.24.130.</b>	<b>Compliance with chapter, regulations and orders.</b>
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<b>§ 11.16.130.</b>	<b>Right-of-way permit fees.</b>		<b>Violations.</b>
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## CARLSBAD CODE

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**CHAPTER 11.02  
LEASE OF CITY PROPERTY**

**§ 11.02.010. Long-term lease of city property.**

- A. The City Council may enter into a lease of city property for a term in excess of 55 years but not exceeding 99 years pursuant to the procedures set forth in this section. This section is enacted pursuant to California Government Code Section 37380 which allows a charter city to establish alternative procedures thereto and exempts the city from the provisions of subsections (b)(2), (b)(3) and (b)(4) thereof. Except with respect to leases in excess of 55 years, the provisions of this section shall not be deemed in any way to restrict the city's authority to enter into other forms of leases.
- B. A lease in excess of 55 years of property owned, held or controlled by the city, may be authorized by the City Council in accordance with the following procedures:
  1. Any lease entered into pursuant to this section shall be authorized by resolution of the City Council.
  2. The city shall not be required to engage in a competitive bid process for the award of such lease; provided, that at the time of adopting the resolution authorizing the lease the City Council makes a determination that entering the lease without engaging in a competitive bid process is in the best interests of the city.
  3. The City Council shall make a finding that the long-term lease is in the best interests of the city for economic and/or other articulated considerations of public benefit.
  4. Pursuant to California Government Code Section 37380(b)(1), the lease shall be subject to periodic review by the city and shall take into consideration the then market conditions. The City Council hereby establishes that the lease provisions which will periodically be reviewed, at a minimum, shall be those provisions specifying the rent to be paid pursuant to the lease. The periodic reviews shall occur in accordance with a schedule to be contained in the lease and may include such other provisions as may be indicated by the City Council at the time of authorizing the lease. The periodic review may be in the form of either an express review of the terms by the City Council or its designee, or in the form of a procedure contained in the lease for automatic adjustments of the terms, or reappraisals, in response to market conditions, without the necessity of a discretionary review by a city officer.

(Ord. CS-266 § 2, 2015)

## CHAPTER 11.04 STREETS AND SIDEWALKS AND TRAILS

### **§ 11.04.010. Sidewalks to be installed noncontiguous to curb—Exception.**

All sidewalks shall be installed noncontiguous to the curb on local residential streets and contiguous for collector streets and greater unless the City Engineer, for good cause shown, shall allow its placement at another location.

(Ord. 8042 § 1; Ord. NS-603 § 1, 2001)

### **§ 11.04.020. Sidewalk width requirements.**

Sidewalks shall be constructed for all new development in accordance with such city standards as the City Council by resolution prescribes.

(Ord. 8042 §§ 4, 5; Ord. 1296 § 19, 1987)

### **§ 11.04.030. Street tree wells.**

For good cause shown, the Transportation Director may require the placement of street tree wells in sidewalks of eight feet or greater in width.

(Ord. 8042 § 2; Ord. CS-164 § 2, 2011)

### **§ 11.04.040. Appeal of Transportation Director's determinations.**

In the event of a dispute regarding a decision of the Transportation Director on the location of the sidewalk or the placing of street tree wells, any aggrieved person may appeal to the City Council by filing an appeal with the City Clerk within 10 calendar days of the date of the written notice of the decision. Fees for filing an appeal under this section shall be established by resolution of the City Council. The decision of the City Council shall be final.

(Ord. 8042 § 3; Ord. NS-176 § 3, 1991; Ord. CS-164 § 2, 2011)

### **§ 11.04.050. Delegation of acceptance authority for streets and public purpose dedication.**

Pursuant to Streets and Highways Code Section 1806, and Government Code Section 27281, the following officers are delegated the powers of the City Council specified below with regard to the acceptance of privately constructed improvements in connection with a subdivision, and the acceptance and consent to recordation of deeds or grants conveying any interest in or easement upon real estate to the city for public purposes:

- A. The City Manager upon advice of the City Attorney may approve the acceptance of easements and covenants for easement required as conditions of development if properly executed on a standard document approved as to form by the City Attorney, as amended from time to time.
- B. The City Manager upon advice of the City Attorney may approve the acceptance of deeds or grants conveying any other interest in or easement upon real property to the city for public purposes, if such deeds or grants are recommended for approval by the Transportation Director and are properly executed on a standard document approved by the City Attorney as to form, as amended from time to time.
- C. The City Manager is authorized to accept streets and roads of a subdivision to be formally accepted into the city street system on behalf of the city, following acceptance of the final subdivision map by the City Council, and satisfactory completion of all subdivision public improvements or any other

public improvements constructed by a developer as a condition of development by any provision of Title 18, 20, or 21 of this code with the advice and consent of the City Attorney, and upon the recommendation of the Transportation Director. This provision is not intended to and shall not modify or relieve any developer from liability for any and all defects found after the acceptance of improvements, in accordance with a subdivision improvement agreement or any other similar agreement. Following acceptance by the City Manager, the Transportation Director shall cause any streets or roads so accepted to be entered into the inventory of city streets and roads. The city shall not be liable for any failure to maintain any street or road until such street or road has been accepted into the city's street system.

- D. The City Clerk is authorized to accept and consent to recordation of easements, covenants of easements, and other deeds or grants conveying any interest in or easement upon real property to the city for public purposes following approval by the City Manager and City Attorney as set forth above in subsections A and B of this section.

(Ord. NS-422 § 1, 1997; Ord. CS-149 § 2, 2011; Ord. CS-164 § 2, 2011)

**§ 11.04.060. Delegation of acceptance authority for public trails.**

- A. The city shall not be responsible for maintaining, nor shall it be liable for any failure to maintain any trail identified in the Open Space Conservation Resource Management Plan until it has been formally accepted into the Citywide Trail System by written instrument signed by the City Manager or designee as a public trail and only if the acceptance specifies that the trail is to be maintained by the city.
- B. Once a trail is accepted into the Citywide Trail System, whether it is to be maintained by the city or a private party or otherwise, the trail segment shall be designated on the Open Space Conservation Resource Management Plan in the city's General Plan Circulation Element as completed, indicating its availability for public use.

## CHAPTER 11.08 UNDERGROUND UTILITY DISTRICTS

### **§ 11.08.010. 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:

"Commission" means the Public Utilities Commission of the State of California;

"Poles, overhead wires and associated overhead structures" mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located aboveground within a district and used or useful in supplying electric, communication or similar or associated service;

"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 11.08.030;

"Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices.

(Ord. 7037 § 1, 1968)

### **§ 11.08.020. Public hearing by council.**

The council may from time to time call public hearings to ascertain whether the public 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 15 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. 7037 § 2, 1968; Ord. 1296 § 20, 1987)

### **§ 11.08.030. Designation of underground utility districts by resolution.**

If after the public hearing the City Council determines that the city or a public utility has agreed to pay over 50% of all costs of conversion, excluding costs of users' connections to underground electric or communication facilities and that the public health, safety and welfare requires such removal and underground installation, the City Council may by resolution declare the area an underground utility district and order the work. Such resolution shall include a description of the area comprising such district and shall provide that the council shall fix by subsequent resolution, the time within which such removal and underground installation shall be accomplished, 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. 7037 § 3, 1968; Ord. 7042 § 1, 1973; Ord. 1296 § 21, 1987)

### **§ 11.08.040. 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 11.08.030, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead

wires and associated overhead structures in the district after the date when 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 11.08.090, and for such reasonable time required to remove said facilities after said work has been performed, and except as otherwise provided in this chapter.

(Ord. 7037 § 4, 1968)

**§ 11.08.050. Exception—Emergency or unusual circumstances.**

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed 30 days, without authority of the council in order to provide emergency service. The council may grant special permission, on such terms as the council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures.

(Ord. 7037 § 5, 1968)

**§ 11.08.060. Other exceptions.**

Any resolution adopted pursuant to Section 11.08.030, shall not apply to any of the following types of facilities, unless otherwise provided for in such resolution:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the Transportation Director;
- B. Poles, or electroliers used exclusively for street lighting;
- C. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- D. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;
- E. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;
- F. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects;
- G. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- H. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
- I. New or existing anchor poles and guy wires within the district necessary to support overhead facilities outside the district.

(Ord. 7037 § 6, 1968; Ord. 7042 § 1, 1973; Ord. CS-164 § 2, 2011)

**§ 11.08.070. Notice to property owners and utility companies.**

Within 10 days after the effective date of a resolution adopted pursuant to Section 11.08.030, the City Clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The City Clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission.

Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 11.08.030, together with a copy of the ordinance codified in this chapter to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

(Ord. 7037 § 7, 1968)

**§ 11.08.080. Responsibility of utility companies.**

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 11.08.030, 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. 7037 § 8, 1968)

**§ 11.08.090. Responsibility of property owners.**

- A. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his or her property between the facilities referred to in Section 11.08.080 and the termination facility on or within said 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.
- B. In the event any person owning, operating, leasing, occupying or renting said property does not comply with the provisions of subsection A of this section within the time provided for in the resolution enacted pursuant to Section 11.08.030, the City Engineer shall post written notice on the property being served and 30 days thereafter shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property.
- C. In addition to the provisions of subsection B above, upon direction by the City Council, the engineer shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within 10 days after receipt of such notice.
- D. The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to "General Delivery, City of Carlsbad." 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.

- E. 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 become a lien upon the property benefited.
- F. Upon completion of the work by the City Engineer, the City Engineer 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 become a lien. The council shall thereupon fix a time and place for hearing protests against the cost of such work upon such premises, which said time shall not be less than 10 days thereafter.
- G. The City Engineer shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the council will pass upon such report and will hear protests. Such notice shall also set forth the amount of the proposed lien.
- H. Upon the date and hour set for the hearing of protests, the council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the lien.
- I. If these costs are not paid within five days after their confirmation by the City Council, they shall become a lien upon the real property as described by the City Engineer, and the City Engineer is directed to turn over to the assessor and tax collector a notice of lien on each of the properties on which these costs have not been paid, and the assessor and tax collector shall add the amount of these costs to the next regular bill for taxes levied against the premises for which the work has been performed and has not been paid. These costs shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per year.

(Ord. 7037 § 9, 1968; Ord. NS-391 §§ 1—5, 1997)

#### **§ 11.08.100. Responsibility of city.**

The city shall remove at its own expense all city-owned equipment from all poles required to be removed under this chapter 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 11.08.030.

(Ord. 7037 § 10, 1968)

#### **§ 11.08.110. Extension of time.**

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 11.08.030 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. 7037 § 11, 1968)

## CHAPTER 11.12 TREES AND SHRUBS

### **§ 11.12.010. Purpose and intent.**

The public interest and welfare require that the city establish, adopt and maintain a comprehensive program for installing, maintaining and preserving trees within the city.

This chapter establishes policies, regulations and specifications necessary to govern installation, maintenance and preservation of trees to beautify the city, to purify the air, to provide shade and wind protection, and to preserve trees with historic or unusual value.

It is the policy of the city to line its streets with trees and to conduct a consistent and adequate program for maintaining and preserving these trees. It is the goal of this policy to provide for planting trees in all areas of the city and for selecting appropriate species to achieve as much beauty and economy as possible. It is also the policy of the city to protect and preserve all desirable trees that are located on the city's right-of-way.

It is the policy of the city to encourage new tree planting on public and private property and to cultivate a flourishing urban forest.

(Ord. NS-545 § 2, 2000)

### **§ 11.12.020. Definitions.**

For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

"Certified arborist" means an arborist certified by the International Society of Arboriculture.

"Community forest management plan" means a document that contains goals and policies that will guide the city in its actions and decisions affecting trees within the city limits.

"Hazardous tree" means any tree or tree condition which represents a danger to persons, property or other healthy trees.

"Heritage tree" means any tree existing within the city limits which has been so designated by resolution by the City Council. Heritage trees shall be trees with notable historic interest or trees of an unusual species or size.

"Maintain" or "maintenance" means the entire care of trees including ground preparation, fertilizing, mulching, trimming and watering.

"Plant" means an herb that lacks a permanent woody stem.

"Shrub" means a low woody plant having several stems and a trunk less than three inches in diameter at a height less than four and half feet above the ground.

"Tree" means any perennial woody plant having a trunk at least three inches in diameter at a height four and one-half feet above the ground. This definition shall include any tree planted by or required to be planted by the city which will attain the stated size and maturity.

"Tree service life" means the number of years that the tree provides the most benefits with the least amount of costs.

"Valid tree site" means a tree site in that area of the public right-of-way where a tree can be planted. The requirement shall be one tree per residence or 40 feet between trees for a large tree site, 30 feet for a

medium tree site and 20 feet for a small tree site. All tree sites beneath a high voltage electrical line shall be considered a small tree site. Tree sites shall be planted with a large, medium or small tree listed and approved by the city.

(Ord. NS-545 § 2, 2000)

#### **§ 11.12.030. Jurisdiction of parks and recreation department.**

The City Manager, acting through the Parks and Recreation Director or designee, shall exercise exclusive jurisdiction and control over the planting, maintenance, removal and replacement of trees, shrubs or plants in all streets, sidewalks, medians or other public rights-of-way of the city, and shall have such power, authority, jurisdiction and duties as are prescribed in this chapter.

(Ord. NS-545 § 2, 2000; Ord. NS-747 § 1, 2005; Ord. CS-072 § 2, 2009; Ord. CS-164 § 8, 2011)

#### **§ 11.12.040. Master tree list.**

The City Manager, acting through the Parks and Recreation Director or designee, shall develop and maintain a master tree list, which shall be adopted by resolution of the City Council and shall be on file in the office of the City Clerk. These documents shall specify the species of trees suitable and desirable for planting in certain areas in order to establish a wide ranging urban forest.

(Ord. NS-545 § 2, 2000; Ord. CS-072 § 2, 2009)

#### **§ 11.12.050. Street tree planting and maintenance procedures.**

The City Manager, acting through the Parks and Recreation Director or designee, shall develop and implement policies and standards for street tree planting and maintenance required of all tree planting and maintenance throughout the city.

(Ord. NS-545 § 2, 2000; Ord. NS-747 § 2, 2005; Ord. CS-072 § 2, 2009)

#### **§ 11.12.060. Approval prior to planting.**

No tree, shrub or plant shall be planted in any street, sidewalk, median or other public right-of-way of the city until the City Manager, acting through the Parks and Recreation Director or designee, first approves the kind and variety, designates the location therefor and grants the permit for planting.

(Ord. NS-545 § 2, 2000; Ord. CS-072 § 2, 2009)

#### **§ 11.12.070. Street tree maintenance.**

It shall be the obligation of the City Manager, acting through the Parks and Recreation Director or designee, to assign appropriate scheduled tree, shrub or plant maintenance, including, but not limited to, pruning, fertilization, irrigation and pest control based on age, species, size and location to assure the proper maintenance of all street trees, shrubs or plants.

(Ord. NS-545 § 2, 2000; Ord. CS-072 § 2, 2009)

#### **§ 11.12.080. Protection of trees.**

- A. No person shall remove, trim, prune or cut any street tree, shrub or plant now or hereafter growing in any street, sidewalk, median or other public right-of-way of the city.
- B. No person shall remove, injure or misuse any guard or device placed to protect any tree, shrub or plant now or hereafter growing in any street, sidewalk, median or other public right-of-way of the city.

- C. No person shall hitch or fasten any kind of animal to any tree, shrub or plant now or hereafter growing in any street, sidewalk, median or other public right-of-way of the city; nor shall any person place a post for hitching of animals within five feet of any tree, shrub or plant now or hereafter growing in any street, sidewalk, median or other public right-of-way of the city.
- D. No person shall trim, cut, prune, injure or remove by any means any tree, shrub or plant growing in any street, sidewalk, median or other public right-of-way of the city.
- E. No person shall:
  - 1. Construct a concrete, asphalt, brick or gravel sidewalk, or otherwise fill up the ground area near any tree, shrub or plant growing in any street, sidewalk, median or other public right-of-way of the city, to shut off air, light or water from the roots, except under written authority from the City Manager, acting through the Parks and Recreation Director or designee;
  - 2. Place building material, equipment or other substances likely to cause injury to a tree near any tree, shrub or plant growing in any street, sidewalk, median or other public right-of-way of the city, which might cause injury to the tree;
  - 3. Post any sign on any tree that is not scheduled for removal as described in Section 11.12.090 of this chapter, tree-stake or guard, or fasten any electric wire, insulator or any other device for holding electric, telephone, television or conductor wires to any tree, shrub or plant now or hereafter growing in any street, sidewalk, median or other public right-of-way of the city.
- F. No person shall interfere, or cause any other person to interfere, with employees of the city, or contractors employed by the city, who are engaged in planting, maintaining, treating, removing or replacing any street tree, shrub or plant or removing or replacing any material which is likely to cause injury to the tree, shrub or plant.
- G. No person shall plant any street tree, shrub or plant except according to policies, regulations and specifications established pursuant to this chapter or any currently applicable ordinances or code sections.

(Ord. NS-545 § 2, 2000; NS-747 §§ 3, 4, 2005; Ord. CS-072 § 2, 2009)

#### **§ 11.12.090. Permits required for tree removal and maintenance.**

- A. Policy. The city values trees as an important part of the environment and shall strive to preserve them whenever possible and feasible. When reviewing requests for a street tree removal permit, the city shall discourage removing desirable trees, and shall consider approving removal of desirable trees only as a last resort alternative for the applicant.
- B. Permits for Removal or Maintenance. Except as otherwise provided in this chapter, pruning, cutting, trimming or removing any street tree in the city shall require a permit issued by the City Manager, acting through the Parks and Recreation Director or designee.
- C. Review of the application to remove a tree shall proceed as follows:
  - 1. A city arborist shall inspect the property and recommend approving or denying the application in a written report submitted to the City Manager, acting through the Parks and Recreation Director or designee.
  - 2. The city arborist may authorize a tree's removal after finding either of the following circumstances:

- a. The tree is a hazard to life or property, and removing it is the only feasible way to eliminate the hazard;
  - b. The tree is dead, dying, diseased or damaged beyond reclamation.
3. If the city arborist does not find either of the above circumstances for removing a tree, a priority rating depending on the following factors can be considered for a tree removal.
- a. Service life;
  - b. Damage to utilities and/or sewer lines;
  - c. Damage to hardscape;
  - d. Conformity of the existing tree to recommended species list.

The highest priority removal shall be given to trees meeting all four factors. The second priority will be given to trees meeting three factors, etc.

4. If the city arborist has recommended denying the application, the applicant may request the Parks and Recreation Commission to review the arborist's decision.
  5. If the Parks and Recreation Commission concurs with the city arborist's recommendation to deny the application, the applicant may request the City Council to review the matter for final action.
- D. All tree removal, whether by city or applicant, shall include the removal of the stump and the removal of all stump grinding chips and the backfilling of the hole created by stump removal with a good quality top soil suitable for the replanting of a replacement tree.
- E. Notification of Tree Removal.
1. The city shall post a letter of notification and a non-removable marking upon the subject tree a minimum of 30 days prior to its removal. The letter will be posted in a prominent location, visible from a public street and will include, but not be limited to the following information:
    - a. The location of the tree;
    - b. The reason for the tree's removal;
    - c. The date of the scheduled removal;
    - d. The species of tree to be replanted;
    - e. The size of the tree to be replanted;
    - f. The date by which an appeal must be made to the Parks and Recreation Commission;
    - g. A description of the appeal process.
  2. The letter of notification shall also be given to the owner of the property where the tree is scheduled be removed, and to the adjacent property owners, as well as to the property owners directly opposite and to the owners of the properties adjacent to the opposite property.
  3. The City Manager, acting through the Parks and Recreation Director or designee, may waive notification requirements for a tree removal in either of the following circumstances:

- a. When the City Manager, acting through the Parks and Recreation Director or designee determines that a tree's condition threatens public health, safety or welfare;
  - b. When local, state or federal authorities have declared a state of emergency and a tree's condition threatens public health, safety or welfare.
- F. No heritage tree shall be removed except if it is determined by a city arborist that such a tree is creating a hazard to life or property, or by formal appeals process.

(Ord. NS-545 § 2, 2000; NS-747 § 5, 2005; Ord. CS-072 §§ 2, 4, 2009)

#### **§ 11.12.100. Tree replacement.**

- A. It shall be the goal of the city to replace all removed street trees within 45 days of their removal if the tree site meets the minimum specifications for a valid tree site.
- B. All removed trees shall be replaced with a tree of the same species as removed, except where the removed species does not conform to the recommended species approved by the city, or the conditions existing at the valid site. No tree shall be planted into the public right-of-way that does not comply with the uniform street planting map as described in Section 11.12.120 of this chapter.
- C. Trees that are touching or nearly touching high-voltage utility lines shall be replaced with a recommended species.
- D. All tree replanting shall be with a minimum 15-gallon container tree, except when a person agrees to pay the difference in cost of a larger replacement tree size and any additional costs associated with the planting of a larger tree.
- E. A person may request replacement of a street tree species specified in the uniform street planting map with another species only when there is a medical allergy certified by a medical doctor. The replacement tree will be approved by the city arborist and the City Manager, acting through the Parks and Recreation Director or designee. All trees removed for this reason must be replaced with a tree listed as an approved species by the city.

(Ord. NS-545 § 2, 2000; Ord. CS-072 § 2, 2009)

#### **§ 11.12.110. Overhanging trees.**

The owner or his/her agent of every lot or parcel of land in the city upon which any trees, shrubs or plants are now or may be hereafter standing shall trim, or cause to be trimmed, the branches thereof so that the same shall not obstruct the adequate passage of light from any street light located in any street, sidewalk, median or other public right-of-way of the city and such owner or his/her agent shall trim all branches of any trees, shrubs or plants which overhang any street, sidewalk, median or other public right-of-way of the city so that there shall be a clear height of eight feet above the surface of the street, sidewalk, median or other public right-of-way of the city unobstructed by branches; and such owner or his/her agent shall remove from such trees, shrubs or plants all dead, decayed or broken limbs or branches that overhang such street, sidewalk, median or other public right-of-way of the city, and when any such trees, shrubs or plants are dead, such owner or his/her agent shall remove the same so that they shall not fall in the street, sidewalk, median or other public right-of-way of the city.

(Ord. NS-545 § 2, 2000)

#### **§ 11.12.120. Uniform street planting map.**

Upon the recommendation of the Parks and Recreation Commission, the City Council shall adopt a uniform

street tree planting map that will depict a uniform method of tree plantings on city streets. The City Manager, acting through the Parks and Recreation Director or designee, shall have copies of this map made and the same shall be kept on file in the office of the City Clerk and may be obtained by the public. (Ord. NS-545 § 2, 2000; Ord. CS-072 § 2, 2009)

#### **§ 11.12.130. Community forest management plan.**

- A. Upon the recommendation of the Parks and Recreation Commission, the City Council shall adopt a community forest management plan that provides direction to develop goals and policies that will guide the city to manage tree-related issues in a proactive manner. The plan will address trees on public property and will discuss planting, removal, replacement, maintenance and the preservation of trees growing on any public property or in any street, sidewalk, median or other public right-of-way of the city.
- B. When the management plan in its original or modified form is adopted by the City Council, it shall become the tree planting plan for public streets of the city and shall be strictly adhered to in all future street planting improvement projects and in the removal, replacement and maintenance of trees, shrubs or plants in public streets in the city. The management plan for the entire city does not need to be adopted by the City Council at one time. Instead, council may adopt the community forest management plan for different portions of the city within a reasonable length of time after the completed plan for any particular portion of the city has been submitted to the City Council for adoption.
- C. The City Manager, acting through the Parks and Recreation Director or designee, shall have copies of this plan made and the same shall be kept on file in the office of the City Clerk and may be obtained by the public.

(Ord. NS-545 § 2, 2000; Ord. CS-072 § 2, 2009)

#### **§ 11.12.140. Heritage trees.**

The City Council recognizes the important role trees have played in the history and development of Carlsbad and recognizes that a wide variety of trees can grow in its unique and temperate climate. The city may officially designate as heritage trees those trees in the community which have significant historical or arboricultural interest. It is the policy of the City Council that all designated heritage trees that are on public streets shall be protected.

(Ord. NS-545 § 2, 2000)

#### **§ 11.12.150. Appeals.**

- A. Any person may request a formal appeal to the Parks and Recreation Commission within 30 calendar days of the posting of a city tree for:
  1. The location or species of any street tree selected by the city for planting at a specific location; and/or
  2. The city arborist's recommendation for the removal of any nonhazardous street tree.
- B. Any person may request a formal appeal to the Parks and Recreation Commission for:
  1. The removal of a street tree which is not dead, dying or diseased; and/or
  2. The removal of a street tree that is listed as a heritage tree; and/or

3. The removal of a street tree that is causing damage to hardscape or for the cause of routing underground or overhead utilities.
- C. If the Parks and Recreation Commission denies an applicant's appeal, the applicant may request a final appeal to the City Council within 10 calendar days of the Commission's decision.
- D. Fees for an appeal shall be determined by resolution of the City Council.
- E. Appeals will be made by submitting a tree appeal form available from the office of the City Clerk.  
(Ord. NS-545 § 2, 2000; Ord. CS-072 § 3, 2009)

**§ 11.12.160. Violation.**

- A. A violation of this chapter may be prosecuted either as a misdemeanor or an infraction pursuant to the provisions of Chapter 1.08, Section 1.08.010 of this code. The City Attorney shall have the discretion to reduce to an infraction any act made unlawful pursuant to this chapter if such reduction is warranted in the interest of justice.
- B. In addition to any criminal penalty, the city may, pursuant to Government Code Section 36901, impose a civil penalty for any violation of this chapter in an amount not to exceed \$1,000.00.
- C. In addition to any other remedy provided by this code, any provision of this code may be enforced by civil action and an injunction; any violation of this code may result in civil penalties, monetary damages, attorney's fees, and investigatory costs.

(Ord. NS-545 § 2, 2000; Ord. NS-762 § 1, 2005; Ord. CS-072 § 5, 2009)

**CHAPTER 11.16  
PERMITS FOR WORK OR ENCROACHMENTS IN PUBLIC PLACES**

**§ 11.16.010. Title.**

The ordinance codified in this chapter may be cited as the "Right-of-Way Permit Ordinance."  
(Ord. NS-386 § 2, 1996)

**§ 11.16.020. Definitions.**

For the purpose of this chapter, the following words, terms and phrases shall have the following meanings as set out in this section:

"City Engineer" means the City Engineer or designee, who is the Deputy City Engineer, land development engineering.

"Encroachment" means and includes any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building, or any structure or object of any kind or character not particularly mentioned in this definition, which is placed in, under or over any portion of a public place.

"Facility" means any street, highway, curb, gutter, fencing, pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material structure or object of any kind or character, whether enumerated in this definition or not which is constructed, left, placed or maintained in, upon, along, across, under or over any public place.

"Improvement plans" means the construction plans, prepared by a civil engineer, in accordance with city standards for the purpose of describing a public improvement to be constructed, repaired, rehabilitated and/or otherwise installed in a public place. The term may also be used to mean the construction plans, prepared by a civil engineer, in accordance with city standards for the purpose of describing a private improvement to be constructed, repaired, rehabilitated and/or otherwise installed on private property or in a public easement or right-of-way.

"Plans" means the document developed and approved by the City Engineer describing the nature and extent of works proposed to be constructed or carried out on a public place.

"Public place" means any public street, highway, way, place, alley, sidewalk, easement, right-of-way, park, square, plaza or other similar public property owned or controlled by the city and dedicated to public use.

"Specification" means the Standard Specifications for Public Works Construction (current edition including supplements) written and promulgated by Southern California Chapter American Public Works Association and Southern California District Associated General Contractors or California Joint Cooperative Committee and published by Building News Incorporated, or such other specifications noted on approved plans.

"Standard drawings" means the "standard drawings" of the City of Carlsbad, adopted and revised by the City Engineer and the most recently adopted San Diego Area Regional Standard Drawings.

In addition to the above defined words, terms and phrases, the definition of words, terms and phrases, as described in Chapter 15.04, shall apply to this chapter.

(Ord. NS-386 § 2, 1996; Ord. NS-878 § 1, 2008; Ord. CS-164 § 13, 2011; Ord. CS-389 § 8, 2021)

**§ 11.16.030. City Engineer's authority and responsibilities.**

This chapter shall be administered by the City Engineer who shall have the responsibility and authority to:

- A. Establish the form and procedures for application for right-of-way permits required pursuant to this chapter including the certification of completed applications, the approval of plans, the establishment of files, collection of fees and security deposits;
- B. Interpret the provisions of this chapter and advise the public regarding requirements for plans, specifications and special provisions for facilities or encroachments subject to the provisions of this chapter;
- C. Establish format and content of plans and standards governing work on facilities or encroachments pursuant to the provisions of this chapter;
- D. Issue right-of-way permits upon such conditions as determined are reasonable and necessary to protect the public health, safety and welfare;
- E. Consider and approve amendments, including extensions, of any right-of-way permit issued when such amendment is necessary to provide for the safe and efficient movement of traffic or to protect public places, persons or property;
- F. The City Engineer shall, subject to the authority of the City Manager pursuant to Section 1.08.020, administer and enforce the provisions of this chapter.

(Ord. NS-386 § 2, 1996; Ord. CS-389 § 8, 2021)

**§ 11.16.050. Permits—Required.**

No person shall do any of the following acts without first obtaining a valid right-of-way permit:

- A. Make or cause to be made any excavation or opening, fill or obstruction in, over, along, on, across or through any public place for any purpose whatsoever;
- B. Construct or repair or cause to be constructed or repaired any curb, sidewalk, gutter, curb with integral gutter, drive approach, driveway, alley approach, spandrel and cross gutter, wheelchair ramp, A.C. dike, or any other work of any nature covered by the city standard drawings or city policy within a public place; or place, change, renew an encroachment in, over, along or across or through any street right-of-way or public place excepting, however, for or in connection with the installation of poles, guys and anchors constructed for use under franchise for public utility purposes where such poles, guys and anchors do not interfere with or lie within 10 feet of existing improvements;
- C. Place any banner over, across, on, or along any public place;
- D. Plant, remove, cut, cut down, injure or destroy any tree, plant, shrub, or flower growing within any public place excepting necessary pruning or trimming to protect persons or property;
- E. Construct or modify or cause to be constructed or modified, any storm drain or conveyor of drainage waters and appurtenant items within a public place;
- F. Modify, alter or deface any block wall on or adjacent to public places;
- G. Engage in any traffic-control operations in such a fashion as to affect any public place while constructing, demolishing or maintaining any facility;

- H. Enter onto or exit from any public place at any location not approved and constructed as a driveway;
  - I. Install marquees, awnings and building mounted signs which obtrude into a public place.
- (Ord. NS-386 § 2, 1996)

**§ 11.16.060. Permits—Application.**

- A. Any person proposing to do any of the acts described in Section 11.16.050 of this chapter shall make an application for a right-of-way permit to the City Engineer.
  - B. The following information shall be included on the application:
    1. The location, nature and extent of work to be performed;
    2. The proposed date when such work shall be commenced;
    3. The proposed date when work shall be completed;
    4. Such other information as may be required by the City Engineer.
  - C. The City Engineer may require the application to contain an encroachment agreement if deemed necessary due to the size, duration, and/or nature of the encroachment. The encroachment agreement shall require removal of the encroachment by the permittee upon reasonable demand by the City Engineer, adequate security for performance of such promise, and be in a form acceptable to the City Attorney. It may be executed on behalf of the city by the City Engineer.
  - D. If the work proposed to be done requires the making of plans or the setting of stakes, or both, the City Engineer may require the application to be accompanied by the necessary plans, which plans shall be prepared by a competent engineer licensed by the State Department of Consumer Affairs.
  - E. Upon right-of-way permit issuance the application shall become part of the right-of-way permit.
- (Ord. NS-386 § 2, 1996)

**§ 11.16.070. Relocation of structures—Removal of encroachment.**

The City Engineer may require any person who, pursuant to a duly issued right-of-way permit under this chapter, has performed construction work or placed and maintained any encroachment, to move the same at his or her own cost and expense to such different location as is specified in a written demand of the City Engineer, whenever such move is necessary to ensure the safety and convenience of the public or facilitate construction within the right-of-way. The City Engineer shall specify in the demand a reasonable time within which the work of relocation must be commenced, and the permittee must commence such relocation within the time specified in the demand and thereafter diligently prosecute the same to completion. Any encroachment agreement required by the City Engineer shall specify these requirements and require adequate security to enforce these provisions if the permittee fails to do so.

(Ord. NS-386 § 2, 1996)

**§ 11.16.080. Permits—Commencement and completion of work.**

Every permittee shall commence work as stipulated in the right-of-way permit and diligently pursue the work to completion without interruption within the time period required by the right-of-way permit. Right-of-way permits issued under this chapter shall be valid for the period of time specified in the right-of-way permits, unless the City Engineer grants a time extension.

(Ord. NS-386 § 2, 1996)

**§ 11.16.090. Permits—Requirements for performance of work.**

- A. The permittee shall perform the work in a timely manner, in accordance with approved plans, specifications and city standards and, to the satisfaction of the City Engineer.
- B. No person shall cause any public improvement or appurtenant work to be performed upon any public place within the city by any person other than a licensed contractor or a public utility.
- C. Any works conducted requiring the temporary, partial or full closure of the traveled or pedestrian right-of-way shall not be commenced until the permittee has obtained a permit therefor pursuant to Title 8 or Title 10 of this code and has been issued a traffic-control permit stipulating the date, time and provisions under which closure may be carried out.
- D. As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such work shall be accomplished at the expense of the permittee. From time to time, as may be ordered by the City Engineer, and in any event immediately after completion of the work, the permittee shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work. Upon failure to do so, within 24 hours after having been notified, the work may be done by the city and the cost thereof charged to the permittee. Whenever it may be necessary for the permittee to excavate through any landscaped area, the area shall be reestablished in a like manner after the excavation has been backfilled as required. All construction and maintenance work shall be done in a manner designed to leave the area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any existing trees or shrubs without first obtaining the consent of the City Engineer.
- E. All work affecting public improvements or public safety shall be inspected by the City Engineer as follows:
  - 1. No person shall prevent or obstruct the City Engineer in making any inspection authorized by this chapter or in taking any sample or in making any test;
  - 2. Twenty-four-hour notice to the City Engineer is required for all inspections;
  - 3. All work not in conformance with approved plans and specifications is subject to rejection by the City Engineer;
  - 4. Request for final inspections shall be made in writing.
- F. Prior to the issuance of a right-of-way permit for a project, the project owner or authorized agent shall:
  - 1. Provide the City Engineer with a completed stormwater requirements applicability questionnaire in accordance with SUSMP requirements;
  - 2. If the project is determined to be a priority development project, then the project owner or authorized agent shall:
    - a. Prepare and submit a stormwater management plan in conformance with the requirements of city standards and Title 15 of this code;
    - b. Enter into a permanent stormwater quality best management practices maintenance agreement or provide an alternate maintenance mechanism as approved by the City Engineer.

- G. A city-approved construction SWPPP is required to be submitted prior to right-of-way permit issuance in accordance with city standards and Section 15.16.085 of this code for any project which has the potential for adding pollutants to stormwater or non-stormwater runoff during construction activities, unless an exemption from such requirement is provided pursuant to Section 15.16.085 and the municipal permit.

(Ord. NS-386 § 2, 1996; Ord. NS-878 § 2, 2008)

#### **§ 11.16.100. Permits—Acceptance of work.**

The City Engineer, upon determination by survey or by inspection or by both, that the work has been completed according to the requirements of this chapter and the right-of-way permit, shall issue a certificate of acceptance which shall contain a statement of the location, nature and extent of the work performed under the right-of-way permit.

(Ord. NS-386 § 2, 1996)

#### **§ 11.16.110. Permits—Denial and revocation.**

- A. The City Engineer may deny the issuance of a right-of-way permit to any person who refuses or fails to comply with the provisions of this chapter, who is indebted to the city for past permit violations or who in the judgment of the City Engineer has repeatedly violated permit procedures or failed to comply with conditions requiring protection of the public health and safety.
- B. The City Engineer may deny the issuance of a right-of-way permit to any person who refuses to execute an encroachment agreement as required pursuant to Section 11.16.060.
- C. Any permittee found in violation of the conditions of a right-of-way permit or the provisions of this chapter shall be given a written notice to comply stipulating the code violation. Upon receipt of a notice to comply, the permittee shall take action to correct the condition of violation within the period stipulated in the notice. If within that period appropriate measures have not been implemented, the City Engineer may revoke the right-of-way permit and take any measures required to secure the work site or return the work site to its original condition. The cost of such work may be collected from the permittee.
- D. The City Engineer shall deny the issuance of a right-of-way permit to any person who refuses to comply with all stormwater protection provisions of this chapter or Title 15 of this code.

(Ord. NS-386 § 2, 1996; Ord. NS-878 § 3, 2008)

#### **§ 11.16.120. Appeal procedure.**

- A. An individual may appeal the decision of the City Engineer made in regard to administration of this chapter to the City Council within 10 calendar days following the decision. Appeals shall be in writing, filed with the City Clerk and shall state the basis for the appeal. Fees for filing an appeal shall be in an amount as established by resolution of the City Council. The decision of the City Council shall be final.
- B. The City Clerk shall thereupon fix a time and place for hearing such appeal. The City Clerk shall give notice to the appellant and applicant/permittee of the time and place of hearing by serving the notice personally or by depositing it in the United States Post Office in the city, postage prepaid, addressed to such persons at their last known address.

(Ord. NS-386 § 2, 1996)

**§ 11.16.130. Right-of-way permit fees.**

Right-of-way permit fees shall be charged by the city for the processing of a right-of-way application and the issuance of a right-of-way permit. The fee shall be established by resolution of the City Council and is for the purpose of defraying the cost of processing an application, issuing the requested right-of-way permit, inspection of works completed under the right-of-way permit and other costs of administrating this chapter.

(Ord. NS-386 § 2, 1996)

**§ 11.16.140. Performance deposits.**

- A. As a condition of issuance of a right-of-way permit, the City Engineer may require posting of a cash deposit or an equivalent security in a form acceptable to the City Attorney. The City Engineer may require that up to 100% of any deposit be submitted in the form of a cash deposit. The cash deposit may be used at the discretion of the City Engineer to provide for traffic-control, restoration of public facilities or removal from the right-of-way of work, materials or equipment when permittee or the permittee's agent fails to act in a timely manner to provide for the public health, safety or welfare. The deposit shall otherwise be for the purpose of guaranteeing performance of work contemplated under the permit including removal of encroachments, if required. Each deposit shall be accompanied by a right-of-way cash security agreement stipulating the uses and conditions under which the funds may be expended.
- B. The amount of the deposit shall be established by the City Engineer based on the size, duration, and/or nature of the encroachment.
- C. Upon completion and acceptance of work under permit, any funds unused shall be refunded to the permittee and any other bonds or security instruments shall be released.
- D. If any deposit or security is not sufficient for the protection of the public interest in the public places, the City Engineer may require an additional deposit or an increase in the security in such amount as the City Engineer determines necessary. The permittee shall, upon demand, deposit the additional cash or security.

Upon failure or refusal to pay, the City Engineer may revoke the permit and/or recover the deficiency by appropriate action in any court of competent jurisdiction. Until such deficiency is paid in full, no other permit shall be issued to such permittee.

- E. Where work is to be done by persons or utilities operating under a franchise issued by the city or regulated by the State Public Utilities Commission or utilities operated by governmental agencies, a permit may be granted without making a deposit. In such cases, the permittee shall be liable for the actual cost of any work to be done by the city in restoring the area covered by the permit to the satisfaction of the City Engineer.

(Ord. NS-386 § 2, 1996)

**§ 11.16.145. Improvement plans.**

- A. Improvement plans shall be prepared in accordance with city standards and this chapter for all work involving the construction, repair and/or major rehabilitation of public improvements within a public place. The City Engineer may waive the requirement for preparation of improvement plans if, in the opinion of the City Engineer, the improvements are of a size or type that does not warrant the preparation of improvement plans.

- B. A separate application for each set of improvement plans, if required, shall be made in advance of submittal for a right-of-way permit. Each application for improvement plan review shall include a completed application form, improvement plans, specifications, engineering calculations, a soils and/or geotechnical investigation, and other such calculations, documentation and information as may be necessary to demonstrate that the improvement work will be carried out in substantial compliance with all city codes, city standards and the requirements of the Landscape Manual. Each improvement plan review application shall be accompanied by a construction SWPPP prepared in accordance with the requirements of this chapter, Title 15 and city standards.
- C. An improvement plan review fee and inspection fee shall be charged by the city for the processing of the improvement plan review and inspecting the improvements during construction. The fees shall be established by resolution of the City Council and are for the purpose of defraying the cost of processing the improvement plan review and inspecting the improvements during construction. The improvement plan review fee and inspection fee are in addition to any other plan review, inspection and permit issuance fees charged for the issuance of a right-of-way permit or processing grading plans and building plans or, the issuance of permits thereto. An additional improvement plan review fee of 15% of the current plan review fee may be charged for improvement plan applications for which the city approval is not granted within 24 months following the original date of application.
- D. Improvement plan applications for which city approval is not granted within three years following the date of application shall be deemed withdrawn, provided the improvement plans are not associated with a tentative map, tentative parcel map, vesting tentative map, or vesting tentative parcel map, in which case the improvement plan application shall be deemed withdrawn on the date of the expiration of the associated tentative map. The improvement plans and other documents submitted for review may thereafter be returned to the applicant or destroyed by the City Engineer. In order to renew action on an application after withdrawal, the applicant shall resubmit a new application and pay new improvement plan review and inspection fees.
- E. The City Engineer may authorize refunding of the entire improvement plan inspection fee and refunding the unused amount not exceeding 80% of the improvement plan review fee paid when an application for an improvement plan is withdrawn (1) in accordance with this section; or (2) upon written application filed by the original applicant not later than 60 days after withdrawal of the improvement plan application by the applicant, when withdrawn prior to completion of the improvement plan review.
- F. Any application in process on the effective date of this code amendment shall be subject to the provisions of this section. The filing date for such application shall be considered to be the effective date of the code amendment.

(Ord. NS-878 § 4, 2008; Ord. CS-135 § 1, 2011)

#### **§ 11.16.146. Improvement plan security.**

- A. The owner, developer or subdivider shall enter into a secured agreement with the city guaranteeing the construction of the public improvements in accordance with this chapter and the improvement security requirements of Sections 20.16.070 and 20.16.080 of this code, prior to issuance of a right-of-way permit or at such other time as required per the conditions of approval for projects approved pursuant to Titles 20 and 21 of this code.
- B. The improvement security release procedures described in Section 20.16.090 of this code shall be followed for release of security posted per the requirements of this section.

(Ord. NS-878 § 4, 2008)

**§ 11.16.150. Placement of materials or obstruction of streets.**

- A. No person shall place or maintain any material or any obstruction or impediment to travel in or upon any public place without a permit to do so.
- B. Persons violating provisions of this section shall be issued a notice of removal and given a specified time to remove such material, obstruction or impediment. Any failure to comply with the notice is unlawful and a public nuisance endangering the health, safety and general welfare of the public. In addition to any other remedy provided by law for the abatement of such public nuisance, the City Engineer may, after giving notice, cause the work necessary to accomplish the removal. The costs thereof may be assessed against the owner or owners of the project creating the obstruction.
- C. Notice of removal shall be in writing and mailed to all persons whose names appear on the last equalized assessment roll as owners of real property creating the obstruction at the address shown on the assessment roll. Notice shall also be sent to any person known to the City Engineer to be responsible for the nuisance. The City Engineer shall also cause at least one copy of such notice to be posted in a conspicuous place on the premises. No assessment shall be held invalid for failure to post or mail or correctly address any notice. The notice shall particularly specify the work required to be done and shall state that if the work is not commenced within 24 hours after receipt of such notice and diligently prosecuted (without interruption) to completion, the city shall cause such work to be done, in which case the cost and expense of such work, including incidental expenses incurred by the city, will be assessed against the property or against each separate lot and become a lien upon such property.
- D. If upon the expiration of the 24-hour period provided for in subsection C of this section, the work has not been done, or having commenced, is not being performed with diligence, the City Engineer shall proceed to do such work or cause such work to be done. Upon completion of such work, the City Engineer shall file written report with the City Council setting forth the fact that the work has been completed and the cost thereof, together with a legal description of the property against which cost is to be assessed. The City Council shall thereupon fix a time and place for hearing protest against the assessment of the cost of such work. The City Engineer or the City Clerk, if so directed by the council, shall thereafter give notice in writing to the owners of the project in the manner provided in subsection C of the hour and place that the City Council will pass upon the City Engineer's report and will hear protests against the assessments. Such notice shall also set forth the amount of the proposed assessment.
- E. Upon the date and hour set for the hearing of protests, the City Council shall hear and consider the City Engineer's report and all protests, if there are any, and then proceed to confirm, modify or reject the assessments.
- F. A list of assessments as finally confirmed by the City Council shall be sent to the City Treasurer for collection. If any assessment is not paid within 10 days after its confirmation by the City Council, the City Clerk shall cause to be filed in the office of the County Recorder a notice of lien, substantially in the following form:

**NOTICE OF LIEN**

Pursuant to Chapter 11.16, Title 11, of the Carlsbad Municipal Code (Ordinance No. \_\_\_\_\_), the City of Carlsbad did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, cause maintenance and report work to be done in the public right-of-way for the purpose of abating a public nuisance caused by activities related to construction at the property described below. The Council of the City of Carlsbad did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by its Resolution No. \_\_\_\_\_ assess the cost or portion of the cost thereof upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the City of Carlsbad does hereby claim a lien upon said real property until the same sum with interest thereon at the maximum rate allowed by law from the date of the recordation of this instrument has been paid in full and discharged of record. The real property hereinbefore mentioned and upon which a lien is hereby claimed is that certain parcel of land in the City of Carlsbad, County of San Diego, State of California, particularly described as follows:

(Description of property)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
City Clerk, City of Carlsbad.

- G. From and after the date of recordation of such notice of lien, the amount of the unpaid assessment shall be a lien on the property against which the assessment is made, and such assessment shall bear interest at the maximum rate allowed by law until paid in full. The lien shall continue until the amount of the assessment and all interest thereon has been paid. The lien shall be subordinate to tax liens and all fixed special assessment items previously imposed upon the same property, but shall have priority over all contractual liens and all fixed special assessment liens which may thereafter be created against the property. From and after the date of recordation of such notice of lien, all persons shall be deemed to have notice of the contents thereof.

(Ord. NS-386 § 2, 1996)

**§ 11.16.160. Holding city harmless—Insurance.**

The applicant for a right-of-way permit, as a condition to receiving a right-of-way permit, shall sign a statement that he or she agrees to indemnify and hold harmless the city, and each officer and employee thereof, from any liability or responsibility for death or injury to persons and loss or damage to property happening or occurring as a result of the design or performance of any work undertaken under any right-of-way permit granted pursuant to the application. The applicant shall be required to provide proof of liability insurance in the amount of at least one million dollars and shall name the city as an additional insured under the insurance policy. The insurance shall be provided by a company satisfactory to the city. Any deductible or self-insured retention under the insurance policy shall be in an amount acceptable to the city.

(Ord. NS-386 § 2, 1996)

**§ 11.16.170. Exemptions.**

The city and its employees, acting in their official capacity, are exempt from the requirements set forth in this chapter.

(Ord. NS-386 § 2, 1996)

**CHAPTER 11.24  
AGUA HEDIONDA LAGOON**

**Note: Prior ordinance history: Ord. Nos. 1296, 3033, 3083, 3091, 3093, 3118, 3127, 3142, 3153, 3154, 3161, 3213, 3222, and NS-286.**

**§ 11.24.005. Purpose and intent.**

The purpose and intent of this chapter is to establish and regulate a special use area in the inner lagoon area of the Agua Hedionda Lagoon subject to criminal sanctions. It establishes speed zones, time restrictions, and other regulations to protect and ensure the safe and enjoyable use of the inner lagoon. These rules and regulations will be enforced by the Carlsbad police department's police officers and community service officers.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 1, 1999)

**§ 11.24.010. Definitions.**

For purposes of this chapter, the definitions set forth in the State Harbors and Navigation Code, Vehicle Code and California Administrative Code, as amended to date, and as follows, shall apply:

"Interim management plan" means the interim management plan to facilitate the Agua Hedionda Lagoon Caulerpa Taxifolia Eradication Program, as amended to date, which has been approved by the City Council and is on file with the City Clerk's office.

"Passive use area" means the eastern end of the inner lagoon east of red marker buoys, shown as Zone 6 on the Inner Lagoon Survey Zones map on file in the City Clerk's office.

"Personal watercraft area" means that portion north of the red marker buoys at the northwest end of the inner lagoon, shown as Zone 3 on the Inner Lagoon Survey Zones map on file in the City Clerk's office.

"Powerboat area" means the middle area of the inner lagoon, between the personal watercraft and passive use area, shown as Zones 4 and 5 on the Inner Lagoon Survey Zones map on file in the City Clerk's office.

"Slalom course area" means that portion of the inner lagoon located parallel to the southeastern shoreline within both the powerboat and passive use areas, 1,850 feet long and no more than 150 feet north of the slalom course and 150 feet west of the passive use areas, as delineated by marker buoys.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 2, 1999; Ord. NS-630 § 1, 2002; Ord. NS-631 § 1, 2002)

**§ 11.24.015. Special use area—Agua Hedionda Lagoon.**

Of the entire Agua Hedionda Lagoon, consisting of three sections known as outer lagoon, inner lagoon, and middle lagoon, only the inner lagoon is declared to be a "special use area" defined in California Harbors and Navigation Code Section 651 authorized for local rules by Section 600(a) as authorized by California Harbors and Navigation Code Section 660. Use of the inner lagoon is subject to the provisions of this chapter and any regulations adopted by resolution of the City Council, including any regulations contained in or established pursuant to the interim management plan.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 3, 1999; Ord. NS-630 § 2, 2002; Ord. NS-631 § 2, 2002)

**§ 11.24.020. Lagoon use permits.**

- A. It is unlawful to operate any type of vessel on the inner lagoon without first obtaining a city annual or temporary lagoon use permit issued by the City Manager or a designee, or a daily lagoon use permit

issued by the Snug Harbor Marina office. The vessel operator shall display the city's annual permit decal in the specified location at all times or possess and show upon request a valid city temporary or daily lagoon use permit.

- B. Lagoon use permits may be denied, suspended, or revoked for failure to comply with the provisions of this chapter or any regulations adopted pursuant to this chapter, including any regulations contained in the interim management plan.
- C. The City Manager is authorized to establish appropriate procedures, consistent with this chapter and applicable laws and regulations, for the issuance, denial, suspension, or revocation of a lagoon use permit. The procedures for issuing a lagoon use permit shall include, without limitation, the following requirements:
  - 1. Permit application and hold harmless indemnity agreement shall be filled out and signed by a responsible adult;
  - 2. The current permit fee as established by the City Council by resolution must be paid;
  - 3. The fee is nonrefundable and nontransferable;
  - 4. Those vessels that are required by California department of motor vehicles to obtain vessel registration shall provide a copy of valid vessel registration;
  - 5. Lagoon use permits are not required for dredging, research, patrolling or maintenance by the lagoon owner and/or its representative.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 4, 1999; Ord. NS-630 § 3, 2002; Ord. NS-631 § 3, 2002)

#### **§ 11.24.030. Maximum vessel speed limit.**

It is unlawful to operate a vessel at speeds in excess of 45 miles per hour except pursuant to a special events permit issued pursuant to Chapter 8.17.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 5, 1999)

#### **§ 11.24.035. Operation of vessels at night.**

Between sunset and sunrise the following day, no person shall operate a vessel at speeds in excess of five miles per hour.

(Ord. NS-292 § 1, 1994)

#### **§ 11.24.050. Inner lagoon—Special use area.**

The inner lagoon, including all water areas east of Interstate 5, shall be subject to the following regulations all year round:

- A. Separate areas are established for use by personal watercraft, powerboats and passive (non-motorized) vessels, with transit corridors adjacent to the shorelines for transit to and from these separate areas.
- B. Personal watercraft are limited to and shall maintain a counterclockwise pattern when in the personal watercraft area. A person may not operate nor give permission to operate a personal watercraft for the purpose of towing a person on water skis, aquaplane or similar device.
- C. Powerboats are limited to and shall maintain a counterclockwise traffic pattern when in the powerboat

area.

- D. Passive vessels are limited to the passive use area, and shall remain north of the slalom course area when it is in use pursuant to Section 11.24.110.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 8, 1999)

**§ 11.24.055. Fishing.**

- A. Fishing from the shoreline or from a passive vessel shall be limited to the passive use area; fishing from a powerboat shall be limited to the powerboat area. It is unlawful to cast fishing lines into any transit corridor or in the traffic pattern of any vessel.

- B. This section shall become operative on January 1, 2008, unless amended or repealed by further action of the City Council.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 9, 1999; Ord. NS-630 § 4, 2002; Ord. NS-631 § 4, 2002; Ord. NS-661 § 1, 2003; Ord. NS-700 § 1, 2004; Ord. NS-749 § 1, 2005; Ord. NS-844 § 1, 2007)

**§ 11.24.056. No anchoring in posted areas.**

- A. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, it is unlawful to anchor a boat in any area of the inner lagoon.

- B. The City Manager may allow anchoring in the passive use area or in the powerboat area if the City Manager finds, based on available scientific data, that allowing anchoring in these areas is consistent with the interim management plan and will not cause the spread of Caulerpa taxifolia inside or outside of the lagoon.

- C. Nothing in this section precludes a person from anchoring in an emergency situation in order to prevent personal injury or property damage.

- D. This section shall be operative until December 31, 2007, at which time it shall automatically be repealed unless extended by further action of the City Council.

(Ord. NS-595 § 1, 2001; Ord. NS-596 § 1, 2001; Ord. NS-630 § 5, 2002; Ord. NS-631 § 5, 2002; Ord. NS-661 § 2, 2003; Ord. NS-700 § 2, 2004; Ord. NS-749 § 2, 2005; Ord. NS-796 § 1, 2006; Ord. NS-844 § 2, 2007)

**§ 11.24.057. No large wakes.**

- A. Except when necessary for starting and stopping only, it is unlawful to operate a personal watercraft or powerboat in any area of the inner lagoon in a manner that generates wakes in excess of 12 inches above the undisturbed water line.

- B. This section shall be operative until December 31, 2007, at which time it shall automatically be repealed unless extended by further action of the City Council.

(Ord. NS-630 § 6, 2002; Ord. NS-631 § 6, 2002; Ord. NS-661 § 2, 2003; Ord. NS-700 § 3, 2004; Ord. NS-749 § 3, 2005; Ord. NS-796 § 3, 2006; Ord. NS-844 § 3, 2007)

**§ 11.24.058. Compliance with lagoon closures under interim management plan.**

- A. Notwithstanding any other provision of this chapter, it is unlawful to enter or to cause a personal watercraft, powerboat, or passive vessel to enter any area of the inner lagoon that is closed for survey or eradication work under the interim management plan.

B. Nothing in this section precludes the entering into a closed area of the inner lagoon in an emergency situation in order to prevent personal injury or property damage.

(Ord. NS-630 § 7, 2002; Ord. NS-631 § 7, 2002)

#### **§ 11.24.060. Public access.**

All public accesses are subject to the following year-round regulations:

A. Open for walk-in traffic only, from sunrise to sunset; it is unlawful to drive a motorized vehicle on a public access when posted for walk-in traffic only;

B. Passive vessels with a valid city permit may be launched at any public access;

C. It is unlawful to launch any personal watercraft or powerboat from any public access.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 10, 1999)

#### **§ 11.24.075. Maximum number of vessels on the water.**

The maximum number of passive and power vessels (excluding personal watercraft) using the water in their designated use areas at any one time shall not exceed 40 vessels in the passive use area, nor 30 vessels in the powerboat area. The maximum number of personal watercraft using the personal watercraft area at any one time shall not exceed 15. The maximum number of boardsails using the passive use area at any one time shall not exceed 20.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 12, 1999)

#### **§ 11.24.080. Maximum vessel length.**

The maximum vessel length allowed in the inner lagoon, excluding rescue, research and maintenance vessels, shall be 21 feet or less for powerboats, 18 feet or less for passive vessels and 12 feet or less for personal watercraft. Notwithstanding the foregoing, powerboats used for skiing may be 23 feet if the manufacturer's certified slalom wake rise rating is less than nine inches.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 13, 1999)

#### **§ 11.24.085. Prohibited uses.**

The city reserves the right to limit the type of vessels and aquatic uses of the lagoon. The following type of vessels or uses are not allowed on the inner lagoon:

- A. Parasails;
- B. Hovercraft (except for official use);
- C. High profile cabin cruisers;
- D. Motorized surfboard-like vessels;
- E. No aircraft shall land on takeoff from the water or public shoreline and public accesses;
- F. No aquatic vessel races, ski meets, vessel parades or other aquatic special events on the water are allowed except as authorized by a special events permit obtained pursuant to Chapter 8.17;
- G. No permanent mooring a vessel;
- H. No swimming or wading, except in conjunction with other permitted activities under this chapter;

- I. This section is not intended to apply to the lagoon owner and/or its representative, the state, county, city or other political subdivision of the state. The city does not intend to regulate maintenance, dredging, research, patrol, utility and other vessels authorized by lagoon owner and/or its representative for its uses in the lagoon.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 14, 1999)

**§ 11.24.100. Throwing waste or refuse in water or on public access or shoreline.**

It is unlawful to place waste or refuse of any kind in the water, on the shoreline or public access except in designated waste or refuse containers.

(Ord. NS-292 § 1, 1994)

**§ 11.24.110. Water-ski slalom course.**

The following shall apply when daylight savings time is in effect: The slalom course area may be used in two directions between sunrise and 10:00 a.m. daily. After 10:00 a.m. the slalom course area will be closed and unlawful to use. Each pass made through the slalom course area, when closed, shall constitute a new and separate offense. Between sunrise and 10:00 a.m. daily, powerboats and skiers shall comply with the following procedures:

- A. No vessel may enter through the slalom course area when another powerboat is towing a skier.
- B. Only one boat at a time may use the course. Other boats wishing to use the course will sit at a safe distance not less than 50 feet at the west end of the designated slalom course area. A skier may take a maximum of four passes through the course. A boat completing its passes should retrieve its skier and proceed at speeds less than five miles per hour to the waiting area, south beach or powerboat area. The next boat in line may proceed to the starting area and begin pulling its skier. For the purposes of this chapter, the definition of a pass shall be one round trip through the course.
- C. If a skier falls during a pass, the boat must return at a safe speed to pick up the skier. Each skier is allowed two falls per pass. A failed attempt to get up is to be considered a fall.
- D. It is unlawful to pull more than one skier within the boundaries of the designated slalom course area.
- E. The city reserves the right to terminate use of the slalom course by any vessel or skier at any time based on safety and liability concerns.
- F. In the event of any dispute or question as to what constitutes a safety or liability concern, the decision of the city shall be binding and conclusive.

When Pacific standard time is in effect, all of the aforementioned slalom course rules shall remain in effect with the exception of the time restriction.

(Ord. NS-292 § 1, 1994; Ord. NS-509 § 17, 1999)

**§ 11.24.115. Boats and skiers.**

Boats and skiers shall comply with the following rules and procedures:

- A. Boats shall maintain a counterclockwise pattern in the powerboat area.
- B. No takeoffs or drop-offs are allowed in the personal watercraft area, vessel corridors, or passive use area at any time.

- C. Takeoff traffic shall standby until the way is safe and clear before starting.
- D. All drop-offs shall be done parallel to the shoreline; the boat shall not "hook," instead it shall remain parallel to the shoreline; once the skier drops off, the boat shall stop, draw in the towline and when safe, make a small counterclockwise turn back to the desired beach location.
- E. The maximum number of towlines used behind any boat shall be two; the maximum number of skiers behind any boat shall be two.
- F. When towing two skiers and one skier falls, the second skier shall let go of the towline. The boat shall then follow established procedure and safety precautions for skier pick-up and takeoff procedures.
- G. No unattended ski equipment may be left in the lagoon.
- H. Towing of any object or aquatic device (excluding water skis and wake boards) is subject to approval by the city, in advance.
- I. No boat shall pull into the beach with tow line dragging behind.
- J. Vessel racing is prohibited unless approved in accordance with Section 11.24.085.  
(Ord. NS-292 § 1, 1994; Ord. NS-509 § 18, 1999)

#### **§ 11.24.120. Establishment of vessel transit corridors.**

When buoys are placed out from the shoreline to establish vessel transit corridors, it is unlawful to travel on the shore side of such buoys except for the purpose of transit from one area to another at speeds not to exceed five miles per hour. No towing of any aquatic device or person is allowed between the buoys and the shoreline. No water ski takeoff is permitted in the transit corridor, between the buoys and the shoreline. No mooring, anchoring or beaching a vessel is allowed in the transit corridor between sunset and sunrise.  
(Ord. NS-292 § 1, 1994; Ord. NS-509 § 19, 1999)

#### **§ 11.24.125. City's liability—Use of areas at own risk.**

The city declares its purpose in adopting this chapter is safe conduct among the users of the Agua Hedionda Lagoon. The City Council does not expand its liability, if any, for accidents or injuries sustained by the public user of such aquatic areas. Any person utilizing aquatic areas does so at his or her own risk.  
(Ord. NS-292 § 1, 1994)

#### **§ 11.24.130. Compliance with chapter, regulations and orders.**

- A. It is unlawful for any person to violate any provision of this chapter, including to refuse to follow or comply with regulations adopted pursuant to this chapter, or with any lawful notice, sign, order, warning signals, or lawful direction of a police officer, community services officer, or lifeguard, except for the purpose of making a rescue.
- B. It is further unlawful for any person to deface, injure, knock down or remove any notice, sign, or warning placed for the purpose of enforcing the provisions of this chapter, or regulations adopted pursuant to this chapter.
- C. Operators of vessels on the lagoon shall, upon approach of a marked enforcement vessel displaying a blue light, immediately yield the right-of-way to the enforcement vessel and, upon direction of the operator of the enforcement vessel, come to a stop.  
(Ord. NS-292 § 1, 1994; Ord. NS-509 § 20, 1999; Ord. NS-630 § 8, 2002; Ord. NS-631 § 8, 2002)

**§ 11.24.135. Boating regulations.**

The City Council may by resolution establish boating regulations for the inner lagoon.  
(Ord. NS-292 § 1, 1994; Ord. NS-509 § 21, 1999)

**§ 11.24.137. Enforcement by police department—Authority of community services officers.**

- A. Except for the issuance, denial, suspension, or revocation of lagoon use permits under Section 11.24.020, which shall be administered by the City Manager or a designee, the police department shall enforce this chapter, including any regulations adopted by the City Council pursuant to this chapter, along with any violation of the California Harbors and Navigation Code, Penal Code, Vehicle Code, and their implementing regulations, pertaining to the inner lagoon.
- B. If a community services officer III is assigned by the Police Chief or a designee to patrol the inner lagoon, the officer is charged with enforcement of the above laws and regulations and authorized and empowered to act pursuant to Penal Code Sections 836.5 and 853.6 to arrest or issue a citation to any person without a warrant whenever the officer has reasonable cause to believe that the person has committed a violation of these laws and regulations and the violation was committed in the officer's presence.

(Ord. NS-297 § 1, 1994; Ord. NS-509 § 22, 1999; Ord. NS-630 § 9, 2002; Ord. NS-631 § 9, 2002)

**§ 11.24.138. Violations.**

Violations of this chapter, or any regulations adopted pursuant to this chapter, are subject to the provisions of Chapter 1.08 of this code.

(Ord. NS-630 § 10, 2002; Ord. NS-631 § 10, 2002)

**§ 11.24.140. Constitutionality or invalidity.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

(Ord. NS-292 § 1, 1994)

## CHAPTER 11.28 PUBLIC NUDITY

### **§ 11.28.010. Purpose and intent.**

The presence of persons who are nude and exposed to public view in or on public rights-of-way, public parks, public beaches or any other public land, or in or on any private property open to public view from any public right-of-way, public beach, public park, or other public land is offensive to members of the general public unwillingly exposed to such persons. The parks and beaches owned by the city are operated and maintained for the use, benefit, recreation and enjoyment of all citizens and residents of this city. It is in the public interest and necessary to the public health, safety and welfare that the parks and beaches be utilized and enjoyed by as many persons as possible. The maximum utilization and enjoyment of the parks and beaches can only be obtained through the imposition of regulations regarding activities thereon. The appearance of some persons utilizing the parks and beaches without clothing and with the private parts of their bodies exposed unreasonably interferes with the right of all persons to use and enjoy the parks and beaches by causing many persons to leave, and others not to come to the parks and beaches.

Such conduct and behavior imposes an extraordinary and unusual burden on city employees charged with the maintenance of the parks and beaches and the preservation of the safety and well-being thereof.

The provisions of this chapter are enacted for the purpose of securing and promoting the public health, morals and general welfare of all persons in the city.

(Ord. 3103 § 1, 1976)

### **§ 11.28.020. Nudity defined.**

Whenever in this chapter the word "nude" is used, it means devoid of an opaque covering which covers the genitals, vulva, pubis, pubic symphysis, pubic hair, buttocks, natal cleft, perineum, anus, anal region, or pubic hair region of any person or any portion of the breast at or below the upper edge of the areola thereof of any female person.

(Ord. 3103 § 1, 1976)

### **§ 11.28.030. Public place defined.**

Whenever in this chapter the words "public place" are used, they mean any public beach, park, street or waters adjacent thereto, or any place open to the public or exposed to public view, including specifically a view from any private residence or any portion of the real property in the immediate vicinity of such private residence, whether such place is publicly or privately owned.

(Ord. 3103 § 1, 1976)

### **§ 11.28.040. Public nudity prohibited.**

It is a public nuisance and unlawful for any person to appear, sunbathe, bathe, walk, disrobe, or otherwise be nude in any public place except in those portions of a comfort location, if expressly set aside for such purpose. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00, or by imprisonment in the county jail for a period of not more than six months, or by both fine and imprisonment.

(Ord. 3103 § 1, 1976)

**§ 11.28.050. Exceptions.**

This chapter shall not apply to:

- A. Persons under the age of 10 years;
- B. Persons engaged in a live theatrical performance performed in a theater, concert hall or other similar establishment which is predominantly devoted to theatrical performances;
- C. Any act or acts which are expressly authorized or prohibited by the Penal Code of the State of California; and/or
- D. Any act regulated under Chapter 8.60.

(Ord. NS-761 § 6, 2005)

## CHAPTER 11.32 PARKS AND BEACHES

### **§ 11.32.010. Parks—Scope.**

For the purpose of this chapter, parks shall include all dedicated parks, parks established by adverse uses, planted areas open to the general public, parks on leased property, trails open to the general public, planted parkways, triangles, and traffic circles maintained by the city, except parkway strips between curb and sidewalk or behind curb, along the several streets and highways of the city.

(Ord. 3222 § 2, 1987; Ord. NS-894 § 1, 2008)

### **§ 11.32.015. Definitions.**

Whenever the words "park" and "vehicle" are used in this chapter, they shall have the meaning ascribed to them in Chapter 10.04 of this code.

(Ord. CS-022, 2009)

### **§ 11.32.020. Beaches—Scope.**

For the purpose of this chapter, beaches shall include all beach areas bordering the Pacific Ocean, the Batiquitos Lagoon, the Buena Vista Lagoon and the Agua Hedionda Lagoon.

(Ord. 3222 § 2, 1987)

### **§ 11.32.030. Unlawful acts.**

It is unlawful for any person to do any of the following mentioned acts in or upon any park or beach within the city:

1. To dump or deposit any trash, refuse, rubbish, litter, or other kind of waste materials, except in approved containers specifically placed and designated to receive such waste materials;
2. To start or maintain any fire, except in such areas as are specifically designated by the City Manager for such fires, including stoves, barbecue pits, fire rings and the like;
3. To commit any act of vandalism, including the damaging or destroying of trees or their leaves, limbs or branches, bushes, shrubbery, equipment, signs, buildings or rooms, or to tear down or to deface the same, or to pick any crops, fruit or flowers in any portion of such public park or beach;
4. To bring into or use any firearms or air or gas or spring-propelled guns, sling shots, bows and arrows, except that bows and arrows may be permitted in such portions of public parks or beaches which are specifically designated by the City Manager for archery or other projectile-throwing devices;
5. To discharge or set off firecrackers, torpedoes, rockets or other fireworks except where a special event permit has been granted pursuant to Chapter 8.17;
6. To stable, pasture or keep animals or insects;
7. To bring into a public park or beach any cattle, horse, mule, goat, sheep, swine, cat, other animal, fowl or reptile of any kind except as hereafter specifically provided or as otherwise permitted by the City Manager or designee or with a valid special event permit or park and facility use permit;
8. To enter any portion of a public park or beach in the city, or buildings or portions thereof in such public parks and beaches which are posted with signs stating "no entry," "keep out," "no trespassing,"

- "closed area" or other prohibition of entry;
9. To enter any portion of or be in a public park or beach in the city at a time of the day, or on a day of the week, when such entry is prohibited by a clearly legible sign posted at each entrance to such public park or beach. The City Manager is given authority to post such signs;
  10. To park any vehicles or trailer in any public park or beach in the city, except in areas specifically designated as parking areas by the City Manager or designee;
  11. To ride or lead horses, or to hitch, fasten, lead, drive or let loose any animal or fowl of any kind. Dogs are not allowed in Carlsbad's parks or on Carlsbad's beaches.
    - a. Notwithstanding any other provisions of this chapter, this section does not apply to Batiquitos Lagoon, Buena Vista Lagoon or Agua Hedionda Lagoon.
    - b. This prohibition does not apply to a dog accompanying an unsighted person, or other person who by reason of medical necessity must be accompanied by a dog, dogs while assisting peace officers in law enforcement duties, dog parks or other areas specifically designated for dog use by the City Council, or to dogs participating in shows or obedience classes authorized by the Carlsbad community services department on specified areas of parks or beaches.
    - c. This prohibition does not apply to Leo Carrillo Ranch Historic Park with a valid park and facility use permit issued by the City Manager or designee authorizing one or more horses, ponies, or horse drawn carriages;
  12. To construct or erect on any portion of a public park or beach in the city any building, fence or structure of whatever kind, whether permanent or temporary in character, or run, or string or install any public service utility into, upon or across such lands, except on special written permit of the City Manager or designee as to temporary items and of the City Council as to permanent items. Each day such condition exists shall constitute a new and separate offense;
  13. To park or stand any vehicle or trailer in any public park in the city between the hours of 11:00 p.m. and 5:00 a.m. daily, except as permitted by the City Manager or designee;
  14. To cut and remove any wood or to remove turf, grass, soil, rock, sand, gravel or fertilizer;
  15. To camp or lodge in any park or beach except in those areas designated and posted as camping sites by the City Manager or designee;
  16. To play or engage in any sport or sporting event in any picnic area;
  17. To disturb in any manner any picnic, meeting, service, concert, exercise or exhibition;
  18. For any groups consisting of 25 or more persons to hold, conduct or participate in any celebration, parade, service, picnic, exercise, or other special event without having first obtained an approved park and facility use permit. This subsection shall not apply to any beach in the city;
  19. To distribute any handbills or circulars, or to post, place or erect any bills, notice, paper, or advertising device or matter of any kind;
  20. To sell or offer for sale or to rent or lease any merchandise, article or thing, whatsoever, unless granted a valid special event or park and facility use permit issued by the City Council or designee;
  21. To practice, carry on, conduct or solicit for any trade, occupation, business or profession of

whatsoever kind or character without permission of the City Council or City Manager;

22. To use or operate any vehicles at any time, except as permitted by the City Manager, or designee, in a park, designated streets or parking areas or as part of a supervised recreational activity or as authorized by the owners of the outer lagoon. This subsection does not apply to officers, agents or employees of the United States, the State of California, the city, or public utility companies or other local government agencies, when they are using motor-powered vehicle in the performance of their official duty, nor to the use of motor-powered vehicle in emergencies when it is necessary to use them for the preservation or protection of life or property, nor to utility companies using motor-powered vehicle for the installation, maintenance, repair or servicing of utility lines, generation, intake and outfall facilities, cooling water resources and other related facilities;
23. No person shall allow any dog owned by him or her or any dog subject to his or her control, custody, or possession, to enter upon any park within the city; provided, however, that this subsection shall not apply to dogs participating in shows or obedience classes authorized by the Carlsbad community services department in specified areas of parks, dog parks or other areas specifically designated for dog use by the City Council. No person shall allow or permit any dog to destroy any real or personal property or to commit a nuisance on any park property. It is the duty of persons having control of a dog to curb such a dog while in a park area;
24. No person who is over six years of age shall enter or use any water closet, restroom, dressing room or other facility designated for exclusive use by persons of the opposite sex in a public park or beach;
25. For any person to assemble, collect or gather together in any walk, passageway or pathway set apart for the travel of persons through any park or beach or to occupy same so that the free passage or use thereof by persons passing along the same shall be obstructed in any manner;
26. Nothing herein contained shall prevent the operation of motor vehicles and free right of public access over, or across any validly dedicated public street or road in the city;
27. No person shall play or practice golf or swing any golf club within any park within the city, except in such areas and to the extent as may be authorized by posted signs authorized by the City Manager or designee;
28. To sell or offer to sell food, or barter for or solicit a donation for food, without a valid park and facility use permit or special event permit, all applicable health permit(s) issued by County of San Diego department of health, and if required, a City of Carlsbad business license. This subsection shall not apply to any state, county or local government entity or other political subdivision;
29. To use any inflatable commonly known as "jump house," "bounce house," "jump bouncers," "bouncy houses," "fun houses," or similar device without a valid park and facility use permit or special event permit. For purposes of this subsection, jump house, bounce house, jump bouncers, bouncy houses, fun houses, or similar is a structure that when inflated by a blower or similar inflating takes on a particular form where a person can bounce, jump, climb and slide on the inflatable device. The inflatable devices normally have safety features built into the design and are rugged with reinforced construction;
30. The temporary construction or use of a water slide, slip and slide, dunk tank, merry-go-round and climbing wall is prohibited except by permission of the City Manager or designee;
31. To use radio or remote controlled cars or similar devices, excepting the beach area west of Carlsbad Boulevard, between Palomar Airport Road and Solamar Drive;

32. To use radio or remote controlled model aircraft or similar devices excepting the beach area west of Carlsbad Boulevard, between Palomar Airport and Solamar Drive, and excepting on any park's natural turf baseball fields from 8:00 a.m. to 2:00 p.m., only if a scheduled league game or practice is not occurring, or as otherwise permitted by the City Manager or designee provided appropriate signs are installed giving adequate notice of such excepted areas.

(Ord. 3222 § 2, 1987; Ord. NS-51 § 1, 1989; Ord. NS-56 § 3, 1989; Ord. NS-286 § 5, 1994; Ord. NS-557 § 1, 2000; Ord. CS-022, 2009; Ord. CS-077, 2010)

#### **§ 11.32.035. Security of TGIF Concerts in the Park.**

- A. Purpose and Intent. The city is committed to maintaining a safe outdoor concert series for the enjoyment of city residents and visitors. The purpose of this section is to promote the safety and security of all attendees of the TGIF Concerts in the Park held at any park within the city.
- B. Security Screenings at TGIF Concerts in the Park.
1. The City Manager or designee may establish security screening, which may include metal detectors and other screening equipment, at each point of entry to any TGIF Concert in the Park. If security screening is established by the City Manager or designee, all persons shall submit to the screening of their person and possessions as a condition of entry to the concert, except the following:
    - a. Current City of Carlsbad elected officials and employees, acting within the scope of their duties and upon a showing of valid identification, which may include a city-issued identification card;
    - b. Current City of Carlsbad contractors and consultants, acting within the scope of their contract and upon a showing of valid identification; and
    - c. Sworn on-duty law enforcement personnel.
  2. Unless exempt from security screening as provided in this section, anyone refusing to submit to the security screening or inspection shall be denied entrance to the concert.
  3. Signs shall be posted to alert the public when and where security screening is taking place.
  4. Any person who attempts to gain entry to a TGIF Concert in the Park after refusing to comply with the security screening procedures established by this section is guilty of a misdemeanor.

- C. Additional rules and procedures to promote public safety. The City Manager or designee is authorized to make and enforce additional rules and procedures necessary to implement the provisions of this chapter.

(Ord. CS-468, 3/26/2024)

#### **§ 11.32.040. Glass containers on beach—Prohibited.**

- A. It is unlawful for any person to have, possess or use any cup, tumbler, jar, bottle or container made of glass and used for carrying or containing any liquid for drinking purposes on any beach, any park or on any street, sidewalk, alley, highway, or parking lot immediately adjacent to such park or beach except by permission of the City Manager or designee.
- B. No person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken or the contents of which have been

partially removed, shall enter, be or remain on any beach or on any street, sidewalk, alley, highway, bluff top or parking lot immediately adjacent to such beach except by permission of the City Manager or designee.

(Ord. 3222 § 2, 1987; Ord. NS-49 § 1, 1988; Ord. CS-022, 2009)

#### **§ 11.32.050. Public dances.**

It is unlawful for any person to present, conduct, hold, or participate in any public dance on any beach, park, navigable water area, or public right-of-way or city-owned property without first having obtained the permission therefor from the City Council.

(Ord. 3222 § 2, 1987)

#### **§ 11.32.060. Violations—Seizure of property.**

The City Manager, city police, or employees of the community services department shall have the authority to seize and confiscate any property, thing, or device used in violation of the terms of this chapter.

(Ord. 3222 § 2, 1987; Ord. NS-286 § 5, 1994)

#### **§ 11.32.070. Carlsbad seawall—Pedestrians only.**

The Carlsbad seawall sidewalk at the base of the bluff adjacent to Carlsbad State Beach between Tamarack Avenue and Pine Street shall be limited to pedestrians only. No person shall ride skateboard, inline skates, roller skates, toy vehicle, coaster, or similar form of transportation on the Carlsbad seawall sidewalk. Law enforcement personnel shall be exempt from the provision of this section when in the performance of their duties.

(Ord. 3222 § 2, 1987; Ord. NS-152 § 1, 1991; Ord. CS-139 § 3, 2011)

#### **§ 11.32.080. Restriction of areas for exclusive use of surfboards.**

The council determines that the unrestricted operation of surfboards and similar devices in that portion of the Pacific Ocean immediately adjacent to the public bathing beaches within the city, constitute a serious hazard and a threat to the safety of many thousands of bathers, particularly during the period between the 15th day of May and the first day of October. In order to reduce such hazard and promote public safety during such periods, it is essential that the operation of surfboards and similar devices be restricted within that portion of the Pacific Ocean most frequented by persons using the public beaches. The Chief of Police, in conjunction with the District Lifeguard Supervisor, District VI of the State Department of Natural Resources of Beaches and Parks, is authorized and directed to ascertain, designate, post and mark from time to time, areas for the use of surfboard riding exclusively.

(Ord. 3222 § 2, 1987)

#### **§ 11.32.090. Hours surfing is prohibited.**

It is unlawful for any person to ride, use or otherwise employ a surfboard or similar device in the surf along the beaches of the city between the hours of 11:00 a.m. and 5:00 p.m., Pacific Standard or Daylight Savings Time (whichever is in use) between the 15th day of May and the first day of October of any calendar year. Except that it is lawful to surfboard ride at any hour in any area ascertained, designated, posted and marked by the Chief of Police and the District Lifeguard Supervisor, District VI of the State Department of Natural Resources, Division of Beaches and Parks for the use of surfboard riding exclusively, pursuant to this chapter.

(Ord. 3222 § 2, 1987)

**§ 11.32.100. Application of Sections 11.32.080 and 11.32.090 to lifesaving devices.**

Sections 11.32.080 and 11.32.090 shall not apply to those surfboards or other devices used by or under the direction of the lifeguards for lifesaving purposes or for training purposes.

(Ord. 3222 § 2, 1987)

**§ 11.32.110. Smoking in public parks and beaches—Prohibited.**

It is unlawful for any person to smoke, including emitting or exhaling the fumes of any pipe, cigar, cigarette or any other lighted smoking equipment used for burning any tobacco product, weed or plant, or carry or hold a lighted pipe, cigar, cigarette or other lighted smoking products used for burning any tobacco product, weed or plant in a public park or public beach except in areas designated by the City Manager, and indicated by signage, as smoking areas. In any location where smoking is prohibited, it shall also be unlawful for any person to use an electronic cigarette as defined in California Health and Safety Code Section 119405 ("e-cigarette") or a similar device intended to emulate smoking, which permits a person to inhale vapors or mists that may or may not include nicotine. The provisions of this chapter do not apply in any circumstance where federal or state law regulates smoking or the use of e-cigarettes, if the federal or state law is more restrictive.

(Ord. NS-894 § 2, 2008; Ord. CS-237 § 3, 2013)

**CHAPTER 11.36**  
**LOCATIONS AND STANDARDS FOR NEWSRACKS ON PUBLIC RIGHTS-OF-WAY**

**§ 11.36.010. Purpose and intent.**

The City Council of the city finds and declares that:

- A. The uncontrolled placement of newsracks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.
- B. Newsracks located so as to cause an inconvenience or danger to persons using public rights-of-way, and unsightly newsracks located therein, constitute public nuisances.
- C. The uncontrolled proliferation of newsracks detracts from the appearance of streets, sidewalks, and adjacent businesses.
- D. The uncontrolled placement of newsracks inhibits safe entry and departure of vehicles.
- E. The uncontrolled placement of newsracks impairs the vision and distracts the attention of motorists and pedestrians, particularly small children and may cause injury to the person or property of such persons.
- F. The placement of newsracks without a permit based on detailed findings in public rights-of-way adjacent to residential areas, detracts from and reduces neighborhood aesthetics and increases the exposure of residents to noise, traffic volume and hazards and congestion.
- G. The provisions and prohibitions contained and enacted in this chapter are in pursuance of and for the purpose of securing and promoting the public safety and general welfare of persons in the city in their use of public rights-of-way.

(Ord. NS-99 § 1, 1990)

**§ 11.36.020. Definitions.**

Whenever the following words and phrases are used in this chapter, they shall have the meaning ascribed to them in this section:

"Blinder rack" means an opaque material placed in front of, or inside, a newsrack which prevents exposure of matter to public view.

"Cluster" means a group of newsracks placed side-by-side so as to appear in a continuous row.

"Distributor" means the person responsible for placing and maintaining a newsrack in a public right-of-way.

"Harmful matter" means matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is a matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

"Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display, sale or distribution of publications.

"Public right-of-way" means any place of any nature which is dedicated to use by the public for pedestrian

and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, parkway, highway, alley, lane, mall, court, way, avenue, boulevard, road, roadway, viaduct, subway, tunnel, bridge, thoroughfare, park, square, and any other similar public way.

"Roadway" means that part of a public right-of-way that is designated and used primarily for vehicular travel.

"Sidewalk" means that part of a public right-of-way that is designated and ordinarily used for pedestrian travel.

For the purposes of this section, the terms "harmful matter," "matter," "person," "distribute," "knowingly," "exhibit" and "minor" have the meanings specified in Section 313.1 of the California Penal Code. For the purposes of this chapter, the term "blinder rack" means an opaque material placed in front of, or inside a newsrack or on a newsstand which prevents exposure of matter to public view.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 1, 1990; Ord. NS-273 § 1—3, 1994; Ord. NS-323 §§ 1, 2, 1995)

#### **§ 11.36.030. Prohibition.**

Newsracks are prohibited on property owned by the city or by the public except that newsracks may be installed, placed and maintained on a public right-of-way subject to the issuance of a business license pursuant to this chapter. Each distributor must obtain a business license as provided in Carlsbad Municipal Code Chapters 5.04 and 5.08, and at that time execute a hold-harmless agreement in favor of the city and show proof of insurance as specified in this chapter, naming the city as an additional insured.

The ordinance codified in this section shall have a delayed operative date of January 1, 1996. Newsracks lawfully in existence upon enactment of the provisions contained herein shall be allowed to remain at their location in their condition until January 1, 1996, at which time they must be brought into conformance with this chapter and distributors must have a business license.

(Ord. NS-323 § 3, 1995)

#### **§ 11.36.040. Standards for newsracks.**

Any newsrack which rests in whole or in part upon, in or on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall comply with the standards set forth in this section.

- A. No newsrack shall exceed 50 inches in height, 27 inches in width, or 24 inches in depth.
- B. No advertising signs or material, other than those dealing with the name of the publication contained within the newsrack, shall be displayed on the outside of the newsrack.
- C. Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the publication paid for, unless the publication is provided free of charge.
- D. Each newsrack shall have affixed to it in a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, or to give the notices provided for in this chapter.
- E. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

1. It is reasonably free of dirt and grease;
  2. It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
  3. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereof;
  4. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
  5. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and
  6. The structural parts thereof are not broken or unduly misshapen.
- F. Newsracks shall be of unobtrusive neutral colors of gray, black or brown to blend in with the streetscape. Lettering may be black and/or white. However, the bottom six inches of the newsrack door may be of other colors that may be identified with the publication.
- G. Newsracks lawfully in existence on June 1, 1989 shall be allowed to remain at the same location, provided they are not determined to be a public nuisance or dangerous to the public safety or general welfare, for a period of one year following adoption of the ordinance codified in this chapter. In order to benefit from this subsection, a distributor must report the number and location of all newsracks existing on June 1, 1989 to the engineering department within 60 days of the effective date of the ordinance codified in this chapter which shall compile an inventory of such existing newsracks. Such inventory list shall be conclusive as to the location and existence of such newsracks. Thereafter, all such newsracks shall be required to comply with all provisions of this chapter.

(Ord. NS-99 § 1, 1990; Ord. NS-323 § 4, 1995)

#### **§ 11.36.050. Location of newsracks.**

Any newsrack which rests in whole or in part upon, in, or on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the provisions of this section:

- A. No newsrack shall be located in whole or in part in any roadway.
- B. Newsracks may be located near a curb (or if there is no curb, the edge of the roadway) or to the rear of a sidewalk, farthest from the street or roadway. Newsracks located near a curb shall be placed not less than 18 inches nor more than 24 inches from the edge of the curb. Newsracks placed adjacent to the rear of the sidewalk shall be placed parallel to any wall and at least six inches from the wall. No newsrack shall be located directly in front of any display window of any commercial building abutting a sidewalk or roadway except near the curb without written permission of the owner of the business.
- C. Newsrack mounts shall be bolted in place in accordance with specifications provided by the city.
- D. Newsracks may be placed next to each other, provided that no cluster of newsracks shall extend for a distance of more than 10 feet.
- E. No newsrack shall be placed, installed, used or maintained:
  1. Within 25 feet of a curb-return or driveway approach. In no case shall a newsrack impair the sight distance of a vehicle or pedestrian proceeding along, or ingressing or egressing the public

- right-of-way, as may be determined by the Transportation Director;
2. Within five feet of any fire hydrant, fire call box, police call box or other emergency facility;
  3. Within five feet of the outer end of any bus bench;
  4. Within three feet ahead or 15 feet to the rear of any sign marking a designated bus stop;
  5. Within three feet of the outer end of any bus bench;
  6. At any location whereby the clear space of the passageway of pedestrians is reduced to less than five feet; in the case of sidewalks that are 10 feet wide, the placement of the newsrack shall allow for a pedestrian passageway of not less than six feet in width;
  7. Within three feet of or on any publicly maintained property improved with lawn, flowers, shrubs, trees or other landscaping;
  8. Within 20 feet of any other cluster of newsracks whether or not containing the same publication;
  9. Within five feet of a curb painted blue, pursuant to the provisions of California Vehicle Code Section 21458;
  10. Within 500 feet of a school site. The provisions contained in this subsection shall not apply if compliance with the provisions would prohibit the placement of newsracks for a distance of 1,000 feet on the same side of the street in the same block;
  11. Where placement unreasonably obstructs, interferes with, or impedes access to or use of abutting property, including, but not limited to, residences, places of business, or legally parked or stopped vehicles.

(Ord. NS-99 § 1, 1990; Ord. NS-323 § 6, 1995; Ord. CS-164 § 2, 2011)

#### **§ 11.36.060. Applicability in residential zones.**

Newsracks shall not be located on any street identified in the circulation element of the city general plan as a local or collector street within any area of the city zoned for single-family residential uses. If no prime or major arterial is located within one-half mile of a residential neighborhood, the distributor may petition the City Engineer for a permit.

(Ord. NS-99 § 1, 1990; Ord. NS-323 § 7, 1995)

#### **§ 11.36.061. Hold-harmless agreement.**

Each business license issued pursuant to this chapter shall be subject to a requirement that the licensee agrees to defend, indemnify and hold harmless the city and its officers and employees from any claim, damage or liability arising from the placement or location of the newsrack or its operation.

(Ord. NS-323 § 8, 1995)

#### **§ 11.36.062. Insurance requirement.**

No person, association, firm or corporation shall place, locate or maintain a newsrack on public rights-of-way unless there is on file with the city finance department, in full force and effect at all times, a document issued by an A-V rated insurance company authorized to do business in the State of California evidencing that the licensee is insured under a liability insurance policy providing minimum coverage of \$500,000.00 for each person who suffers injury or death arising out of the location, placement or operation of the

licensee's equipment. A separate certificate is not required for each newsrack so long as the certificate evidences coverage for all newsracks placed, located or maintained by the person, association, firm or corporation involved.

(Ord. NS-323 § 9, 1995)

#### **§ 11.36.070. Display of harmful matter.**

No person shall display, or cause to be displayed, harmful matter in any newsrack in a public place, other than a public place from which minors are excluded, unless a blinder rack has been installed in front of the matter, so that the lower two-thirds of the material is not exposed to view.

(Ord. NS-104 § 2, 1990; Ord. NS-273 § 4, 1994)

#### **§ 11.36.080. Enforcement.**

Commencing January 1, 1996, any newsrack which has not obtained a business license in accordance with this chapter upon initial application or renewal, shall be deemed nonconforming. Upon a determination by the City Engineer that a newsrack has been installed, used or maintained in violation of any of the provisions of this chapter, the City Engineer shall cause an order to be issued to the distributor to correct the offending condition. The order shall be telephoned to the distributor and confirmed by mailing a copy of the order by certified mail, return receipt requested to the distributor at the address shown on the notice required by Section 11.36.040. The order shall specifically describe the offending condition and specify actions necessary to correct it. If the distributor fails to correct properly the offending condition within three days (excluding Saturdays, Sundays and other legal holidays) after receipt of the order, or file an appeal as permitted under Section 11.36.090, the City Engineer shall cause the offending newsrack to be summarily removed and processed as unclaimed property under applicable provisions of law relating thereto. If the distributor of the offending newsrack cannot be identified, the newsrack shall be removed immediately and processed as unclaimed property under applicable provision of law. The foregoing provisions are not exclusive, and are in addition to any other penalty or remedy provided by law.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990; Ord. NS-323 § 10, 1995)

#### **§ 11.36.090. Appeal.**

Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this chapter may appeal and shall be advised of his or her right to appeal to the City Manager. An appeal must be perfected within three working days after receipt of the notice of any decision or action by filing with the City Engineer a letter of appeal briefly stating therein the basis for such appeal. The hearing shall be held on a date no more than 10 days after receipt of the letter of appeal. Appellant shall be given at least five days' notice of the time and place of the hearing. The City Manager shall give the appellant and any other interested party the reasonable opportunity to be heard, in order to show cause why the determination of the City Engineer should not be upheld. Within five days of the hearing the City Manager shall make a written decision. The City Manager's decision may be appealed to the City Council by filing a written notice of appeal with the City Clerk within 10 calendar days of the date of the decision of the City Manager. Fees for filing an appeal shall be set by resolution of the City Council.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990)

#### **§ 11.36.100. Other violations.**

In the case of minor violations of this chapter that can be corrected on the spot, any city employee, as an alternative to removal of the newsrack, is authorized to correct the violation summarily.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990)

**§ 11.36.110. Public nuisance.**

Any newsrack, or any publication offered for sale or distribution, in violation of this chapter shall constitute a public nuisance, and may be abated in accordance with applicable provisions of law.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990)

**§ 11.36.120. Abandonment.**

In the event a newsrack remains empty for a period of 30 continuous days, the same shall be deemed abandoned, and may be treated in the manner as provided in Section 11.36.080 for newsracks in violation of the provisions of this chapter.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990)

**§ 11.36.130. Violations.**

Any person or corporation who violates any of the provisions of this chapter is guilty of an infraction except for the fourth or each additional violation of a provision within one year which shall be a misdemeanor. Penalties for a violation of this chapter shall be as designated in Section 1.08.010.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990)

**§ 11.36.140. Constitutionality.**

If any section, subsection, sentence, clause, phrase or part of this chapter is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of this chapter. The City Council declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or parts be declared invalid or unconstitutional.

(Ord. NS-99 § 1, 1990; Ord. NS-104 § 3, 1990)

## CHAPTER 11.40 BRIDGES

### **§ 11.40.010. Purpose and intent.**

The purpose of this chapter is to protect the public health and safety by prohibiting jumping, diving and fishing from public bridges.

(Ord. NS-382 § 1, 1996)

### **§ 11.40.020. Definitions.**

Wherever the following words, terms or phrases are used in this chapter, they shall be construed as defined in the following subsections unless from the context in which the word, term, or phrase is used, a different meaning is specifically defined or intended.

"Bridge" means any portion of a public road or right-of-way which crosses water or land at an elevation higher than the water or land on a structure with a single or multiple span with a total length of 20 feet or more.

"Public property" means any bridge, road or crossing which is owned by the City of Carlsbad.

(Ord. NS-382 § 1, 1996)

### **§ 11.40.030. Prohibition.**

It is unlawful for any person to jump, dive or fish from any bridge located on public property where prohibited by signs posted thereon, excepting the bridge on north Carlsbad Boulevard over the Buena Vista Lagoon.

(Ord. NS-382 § 1, 1996)

### **§ 11.40.040. Violations.**

Any person who violates any provision of this chapter is guilty of an infraction except for the fourth or each additional violation of a provision within one year which shall be a misdemeanor. Penalties for violation of this chapter shall be as designated in Section 1.08.010.

(Ord. NS-382 § 1, 1996)

### **§ 11.40.050. Constitutionality.**

If any section, subsection, sentence, clause phrase or part if this chapter is for any reason is held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of this chapter. The City Council declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or parts thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, or parts be declared invalid or unconstitutional.

(Ord. NS-382 § 1, 1996)

**CHAPTER 11.44  
PRIVATE PARTY SIGNS ON CITY PROPERTY**

**§ 11.44.005. Purpose and intent.**

- A. Purpose. The purpose of this chapter is to identify what types of private party signs are allowed to be displayed on city property, particularly in the public right-of-way, and the specific standards under which they may be displayed. The city's proprietary ownership rules for permitted signage on city property, particularly in the public right-of-way, which are contained in this chapter, supplement the city's sign ordinance (Chapter 21.41 of this code), which deals with permitted signage on private property. The definitions in Chapter 21.41 apply to this chapter.
- B. Intent. The city declares its intent that all city property shall not function as a designated public forum, unless some specific portion of city property is designated herein as a public forum of one particular type; in such case, the declaration as to public forum type shall apply strictly and only to the specified area and the specified time period, if any.

(Ord. CS-227, 2013)

**§ 11.44.010. Signs must be permitted or exempted.**

The provisions of the chapter shall apply generally to all zones within the city, including the V-B, Village-Barrio Zone. No "sign" as defined in the sign ordinance (Chapter 21.41), may be displayed on city property, unless a city property sign permit has first been issued, or the subject sign is expressly exempted from the city property sign permit requirement by this chapter.

A sign may be affixed, erected, constructed, placed, established, mounted, created or maintained only in conformance with the standards, procedures and other requirements of this chapter. The standards regarding number and size of signs regulated by this chapter are maximum standards, unless otherwise stated.

(Ord. CS-227, 2013; Ord. CS-333 § 4, 2018)

**§ 11.44.020. City property sign permits; application forms and procedures.**

The City Planner shall prepare and make available to the public a form for application for a city property sign permit (permit), which shall, when fully approved, constitute a permit and indicate the city's consent, in its proprietary capacity, for placement of a sign. The applicant for the permit must be the same person or entity who is to be the owner of the sign. The processing fee for each application, which shall not be refundable even if the application is denied, shall be the same as the fee for a sign permit under the sign ordinance.

Any city property sign permit issued in error may be summarily revoked by any officer of the city, by simply informing the applicant of the nature of the error in issuance; any applicant whose permit is revoked as issued in error may, at any time thereafter, submit a new permit application which cures any deficiencies in the original application. The application fee shall apply separately to each new application, unless the original error was in processing by the city. Applications which fully comply with the terms and conditions of this section shall be duly issued. Applications which are denied, or permits which are revoked or suspended, may be appealed in the same manner as denials of sign permits, as described in the sign ordinance.

(Ord. CS-227, 2013)

**§ 11.44.030. Temporary political, religious, labor protest and other noncommercial signs in**

**traditional public forum areas.**

This section applies only when the special events chapter of this code (Chapter 8.17) does not. In areas qualifying as traditional public forums, such as the surfaces of city streets, parks and sidewalks, as well as the surfaces of exterior areas immediately around city hall, persons may display noncommercial message signs without first obtaining a city property sign permit, subject to all of the following:

- A. Each sign must be personally held by a person, or personally attended by one or more persons. "Personally attended" means that a person is physically present within five feet of the sign at all times.
- B. The signs may be displayed only during the time period of sunrise to sunset, except on evenings when a public hearing is being held at city hall and on days when the polls are open; on such occasions, the display may continue until one hour after the close of the public hearing or one hour after the close of the polls.
- C. The maximum aggregate size of all signs held by a single person is 10 square feet.
- D. The maximum size of any one sign which is personally attended by two or more persons is 50 square feet.
- E. The displayed signs may not be inflatable, inflated or air-activated.
- F. In order to serve the city's interests in traffic flow and safety, persons displaying signs under this section may not stand in any vehicular traffic lane when a roadway is open for use by vehicles, and persons displaying signs on public sidewalks must give at least five feet width clearance for pedestrians to pass by.
- G. This section does not override Elections Code 18370, which prohibits sign display and electioneering within 100 feet of a polling place on election day.

(Ord. CS-227, 2013)

**§ 11.44.040. Exemptions from permit requirement.**

The following signs are exempted from the permit requirement: traffic control and traffic directional signs erected by the city or another governmental unit; official notices required by law; signs placed by the city in furtherance of its governmental functions or proprietary capacity; signs expressing the city's own message to the public and signs allowable under Section 11.44.030 and Section 11.44.100 of this chapter.

(Ord. CS-227, 2013)

**§ 11.44.050. Permits for A-frame signs in the V-B, Village-Barrio zone, bearing commercial messages for adjacent establishments or noncommercial messages.**

- A. Intent as to Public Forum. The areas and times controlled by this section are designated to constitute a limited access, nonpublic forum which is strictly limited to commercial messages for adjacent establishments or noncommercial messages, and which is open only to those persons described in this section and on the terms stated in this section.
- B. Where A-Frames May Be Placed—Physical Standards.
  1. "A-frame" signs, as that term is defined in the sign ordinance, may be placed in particular portions of the public right-of-way, within the V-B, Village-Barrio Zone only, namely, on the public sidewalk directly in front of the store or other establishment displaying the sign.

2. Such signs may have no more than two display faces, every display face shall be a flat, smooth surface, and remain completely free of dangerous protrusions such as tacks, nails or wires; however, cutouts of any shape are allowed. Sign faces shall be back to back. No banners, ribbons, streamers, balloons, or attachments of any kind may be affixed to the sign. The sign may not use any moving parts or include a display face which is hinged, or which otherwise swings or hangs from a frame. Glass, breakable materials, and illumination are prohibited. The signs shall be physically stable and balanced flat on the sidewalk. The sign must be self-supporting, stable and weighted or constructed to withstand overturning by normal wind currents or contact.
3. All such signs may be placed in the permitted space on the public right-of-way only when the establishment is actually open to the public for business. A person employed by or associated with the establishment must be physically present within 50 feet of the sign at all times. The sign must be placed on the public sidewalk within the two feet closest to the curb or edge of the sidewalk, directly in front of the establishment which owns the sign. Noncommercial messages may also be displayed on the sidewalk in the V-B, Village-Barrio Zone, subject to the same rules regarding location, display times and physical standards as commercial signs for adjacent establishments and only on sidewalks within or adjacent to the VC, VG, HOSP, FC, and PT districts of the Village and Barrio Master Plan. Noncommercial signs must also be attended by a person who is within 50 feet of the sign at all times; however, the attendant need not be employed by or associated with an adjacent establishment. Any one person may act as an attendant to only one noncommercial sign at a time.
4. Each display face shall have a maximum area of 15 square feet, and shall not exceed five feet in height or three feet in width. Changeable text area of the sign may not exceed 50% of the display face. No such sign may have special illumination or parts which move, flash, blink, fluoresce or use digital display. Fluorescent or "day glow" colors are not allowed. Paper and other nonrigid changeable text areas are not allowed.
5. The sign shall not be permanently affixed to any object, structure, or the ground, including utility poles, light poles, trees or other plants, or any merchandise of products displayed outside permanent buildings.
6. At no time may the sign be placed in the street or in any position which impedes the smooth and safe flow of vehicular and pedestrian traffic, or which interferes with driver or pedestrian sight lines or corner clear zone requirements as specified by the city. No sign shall be placed in such a manner as to obstruct access to a public sidewalk, public street, driveway, parking space, fire door, fire escape or access for persons with disabilities. A clear area of at least five feet in width must be maintained for pedestrian use over the entire length of the sidewalk in front of the establishment.
7. Signs shall not obscure or interfere with the effectiveness of any official notice or public safety device. Signs shall not simulate in color or design a traffic sign or signal, or make use of words, symbols, or characters in such a manner as may confuse pedestrians or drivers.
8. Every sign and all parts thereof shall be kept in good repair. The display surface shall be kept clean, neatly painted, and free from dust, rust and corrosion. Any cracked, broken surfaces, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced or removed within 15 days following notice by the city.
9. As to commercial signs for adjacent establishments, commercial copy must pertain to the adjacent establishment, and must refer or pertain to goods, activities or services which are

actually available in the subject store at the time the sign is displayed.

10. Signs displayed under this section may not be used for general advertising for hire.
- C. Who May Display an A-frame Sign in the V-B, Village-Barrio Zone. The commercial A-frame signs allowed by this section may be displayed only by the operators of establishments with ground floor frontage on streets within the Village-Barrio Zone, who hold a currently valid city business license, who are not currently in violation of, or nonconformance with, any of the zoning, land use, environmental or business regulatory laws, rules or policies of the city. Persons acting as the official attendant of noncommercial message signs must be over the age of 18.

Each eligible establishment location is allowed a maximum of one A-frame sign. However, when an establishment is located within a business arcade or courtyard area, in which case only one "tenant directory" sign, which lists all of the establishments within the arcade or courtyard, is allowed. The display area of the permitted A-frame sign shall not count as part of the total signage for the establishment, which is allowed under the Village and Barrio Master Plan.
- D. Transfer of Permit. The permit attaches to the establishment at the location specified. If the establishment is sold or transferred, and remains at the same location, then the permit shall automatically transfer to the new owner or transferee, who shall be bound to the terms and conditions of the original permit. However, if the establishment which first obtained the permit moves to a different location, or if the original location is then taken by a new establishment, a new application and permit shall be required.
- E. Term of Consent Indicated by Permit; Revocation and Renewal. The permit is revocable or cancelable at will by the city. However, the city will cancel a permit without cause only when it does so to all permittees who are similarly situated. Any permit may be revoked for noncompliance, 30 calendar days after notice of noncompliance remains uncured, or in the case of a noncompliance condition which constitutes a threat to the public health, safety or welfare, summarily. When a permit is revoked, the owner of the sign must physically remove it from the public right-of-way within 24 hours of notice of revocation; upon failure to do so, the city may summarily remove the sign and hold it in storage until all costs of removal and storage are paid by the sign owner, upon which condition the sign shall then be returned to its owner. There is no guarantee that the city will continue the provisions stated herein. Permittees hold no expectation of renewal of any given permit, acquire no vested right to continue displaying the sign on city property, and waive all claims of inverse condemnation (uncompensated taking of private property) as to the permitted sign, when they submit the original application.
- F. Temporary Removal. The city may give notice, by any reasonable means, that consent to display an A-frame is or shall be withdrawn temporarily so as to serve a more urgent or more important public need, such as, without limitation, dealing with a natural disaster, a traffic emergency, a temporary need to make more space available on the public right-of-way, a civil disturbance, a parade, an election, or other special event. In urgent situations, the city may summarily remove a permitted sign without notice, for a time sufficient to deal with the urgency. All permittees shall comply with all notices to temporarily remove the permitted signs, and to return them to display only in accordance with the city's directions.
- G. Insurance and Indemnity. A permit under this section will be issued only to an applicant who provides evidence of comprehensive general liability insurance coverage, in a form satisfactory to the City Planner and Risk Manager, which shall name the city as an additional insured and provide 30-day notice of cancellation. The minimum liability coverage on such policy shall be one million dollars; such coverage shall apply to claims of personal injury including death, property damage and

advertising injury. Application for a permit shall constitute an agreement to hold harmless, defend and indemnify the city against all claims relating to property damage or personal injury, including death, which assert that the permitted sign played any legally significant role in the creation of the liability.

- H. Cancellation or Modification of Program. The city may, at any time and for any reason, cancel or modify this program allowing commercial A-frame signs in the public right-of-way in the V-B, Village-Barrio Zone.

(Ord. CS-227, 2013; Ord. CS-333 §§ 5—9, 2018)

**§ 11.44.060. Real estate for sale "kiosk" signs in particular locations.**

- A. Intent as to Public Forum. The city's intent as to this section is to designate a strictly limited public forum, which allows only the posting in convenient places of directional information regarding tract housing developments which are currently selling homes located within the city.
- B. Kiosk Signs for New Tract Housing Developments. Kiosk signs are permanent freestanding structures, not exceeding 10 feet in height, seven feet in width, which contain modular information strips, not exceeding 10 inches in height, six feet in width, providing information about tract housing developments (of more than four units) which are currently selling new homes located within the city. Such signs may display only the following information: the name of the development, developer and/or marketer thereof, and the direction to the development from the sign.
1. Each kiosk will have "City of Carlsbad" and the city logo displayed in a prominent location on the sign.
  2. One kiosk design will be utilized throughout the city. This kiosk design is on file in the planning division. All tract housing development signs mounted on the kiosks shall be the same design and shall be white wood with contrasting reflective lettering. Letters shall be consistent in size, width and thickness of print. Letters shall be all upper case letters not more than six inches in height.
  3. Individual tract housing development directional signs must be approved by the City Planner prior to mounting on a kiosk to ensure compliance with this section. In no case shall a sign be mounted on a kiosk before building permits have been issued for the model homes.
  4. There shall be no additions, tag signs, streamers, devices, display boards, runners or riders or appurtenances added to the sign as originally approved. Further, no other off-site directional signing may be used such as posters, trailer signs or temporary subdivision directional signs.
  5. Any sign placed contrary to the provisions of this section may be removed by the city without prior notice.
  6. Each approved tract housing development may have up to a maximum of eight directional signs. Upon approval by the City Planner, directional signs shall be permitted until the homes within the housing development are sold or for a period of one year, whichever comes first. Extensions not exceeding one year may be granted by the City Planner.
  7. A tract housing development neighborhood shall not be allowed any directional kiosk signs if there are any other offsite signs advertising the housing development anywhere in the city. If any advertising signs are erected and not promptly removed upon demand by the city, all kiosk signs for that subdivision shall be removed, the lease cancelled and no refund given.

- C. Private Contractor for Management of the Kiosks. The city may enter into a contract with a private contractor to design, erect, modify, replace, maintain and manage the kiosk signs allowed by this section. Such contract must be approved by the City Council, and may require that the contractor pay to the city a rent or royalty on advertising revenues. All the terms of said contract, and all payments to the city hereunder, shall be public information.
- D. Insurance Requirement. In the event the city selects a private party contractor to manage the kiosks, the city may require the private party contractor to provide evidence of comprehensive general liability insurance coverage, in a form satisfactory to the City Planner and Risk Manager, which shall name the city as an additional insured, and provide 30 days' notice to the city of cancellation. The minimum liability coverage on such policy shall be one million dollars. Any private party contract must include a provision for the contractor to hold harmless, defend and indemnify the city against all claims relating to property damage or personal injury, including death, which assert that the kiosk sign played any legally significant role in the creation of the liability.
- E. Allowable Locations. The kiosks allowed by this section may be located only as shown on the approved location map on file with the planning division. The City Planner is authorized to approve the relocation of kiosks shown on the approved map to better serve the needs of new development.  
(Ord. CS-227, 2013; Ord. CS-262 § I, 2014)

#### **§ 11.44.070. Temporary political and other noncommercial signs in the public right-of-way.**

Temporary political and other noncommercial signs are not permitted within the public right-of-way (except as otherwise provided in this chapter), on public property, or upon any public building or other publicly owned facility, including fences, walls, utilities and landscaping.

(Ord. CS-227, 2013; Ord. CS-416 § 2, 2022)

#### **§ 11.44.080. Signage associated with special events.**

When the city allows a special event pursuant to Chapter 8.17 of this code, the Special Event Committee shall approve the location, number, duration of posting, and content for "Road Closure Notification" and "Traffic Control/Directional" signs as described in the code. The Special Event Committee shall approve the location and duration of posting for special event venue signs as described in this code.

Signs within the venue shall conform to the size requirement and may only be posted during the time authorized in the special event permit and Chapter 8.17 of this code.

(Ord. CS-227, 2013)

#### **§ 11.44.090. Use of public land for banners.**

Banners may be placed by the city on city property in the public right-of-way for any message, event or program officially sponsored, co-sponsored, or supported, by the city which provides a public benefit, as approved by resolution of the City Council.

(Ord. CS-227, 2013)

#### **§ 11.44.100. City-wide way-finding signs.**

- A. Intent as to Public Forum. The city's intent as to this section is to designate a strictly limited forum, which allows the city to post way-finding (directional) signs on city property to guide residents and visitors to public buildings or facilities, quasi-public buildings, city neighborhoods, philanthropic organizations, cultural/historical destinations, tourist destinations and points of public interest

throughout Carlsbad. Other uses, locations or destinations may be allowed to post way-finding signage if approved by resolution of the City Council.

Way-finding signs are expressly permitted for the following buildings/facilities/uses:

1. Public buildings and facilities: City of Carlsbad, county, state and federal buildings;
  2. City facilities: city buildings, uses, parking lots, golf course, parks and trails, etc.;
  3. Quasi-public buildings: chamber of commerce, Carlsbad visitors center, train stations;
  4. Cultural/historical destinations: museums;
  5. Points of public interest: city lagoons, ocean beaches, nature/interpretive centers, the flower fields, the strawberry fields, Legoland, the village area;
  6. City entries and neighborhood entries; and
  7. Philanthropic organizations: Lions Club, Rotary Club, Kiwanis Club, etc.
- B. The following way-finding signs may be allowed if approved by resolution of the City Council:
1. Tourist destinations;
  2. Locations or destinations where way-finding signage would be of public benefit; and
  3. Way-finding signs designed as archway signs located over major roads within the city.
- C. The design and location of the city's way-finding signs shall be as approved by the City Planner, City Engineer, City Traffic Engineer, and Communications Manager.
- D. All way-finding signs shall be installed by the city.

(Ord. CS-227, 2013; Ord. CS-262 § II, 2014)

#### **§ 11.44.110. Remedies and penalties.**

Any sign posted on city property, contrary to the ordinance stated herein, may be summarily removed as a trespass and a nuisance by the city. Any sign, which has been properly removed under this chapter, may be returned to the owner upon payment to the city of the costs of removal. If no timely request is made for hearing or if no demand is made for the return of the sign removed, the Community and Economic Development Director, or designee, is authorized to destroy or dispose of the removed sign not earlier than 30 days after the removal of such sign.

(Ord. CS-227, 2013)

#### **§ 11.44.120. Violations.**

- A. It is unlawful for any person to:
1. Install, mount, affix, create, erect, display or maintain any sign in a manner that is inconsistent with this chapter or any permit for such sign;
  2. Install, mount, affix, create, erect, display or maintain any sign requiring a permit without such a permit; or
  3. Fail to remove any sign which the Community and Economic Development Director or designee

has ordered to be removed for being in violation of this chapter.

- B. Violations of any provisions of this chapter shall be subject to the enforcement remedies and penalties provided for herein and in Chapter 1.08 of this code. The city may also pursue any civil remedies provided by law, including injunctive relief, as to signs not in conformance with this chapter:
1. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this chapter; and
  2. Each sign installed, created, erected or maintained in violation of this chapter shall be considered a separate violation when applying the penalty portions of this chapter.

(Ord. CS-227, 2013)

**§ 11.44.130. Severability.**

If any section, subsection, sentence, clause phrase or part of this chapter is for any reason found by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter, which shall be in full force and effect. The City Council hereby declares that it would have adopted this chapter with each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or parts be declared invalid or unconstitutional.

(Ord. CS-227, 2013)

## CHAPTER 11.46 TEMPORARY RESTRICTIONS ON PUBLIC PROPERTY

### **§ 11.46.010. Definitions.**

For the purposes of this chapter, the following definitions apply:

"Exigent circumstances" means a situation or circumstance that requires immediate action

"Implements of riot" means any item able to or likely to cause harm and anticipated to be used for a purpose other than its intended use.

"Weapon" means anything used, designed to be used, or intended for use: (a) in causing injury or death to any person; or (b) for the purpose of threatening or intimidating any person with injury or death.

(Ord. CS-332 § 1, 2018)

### **§ 11.46.015. City Manager authorization.**

A. The City Manager or designee, upon the recommendation of the Chief of Police, is authorized to issue a temporary restriction within the city of Carlsbad, California as is necessary to preserve public health, public safety and property during planned, proposed or anticipated events to be held on public property owned and operated by the city.

B. Temporary restrictions shall be limited to the establishment of:

1. Prohibitions on weapons and other implements of riot; and
2. Prohibitions on attire that conceals a person's identity, and is not worn for any religious, health or expressive purpose; and
3. Measures to help facilitate the event in a safe direction and ensure traffic control, including, but not limited to, the designation of assembly areas.

C. Temporary restrictions issued pursuant to this section shall be narrowly tailored and consistent with the U.S. Constitution and the laws of California.

(Ord. CS-332 § 1, 2018)

### **§ 11.46.020. Procedures.**

Prior to issuing a temporary restriction, the City Manager or designee, upon the recommendation of the Chief of Police, shall make the following findings:

- A. An event is planned, proposed or anticipated to be held on public property; and
- B. There is a reasonable expectation that persons attending the event intend to engage in conflict and nonpeaceful behavior.

(Ord. CS-332 § 1, 2018)

### **§ 11.46.025. Warning required in certain cases.**

The temporary restriction shall be posted by signage at the event site and on the city's website at least 24 hours before enforcement of the regulations authorized by this chapter, except that no warning shall be required in exigent circumstances as determined by the City Manager or the City Manager's designee.

(Ord. CS-332 § 1, 2018)

**§ 11.46.030. Violation—Penalty.**

The violation of a temporary restriction issued pursuant to this chapter is a misdemeanor punishable as set forth in Section 1.08.010(B) of this code, but may be charged, in the discretion of the City Attorney, as an infraction.

(Ord. CS-332 § 1, 2018)



**SEWERS****Title 13****SEWERS**

<b>GENERAL REGULATIONS</b> Chapter 13.04  § 13.04.010. Definitions. § 13.04.020. Unsanitary deposits. § 13.04.030. Use of public sewers required. § 13.04.035. Sewage discharge prohibited. § 13.04.040. Sewer connection permit required.  § 13.04.045. Responsibility for maintenance. § 13.04.050. General prohibitions. § 13.04.070. Damaging sewage works. § 13.04.080. Violations of chapter. § 13.04.090. Public health, safety and welfare violations.	§ 13.06.140. Monitoring and reporting conditions. § 13.06.150. Inspection and sampling conditions. § 13.06.160. Right of entry. § 13.06.170. Notification of changes to facility. § 13.06.180. Appeals.		
		<b>PAYMENT FOR LINE COST</b>  Chapter 13.08  § 13.08.010. Proportionate cost of sewer main prerequisite to connection.  § 13.08.020. Plat map. § 13.08.030. Line costs. § 13.08.035. Line costs—Alternative procedure.	
			  Chapter 13.10 <b>SEWER CONNECTION AND CAPACITY PERMITS AND FEES</b>  § 13.08.040. Extensions and oversizing. § 13.08.050. Reimbursement. § 13.08.060. Method of reimbursement.
			  Chapter 13.10 <b>SEWER CONNECTION AND CAPACITY PERMITS AND FEES</b>  § 13.10.010. Sewer permit required. § 13.10.020. Equivalent dwelling units. § 13.10.030. Sewer capacity fee—Encina Treatment Plant. § 13.10.040. Pumping plant capital contribution fee. § 13.10.050. Sewer main fees. § 13.10.060. Sewer capacity—Lake Calavera Hills Satellite Sewage Treatment Plant. § 13.10.070. Lake Calavera Hills capital contribution fee. § 13.10.080. Sewer benefit area fees A through M.

<b>§ 13.10.100.</b>	<b>Fee deferral.</b>	<b>§ 13.16.052.</b>	<b>Self-monitoring and reporting.</b>
		<b>§ 13.16.053.</b>	<b>Public access to information.</b>
	<b>Chapter 13.12 SEWER SERVICE CHARGES</b>	<b>§ 13.16.054.</b>	<b>Revisions to permits.</b>
		<b>§ 13.16.060.</b>	<b>Permit expiration, revocation or suspension.</b>
<b>§ 13.12.010.</b>	<b>Definitions.</b>	<b>§ 13.16.070.</b>	<b>Violation—Disconnection of facilities—Reconnection charge.</b>
<b>§ 13.12.020.</b>	<b>Sewer service charges established.</b>		<b>Notice of intention to disconnect premises.</b>
<b>§ 13.12.030.</b>	<b>Rates applicable only when sewer main is connected.</b>	<b>§ 13.16.080.</b>	<b>Enforcement.</b>
<b>§ 13.12.050.</b>	<b>Collection—When due and payable.</b>	<b>§ 13.16.090.</b>	<b>Liability of person for damage to system.</b>
<b>§ 13.12.060.</b>	<b>Deposits.</b>	<b>§ 13.16.100.</b>	
<b>§ 13.12.070.</b>	<b>Effect of failure to pay.</b>		
<b>§ 13.12.080.</b>	<b>Determination of sewer service charge.</b>		<b>Chapter 13.20 SEPTIC TANK SYSTEMS</b>
<b>§ 13.12.090.</b>	<b>Adjustment of charges.</b>	<b>§ 13.20.010.</b>	<b>General restrictions.</b>
		<b>§ 13.20.020.</b>	<b>Requirements for septic tank systems.</b>
	<b>Chapter 13.16 DISCHARGE OF INDUSTRIAL WASTE</b>	<b>§ 13.20.030.</b>	<b>Connection to public sewer system.</b>
<b>§ 13.16.010.</b>	<b>Short title.</b>	<b>§ 13.20.040.</b>	<b>Application procedure—Existing lots.</b>
<b>§ 13.16.020.</b>	<b>Definitions.</b>	<b>§ 13.20.050.</b>	<b>Application procedure—Subdivisions.</b>
<b>§ 13.16.030.</b>	<b>Establishment of rules and regulations.</b>	<b>§ 13.20.060.</b>	<b>Authority to adopt by resolution.</b>
<b>§ 13.16.040.</b>	<b>Permit required.</b>		
<b>§ 13.16.050.</b>	<b>Issuance of permit.</b>		
<b>§ 13.16.051.</b>	<b>Pretreatment plans required.</b>		

## CHAPTER 13.04 GENERAL REGULATIONS

**Note Prior ordinance history: Ord. Nos. 5032 and 7023.**

### **§ 13.04.010. Definitions.**

For the purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Best management practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the sewer facilities.

"Department" means the utilities department of the city.

"Discharger" means any person who discharges or causes a discharge of wastewater directly or indirectly to a public sewer. Discharger shall mean the same as user.

"FOG" or "fats, oils and grease" means any substance such as vegetable or animal products that is used in, or is a by-product of, the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

"FOG control program" means the FOG control program required by and developed pursuant to State Water Resources Control Board Order No. 2006-0003.

"Food grinder" means any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation by-products for the purpose of disposing it in the sewer system.

"Food service facility" means facilities defined in California Uniform Retail Food Service Facility Law (CURFFL) Section 113789, and any commercial entity within the boundaries of the city's service area, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a Type I or Type II hood, as defined in CURFFL Section 113789. A limited food preparation establishment is not considered a food service facility when engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

"Garbage" means the animal and vegetable waste from the handling, preparation, cooking, and dispensing of food.

"Grease" means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate procedure in standard methods. "Grease" includes fats and oils.

"Grease control device" means any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the sewer system. "Grease control device" may also include any other proven method to reduce FOG subject to the approval of the city.

"Grease interceptor" means a pretreatment device designed and installed to separate fats, oils, and grease

from wastewater.

"Grease trap" means a grease control device that is used to serve individual or multiple fixtures and have limited effect and should only be used in those cases where the use of a grease interceptor or other grease control device is determined to be impossible or impracticable.

"Hot spots" means area in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained frequently to avoid blockages of the sewer system.

"Industrial waste" means solid, liquid or gaseous substances discharged or flowing from an industrial, manufacturing or commercial premises resulting from manufacturing, processing, treating, recovery or development of natural or artificial resources of whatever nature.

"Industrial wastewater" means all water-carried wastes and wastewater of the community excluding domestic wastewater and including all wastewater from any industrial production, manufacturing, processing, commercial, agricultural or other operation. These may also include wastes of human origin similar to domestic wastewater.

"Inspector" means a person authorized by the city to inspect any existing or proposed wastewater generation, conveyance, and processing and disposal facilities.

"Interceptor" means a grease interceptor.

"Joint sewer system" means the sewer system constructed jointly by the Vista Sanitation District, the city and the Buena Sanitation District pursuant to that certain contract entitled "Basic Agreement between Vista Sanitation District and the City of Carlsbad for the Acquisition and Construction of a Joint Sewer System" (County Contract No. 1858-2129E) and all amendments and supplements thereto and as such sewer system is specifically delineated on that certain map entitled "Map of Joint Sewer System—City of Carlsbad, Vista Sanitation District and Buena Sanitation District" on file in the office of the clerk of the Board of Supervisors of the Buena Sanitation District as Document No. 381247.

"Operator" means the Encina Administrative Agency.

"Owner" includes a holder in fee, life tenant, executor, administrator, trustee, and guardian or other fiduciary, lessee or licensee holding under any government lease or license of real property.

"Person" means any person, firm, company, association, corporation, political subdivision, municipal corporation, district, the state, the United States of America or any department or agency of any thereof.

"pH" means the reciprocal of the logarithm of the hydrogen ion concentration. It indicates the intensity of acidity and alkalinity on a pH scale running from zero to 14. A pH value of 7.0, the midpoint of the scale, represents neutrality. Values above 7.0 indicate alkalinity and those below 7.0 indicate acidity.

"Premises" means any lot, piece or parcel of land, building or establishment.

"Remodeling" means a physical change or operational change causing generation of the amount of FOG that exceed the current amount of FOG discharge to the sewer system by the food service facility in an amount that alone or collectively causes or creates a potential for SSOs to occur; or exceeding a cost of \$50,000.00 to a food service facility that requires a building permit, and involves any one or combination of the following: (1) under slab plumbing in the food processing area; (2) a 30% increase in the net public seating area; (3) a 30% increase in the size of the kitchen area; or (4) any change in the size or type of food preparation equipment.

"Sanitary sewer overflow (SSO)" means and includes any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs include:

1. Overflows or releases of untreated or partially treated wastewater that reach waters of the United

States;

2. Overflows or releases of untreated or partially treated wastewater that do not reach waters of the United States; and
3. Wastewater backups into buildings and on private property that are caused by blockages or flow conditions within the publicly owned portion of a sanitary sewer system.

"Sewage" means the waterborne wastes derived from ordinary human living processes and of such character as to permit satisfactory disposal, without special treatment, into the public sewer, a private sewer, or by means of household septic tank systems and individual household aerobic units.

Sewer, Building or House. "Building or house sewer," also known as the "lateral," or the "sewer lateral" means a pipe or conduit carrying sanitary sewage and/or industrial wastes from a building to the public sewer or a common sewer.

Sewer, Main. "Sewer main" means any public sewer used to collect and convey sewage or industrial wastes to a publicly owned treatment works (POTW).

Sewer, Private. "Private sewer" refers to a privately owned sewer, which is not directly controlled by the city.

Sewer, Public. "Public sewer" means a publicly owned treatment works (POTW), which is owned in this instance by Encina Joint Powers and its member agencies. This definition includes the sewer main and any sewers that convey wastewater to the POTW plant, but does not include pipes, sewers or other conveyances not connected to the facility providing treatment. "Public sewer" also includes any sewers that convey wastewater to the POTW from persons outside the cities of Carlsbad and Vista, the Vallecitos Water District, the Leucadia Wastewater District, the Buena Sanitation District and Encinitas Sanitary District, who are, by contract or agreement with said cities and/or districts, users of the Encina Water Pollution Control Facility.

"Sewer system" or "sanitary sewer system" means all construction and appurtenant equipment utilized in the collection, transportation, pumping, treatment and final disposal of sewage within the district.

"Slug" means any discharge of water, sewage or industrial wastes which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

"Standard methods" means the current edition of Standard Methods for the Examination of Water and Wastewater as published by the American Public Health Association, and Water Pollution Control Federation.

"Suspended solids" or "SS" means solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are largely removable by laboratory filtering and as determined by the appropriate procedure in standard methods.

"Toxic substances" means any substance whether gaseous, liquid or solid, which when discharged to the sewer system in sufficient quantities may tend to interfere with any sewage treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life or create a hazard to recreation in the receiving waters of the effluent from the sewage treatment plant.

"Utilities" means the Director of Utilities of the city or designee.

"Wastehauler" means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for that purpose.

"Waste minimization practices" means plans or programs intended to reduce or eliminate discharges to

the sewer system or to conserve water, including, but not limited to, product substitutions, housekeeping practices, inventory control, employee education, and other steps as necessary to minimize wastewater produced.

"Wastewater" means any liquid waste of any kind, whether treated or not, and whether animal, mineral or vegetable including sewage, agricultural, industrial and thermal wastes, which are discharged into or permitted to enter a public sewer.

(Ord. 7060 § 1, 1980; Ord. NS-129 § 1, 1990; Ord. NS-851 § 1, 2007; Ord. CS-010 § 1, 2008; Ord. CS-164 § 6, 2011)

#### **§ 13.04.020. Unsanitary deposits.**

It is unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable wastes.

(Ord. 7060 § 1, 1980)

#### **§ 13.04.030. Use of public sewers required.**

Every lot that has sanitary facilities requiring sewage disposal which is accessible to a public sewer and is not connected shall be connected to the public sewer within 90 days after the owner or person legally responsible has been notified to do so by the Utilities Director.

(Ord. 7060 § 1, 1980; Ord. NS-851 § 2, 2007; Ord. CS-164 § 6, 2011)

#### **§ 13.04.035. Sewage discharge prohibited.**

Any sanitary sewer overflow is prohibited.

(Ord. NS-851 § 3, 2007)

#### **§ 13.04.040. Sewer connection permit required.**

It is unlawful for any person to place, discharge or dispose of any material, solid or liquid, into the sewer system, or any part thereof, without first obtaining a permit from the city pursuant to Chapter 13.10, and without having first paid all fees required by this title; and no substance shall be placed, discharged or disposed of in the sewer system except substances of waste materials originating on the premises to which a sewer connection permit has been issued.

(Ord. 7060 § 1, 1980)

#### **§ 13.04.045. Responsibility for maintenance.**

- A. Maintenance of all sewer mains dedicated to and accepted by the city shall be the responsibility of the city.
- B. Maintenance of all privately-owned sewer mains, and all lateral lines, equipment and appurtenances connected to the city's sewer mains shall be the responsibility of the property owner or parcel occupant/user. The property owner or occupant/user is responsible for the cleaning and removal of blockages in the sewer lateral from the property being served to the sewer main. The property owner or occupant/user is responsible for the maintenance, repair, and replacement of the sewer lateral from the sewer main to and including the building.
- C. The city hereby grants a revocable license to any property owner who has obtained a sewer connection permit pursuant to Chapter 13.10, or who, prior to the effective date of Chapter 13.10, has

legally connected his or her sewer lateral to the sewer main, to retain his or her current sewer lateral placement within the city's right-of-way.

- D. Property owners must comply with Chapter 11.16 of this code, (permits for work or encroachments in public places), and any amendments thereto, prior to performing any work in, or encroaching upon, the city's right-of-way.

(Ord. NS-851 § 4, 2007)

**§ 13.04.050. General prohibitions.**

- A. Discharge of stormwater, surface water, groundwater, unpolluted industrial process water, roof runoff, subsurface drainage, or any waters from an uncontaminated cooling system, swimming pool, decorative fountain or pond, into any public sewer or any private sewer which is connected to the public sewer without written permission in conformance with adopted regulations.
- B. No person shall enter, obstruct, uncover or tamper with any portion of the public sewer, or connect to it, or dispose anything into any sewer and/or sewer manhole without the written permission of the Utilities Director.
- C. No person or party shall remove or demolish any building or structures with plumbing fixtures connected directly or indirectly to the public sewer without first notifying the Utilities Director of such intention. All openings in or leading to the public sewer line or lines caused by such work shall be sealed watertight and inspected by the Utilities Director before being backfilled.
- D. No person shall fill or backfill over, or cause to cover, or obstruct access to, any sewer manhole.
- E. No person shall erect any improvements, structures, or buildings over public sewers without the written permission of the Utilities Director.
- F. Except as hereinafter provided in this section, no person shall discharge or cause to be discharged any of the following described substances, waters or wastes into any public sewers:
  - 1. Liquid or vapor having a temperature higher than 140 degrees Fahrenheit;
  - 2. Water or waste containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit;
  - 3. Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
  - 4. Toxic, noxious or malodorous liquid, solid, or gas deemed a public hazard and nuisance;
  - 5. Garbage that has not been properly shredded to a size of one-fourth inch or less so that all particles will be carried freely under normal flow conditions in the public sewers;
  - 6. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, paper substances or normally dry, solid wastes capable of causing obstruction to the flow in or damage to sewers or other interference with the proper operation of the sewerage works;
  - 7. Water or wastes having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewerage works;
  - 8. Water or wastes containing any substance in sufficient quantity to discolor, injure, disrupt or

- interfere with the normal operation of any sewage treatment process, constitute a hazard to human or animal life, create a public nuisance, or significantly lower the quality of the receiving waters;
9. Water or wastes containing suspended solids of such character or quantity that unusual attention or expense is required to handle such materials at a sewage treatment plant;
  10. Any unusual volume of flow or concentration of wastes constituting "slugs" as defined in Section 13.04.010;
  11. Radioactive wastes or isotopes of such half-life or concentration that may exceed limits established by the Utilities Director in compliance with applicable state or federal regulations;
  12. Water added for the purpose of diluting wastes which would otherwise exceed applicable maximum concentration limitations;
  13. Water or wastes containing substances which are not amenable to treatment or reduction by the treatment processes employed, or are amenable to treatment only to such degree that:
    - a. The resulting effluent cannot meet the waste discharge requirements of the Regional Water Quality Control Board or other agencies having jurisdiction over the quality and protection of the receiving waters, or
    - b. The resulting sludge cannot meet limits for the chosen disposal method.
- G. Any person who discharges or causes to be discharged into the public sewers any water or wastes having more than 300 mg/l of suspended solids shall be obligated to pay a surcharge, occasioned by the extent to which such water or waste contains an excess over the foregoing limitation of concentration.
- H. Where preliminary treatment facilities are provided for any wastewater as a condition of its acceptance, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
- I. When required by the Utilities Director, the owner of any property served by a building sewer carrying industrial wastewater shall install monitoring and recording equipment, and a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be readily accessible and safely located, and shall be constructed in accordance with plans approved by the Utilities Director. The manhole shall be installed and maintained by the owner at his or her expense.
- J. All measurements, tests, and analyses of the characteristics of water and wastewater to which reference is made in subsections F, G, and H of this section shall be determined in accordance with the latest edition of the American Public Health Association's Standard Methods for Examination of Water, Sewage and Industrial Wastes and shall be made at the control manhole provided for in subsection I of this section, or upon suitable samples taken at said control manhole. If no special manhole is available, the sampling location shall be determined by the Utilities Director.
- (Ord. 7060 § 1, 1980; Ord. 7062 § 1, 1982; Ord. 7065 § 1, 1983; Ord. 7069, 1986; Ord. NS-129 § 2, 1990; Ord. NS-851 § 5, 2007; Ord. CS-010 § 2, 2008; Ord. CS-164 § 6, 2011)

#### **§ 13.04.070. Damaging sewage works.**

No unauthorized person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface

or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works.  
(Ord. 7060 § 1, 1980)

**§ 13.04.080. Violations of chapter.**

- A. Any person found to be violating any provision of this chapter, except Section 13.04.070, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who continues any violation beyond the above time, or who violates the provisions of Section 13.04.070, is guilty of a misdemeanor.
- C. Any person violating any of the provisions of this chapter is liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

(Ord. 7060 § 1, 1980)

**§ 13.04.090. Public health, safety and welfare violations.**

In addition to the other civil and criminal penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter that is a threat to the public health, safety, and welfare may be declared and deemed a public nuisance, which may be summarily abated and/or restored as directed by the enforcement official in accordance with the procedures identified in Chapter 6.16. A civil action to abate, enjoin or otherwise compel the cessation of such nuisance may also be taken by the city, if necessary.

(Ord. NS-851 § 6, 2007)

## CHAPTER 13.06 DISCHARGE OF FATS, OILS AND GREASE

### **§ 13.06.010. FOG discharge requirement.**

No food service facility shall discharge or cause to be discharged any fats, oils or grease to the sewer system in concentrations that may result in separation from effluent and adherence to sewer structures and appurtenances, accumulate and/or cause or contribute to blockages in the sewer system or at the sewer system lateral which connects the food service facility to the sewer system.

(Ord. CS-010 § 3, 2008)

### **§ 13.06.020. FOG prohibitions.**

The following prohibitions shall apply to all food service facilities:

- A. Installation of food grinders in the plumbing system of new constructions or remodeling of food service facilities shall be prohibited.
- B. Introduction of any additives into a food service facility's wastewater system for the purpose of emulsifying FOG or biologically/chemically treating FOG for grease remediation or as a supplement to interceptor maintenance, unless a specific written authorization from the city is obtained.
- C. Disposal of waste cooking oil into drainage pipes is prohibited. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.
- D. Discharge of wastewater from dishwashers to any grease trap (GT) is prohibited. However, the dishwasher discharge drain may be plumbed to a grease interceptor. The pre-rinse sink should have a grease control device installed in new construction and installed in any remodel work.
- E. Discharge of wastewater with temperatures in excess of 140 degrees Fahrenheit to any grease control device, including grease traps and grease interceptors, is prohibited.
- F. Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa, is prohibited.
- G. Discharge of any waste including FOG and solid materials removed from the grease control device to the sewer system is prohibited. Grease removed from grease interceptors shall be waste hauled periodically as part of the operation and maintenance requirements for grease interceptors.

(Ord. CS-010 § 3, 2008)

### **§ 13.06.030. Best management practices required.**

All food service facilities shall implement best management practices in its operation to minimize the discharge of FOG to the sewer system. Detailed requirements for best management practices are specified by the city in Section 13.06.120. This may include kitchen practices and employee training that is essential in minimizing FOG discharge.

(Ord. CS-010 § 3, 2008)

### **§ 13.06.040. FOG pretreatment required.**

Food service facilities are required to install, operate and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this chapter, subject to the

variance and waiver provisions of Section 13.06.050. The grease interceptor shall be adequate to separate and remove FOG contained in wastewater discharges from food service facilities prior to discharge to the sewer system. Fixtures, equipment, and drain lines located in the food preparation and clean up areas of food service facilities that are sources of FOG discharges shall be connected to the grease interceptor. Compliance shall be established as follows:

- A. New Construction of Food Service Facilities. New construction of food service facilities shall include and install grease interceptors prior to commencing discharges of wastewater to the sewer system.
- B. Existing food service facilities or food service facilities that change ownership, that undergo remodeling or a change in operations as defined in Section 13.04.010, shall be required to install a grease interceptor.
- C. Existing food service facilities, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system as determined by the city based on inspection, sampling or cleaning of the sewer system, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install a grease interceptor within 180 days upon notification by the city.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.050. Variance and waiver of grease interceptor requirement.**

- A. Variance from Grease Interceptor Requirements. An existing food service facility may obtain a variance from the grease interceptor requirement to allow alternative pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor, if the food service facility demonstrates that it is impossible or impracticable to install, operate or maintain a grease interceptor. The city's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:
  1. There is no adequate space for installation and/or maintenance of a grease interceptor.
  2. There is no adequate slope for gravity flow between the kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the public sewer.
  3. The food service facility can justify that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge. In addition, the food service facility must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharge through downstream visual monitoring of the sewer system, for at least three months, at its own expense. A variance may be granted if the results show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.
- B. Conditional Waiver from Installation of Grease Interceptor. An existing food service facilities may obtain a conditional waiver from installation of a grease interceptor, if the food service facility demonstrates that it has negligible FOG discharge and insignificant impact to the sewer system. Although a waiver from installation of a grease interceptor may be granted, the food service facility may be required to provide space and plumbing segregation for future installation of a grease interceptor. The city's determination to grant or revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:
  1. Quantity of FOG discharge as measure or as indicated by the size of food service facility based

on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that may reasonably be shown to contribute to FOG discharges.

2. Adequacy of implementation of best management practices and compliance history.
  3. Sewer size, grade, condition based on visual information, FOG disposition in the sewer by the food service facility, and history of maintenance and sewer spills in the receiving sewer system.
  4. Changes in operations that significantly affect FOG discharge.
  5. Any other condition deemed reasonably related to the generation of FOG discharges by the city.
- C. Waiver from Grease Interceptor Installation with a Grease Disposal Mitigation Fee. For food service facilities where the installation of a grease interceptor is not feasible and no equivalent alternative pretreatment can be installed, a waiver from the grease interceptor requirement may be granted with the imposition of a grease disposal mitigation fee as described in Section 13.06.070. Additional requirements may be imposed to mitigate the discharge of FOG into the sewer system. The city's determination to grant the waiver with a grease disposal mitigation fee will be based upon, but not limited to, evaluation of the following conditions:
1. There is no adequate space for installation and/or maintenance of a grease interceptor.
  2. There is no adequate slope for gravity flow between the kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the public sewer.
  3. A variance from grease interceptor installation to allow alternative pretreatment technology cannot be granted.
- D. Application for Waiver or Variance of Requirement for Grease Interceptor. A food service facility may submit an application for waiver or variance from the grease interceptor requirement to the inspector. The food service facility bears the burden of demonstrating, to the city's reasonable satisfaction, that the installation of a grease interceptor is not feasible or applicable. Upon determination by the city that reasons are sufficient to justify a variance or waiver, the variance or waiver will be issued to relieve the food service facility from the requirement.
- E. Terms and Conditions. A variance or waiver shall contain terms and conditions that serve as basis for its issuance. A waiver or variance may be revoked at any time when any of the terms and conditions for its issuance is not satisfied or if the conditions upon which the waiver was based change so that the justification for the waiver no longer exists. The waiver or variance shall be valid so long as the food service facility remains in compliance with their terms and conditions until the expiration date specified in the variance or waiver.

(Ord. CS-010 § 3, 2008)

### **§ 13.06.060. Commercial properties.**

Property owners of commercial properties or their official designee(s) shall be responsible for the installation and maintenance of the grease interceptor serving multiple food service facilities that are located on a single parcel.

(Ord. CS-010 § 3, 2008)

**§ 13.06.070. Grease mitigation and inspection fees.**

The grease mitigation and inspection fees shall be established by the City Council, and shall be based on the estimated annual increased cost of maintaining the sewer system through inspection and removal of FOG and other viscous or solidifying agents attributable to the food service facility resulting from the lack of or inadequate grease control devices.

Food service facilities that operate without grease control devices may be required to pay an increased grease mitigation fee and inspection fee to equitably cover the costs of increased maintenance of the sewer system as a result of the food service facilities' inability to adequately remove FOG from their wastewater discharge. This section shall not be interpreted to allow the new construction of, or existing food service facilities undergoing remodeling or a change in operations to operate without approved grease control devices unless the city has determined that it is impossible or impracticable to install or operate grease control devices for the subject facility under the provisions of Section 13.06.050.

(Ord. CS-010 § 3, 2008)

**§ 13.06.080. Drawing submittal requirements.**

Upon request by the city:

- A. Food service facilities may be required to submit two copies of facility site plans, mechanical and plumbing plans, and details to show all sewer locations and connections. The submittal shall be in a form and content acceptable to the city for review of existing or proposed grease control device, grease interceptor, and operating facilities. The review of the plans and procedures shall in no way relieve the food service facilities of the responsibility of modifying the facilities or procedures in the future, as necessary to produce an acceptable discharge, and to meet the requirements of this section or any requirements of other regulatory agencies.
- B. Food service facilities may be required to submit a schematic drawing of the FOG control devices, grease interceptor or other pretreatment equipment, piping and instrumentation diagram.
- C. The city may require the drawings be prepared by a California registered civil, chemical, mechanical or electrical engineer.

(Ord. CS-010 § 3, 2008)

**§ 13.06.090. Grease interceptor requirements.**

- A. All food service facilities required to provide FOG pretreatment equipment shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this section.
- B. Grease interceptor sizing and installation shall conform to the current edition of the Uniform Plumbing Code. Grease interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, they shall be of substantial construction, watertight, and shall have a minimum of two compartments with fittings designed for grease detention.
- C. The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.
- D. Access manholes, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and

be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities. Covers shall also be gastight and watertight.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.100. Grease trap requirements.**

- A. Food service facilities may be required to install grease traps in the waste line leading from drains, sinks, and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.
- B. Sizing and installation of grease traps shall conform to the current edition of the California Plumbing Code.
- C. Grease traps shall be maintained in efficient operating conditions by removing accumulated grease on an as-need basis.
- D. Grease traps shall be maintained free of all food residues and any FOG waste removed during the cleaning and scraping process.
- E. Grease traps shall be inspected periodically to check for leaking seams and pipes, and for effective operation of the baffles and flow regulating device. Grease traps and their baffles shall be maintained free of all caked-on FOG and waste. Removable baffles shall be removed and cleaned during the maintenance process.
- F. Dishwashers and food waste disposal units shall not be connected to or discharged into any grease trap.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.110. Monitoring facilities requirement.**

- A. The city may require the food service facilities to construct and maintain in proper operating condition at the food service facilities' sole expense, flow monitoring, constituent monitoring and/or sampling facilities.
- B. The location of the monitoring and metering facilities shall be subject to approval by the city.
- C. Food service facilities may be required to provide immediate, clear, safe and uninterrupted access to the city.
- D. Food service facilities may also be required by the city to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of the grease control device or grease interceptor and compliance with this section.
- E. No food service facility shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this section.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.120. Requirements for best management practices.**

- A. All food service facilities shall implement best management practices in accordance with the requirements and guidelines established by the city under its FOG control program in an effort to minimize the discharge of FOG to the sewer system.

B. All food service facilities shall be required, at a minimum, to comply with the following best management practices, when applicable:

1. Installation of Drain Screens. Drain screens shall be installed on all drainage pipes in food preparation and utensil cleaning areas.
2. Segregation and Collection of Waste Cooking Oil. All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do not leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil. Maintenance logs showing waste hauling-pumping frequency or receipts, or legible copies of receipts from an authorized waste hauler must be kept on site at all times and be accessible for inspection at request of authorized inspector.
3. Disposal of Food Waste. All food waste shall be disposed of directly into the trash or garbage, and not in sinks. Double-bagging food wastes that have the potential to leak in trash bins is highly recommended.
4. Employee Training. Employees of the food service facility shall be trained by ownership/management periodically. Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by an inspector or city representative. Training shall be done on the following subjects:
  - a. How to "dry wipe" pots, pans, dishware and work areas before washing to remove grease.
  - b. How to properly dispose of food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.
  - c. The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.
  - d. How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling.
5. Maintenance of Kitchen Exhaust Filters. Filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning the exhaust filter shall be disposed properly.
6. Kitchen Signage. Best management and waste minimization practices shall be posted conspicuously in the food preparation and dishwashing areas at all times.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.130. Grease interceptor maintenance requirements.**

- A. Grease interceptors shall be maintained in efficient operating condition by periodic removal of the full content of the interceptor which includes wastewater, accumulated FOG, floating materials, sludge and solids.
- B. All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency indicated below under subsection (E)(1).
- C. No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral,

- sewer system, storm drain, or public right-of-way during maintenance activities.
- D. Food service facilities with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency of the grease interceptors.
- E. The maintenance frequency for all food service facilities with a grease interceptor shall be determined in one of the following methods:
1. Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed 25% of the total design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.
  2. All food service facilities with a grease interceptor shall maintain their grease interceptor not less than every six months.
  3. All food service facilities will clean the sewer lateral from the grease control device to the sewer main, at least annually, or at a frequency that ensures proper flow within the sewer lateral. A record of the cleaning must be maintained and kept on file for review at the food service facility.
  4. Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in paragraph 1 of this subsection has not been established. The maintenance frequency shall be adjusted when sufficient data have been obtained to establish an average frequency based on the requirements described in paragraph 1 of this subsection and guidelines adopted pursuant to the FOG control program. The city may change the maintenance frequency at any time to reflect changes in actual operating conditions in accordance with the FOG control program. Based on the actual generation of FOG from the food service facility, the maintenance frequency may increase or decrease.
  5. The owner/operator of a food service facility may submit a request to the city requesting a change in the maintenance frequency at any time. The food service facility has the burden of responsibility to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in paragraph 1 of this subsection, and that it is in full compliance with the conditions of this chapter.
  6. If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in paragraph 1 of this subsection, the food service facility shall be required to have the grease interceptor serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the city may also increase the maintenance frequency of the grease interceptor from the current frequency.
- F. Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed off-site properly by waste haulers in accordance with federal, state and/or local laws.

(Ord. CS-010 § 3, 2008)

**§ 13.06.140. Monitoring and reporting conditions.**

- A. Monitoring for Compliance with Reporting Requirements.

1. The city may require periodic reporting of the status of implementation of best management practices, in accordance with the FOG control program.
  2. The city may require closed circuit television monitoring at the sole expense of the food service facility to observe the actual conditions of the food service facilities' sewer lateral and sewer lines downstream.
  3. The city may require reports for self-monitoring of wastewater constituents and FOG characteristics of the food service facility needed for determining compliance with any conditions or requirements as specified in this section.
  4. Other reports may be required such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the city to ensure compliance with this section.
- B. Record Keeping Requirements. The food service facility shall be required to keep all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, disposal carrier and disposal site location for no less than two years. The food service facility shall, upon request, make the manifests, receipts and invoices available to any city representative, their designee, or inspector. These records may include:
1. A logbook of grease interceptor, grease trap or grease control device cleaning and maintenance practices.
  2. A record of best management practices being implemented including employee training.
  3. Copies of records and manifests of waste hauling interceptor contents.
  4. Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
  5. Records of any spills and/or cleaning of the lateral or sewer system.
  6. Any other information deemed appropriate by the city to ensure compliance with this section.
- C. Falsifying Information or Tampering with Process. It shall be unlawful to make any false statement, representation, record, report, plan or other document that is filed with the city, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this section.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.150. Inspection and sampling conditions.**

- A. The city may inspect or order the inspection of the wastewater discharges of any food service facility to ascertain whether the intent of this section is being met and the food service facility is complying with all requirements. The food service facility shall allow the city or the city's designee, access to the food service facility premises, during normal business hours, for purposes of inspecting the food service facility's grease control devices or interceptors, reviewing the manifests, receipts and invoices related to the cleaning, maintenance and inspection of the grease control devices or interceptor.
- B. The city shall have the right to place or order the placement on the food service facility's property or other locations as determined by the city, such devices as are necessary to conduct sampling or metering operations. Where a food service facility has security measures in force, the food service

facility shall make necessary arrangement so that representatives of the city shall be permitted to enter without delay for the purpose of performing their specific responsibilities.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.160. Right of entry.**

Persons or occupants of premises where wastewater is created or discharged shall allow the city or the city's representative, reasonable access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the discharger's facility is open, operating, or any other reasonable time. No person shall interfere with, delay, resist or refuse entrance to city representatives attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the city's sewer system. In the event of an emergency involving actual or imminent sanitary sewer overflow, the city's representatives may access adjoining businesses or properties which share a sewer system with a food service facility in order to prevent or remediate an actual or imminent sanitary overflow.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.170. Notification of changes to facility.**

Food service facilities shall notify the city at least 60 days in advance prior to any facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. Food service facilities shall notify the city in writing of the proposed expansion or remodeling and shall submit any information requested by the city for evaluation of the effect of such expansion on the food service facilities' FOG discharge to the sewer system.

(Ord. CS-010 § 3, 2008)

#### **§ 13.06.180. Appeals.**

- A. General. Any food service facility affected by any decision, action or determination made by the department may file with the department a written request for an appeal hearing. The request must be received by the city within 10 calendar days of mailing of notice of the decision, action, or determination of the city to the appellant. The request for hearing shall set forth in detail all facts supporting the appellant's request.
- B. Notice. The Utilities Director shall, within 15 days of receiving the request for appeal, designate a representative to hear the appeal and provide written notice to the appellant of the hearing date, time and place. The hearing date shall not be more than 30 days from the mailing of such notice by certified mail to the appellant unless a later date is agreed to by the appellant. If the hearing is not held within said time due to actions or inactions of the appellant, then the staff decision shall be deemed final.
- C. Hearing. At the hearing, the appellant shall have the opportunity to present information supporting its position concerning the department's decision, action or determination. The hearing shall be conducted in accordance with procedures established by the department and approved by the City Council.
- D. Written Determination. After the conclusion of the hearing, the designated representative shall submit a written report to the Director of Utilities setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and recommendations whether to uphold, modify or reverse the department's original decision, action or determination. Upon receipt of the written report, the Utilities Director shall make their determination and shall issue the decision and order within 30 calendar days of the hearing. The written decision and order of the Utilities Director shall be sent by certified mail to the appellant or its legal counsel/representative at the appellant's business

address.

- E. Final Determination. The order of the Utilities Director shall be final in all respects on the 16th day after it is mailed to the appellant.
- F. Appeal. Any food service facility, affected by any decision, action or determination made by the Utilities Director, may appeal in writing to the City Council by filing with the City Clerk a written notice of such appeal, setting forth grounds thereof. The appellant shall file such notice within 10 calendar days after receipt of the notice of the administrative decision concerned. The order of the City Council shall be deemed final upon its adoption. If the user fails to appeal to the City Council, or the City Council fails to reverse or modify the Utilities Director's decision, the Utilities Director's decision shall be deemed final.

(Ord. CS-010 § 3, 2008; Ord. CS-164 § 6, 2011)

## CHAPTER 13.08 PAYMENT FOR LINE COST

**Note Prior ordinance history : Ord. Nos. 7020, 7020A, 7024, 7033, 7041, 7043, 7045, 7046, 7054, 7057, and 7059**

### **§ 13.08.010. Proportionate cost of sewer main prerequisite to connection.**

Whenever any person applies for a connection to a sewer main and neither such person nor his or her predecessor in interest has paid the proportionate share of the cost of the sewer main, with respect to the property served, no application shall be acted upon, allowed or approved by the city or any of its administrative employees, until such person shall have paid to the city his or her proportionate share of the cost of such sewer main according to the terms, schedules and conditions set forth in this chapter.

(Ord. 7060 § 1, 1980)

### **§ 13.08.020. Plat map.**

It shall be the duty of the Utilities Director to prepare a plat map and indicate on the plat map those certain parcels of land that have contributed their full share towards the construction of the sewer main.

(Ord. 7060 § 1, 1980; Ord. CS-164 § 3, 2011)

### **§ 13.08.030. Line costs.**

When any person connects to a sewer main, and such person or his/her predecessor in interest has not paid for his or her proportionate share of the cost of the main as indicated on the plat map on file in the office of the Utilities Director, then such person shall pay to the city an amount of money that is equal to the number of front feet of the property that abuts upon the sewer main multiplied by the amount of money that is fixed from time to time by the City Council as being the cost per foot per connection; except when such person is the owner of a large undeveloped frontage, then in that event, the owner shall be required to pay for a minimum frontage of 75 feet; provided, that all of the following conditions prevail:

- A. That the portion of the property being connected to the sewer main shall totally contain the residence of the owner, together with sufficient side yard setbacks as required by applicable zoning law;
- B. That sufficient area remain in the unconnected portion of the property in which to construct one or more living units in accordance with the applicable zoning laws.

(Ord. 7060 § 1, 1980; Ord. CS-164 § 3, 2011)

### **§ 13.08.035. Line costs—Alternative procedure.**

The City Council may by resolution approve a plat map for an area benefited by a sewer main which provides for a fee determined by dividing the cost of the sewer main by the number of dwelling units served instead of the cost per front foot as provided in Section 13.08.030. The provisions of this section are an alternative to those of Section 13.08.030 which may be used when the City Council determines that they will result in a more equitable fee.

(Ord. 7068 § 1, 1984)

### **§ 13.08.040. Extensions and oversizing.**

Subdividers shall be required to extend to the external limits of the subdivision all sewer lines placed

in the streets within the subdivision. There may also be imposed by the city a requirement that sewer improvements installed by a developer for the benefit of the development shall contain supplemental size or capacity, or extend across property outside the development.

(Ord. 7060 § 1, 1980)

**§ 13.08.050. Reimbursement.**

In the event of the installation of sewer improvements required by Section 13.08.040, the city may enter into an agreement with the developer to reimburse the developer for that portion of the cost of such sewer improvements equal to the difference between the amount it would have cost the developer to install such sewer improvements to serve the development only and the actual cost of such sewer improvements.

(Ord. 7060 § 1, 1980)

**§ 13.08.060. Method of reimbursement.**

In order to pay the costs as required by Section 13.08.050, the city may:

- A. Collect from other persons, including public agencies, using such improvements for the benefit of real property not within the development a reasonable charge for such use;
- B. Contribute to the developer that part of the cost of improvements that is attributable to the benefit of real property outside the development and levy a charge upon the real property benefited to reimburse itself for such cost paid to the development;
- C. Establish and maintain local benefit districts for the levy and collection of such charge or costs from the property benefited.

(Ord. 7060 § 1, 1980)

**CHAPTER 13.10  
SEWER CONNECTION AND CAPACITY PERMITS AND FEES**

**§ 13.10.010. Sewer permit required.**

- A. Concurrently with the issuance of a valid building permit for a new structure or with the issuance of a move-on permit for a mobile home, upon application and payment of the required fees, a sewer permit may be issued by the Utilities Director authorizing connection of the structure for which the building permit has been issued or the mobile home for which the move-on permit has been issued to the sewer system. A sewer permit shall be required for any structure which is altered, remodeled or expanded where such alteration, remodeling or expansion results in an increase in the equivalent dwelling units of sewage generated from such structure. At the time of issuance of a valid building permit or plumbing permit for such alteration, remodeling or expansion, upon application and payment of the required fee, a sewer permit may be issued by the Utilities Director, authorizing the connection of the structure for which the building permit has been issued to the sewer system. If the structure being altered, remodeled or expanded is already connected to the city sewer system, and a new connection is not required, the sewer permit shall authorize the use of the sewer system by the altered, remodeled or expanded structure.
- B. It is unlawful for any person to connect to or use the city sewer system without first obtaining a valid sewer permit which is in full force and effect at the time of such connection or use. It is unlawful for any person to alter, remodel or expand the use of a structure without first obtaining a valid building permit or plumbing permit.
- C. Every sewer permit issued pursuant to subsection A of this section shall expire by limitation and become null and void if the building permit or plumbing permit for the structure to which the connection is to be made, or for which the sewer system will be used, or the move-on permit for the mobile home to be connected, expires by limitation or otherwise becomes null and void. If a permit has expired, then before the connection for such structure or mobile home can be made, or the sewer system used, a new sewer permit shall be first obtained, and the fee therefor shall be one-half of the required fee for the original permit for each equivalent dwelling unit unless one year has passed since the expiration, in which case the fee shall be the same as a new permit.
- D. Permits for the connection of an existing structure to the sewer system may be issued by the Utilities Director at any time upon proper application. Every sewer permit issued pursuant to this subsection shall expire by limitation and become null and void if work on the connection authorized by such permit is not completed within 120 days from the date of issuance of such permit.

(Ord. 7060 § 1, 1980; Ord. CS-164 § 3, 2011)

**§ 13.10.020. Equivalent dwelling units.**

- A. An equivalent dwelling unit is a unit of measure for the sewage generated from particular buildings, structures or uses. One equivalent dwelling unit is equal to an approximation of the amount of sewage generated by an average single-family residence.
- B. The Utilities Director shall be responsible for determining the number of equivalent dwelling units for various buildings, structures or uses in accordance with the provisions of this section. For proposed new construction, the Utilities Director shall review the building plans and ascertain the use of the proposed structure and then determine the number of equivalent dwelling units required by an application of the tables in subsection C of this section. For an existing structure and use, the Director shall apply subsection C to that structure and use. For the alteration, remodeling or expansion of an

existing structure or use, the Utilities Director shall determine the number of equivalent dwelling units being used by the existing structure or use by applying subsection C. The Utilities Director shall then determine, in the same manner as new construction, the number of equivalent dwelling units required after completion of the alteration, remodeling or expansion. The equivalent dwelling units in such cases shall be the amount of the increase in such units, if any.

- C. Table 13.10.020(C) shall be used to determine equivalent dwelling units.

**TABLE 13.10.020(C)**

Type of Building, Structure or Use	Equivalent Dwelling Units
(1) Each space of a trailer court or mobilehome park	1.00
(2) Each duplex	2.00
(3) Each separate apartment in an apartment house	1.00
(4) Each housing accommodation designed for occupancy by a single person or one family, irrespective of the number actually occupying such accommodation	1.00
(5) Each room of a lodginghouse, boardinghouse, hotel, motel or other multiple dwelling designed for sleeping accommodations for one or more individuals	
Without cooking facilities	0.60
With cooking facilities	1.00
(6) Churches, theaters and auditoriums, per each unit of seating capacity (a unit being 150 persons or any fraction thereof)	1.33
(7) Restaurants	
No seating	2.67
Seating (see note)	2.67 plus 1.00 per each 7 seats or fraction thereof
Delicatessen or fast food, using only disposable tableware:	
No seating	2.67
Seating (see note)	2.76 plus 1.00 per each 21 seats or fraction thereof
(8) Automobile service stations:	
Not more than four gasoline pumps	2.00
More than four gasoline pumps	3.00
(9) Self-service laundries, per each washer	0.75
(10) Office space in industrial or commercial establishments not listed above and warehouses	Divide gross floor area of building in sq. ft. by 1,800
(11) Schools:	
Elementary schools	
For each 60 pupils or fraction thereof	1.00

**TABLE 13.10.020(C)**

Type of Building, Structure or Use	Equivalent Dwelling Units
Junior high schools	
For each 50 pupils or fraction thereof	1.00
High schools	
For each 30 pupils or fraction thereof	1.00
(12) In the case of all commercial, industrial and business establishments not included in subdivisions 1 through 10, inclusive, of this subsection, the number of equivalent dwelling units shall be determined in each case by the Utilities Director and shall be based upon his or her estimate of the volume and type of wastewater to be discharged into the sewer. The provisions of Chapter 13.16 shall apply to all cases under this subsection and an industrial waste permit shall be required. Any such permit, issued for any use hereunder, shall include a specific volume of sewage authorized for such use. If said amount is exceeded, it shall be grounds for revocation of the permit.	
(13) Theme park (LEGOLAND California) per acre	17.00

**Note:** Seats allowed in incidental outdoor dining areas pursuant to Section 21.26.013, and seats allowed without any parking requirement in outdoor, sidewalk or curb cafes, as defined by and pursuant to the Village and Barrio Master Plan and the City Council, shall not count towards the generation of equivalent dwelling units. However, any combination of outdoor seats which exceeds the number of indoor seats and therefore is required to be parked, shall count towards the generation of equivalent dwelling units.

- D. If the number of equivalent dwelling units, determined by the application of subsection C of this section, results in a fraction, the fees required by this code for such fraction shall be in proportion thereto.
- E. The Utilities Director's determinations under this section may be appealed to the City Council, whose decision shall be final.
- F. The City Council may, by resolution, prescribe any regulations they consider necessary for the proper application of this section. Such regulations may include but are not limited to a determination of the number of gallons of sewage equaling one equivalent dwelling unit may vary for a satellite sewage treatment plant when such variation is justified based on the flow characteristics of the drainage basin served by such plant or other factors which the council finds necessitate the difference.
- G. If LEGOLAND California develops an attraction area into a use that is not consistent with current theme park uses and/or requires a specific plan amendment, the Utilities Director shall recommend a method for calculating equivalent dwelling units to the City Council.

(Ord. 7060 § 1, 1980; Ord. 7061 § 1, 1981; Ord. NS-421 § 1, 1997; Ord. NS-423 § 1, 1997; Ord. NS-849 § 1, 2007; Ord. CS-164 § 3, 2011; Ord. CS-207 § 1, 2013; Ord. CS-333 § 10, 2018)

#### **§ 13.10.030. Sewer capacity fee—Encina Treatment Plant.**

Except as provided, every person who wishes to use the city sewer system and the Encina Treatment Plant

shall pay to the city prior to the issuance of a sewer permit, a sewer capacity fee per equivalent dwelling unit. The amount of the sewer capacity fee shall be as set from time to time by a resolution of the City Council.

The sewer capacity fee shall be adjusted annually by a resolution of the City Council by the percentage change in the Engineering News Record Los Angeles Construction Cost Index with the base index in effect in December 2003.

All sewer capacity fees shall be placed in the sewer construction fund and shall be used to pay for capital improvements of such system.

(Ord. 7060 § 1, 1980; Ord. NS-12 § 1, 1988; Ord. NS-137 § 1, 1991; Ord. NS-682 § 1, 2003; Ord. CS-041 § 1, 2009; Ord. CS-094 § 1, 2010; Ord. CS-154 § 1, 2011; Ord. CS-186 § 1, 2012)

#### **§ 13.10.040. Pumping plant capital contribution fee.**

Whenever any person applies for a sewer permit and the sewage from the applicant's property must be pumped to a treatment plant by an intermediary public pumping plant, and such person, or his/her predecessor in interest, has not contributed to the cost of the construction of such intermediary pumping plant, then such person shall pay to the city a pumping plant capital contribution fee for each existing or proposed equivalent dwelling unit that is to be served by such connection.

The pumping plant capital contribution fee shall be established by resolution by the City Council.  
(Ord. 7060 § 1, 1980)

#### **§ 13.10.050. Sewer main fees.**

In addition to the fees required by this chapter, an applicant for a sewer permit shall also pay any applicable sewer main extension fees pursuant to Chapter 13.08.

(Ord. 7060 § 1, 1980)

#### **§ 13.10.060. Sewer capacity—Lake Calavera Hills Satellite Sewage Treatment Plant.**

- A. The City Council, by resolution, may establish a special sewer service area for the Lake Calavera Hills Satellite Sewage Treatment Plant and establish a sewer capacity fee which shall be paid by each person, other than the developer or successors or assigns, proposing to connect a structure within such area to the Lake Calavera Plant prior to the issuance of a sewer permit. The fee, less five percent for administrative costs, shall be used to reimburse Lake Calavera Hills for the costs of constructing the plant.

The developer may in writing waive reimbursement for any structure using capacity in the plant. The fee required by this section shall not be collected when such a waiver has been made.

- B. The fee established by this section shall be deemed to satisfy Section 13.10.030 which shall not apply to property within the special sewer service area.

(Ord. 7060 § 1, 1980)

#### **§ 13.10.070. Lake Calavera Hills capital contribution fee.**

The City Council may, by resolution, levy a fee for each connection to the Lake Calavera Hills Satellite Sewage Treatment Plant to pay for capital improvements within the special sewer service area or elsewhere but benefiting such area. Such fee shall be in addition to the capacity fee required by Section 13.10.060 and all other fees required by this title. All such fees shall be placed in the joint sewer construction fund

established by Section 13.10.030 and shall be used to pay for capital improvements of the system within the special service areas or elsewhere, but benefiting the special service area.

(Ord. 7060 § 1, 1980)

**§ 13.10.080. Sewer benefit area fees A through M.**

Except as provided, every person who wishes to use the city's sewer facilities in Sewer Benefit Areas A through M, shall pay to the city, prior to the issuance of a building permit, the following sewer benefit area fee:

\$955.00 per equivalent dwelling unit for Sewer Benefit Area A;

\$1,087.00 per equivalent dwelling unit for Sewer Benefit Area B;

\$2,003.00 per equivalent dwelling unit in Sewer Benefit Area C;

\$2,007.00 per equivalent dwelling unit in Sewer Benefit Area D;

\$2,960.00 per equivalent dwelling unit in Sewer Benefit Area E;

\$2,976.00 per equivalent dwelling unit in Sewer Benefit Area F;

\$600.00 per equivalent dwelling unit for Sewer Benefit Area G;

\$873.00 per equivalent dwelling unit for Sewer Benefit Area H;

No fee per equivalent dwelling unit for Sewer Benefit Area I;

\$1,647.00 per equivalent dwelling unit in Sewer Benefit Area J;

\$1,302.00 per equivalent dwelling unit for Sewer Benefit Area K;

\$1,302.00 per equivalent dwelling unit for Sewer Benefit Area L; and

\$64.00 per equivalent dwelling unit for Sewer Benefit Area M.

The sewer benefit area fees shall be adjusted annually effective September 1st, by the annual change to the Engineering News Record Los Angeles Construction Cost Index with a base year index of April 1, 2010. (Ord. NS-642 § 1, 2002; Ord. CS-041 § 2, 2009; Ord. CS-077 § II, 2010; CS-094 § 2, 7-13-2010; Ord. CS-154 § 2, 2011; Ord. CS-186 § 2, 2012)

**§ 13.10.100. Fee deferral.**

Notwithstanding anything in this chapter to the contrary, all sewer capacity and sewer benefit area fees for any residential development that consists of five or more dwelling units and for all new commercial, office, and industrial buildings or building additions shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant.

If the applicant chooses to defer the payment of fees to prior to the request for final inspection, then the amount of the fees shall be based on the fees in effect at the time of the request for final inspection.

In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner.

(Ord. CS-200 § I, 2013; Ord. CS-271 § I, 2015)

## CHAPTER 13.12 SEWER SERVICE CHARGES

### **§ 13.12.010. Definitions.**

For the purposes of the chapter, the following words and phrases shall mean:

"Biochemical oxygen demand" or "BOD" means five-day, 68 degrees Fahrenheit biochemical oxygen demand measured in milligrams per liter (mg/L) as described in Standard Methods.

"Director" means the Utilities and Maintenance Director of the City of Carlsbad.

"Group I residential discharger" means any single- or multiple-family residential dwelling.

"Group II commercial dischargers" means any commercial discharger whose annual wastewater discharge consists of biochemical oxygen demand plus suspended solids (added together) equaling 400 milligrams per liter or less. Typically, this will include car washes, retail stores, hospitals, laundromats, professional offices, soft water services, warehouses and theaters.

"Group III commercial dischargers" means any commercial discharger whose annual average wastewater discharge consists of biochemical oxygen demand plus suspended solids (added together) of more than 400 milligrams per liter and less than 1,000 milligrams per liter. Typically, this will include hotels-motels (without restaurants), repair and service stations, manufacturing and lumber yards.

"Group IV commercial dischargers" means any commercial discharger whose annual average wastewater discharge consists of biochemical oxygen demand plus suspended solids (added together) equaling 1,000 milligrams per liter or more. Typically, this will include bakeries, hotels-motels (with restaurants), restaurants and supermarkets.

"Group V institutional dischargers" means schools, social service halls, membership organizations and other users who are determined equivalent by the Director.

"Group VI large volume dischargers" means users whose wastewater discharge quantity amounts to more than 25,000 gallons per day on an average annual basis.

"Industrial pretreatment Class I customers" means any user subject to federal categorized pretreatment standards and requires quarterly inspection and annual permits.

"Industrial pretreatment Class II customers" means any no categorical users discharging wastewater which may cause pass-through or interference with the system, or contain components as determined to be regulated and requires semiannual inspections and permits every two years.

"Industrial pretreatment Class III customers" means any user discharging waste other than domestic waste, having a reasonable potential to adversely affect the Encina Water Pollution Control Facility and requires annual inspections and permits every three years.

"Premises" means a lot or parcel of land, with building or establishment thereon.

"Sewage system" means those pipelines, plant facilities, and appurtenances constructed, maintained and operated by the city for the collection and treatment of sewage.

"Standard methods" means the current edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association.

"Suspended solids" or "SS" means solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and are largely removable by laboratory filtering and as determined by the appropriate procedure in Standard Methods.

(Ord. 7027 § 1; Ord. 7039, 1971; Ord. 7054 § 4, 1978; Ord. NS-143 § 1, 1991)

**§ 13.12.020. Sewer service charges established.**

All persons whose premises in the city are served by a connection to the city sewer system whereby sewage or other waste material is disposed of through such systems, shall pay a sewer service charge imposed by resolution pursuant to the provisions of this chapter.

(Ord. 7027 § 2; Ord. 7039, 1971; Ord. 7040 § 1, 1972; Ord. 7064 § 2, 1982; Ord. 7067 § 1, 1983; Ord. NS-14 § 1, 1988; Ord. NS-69 § 1, 1989; Ord. NS-77 § 1, 1989; Ord. NS-143 § 2, 1991)

**§ 13.12.030. Rates applicable only when sewer main is connected.**

The charges fixed by Section 13.12.020 shall be applicable only to premises to which a sewer main is connected.

(Ord. 7027 § 3)

**§ 13.12.050. Collection—When due and payable.**

It shall be the duty of the city water department to collect all charges provided for in this chapter.

The charges fixed in this chapter for any premises shall be collected with the charges and rates for water service furnished by the city to such premises. The charges herein fixed shall be billed upon the same bill as is prepared for charges for water service, etc., and shall be due and payable at the same time that such charges for water services are due and payable. The total amount due for the charges herein fixed and for charges for water shall be paid as a unit.

(Ord. 7027 §§ 5, 6)

**§ 13.12.060. Deposits.**

The City Council may require any person to deposit funds with the utilities and maintenance department to ensure collection of any charge fixed in this chapter and to ensure recovery of the actual cost of installing sewer laterals.

The difference between actual cost of sewer installation and the deposit amount shall be refunded upon the completion of the work. Costs incurred beyond the deposited amount shall be itemized and billed as an additional cost to the customer, upon review and approval by the Director.

Deposits shall be established by resolution pursuant to the provisions of this chapter.

(Ord. 7027 § 7; Ord. NS-143 § 3, 1991)

**§ 13.12.070. Effect of failure to pay.**

In the event that any person shall fail to pay any charge provided in this chapter when the same becomes due, the city may, in addition to any other remedies it has, cut off any of the services and facilities referred to in this chapter and shall not resume the same until all delinquent charges, together with any charges necessitated by resumption of such services and facilities have been fully paid.

(Ord. 7027 § 8)

**§ 13.12.080. Determination of sewer service charge.**

A. Fee Resolution. The City Council has the authority by resolution, to establish fees when necessary to recover the costs for sewer services.

The City of Carlsbad Fee Resolution shall provide for a sewer service charge to be charged monthly

to dischargers. The sewer service charge shall incorporate all costs of sewage collection, treatment and disposal, including administrative and general expenses. The charge shall be based on four cost components:

1. City operations and maintenance;
  2. City capital requirements;
  3. City's portion of costs associated with the Encina Water Pollution Control Facility (EPIC) operations and maintenance;
  4. City's portion of costs associated with EPIC capital requirements.
- B. Allocation of Costs. All sewer service charges shall be calculated so as to allocate the costs of the enterprise to the dischargers in accordance with sewage quantity (flow) and quality (indicated by BOD and SS concentrations), including, but not limited to, costs incurred by the EPIC in treating and disposing of any effluent generated by discharges.

Group I residential dischargers shall be charged a flat rate amount per billing period. The flat rate amounts for multiple-family housing shall be administered according to the number of residential units per water meter.

All other discharger groups shall be charged a unit rate per hundred cubic feet (HCL) of water usage or a minimum charge, whichever is greater. Each discharger group shall have a separate unit rate per hundred cubic feet of water usage or minimum charge, whichever is greater. Each Group VI large volume discharger shall have a separate unit rate per hundred cubic feet of water usage or a minimum charge, whichever is greater. The City of Carlsbad fee resolution shall stipulate the unit rates and minimum charges based on wastewater quality and quantity.

Schools shall be charged on the basis of average daily attendance (ADA). The sewer service charge shall be applied throughout the 12-month year.

Every person granted an industrial waste permit pursuant to Title 13 of this code shall pay a fee to the city for inspection and control. The Encina Administrative Agency (EVA) shall determine the minimum number of inspections per year for each permittee as necessary for the proper enforcement of this chapter. The inspection fee shall be included with the sewer service charge in an amount specified in the Carlsbad fee resolution according to the minimum number of inspections determined by the EVA and applied throughout the 12-month year. The same enforcement provisions shall apply to the collection of such fees pursuant to this chapter.

(Ord. NS-143 § 4, 1991)

#### **§ 13.12.090. Adjustment of charges.**

- A. Filing for an Adjustment of Charges. In any case where it is believed that a sewer service charge imposed by this article is excessive, the person responsible for paying such charge may apply to the Director for adjustment by filing with the Director, within 30 days from the date of service of such charge, a written dated affidavit containing:
1. A description, or address of the property involved in the requested adjustment;
  2. The name or names and mailing addresses, of all the appellants participating in the requested adjustment;

3. A brief statement setting forth the legal interest of each of the appellants in the building or land involved in the requested adjustment;
  4. A statement in ordinary and concise language describing the reason for the requested adjustment;
  5. A statement of any material facts supporting the request for adjustment; specifically, statements alleging discriminatory, unreasonable, or unfair charges.
- B. Determination. As soon as practical, but not longer than 60 days after receipt of request for adjustment, the Director shall make a determination concerning the request for adjustment.

The charge shall be deemed to be nondiscriminatory, reasonable, and fair for a nonresidential user if at least 90% of the water supplied to the premises on an annual basis enters a public sewer.

The charge shall be deemed to be discriminatory, unreasonable, or unfair if the wastewater characteristics of the discharger indicate that the discharger should be assigned to a different discharger group, as defined herein.

During the course of the request the Director may visit and inspect any building or premises involved in the proceedings, and may there receive oral testimony of any witness.

The findings of the Director may wholly, partially, conditionally, approve or disapprove the requested adjustment. The decision of the Director may be appealed to the City Council by filing a written notice of appeal with the City Clerk within 10 calendar days of the Director's decision. Fees for appeal shall be established by resolution of the City Council.

If it is determined that the charge is discriminatory, unreasonable or unfair, the Director shall adjust the charge so that it is fair, reasonable and nondiscriminatory. If the charge has already been paid, the excess paid during the year immediately preceding the date of application for adjustment shall be refunded. Charges which are delinquent for more than 90 days shall not be subject to adjustment.

(Ord. NS-143 § 5, 1991)

## CHAPTER 13.16 DISCHARGE OF INDUSTRIAL WASTE

### **§ 13.16.010. Short title.**

This chapter shall be known and may be cited as the industrial waste discharge ordinance.

(Ord. 7035 § 1)

### **§ 13.16.020. Definitions.**

As used in this chapter, "City Engineer" shall mean the City Engineer or designee, who is the Deputy City Engineer, utilities engineering.

(Ord. CS-389 § 9, 2021)

### **§ 13.16.030. Establishment of rules and regulations.**

The engineer is authorized and empowered to adopt such rules and regulations as may be deemed reasonably necessary to protect the sewer system and the joint sewer system, to control and regulate the proper use thereof and to provide for the issuance of permits; provided, however, that the terms and provisions of such rules and regulations shall be promulgated in a manner best directed to result in the uniform control and use of the joint sewer system by the parties to the basic agreement referred to in Section 13.04.010, or any amendments or supplements thereto, and provided further that such rules and regulations shall not become effective until approved by the City Council, and a copy of such rules and regulations is filed with the City Clerk. The more restrictive regulations shall apply in the event of any inconsistencies between joint sewer system regulations approved by City Council and other regulations adopted by the city.

(Ord. 7035 § 19; Ord. NS-129 § 4, 1990)

### **§ 13.16.040. Permit required.**

No person shall connect to or otherwise discharge, or cause to be discharged into the sewer system of the district or the joint sewer system, any industrial waste unless such person has theretofore filed with the engineering department of the city an application for an industrial waste discharge permit and the engineer has issued such a permit; provided, however, no such permit shall be required of any person who has heretofore connected to the sewer system and is discharging industrial waste into such system unless the engineer determines that such discharge does not meet the industrial waste discharge standards established by this article or the rules or regulations adopted as herein provided, in which case a permit shall be required.

(Ord. 7035 § 17)

### **§ 13.16.050. Issuance of permit.**

Industrial waste permits shall be co-issued by the city and the Encina Water Pollution Control Facility according to this code and Encina Water Pollution Control Facility regulations approved by the City Council and filed with the City Clerk.

No permit shall be issued to any person to discharge industrial waste into the sewer system of the district or the joint sewer system if such discharge will be a hazard or danger to the health or safety of any person or to the property of any person or if such discharge will result in a danger to the capacity, construction, use or proper performance or utilization of the sewer system or joint sewer system or be otherwise detrimental or injurious to such systems or either of them, and unless the applicant has complied with all state, federal

and local laws and with all the provisions of this article and with all the applicable rules and regulations adopted as provided for this chapter.

(Ord. 7035 § 18; Ord. NS-129 § 5, 1990)

#### **§ 13.16.051. Pretreatment plans required.**

In the event the engineer determines that pretreatment is required to make the waste acceptable, the applicant shall be so notified and shall submit suitable engineering plans and specifications showing in detail the proposed pretreatment facilities and pretreatment operational procedures which shall be included within and become a part of the original application. A permit shall not be issued until such plans, specifications and operational procedures have been reviewed and approved by the engineer.

(Ord. 7065 § 2, 1983)

#### **§ 13.16.052. Self-monitoring and reporting.**

All industrial users shall be subject to self-monitoring and reporting requirements. The requirements for each applicable user shall be determined by the engineer and included in the user's discharge permit.

(Ord. 7065 § 2, 1983)

#### **§ 13.16.053. Public access to information.**

Information and data provided by an industrial user identifying the nature and frequency of a discharge shall be available to the public without restriction. Any information or data which is submitted or which may be furnished by a user in connection with required periodic reports shall also be available to the public unless the user or other interested person specifically identifies and is able to demonstrate to the satisfaction of the engineer that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(Ord. 7065 § 2, 1983)

#### **§ 13.16.054. Revisions to permits.**

The engineer shall be empowered to revise discharge permit requirements to comply with evolving federal law. Permit revisions or modifications shall not be inconsistent with applicable federal pretreatment standards.

(Ord. 7065 § 2, 1983)

#### **§ 13.16.060. Permit expiration, revocation or suspension.**

Any permit issued in accordance with the provisions of this chapter shall be valid for a period specified on the permit, or if no term is specified, for one year, and is not transferable unless such permit is revoked or suspended as provided in this title and in the rules and regulations adopted pursuant thereto.

(Ord. 7035 § 20; Ord. 7065 § 3, 1983; Ord. NS-129 § 6, 1990)

#### **§ 13.16.070. Violation—Disconnection of facilities—Reconnection charge.**

The engineer may revoke or suspend the permit issued to any person in the event of a violation by the permittee of any provision of any applicable state, federal or local law or this article or of any of the rules and regulations adopted in the manner provided for herein. The engineer may disconnect from the public sewer any connection sewer, main line sewer or other facility which is constructed, connected or used without a permit, or constructed, connected or used contrary to any of the provisions of any applicable state, federal or local law or this chapter or the rules and regulations adopted as provided for in this

chapter. When a premises has been disconnected, it shall not be reconnected until the violation for which it was disconnected has ceased or been remedied and a reasonable charge for such disconnection and reconnection, as established by the engineer, has been paid.

(Ord. 7035 § 22)

#### **§ 13.16.080. Notice of intention to disconnect premises.**

The engineer shall give not less than five days' notice of intention to disconnect the premises or to suspend or revoke a permit, stating the reasons therefor, and may grant a reasonable time for elimination of the violation; provided, however, that if the engineer determines that the danger is imminent and such action is necessary for the immediate protection of the health, safety or welfare of persons or property or for the protection of the sewer system or the joint sewer system, any premises may be disconnected and service terminated concurrently with the giving of such notice. Notice shall be given to the occupant of the premises, if any, and to the record owner of the property as shown upon the last equalized assessment roll of the county by United States mail, registered or certified, return receipt requested, postage prepaid or by posting such notice on the premises.

(Ord. 7035 § 23)

#### **§ 13.16.090. Enforcement.**

The engineer is charged with the duty of enforcing the provisions of this chapter and the rules and regulations adopted as provided in this chapter.

The engineer and the operator and their duly authorized agents and employees are authorized and shall be permitted to enter upon all properties at all reasonable times for the purpose of inspection, observation, measurement, sampling, testing or other reasons to assure the enforcement and proper application of all the provisions of this article and the rules and regulations adopted by the engineer as provided in this chapter.

(Ord. 7035 §§ 21, 26)

#### **§ 13.16.100. Liability of person for damage to system.**

Any person violating any provision of this chapter or any rule or regulation adopted as herein provided shall be liable for all damage to the sewer system or joint sewer system incurred as a result of such violation and for any increase in the cost of maintenance or repair resulting from such violation.

(Ord. 7035 § 25)

## CHAPTER 13.20 SEPTIC TANK SYSTEMS

### **§ 13.20.010. General restrictions.**

- A. No septic tank system shall be installed or constructed unless either of the following conditions exist:
  - 1. The public sewer system is not adjacent to the proposed development and the local sewer agency or Utilities Director determines that extension of the public sewer system is not feasible;
  - 2. The sewer moratorium pursuant to Section 18.05.020 of this code is in effect and none of the exceptions of that section are applicable.
- B. No septic tank system shall be installed or constructed unless it meets all the requirements of this chapter and Chapter 3 of Division 8 of Title 6 of San Diego County Code of Regulatory Ordinances as adopted by reference by Section 6.02.010 of this code.
- C. A septic tank system shall be the only acceptable alternative method of sewage disposal when connection to the public sewer is not available.
- D. No septic tank effluent disposal system other than conventional leach lines or seepage pits may be constructed or installed on any lot or parcel.
- E. No sewage other than domestic sewage may be discharged into any septic tank system.
- F. Septic tank systems shall not be allowed for major subdivisions except as follows:
  - 1. A major subdivision of a parcel for which the applicable zoning ordinance specifically allows the use of an alternative sewer disposal system;
  - 2. A major subdivision which is a resubdivision of a commercial or industrial zoned parcel existing at the time of the ordinance codified in this chapter for which full public improvements, in accordance with current city standards, exist or have been assured by a secured improvement agreement as of the effective date of the ordinance codified in this chapter.

(Ord. 7056 § 1, 1979; Ord. CS-164 § 3, 2011)

### **§ 13.20.020. Requirements for septic tank systems.**

The following requirements shall be met prior to approval of the construction or installation of a septic tank system:

- A. Each newly created lot or parcel to be used for residential purposes which is to be served by a septic tank system shall have a minimum area of 15,000 square feet per dwelling unit or as required by the applicable zoning ordinance, whichever is greater.
- B. Each newly created lot or parcel to be used for industrial or commercial purposes which is to be served by a septic tank system shall have a minimum area of one acre.
- C. The minimum lot or parcel areas required by this section shall not include: "panhandles"; slopes in excess of 25%; deep fills or ravines.
- D. A letter shall be obtained from the local sewer agency (if other than the city) and the Utilities Director recommending approval for the use of the proposed septic tank system.

- E. Each septic tank system shall conform to all the current rules, regulations, policies, codes and ordinances of the county.
- F. Each lot or parcel which is to be served by a septic tank system shall have an additional area suitable for expansion of the system equivalent to at least 100% of the total area used for the initial leach line or seepage pit installation.
- G. A septic tank system permit shall be obtained from the county department of public health and one copy of this permit shall be submitted for each lot or building at the time the building plans are submitted to the Community and Economic Development Director for plan check.
- H. The public sewer system shall be extended for future use to within one foot of each lot or parcel which is to be served by a septic tank system. The sewer line shall be constructed in a manner and location approved by the Utilities Director or local sewer agency. This requirement may be waived if the Utilities Director or the local sewer agency determines that extension of the public sewer system is not feasible.

(Ord. 7056 § 1, 1979; Ord. 1261 § 14, 1983; Ord. NS-676 § 6, 2003; Ord. CS-164 § 3, 2011)

#### **§ 13.20.030. Connection to public sewer system.**

A structure or lot being served by a septic tank system may not obtain a sewer connection permit as long as the city or local sewer agency within whose service territory the lot or structure is located has no available sewage treatment capacity as may be determined by the City Manager unless the city's public health officer and Utilities Director certify that the existing septic tank system has failed and constitutes a health hazard and that there is no additional area available for expansion of the existing system and that the existing system cannot be repaired.

No person within the city sewer service area shall obtain priority in any sewer allocation system that may be adopted by the City Council pursuant to Section 18.05.030 of this code due to the failure of any septic tank system constructed or installed pursuant to this chapter.

(Ord. 7056 § 1, 1979; Ord. CS-164 § 3, 2011)

#### **§ 13.20.040. Application procedure—Existing lots.**

- A. Before the applicant submits plans to the Community and Economic Development Director, the applicant shall submit to the Utilities Director the following:
  1. A letter requesting city approval for use of a septic tank system;
  2. Soil conditions of trench or seepage pits and percolation test reports for each lot;
  3. A letter from the local sewer agency, if other than the city, recommending approval for use of the proposed septic tank system;
  4. Two copies of proposed development plans including a plot plan showing size and placement of all buildings and a preliminary grading plan;
  5. In addition, for commercial and industrial zoned property, the applicant shall also submit proposed use(s), area(s), and estimated sewage flow for each building;
  6. Such other information as may be required by the Utilities Director.
- B. The Utilities Director will review the information and will issue a letter approving or disapproving

the use of the proposed septic tank system.

- C. At the time of the submission of the letter requesting city approval, the applicant shall pay to the engineering department a processing fee of \$20.00 for each residentially zoned lot and \$30.00 for each commercially or industrially zoned lot for which a septic system is proposed.

(Ord. 7056 § 1, 1979; Ord. 7058 § 2, 1979; Ord. 1261 § 14, 1983; Ord. NS-676 § 6, 2003; Ord. CS-164 § 3, 2011)

#### **§ 13.20.050. Application procedure—Subdivisions.**

- A. Before making application for any minor subdivision or a major subdivision as provided for in Section 13.20.010(F) of this code, the applicant shall submit to the Utilities Director the following:
1. A letter requesting city approval for use of a septic tank system;
  2. Two copies of the proposed tentative parcel map for minor subdivisions or tentative subdivision map for major subdivisions;
  3. A letter from the local sewer agency, if other than the city, recommending approval for use of the proposed septic tank system;
  4. In addition, for commercial and industrial zoned property, the applicant shall also submit:
    - a. Two copies of proposed development plans including a plot plan showing size and placement of buildings and a preliminary grading plan,
    - b. Proposed use(s), area(s), and estimated sewage flow for each building.
- B. The Utilities Director will review the information and will issue a preliminary letter approving or disapproving the use of the proposed septic tank system.
- C. If a preliminary letter of approval for the use of a septic tank system is issued by the Utilities Director, the applicant shall have the necessary tests performed and submit to the Utilities Director one copy of the soil condition of trench or seepage pit and percolation test reports for 100% of all proposed lots.
- D. At the time the tentative parcel map or tentative subdivision map is submitted to the city for review, the applicant shall submit evidence that satisfactory percolation tests have been taken on 100% of the proposed parcels and said tentative parcel map or tentative subdivision map shall bear certification by the county health department that it has approved each proposed parcel for installation of a septic tank system in accordance with this chapter.
- E. At the time of the submission of the letter requesting city approval, the applicant shall pay to the engineering department a processing fee of \$30.00, plus \$10.00 for each lot for which a septic system is proposed.

(Ord. 7056 § 1, 1979; Ord. 7058 § 2, 1979; Ord. CS-164 § 3, 2011)

#### **§ 13.20.060. Authority to adopt by resolution.**

The City Council shall have authority to adopt by resolution any additional requirements for the installation and construction of septic tanks as it may determine are necessary for the protection, health and welfare of the public.

(Ord. 7056 § 1, 1979)

**SEWERS**

**Title 15****GRADING AND DRAINAGE**

Chapter 15.04 <b>GENERAL REGULATIONS</b>	<b>§ 15.12.095.</b> Structural treatment control BMP maintenance requirement.  <b>§ 15.12.100.</b> Authority to inspect.  <b>§ 15.12.110.</b> Inspection procedures—Additional requirements.  Chapter 15.08 <b>DRAINAGE AREA FEE</b>	<b>§ 15.12.120.</b> Containment, cleanup, and notification of spills.  <b>§ 15.12.130.</b> Testing, monitoring or mitigation requirements.  <b>§ 15.12.140.</b> Concealment.  <b>§ 15.12.150.</b> Administrative code enforcement powers and procedures.  <b>§ 15.12.160.</b> Administrative notice, hearing, and appeal procedures.  <b>§ 15.12.170.</b> Judicial enforcement.  <b>§ 15.12.180.</b> Violations deemed a public nuisance.  <b>§ 15.12.190.</b> Remedies not exclusive.
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## GRADING AND DRAINAGE

<b>§ 15.16.085.</b>	<b>Construction stormwater pollution prevention plan (SWPPP).</b>	<b>§ 15.16.140.</b>	<b>Grading and erosion control agreement and securities.</b>
<b>§ 15.16.100.</b>	<b>Withdrawal of grading permit applications.</b>	<b>§ 15.16.150.</b>	<b>Agreement for uncontrolled stockpile.</b>
<b>§ 15.16.110.</b>	<b>Grading permit issuance.</b>	<b>§ 15.16.160.</b>	<b>Appeals.</b>
<b>§ 15.16.120.</b>	<b>Grading permit limitations, requirements and procedures.</b>	<b>§ 15.16.170.</b>	<b>Unlawful acts.</b>
<b>§ 15.16.130.</b>	<b>Responsibility of permittee.</b>	<b>§ 15.16.180.</b>	<b>Investigation fee.</b>
		<b>§ 15.16.190.</b>	<b>Enforcement measures—Remedies.</b>

## CHAPTER 15.04 GENERAL REGULATIONS

### **§ 15.04.010. Title.**

This title shall be known as the "Grading and Drainage Ordinances."

(Ord. NS-879 § 1, 2008)

### **§ 15.04.020. Definitions.**

For the purpose of this title, the following words, terms or phrases shall be construed as defined in this section:

"Basin plan" means the Water Quality Control Plan for the San Diego Region (July 1975) and approved by the State Water Resources Control Board, together with subsequent amendments.

"Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the United States, as defined in 40 CFR 122.2. 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.

"Building footprint" means the gross floor area of a structure measured at the ground level elevation within the confines of the exterior wall surfaces.

"Building permit" means a permit required by and issued pursuant to Chapter 18.04 of this code.

"Business activity SWPPP" means a stormwater pollution prevention plan prepared pursuant to the Industrial General Permit or pursuant to Section 15.12.080 of this code for the purpose of (1) identifying and evaluating sources of pollutants associated with business activities that may affect the quality of stormwater discharges and authorized non-stormwater discharges from a facility; and (2) identifying and implementing site-specific best management practices to reduce or prevent pollutants associated with business activities in stormwater discharges and authorized non-stormwater discharges from a facility.

"California ocean plan" means the California Ocean Plan: Water Quality Control Plan for Ocean Waters of California adopted by the State Water Resources Control Board effective February 14, 2006, and any subsequent amendment, revision or re-issuance thereof.

"City standards" means the standards used for the design and construction of public and private improvements in Carlsbad, including grading improvements and stormwater best management practices, as contained in the latest edition of the "City of Carlsbad City Standards" as promulgated by the City Engineer.

"Construction SWPPP" means a stormwater pollution prevention plan prepared pursuant to the general construction permit, Sections 11.16.090, 15.12.080, 15.16.085 and 18.48.040 of this code and, city standards for the purpose of (1) identifying and evaluating sources of pollutants associated with construction activities that may affect the quality of stormwater discharges and authorized non-stormwater discharges from a construction site; and (2) identifying and implementing site-specific best management practices to reduce or prevent pollutants associated with construction activities in stormwater discharges and authorized non-stormwater discharges from a construction site.

"Development" means:

1. The placement or erection of any solid material or structure on land, in water, or under water;

2. The discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;
3. The grading, removing, dredging, mining, or extraction of any materials;
4. A change in the density or intensity of the use of land, including, but not limited to, a subdivision pursuant to the Subdivision Map Act (Government Code Section 66410, et seq.) and any other division of land, including lot splits, except where the division of land is brought about in connection with the purchase of such land by a public agency for public recreational use;
5. A change in the intensity of the use of water, or of access to water;
6. The construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal entity; and
7. The removal or harvesting of major vegetation other than for agricultural purposes. As used in this definition, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Source: Government Code Section 65927).

"Development permit" means any permit approval or entitlement issued pursuant to Title 11, 15, 18, 20 or 21 of this code.

"Development project" means any new development or redevelopment with land disturbing activities, structural development, including construction or installation of a building or structure, the creation of impervious surfaces, public agency projects and land subdivision.

"Drainage master plan" means the report entitled City of Carlsbad Drainage Master Plan, dated July 2008, and any supplements, amendments, revisions or modifications made thereto as may be approved by City Council resolution.

"General construction permit" means NPDES General Permit for Stormwater Discharges Associated with Construction Activity (Water Quality Order No. 99-08-DWQ, NPDES No. CAS000002) issued by the State Water Resources Control Board, and any amendment, revision or re-issuance thereof. The general construction permit establishes a framework for regulating the discharge of stormwater runoff from construction activities as specified in the permit.

"General linear utility permit" means NPDES General Permit for Stormwater Discharges Associated with Construction Activity from Small Linear Underground/Overhead Projects, Water Quality Order No. 2003-0007 issued by the State Water Resources Control Board, and any amendment, revision or reissuance thereof. The general linear utility permit establishes a framework for regulating the discharge of stormwater runoff from small linear underground or overhead utility projects as specified in the permit.

"Illicit connection" means any man-made conveyance or drainage system through which a non-stormwater discharge to the stormwater drainage system occurs or may occur. Any connection to the MS4 that conveys an illicit discharge.

"Industrial general permit" means NPDES General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 97-03-DWQ, NPDES No. CAS000001) issued by the State Water Resources Control Board, and any amendment, revision or re-issuance thereof. The general industrial activity permit establishes a framework for regulating the discharge of stormwater runoff from certain industrial activities as specified in the permit.

"Jurisdictional urban runoff mitigation plan (JURMP)" means a written description of the specific jurisdictional runoff management measures and programs that each co-permittee will implement to comply

with this order and ensure that stormwater pollutant discharges in runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

"Landscape manual" means the "landscape manual" adopted by City Council resolution which contains the policies and requirements for the design, construction and maintenance of landscape and irrigation systems constructed pursuant to a city development approval.

"Low impact development (LID)" means a stormwater management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

"Maximum extent practicable (MEP)" means, with respect to best management practices (BMPs), an individual BMP or group of BMPs which reduces or eliminates the discharge of a pollutant of concern, which have a cost of implementation reasonably related to the pollution control benefits achieved, and which are technologically feasible.

"Municipal permit" means California Regional Water Quality Control Board San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758 Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority (Municipal Permit), and any amendment, revision or re-issuance thereof.

"National Pollution Discharge Elimination System (NPDES) permit" refers to a permit issued by the San Diego Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Chapter 5.5, Division 7 of the California Water Code, to control discharges from point sources to waters of the United States, including, but not limited to:

1. Municipal permit;
2. General industrial activity permit;
3. General construction permit;
4. General linear utility permit; and
5. California Regional Water Quality Control Board, San Diego Region, General De-Watering Permits (Order Numbers 91-10 and 90-31) and any amendment, revision or re-issuance thereof.

"National Pollution Discharge Elimination System (NPDES) general permit" means a permit issued by the State Water Resources Control Board which establishes a framework for regulating the discharge of stormwater runoff for certain broad classes of activities, including, but not limited to:

1. General construction permit;
2. General industrial activity permit; and
3. General linear utility permit.

"Non-stormwater discharge" means all discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges from a MS4 other than stormwater). Non-stormwater includes illicit discharges and NPDES permitted discharges.

"Occupancy permit" means a permit required or issued pursuant to Chapter 21.60 of this code.

"Pollutant" means any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

"Planned local drainage area (PLDA)" means one of four drainage areas within the city identified within the drainage master plan. Separate planned local drainage area (PLDA) fees are established for each of the four drainage areas and were calculated to be equal to or less than the cost of the planned local facility drainage improvements within each respective PLDA.

"Planned local drainage facility" means any storm drainage facility, flood control facility or water quality enhancement facility identified in the drainage master plan including drainage easements, storm drain pipes, inlet structures, outlet structure, sedimentation and de-pollutant basins, drop structures, rip rap, junction structures, environmental mitigation measures, water quality monitoring and testing equipment and other improvements necessary to convey, contain or enhance the quality of stormwater discharge.

"Priority development project" means new development and redevelopment project categories listed in section D.1.d(2) of the municipal permit.

"Rainy season" or "wet season" means October 1st to April 30th.

"Receiving waters" means Waters of the United States. These are surface bodies of water which serve as receiving points for discharges from the stormwater conveyance system, including Encinas Creek, San Marcos Creek, Batiquitos Lagoon, Agua Hedionda Lagoon, San Elijo Lagoon and Buena Vista Lagoon and their tributary creeks, reservoirs, lakes, estuaries, and the Pacific Ocean.

"Standard urban stormwater management plan (SUSMP)" means a plan, prepared pursuant to the municipal permit, to reduce pollutants and runoff flows from all new development and significant redevelopment projects that fall under priority project categories. When used in the Carlsbad Municipal Code, this refers to the SUSMP prepared by the City of Carlsbad.

"Stormwater" means, per 40 CFR 122.26(b)(13), stormwater runoff, snowmelt runoff and surface runoff and drainage. Surface runoff and drainage pertains to runoff and drainage resulting from precipitation events.

"Stormwater conveyance system" means private and public drainage facilities by which stormwater may be conveyed to receiving waters, such as natural drainages, ditches, roads, streets, constructed channels, aqueducts, storm drains, pipes, culverts, street gutters or catch basins.

"Stormwater management plan (SWMP)" means a stormwater management plan prepared in accordance with the SUSMP which describes TCBMPs to be constructed on a development site. A stormwater management plan also includes recommended maintenance activities and schedules of maintenance for any structural treatment controls included in the plan.

"Stormwater pollution prevention plan (SWPPP)" means a document which describes the on-site program activities and structural treatment control measures to eliminate or reduce to the maximum extent practicable, pollutant discharges to the stormwater conveyance system primarily through the application and use of best management practices. A SWPPP is prepared in accordance with the requirements of a NPDES general permit and/or city standards.

"Stormwater standards questionnaire" means the questionnaire form, as specified in the SUSMP, filled out and signed by the responsible party submitting an application for a development permit, and used by the city to determine if the development project is required to comply with standard or priority project stormwater requirements.

"Treatment control best management practice (TCBMP)" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

(Ord. NS-879 § 1, 2008; Ord. CS-004 § 1, 2008; Ord. CS-151 § 1, 2011; Ord. CS-277, 2015)

## CHAPTER 15.08 DRAINAGE AREA FEE

### **§ 15.08.010. Purpose.**

- A. This chapter imposes a planned local drainage area fee to pay for various planned local drainage facility improvements within the city. The amount of the fee is based upon engineering analysis and has been calculated to be equal to or less than the cost of the planned local drainage facility improvements as described in the drainage master plan.
- B. This chapter is necessary to ensure the completion of planned local drainage facility storm drainage, flood control and water pollution control improvements in a timely manner concurrent with the need for such improvements. The construction of the planned local drainage facility improvements funded by this fee will help ensure compliance with the city's growth management standards relating to drainage facilities and with the water quality improvement requirements of the municipal permit.  
(Ord. NS-293 § 2, 1994; Ord. CS-004 § 1, 2008)

### **§ 15.08.015. Definitions.**

When used in this chapter, the following term shall have the meaning ascribed to it in this section:

"Impervious surface" means any surface which cannot be effectively or easily penetrated by water. Examples include conventional pavements, buildings, non-porous concrete and asphalt walkways, driveways, patios and building foundations and rock outcroppings. For purposes of this chapter any soil surface whether highly compacted or not shall not be considered an impervious surface.  
(Ord. CS-004 § 1, 2008)

### **§ 15.08.020. Prohibition of development.**

Except as provided in this section, no final or parcel map shall be approved nor shall any building permit or occupancy permit for any project be issued and no person shall build, use or occupy any project, without first paying the planned local drainage area fee established by, or otherwise complying with, this chapter. The following projects shall be exempt from the requirements of this chapter:

- A. Projects located on sites which have been previously developed with a permanent commercial, industrial or residential structure which do not increase the impervious surface area of the respective property by 50% or more and which do not contribute to any increase in the 100-year runoff value to any required planned local drainage area improvement located downstream of the proposed project. The 50% criteria shall be measured cumulatively for multiple discrete project applications covering the same property where such applications are filed within two years of one another.
- B. Projects involving remodels or additions that do not increase the building footprint by 500 square feet. The 500 square feet criteria shall be measured cumulatively for multiple discrete project applications covering the same property where such applications are filed within two years of one another.
- C. Projects located on property which was subdivided after October 16, 1980, and for which the subdivider for said property paid or received credit for payment of any PLDA fees.
- D. Projects by public agencies or entities.  
(Ord. NS-293 § 2, 1994; Ord. CS-004 § 3, 2008)

**§ 15.08.030. Application requirements.**

In addition to any other requirements for a building permit authorized pursuant to Title 18 of this code and as established by the building official, the applicant for a building permit, subject to the fee payment requirements of this chapter, shall:

- A. Submit a site plan showing the existing and proposed impervious surface areas located on the property together with a summary of the acreages of existing and proposed impervious surface areas.
- B. Pay the planned local drainage area fee established by action of this chapter.

(Ord. NS-293 § 2, 1994; Ord. CS-004 § 4, 2008)

**§ 15.08.040. Fee.**

- A. The planned local drainage area fee schedule shall be established by City Council resolution and shall be considered part of this chapter.
- B. A planned local drainage area fee shall be paid by the owner or developer prior to the issuance of any building permit or occupancy permit or prior to final or parcel map approval for a project, whichever occurs first. The planned local drainage area fees shall be adjusted annually based upon the July, 2008 Engineering News Record Los Angeles Construction Cost Index of 9335.69 based on the 1967 average = 100.
- C. If, as a condition of development, the project owner or developer is required to construct a planned local drainage facility, then the developer may receive a credit against payment of the planned local drainage area fee. The amount of the fee credit shall not exceed the facility cost as estimated in the master drainage plan plus the adjustments provided for in subsection B of this section. If the cost of the planned local drainage facility installed by the developer exceeds the amount of the fee credit established by this subsection the developer is eligible for reimbursement on the balance of the facility costs pursuant to Section 15.08.080 of this chapter.
- D. The drainage fee paid for each property subject to this chapter shall be based upon the gross property acreage (including easements and not more than 30 feet of the fronting street right-of-way measured at right angles to the property line along the full extent of the street frontage) less any area of constrained land as it may be defined in Section 21.53.230 and based upon the runoff potential for the respective general plan designation for the property. The runoff potential for each land use designation shall be as indicated within Appendix C of the drainage master plan.
- E. The applicant for a building permit may request adjustment of the PLDA fees specified in this chapter upon submittal of a written request to the City Engineer. The request should include an explanation of the reason for the requested adjustment and any documentation in support of the request. Upon review of the request, the City Engineer shall determine whether to approve or deny the requested adjustment in accordance with the following provisions:
  1. When portions of the project have slopes greater than 25% and less than 40%, as defined in Chapter 21.95, one-half the fee for those portions may be waived. The criteria for waiver should be that the slope is undisturbed and has a flourishing cover of native vegetation; that the owner irrevocably covenants with the city to maintain the slope as open space; and that the sloped area has not been used to compute more than one-half of an area equal to the sloped area used to establish the maximum development density of the project.
  2. The increment of a project that is replacing a building destroyed by accidental fire or natural

disaster may be considered to be deducted from the valuation of the project PLDA fee.

3. Structures that will not be in place from November 16th through April 14th of any year are considered temporary for the purposes of this chapter. Temporary buildings may have the payment of PLDA fees reimbursed without interest when they have been removed and when the areas under and appurtenant to them are restored to their natural hydrologic condition. Appurtenant areas include parking areas, walks, activity areas and other areas accessory to the use of the building. Structures and appurtenant areas that have not been removed between any period from November 16th through April 14th during their existence are not eligible for reimbursement of any portion of the PLDA fee.
4. The project includes Low Impact Development (LID) or hydro-modification features, as such features are described in the city's Standard Urban Stormwater Mitigation Plan, or other design features that reduce the 100-year flood runoff values in the post construction condition to such an extent that the runoff values are reduced to the level consistent with a project with a lesser runoff level. For example, a project with a high runoff value that installs LID features that result in runoff values that equate to a medium runoff level would result in a fee reduction from the high level to a medium level. In no case, however, shall the fee be reduced below the fee imposed for the low runoff level.

The decision of the City Engineer may be appealed to the City Council pursuant to Section 15.16.160 of this title.

- F. Where the approval of a final or parcel map does not convey any development rights, and subsequent discretionary actions are necessary for the development of the property, the planned local drainage area fee may be deferred to the issuance of a building permit or occupancy permit or the next final or parcel map approval for the project, whichever occurs first.

(Ord. NS-293 § 2, 1994; Ord. CS-004 § 5, 2008; Ord. CS-041 § 4, 2009; Ord. CS-084, 2010; Ord. CS-094 § 4, 2010; Ord. CS-154 § 4, 2011; Ord. CS-186 § 4, 2012)

#### **§ 15.08.060. Use of fees.**

Drainage area fees collected hereunder shall be segregated according to their source and deposited into a planned local drainage area facility fund established for each planned local drainage area and the funds therein and interest accruing thereto shall be expended solely for the construction of or for reimbursement for construction of planned local drainage facilities within the respective planned local drainage area. All of the fees collected shall be expended solely to build or finance planned local drainage facilities serving the city.

(Ord. NS-293 § 2, 1994; Ord. CS-004 § 7, 2008)

#### **§ 15.08.070. Assessment districts.**

If an assessment district or special taxing district is established for all or any part of the area subject to this chapter to fund storm drain improvements which are or will be funded in whole or in part by the fee established by this chapter, the owner or developer of a project may apply to the City Council for a credit against the fee in an amount equal to the assessment or taxes paid.

(Ord. NS-293 § 2, 1994)

#### **§ 15.08.080. Reimbursement agreements.**

The City Council may, at its discretion, enter into a reimbursement agreement with a developer, when said developer has constructed a planned local drainage facility improvement. Reimbursement shall be made

only as fees are collected in connection with the development of other property in the same planned local drainage area in which said facilities were constructed. The schedule of payments for the reimbursement shall take into consideration the schedule of planned local drainage facility improvement construction contemplated in the adopted capital improvement program and shall be made at the sole discretion of the City Council. The amount of reimbursement shall be limited to the actual cost, including engineering and other costs, of such facilities at the time they are constructed. The term of reimbursement agreements shall not exceed 10 years. The payment of any reimbursement shall be limited to the extent that funds are available through the collection of the PLDA fees. If the amount of reimbursement exceeds the cost of the facility as estimated in the master drainage plan including the adjustments provided for in Section 15.08.040(B), then the City Council shall revise the facility fee schedule accordingly. The developer requesting reimbursement shall pay or receive appropriate fee credits based upon the revised fee schedule. (Ord. NS-293 § 2, 1994)

**§ 15.08.090. Advance of funds by city.**

The city may advance money from any available source or fund for the construction of improvements which would otherwise be paid for from fees collected pursuant to this chapter and reimburse itself from future fees.

(Ord. NS-293 § 2, 1994)

**§ 15.08.100. Expiration of chapter.**

This chapter shall be of no further force and effect when the City Council determines that the amount of fees which have been collected reaches an amount equal to the cost of the storm drain improvements.

(Ord. NS-293 § 2, 1994)

**§ 15.08.110. Fee deferral.**

Notwithstanding anything in this chapter to the contrary, all planned local drainage area fees for any residential development that consists of five or more dwelling units and for all new commercial, office, and industrial buildings or building additions shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant.

If the applicant chooses to defer the payment of fees to prior to the request for final inspection, then the amount of the fees shall be based on the fees in effect at the time of the request for final inspection.

In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner.

(Ord. CS-200 § II, 2013; Ord. CS-271 § II, 2015)

## CHAPTER 15.12 STORMWATER MANAGEMENT AND DISCHARGE CONTROL

### **§ 15.12.010. Purpose and intent.**

The purpose of this chapter is to ensure the environmental and public health, safety, and general welfare of the residential, commercial, and industrial sectors of the City of Carlsbad by:

- A. Prohibiting non-stormwater discharges to the stormwater conveyance system.
- B. Eliminating discharges to the stormwater conveyance system from spills, dumping or disposal of materials other than stormwater or permitted or exempted discharges.
- C. Reducing pollutants in stormwater discharges to the maximum extent practicable, including those pollutants taken up by stormwater as it flows over urban areas (urban runoff).
- D. Reducing pollutants in stormwater discharges in order to achieve applicable water quality objectives for receiving waters within the City of Carlsbad.

The intent of this chapter is to protect and enhance the water quality of the City of Carlsbad receiving waters and wetlands in a manner pursuant to and consistent with the Clean Water Act and municipal permit.

(Ord. NS-880 § 1, 2008)

### **§ 15.12.020. Definitions.**

When used in this chapter, the following terms shall have the meanings ascribed to them in this section:

"Clean Water Act" means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 95-117 (33 USCA Section 1251 et seq.), and any subsequent amendments.

"County Health Officer" means the Health Officer of the County of San Diego Department of Public Health or designee.

"Employee training program" means a documented employee training program for all persons responsible for implementing a stormwater pollution prevention plan. The employee training program shall include, but is not limited to, the following topics:

1. Laws, regulations, and local ordinances associated with stormwater pollution prevention, and an overview of the potential impacts of polluted stormwater on the receiving waters of the San Diego region;
2. Proper handling of all materials and wastes to prevent spillage;
3. Mitigation of spills including spill response, containment and cleanup procedures;
4. Visual monitoring of all effluent streams to ensure illicit discharges do not enter the stormwater conveyance system;
5. Discussion of the differences between the stormwater conveyance system and the sanitary sewer system;
6. Identification of all on-site connections to the stormwater conveyance system;

7. Preventive maintenance and good housekeeping procedures;
8. Material management practices employed by the facility to reduce or eliminate pollutant contact with stormwater discharge; and
9. Documentation of training and records detailing dates, time, subjects covered and attendance.

"Enforcement agency" means the City of Carlsbad or its authorized agents charged with ensuring compliance with this chapter.

"Enforcement official" means the City Manager of the City of Carlsbad or designee.

"Hazardous materials" means any substance or mixture of substances which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or generates pressure through decomposition, heat or other means, if such a substance or mixture of substances may cause, or contribute to, substantial injury, serious illness or harm to humans, domestic livestock, wildlife, or deterioration of receiving water quality or the environment.

"Illegal discharge" means any discharge to the stormwater conveyance system that is not composed entirely of stormwater, or is expressly prohibited by federal, state, or local regulations, laws, codes, or ordinances, or degrades the quality of receiving waters in violation of any NPDES permit, the basin plan and California ocean plan standards.

"Parking lot" means an open area, other than a street or other public way, used for the parking of motorized vehicles, whether for a fee or free, to accommodate clients or customers or to accommodate residents of multi-family dwellings (i.e., apartments, condominiums, townhomes, mobile homes, dormitories, group quarters, etc.).

"Person" means any individual, organization, business trust, company, partnership, entity, firm, association, corporation, or public agency, including the State of California and the United States of America.

"Premises" means any building, lot parcel, real estate, land or portion of land whether improved or unimproved.

"Responsible party" means one or more persons that control, are in possession of or own property that shall be individually or, jointly and severally held responsible for compliance with the provision of this chapter or with any illicit discharge from property controlled, possessed or owned. As defined in this chapter, "property" includes, but is not limited to, real estate, fixtures, facilities or premises of any kind located upon, under or above the real estate. This definition of responsible party does not include the city when an illicit discharge is caused by a person on a public street or on public property.

"Wetlands" means areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. NS-880 § 1, 2008)

### **§ 15.12.030. Administration.**

The enforcement official shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon, the enforcement official may be delegated by the enforcement official to persons in the employ of the City of Carlsbad, or pursuant to contract. When deemed necessary by the enforcement official, the enforcement official shall prepare and present to the City Council for approval regulations consistent with the general policies established herein by the City Council. The enforcement official shall enforce council approved regulations necessary to the administration of this

chapter, and may recommend that the council amend such regulations as conditions require.  
(Ord. NS-880 § 1, 2008)

#### **§ 15.12.040. Applicability.**

This chapter shall be interpreted to assure consistency with the requirements of the federal Clean Water Act, applicable implementing regulations, and municipal permit.  
(Ord. NS-880 § 1, 2008)

#### **§ 15.12.050. Prohibited discharges.**

The discharge of non-stormwater discharges to the stormwater conveyance system or to any other conveyance system which discharges into receiving water is prohibited, including, but not limited to:

- A. Sewage;
- B. Discharges of washwater resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
- C. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
- D. Discharges of washwater from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;
- E. Discharges of washwater from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.;
- F. Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
- G. Discharges of pool or fountain water containing chlorine, algaecides, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
- H. Discharges of saline swimming pool water unless such discharge can be discharged via a pipe or concrete channel directly to a naturally saline water body (e.g., Pacific Ocean);
- I. Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and
- J. Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).

(Ord. NS-880 § 1, 2008; Ord. CS-278, 2015)

#### **§ 15.12.055. Exemptions from discharge prohibitions.**

- A. The prohibition on discharges shall not apply to any discharge regulated under a NPDES permit issued to the discharger and administered by the State of California pursuant to Chapter 5.5, Division 7, of the California Water Code, provided that the discharger is in compliance with all requirements of the permit and other applicable laws and regulations. Proof of compliance with such permit may be required in a form acceptable to the city prior to or as a condition of a subdivision map, site plan, building permit, or development improvement plan; upon inspection of the facility; during any

enforcement proceeding or action; or for any other reasonable cause.

- B. Non-stormwater discharges to the MS4 from the following categories of non-stormwater discharges are allowed if the discharger obtains coverage under NPDES Permit No. CAG919002 (RWQCB Order No. R9-2008-0002, or subsequent order) and the discharger is in compliance with all requirements of the applicable NPDES permit and all other applicable laws and regulations; or the RWQCB determines in writing that coverage under NPDES Permit No. CAG919002 is not required. Otherwise, non-stormwater discharges from the following categories are illicit discharges:
  - 1. Discharges from uncontaminated pumped groundwater;
  - 2. Discharges from foundation drains when the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year;
  - 3. Discharges from crawl space pumps;
  - 4. Discharges from footing drains when the system is designed to be located at or below the ground-water table to actively or passively extract groundwater during any part of the year.
- C. Non-stormwater discharges to the MS4 from water line flushing and water main breaks are allowed if the discharges have coverage under NPDES Permit No. CAG679001 (Regional Water Quality Control Board Order No. R9-2010-0003, or subsequent order), and the discharger is in compliance with all requirements of that NPDES permit and other applicable laws and regulations. This category includes water line flushing and water main break discharges from water purveyors issued a water supply permit by the California Department of Public Health or federal military installations. Discharges from recycled or reclaimed water lines to the MS4 are allowed if the discharges have coverage under an NPDES permit, and the discharger is in compliance with the applicable NPDES permit and other applicable laws and regulations. Otherwise, discharges from water lines are illicit discharges.
- D. Non-stormwater discharges to the MS4 from the following categories are allowed, unless the enforcement official or the Regional Water Quality Control Board identifies the discharge as a source of pollutants to receiving waters, in which case the discharge is considered an illicit discharge:
  - 1. Discharges from diverted stream flows;
  - 2. Discharges from rising groundwater;
  - 3. Discharges from uncontaminated groundwater infiltration to the MS4;
  - 4. Discharges from springs;
  - 5. Discharges from riparian habitats and wetlands;
  - 6. Discharges from potable water sources, except as set forth in subsection C of this section;
  - 7. Discharges from foundation drains when the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to produce non-stormwater discharges under unusual circumstances; and
  - 8. Discharges from footing drains when the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to produce non-stormwater discharges under unusual circumstances.

E. Non-stormwater discharges from the following categories are allowed if they are addressed with BMPs. Otherwise, non-stormwater discharges from the following categories are illicit discharges:

1. Air conditioning condensation;
2. Individual residential vehicle washing;
3. Flows from non-emergency fire fighting activities; and
4. Flows from emergency fire fighting activities.

F. The prohibition of discharges shall not apply to any discharge which the enforcement official, the county health officer, the state or San Diego Regional Water Quality Control Board, or U.S. Environmental Protection Agency determines in writing are necessary for the protection of the environment, water quality, and public health and safety.

(Ord. NS-880 § 1, 2008; Ord. CS-278, 2015)

#### **§ 15.12.060. Discharge in violation of permit.**

Any discharge that would result in or contribute to a violation of municipal permit 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.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.070. Illicit connections.**

It is prohibited to establish, use, maintain, conceal or continue illicit connections to the stormwater conveyance system, regardless of whether such connections were made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection except as authorized in Section 15.12.050.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.080. Reduction of pollutants contacting or entering stormwater required.**

A. It is unlawful for any person not to utilize best management practices to the maximum extent practicable to eliminate or reduce pollutants entering the city's stormwater conveyance system.

B. In order to reduce the risk of contamination of stormwater and the discharge of non-stormwater or pollutants to the city's stormwater conveyance system, the enforcement official may require the person(s) conducting the following activities to implement best management practices to the maximum extent practicable:

1. Automobile, airplane, boat, and/or vehicle repair, service, fueling, maintenance, washing, storage, and/or parking;
2. Landscape and garden care activities including application of related products, such as pesticides, herbicides, and fertilizers;
3. Building remodeling, repair and maintenance, including, but not limited to: cement mixing, repair or cutting, masonry, plumbing, painting and/or coating;
4. Impervious surface or building washing or cleaning, including pressure washing or steam cleaning;

5. Storage and disposal of household hazardous waste (e.g., paints, used motor oil, cleaning products, pesticides, herbicides);
  6. Disposal of pet waste;
  7. Storage and disposal of green waste;
  8. Mobile carpet, drape or furniture cleaning;
  9. Pool, spa, jacuzzi, or fountain cleaning, servicing, or repair;
  10. Pest control;
  11. Plant growing including: farmlands, fields, nurseries, greenhouses, and botanical gardens.
- C. Persons conducting an activity or activities that the enforcement official determines may contribute to an illegal discharge to the stormwater conveyance system, and/or a tributary to a Clean Water Act Section 303(d) impaired water body, where the site or source generates pollutants for which the water body is impaired; and/or any person within or directly adjacent to or discharging directly to a coastal lagoon or other receiving water may also be subject to subsection B.
- D. Business Activity Stormwater Pollution Prevention Plan (SWPPP). When the enforcement official determines that a person in the course of conducting a business-related activity causes, has the potential to cause, or contributes to a violation of the water quality standards set forth in the San Diego basin plan or California ocean plan, or conveys pollutants to receiving waters that may cause or contribute to the deterioration of water quality, then the enforcement official may require the person to develop and implement a business activity SWPPP that includes the implementation and use of best management practices, and an employee training program. This section applies, but is not limited to:
1. Persons conducting maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, and/or cleanup activities partially or wholly out of doors;
  2. Persons conducting automobile, airplane, boat, and/or equipment mechanical service, repair, maintenance, fueling, cleaning and/or parking; marinas; mobile automobile or other vehicle washing and/or parking; retail or wholesale fueling; mobile carpet, drape or furniture cleaning; pest control services; eating and drinking establishments; cement mixing, repair or cutting; masonry; plumbing; painting and coating; surface or building washing or cleaning services, including pressure washing or steam cleaning; botanical or zoological gardens and exhibits; landscaping and lawn and garden services; nurseries and greenhouses; golf courses, parks and other recreational areas/facilities; cemeteries; pool and fountain cleaning; or port-a-potty servicing;
  3. Persons owning or operating a parking lot or an impervious surface (including, but not limited to, service station pavements, sidewalks, patios and paved private streets and roads) used for automobile-related or similar purposes shall clean those surfaces as frequently and as thoroughly as is necessary, in accordance with best management practices, to prevent the discharge of pollutants to the city's stormwater conveyance system. Sweepings or cleaning residue from parking lots or impervious surfaces shall not be swept or otherwise made or allowed to enter any stormwater conveyance system, gutter, or roadway, but must be disposed of in accordance with regional and local solid waste procedures and regulations.

Persons owning or operating a parking lot or impervious surfaces used for similar purposes shall clean those surfaces thoroughly as is necessary to prevent the accumulation and discharge of pollutants to the stormwater conveyance system to the maximum extent practicable, but not less than once prior to each rainy season. Sweepings or cleaning residue from parking lots or said impervious surfaces shall not be swept or otherwise made or allowed to enter the gutter, roadway or stormwater conveyance system.

- E. Development, Grading or Construction Activities. Any person engaged in development, grading or construction in the City of Carlsbad shall utilize best management practices to prevent pollutants from entering the stormwater conveyance system by complying with city standards, all applicable local ordinances, including Chapter 15.16 of the Carlsbad Municipal Code, the standard specifications for public works construction, when performing public work, and, required provisions of all applicable NPDES permits.

In order to reduce the risk of contamination of stormwater and the discharge of non-stormwater or pollutants to the city's stormwater conveyance system, the enforcement official may require the person conducting the development, grading or construction activities to prepare and implement a construction SWPPP in compliance with city standards and/or to implement best management practices to the maximum extent practicable.

- F. No person shall stand or park any vehicle or equipment on any street for the purpose of washing, greasing, repairing, and/or maintaining the vehicle or equipment, except for repairs necessitated by an emergency.
- G. No person shall stand or park any vehicle or equipment on any public street, if such vehicle or equipment is determined by the enforcement official to be leaking fluids such as oils or other fluids that contribute or have the potential to contribute a discharge of pollutants to the stormwater conveyance system and/or the receiving waters.
- H. Other activities not covered by subsections B, C, D, E and F of this section. In order to reduce the risk of contamination of stormwater, the discharge of non-stormwater or, pollutants to the city's stormwater conveyance system, the enforcement official may require the person conducting any activity not listed in subsections B, C and D of this section, to implement best management practices to the maximum extent practicable, if the enforcement official determines that the activity has the potential to discharge pollutants or is known to discharge pollutants to the stormwater conveyance system or receiving waters.
- I. Stormwater Management Plan (SWMP). Any project issued a development permit shall comply with all applicable best management practices and low impact development (LID) requirements of the municipal code, standard urban stormwater mitigation plan (SUSMP) or BMP Design Manual, city standards and this code including, but not limited to, the following:
1. All development permit applications for priority development projects shall be accompanied by a SWMP prepared pursuant to the SUSMP or BMP Design Manual. No development permit shall be approved or issued unless the following requirements have been met:
    - a. The City Engineer has approved the SWMP in accordance with the SUSMP or BMP Design Manual; and
    - b. The development project complies with all best management practices specified in the approved SWMP.

2. No development permit shall be issued for a priority development project without ensuring that all structural treatment control best management practices, as specified in the approved SWMP, will be maintained in compliance with the requirements of the municipal permit, JRMP and SUSMP or BMP Design Manual. To ensure maintenance of the structural treatment control best management practices, the owner of the development site shall enter into a permanent stormwater quality best management practices maintenance agreement or provide an alternate maintenance mechanism as approved by the enforcement official.

(Ord. NS-880 § 1, 2008; Ord. CS-278, 2015)

#### **§ 15.12.090. Stormwater conveyance system protection.**

- A. Every person owning property through which a stormwater conveyance system passes, and such person's lessee or tenant, shall keep and maintain that part of the stormwater conveyance system within the property free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate or significantly retard the flow of water through the stormwater conveyance system.
- B. Every person shall maintain privately owned stormwater conveyance structures within or adjacent to a stormwater conveyance system, so that such structures do not become a hazard to the use, function or physical integrity of the stormwater conveyance system.
- C. Every person shall not remove healthy banks of vegetation beyond that actually necessary for such maintenance which shall be accomplished in a manner that minimizes the vulnerability of the stormwater conveyance system to erosion; and shall be responsible for maintaining that portion of the stormwater conveyance system that is within their property lines in order to protect against erosion and degradation of the stormwater conveyance system originating or contributed from their property.
- D. No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the city and the appropriate state or federal agencies, if applicable:
  1. Discharge pollutants into or connect any pipe or channel to the stormwater conveyance system;
  2. Modify the natural flow of water in a stormwater conveyance system;
  3. Carry out developments within 30 feet of the center line of any stormwater conveyance system or 20 feet of the edge of a stormwater conveyance system, whichever is the greater distance;
  4. Deposit in, plant in, or remove any material from a stormwater conveyance system including its banks except as required for necessary maintenance;
  5. Construct, alter, enlarge, connect to, change or remove any structure in a stormwater conveyance system;
  6. Place any loose or unconsolidated material along the side of or within a stormwater conveyance system or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by stormwaters passing through such a stormwater conveyance system.

The above requirements do not supersede any requirements set forth by the California Department of Fish and Game Stream Alteration Permit process.

(Ord. NS-880 § 1, 2008)

**§ 15.12.095. Structural treatment control BMP maintenance requirement.**

- A. Every person owning property which includes a structural treatment control best management practice (BMP), installed pursuant to a city approved stormwater management plan, shall:
  1. Insure that each and every city-approved structural treatment control BMP is operating effectively and has been adequately maintained; and
  2. Provide an annual verification of the effective operation and maintenance of each and every city-approved structural treatment control BMP by the party responsible for the maintenance of the structural treatment control BMP. The annual verification shall be submitted to the enforcement official in a format as approved by the city prior to the start of the rainy season.
- B. The enforcement official shall have the authority to conduct an inspection of any property containing a city-approved structural treatment control BMP to enforce the provision of this section in accordance with the inspection provisions specified in Sections 15.12.100 and 15.12.110 of this chapter.

(Ord. NS-880 § 1, 2008)

**§ 15.12.100. Authority to inspect.**

- A. During normal and reasonable hours of operation, the enforcement official shall have the authority to conduct an inspection to enforce the provisions of this chapter, and to ascertain whether the requirements of this chapter are being met. The enforcement official has the authority to inspect all publicly visible and accessible areas during reasonable times without the permission of the property owner or representative, as long as those areas are not specifically designated as no public access areas. If inaccessible or limited access areas are to be inspected, an inspection may be conducted after the enforcement official has presented the proper credentials and the owner, occupant, and/or facility operator authorizes entry. If the enforcement official is unable to locate the owner or other persons having charge or control of the premises, or the owner, occupant, and/or facility operator refuses the request for entry, the City of Carlsbad is empowered to seek assistance from any court of competent jurisdiction in obtaining entry.
- B. After obtaining authorized entry to a business or facility, the enforcement official may:
  1. Inspect the premises at all reasonable times.
  2. Carry out any sampling activities or install devices to conduct sampling or metering operations necessary to enforce this chapter, including taking samples from the property which the enforcement official reasonably believes is currently, or has in the past, caused or contributed to causing an illegal stormwater discharge to the stormwater conveyance system. Upon request by the property owner or authorized representative, split samples shall be given to the person from whose property the samples were obtained.
  3. Conduct tests, analyses and evaluations to determine whether a discharge of stormwater is an illegal discharge or whether the requirements of this chapter are met.
  4. Photograph any effluent stream, material or waste, material or waste container, container label, vehicle, waste treatment process, waste disposal site connection, or condition believed to contribute to stormwater pollution or constitute a violation of this chapter.
  5. Review and obtain a copy of the industrial activity stormwater pollution prevention plan, the hazardous materials release response plan and inventory, and/or any other documents, permits,

manifests, logs or records that may be required of the facility from local, state or federal laws, regulations or codes in order to conduct operations or business on the premises.

6. Require the facility operator to retain evidence, as instructed by the enforcement official, for a period not to exceed 30 days.
7. Review and obtain copies of all stormwater monitoring data compiled by the facility, if such monitoring is required of the facility.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.110. Inspection procedures—Additional requirements.**

- A. During the inspection, the enforcement official shall comply with all reasonable security, safety, and sanitation measures. In addition, the enforcement official shall comply with reasonable precautionary measures specified by the owner and/or occupant or facility operator.
- B. At the conclusion of the inspection, and prior to leaving the site, the enforcement official shall make every reasonable effort to review with the owner and/or occupant or the facility operator each of the violations noted by the enforcement official and any corrective actions that may be necessary. A report listing any violation found by the enforcement official during the inspection shall be kept on file by the enforcement agency. An inspection report shall be provided to the owner and/or occupant or facility operator, or left at the premises after being signed by a designated representative of the facility. If corrective action is required, then the occupant, facility owner, and/or facility operator shall implement corrective action plan based upon a written corrective action plan. The corrective action plan shall be submitted to the enforcement agency for review and approval and should state the corrective actions to be taken and the expected dates of completion. Failure to implement a corrective action plan constitutes a violation of this chapter.
- C. All enforcement officials shall have adequate identification. Enforcement officials and other authorized personnel shall identify themselves when entering any property for inspection purposes or when inspecting the work of any contractor.
- D. With the consent of the property owner or occupant, or pursuant to a search warrant, the enforcement official is authorized to establish on any property that discharges directly or indirectly to the municipal stormwater conveyance system such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the enforcement official may take samples of materials, wastes, and/or effluent as deemed necessary to aid in the pursuit of the investigation or in the recordation of the activities onsite.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.120. Containment, cleanup, and notification of spills.**

Any person owning or occupying any premises who has knowledge of any release of materials, pollutants or waste which may result in pollutants or non-stormwater discharges entering any stormwater conveyance system shall immediately take all reasonable action to contain, minimize, and clean up such release. Such person shall notify the City of Carlsbad of the occurrence and any other appropriate federal, state or county agency of the occurrence as soon as possible, but no later than 24 hours from the time of the incident's occurrence.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.130. Testing, monitoring or mitigation requirements.**

A. The enforcement official may require that any person engaged in any activity and/or owning or operating any facility which causes or contributes to stormwater pollution or contamination, illegal discharges, prohibited discharges and/or discharge of non-stormwater to the stormwater conveyance system perform monitoring, including physical and chemical monitoring and/or analyses and furnish reports as the enforcement official may specify if:

1. The person, or facility owner or operator, fails to eliminate illegal or prohibited discharges within a specified time after receiving a written notice to do so by the enforcement official;
2. The enforcement official has documented repeated violations of this chapter by the person or facility owner or operator which has caused or contributed to stormwater pollution.

It is unlawful for such person or facility owner or operator to fail or refuse to undertake and provide the monitoring, analyses, and/or reports specified. Specific monitoring criteria shall bear a relationship to the types of pollutants which may be generated by the person's activities or the facility's operations. If the enforcement agency has evidence that a pollutant is originating from a specific source or premises, then the enforcement agency may require monitoring for that pollutant regardless of whether said pollutant may be generated by routine activities or operations. The person or facility owner or operator shall be responsible for all costs of these activities, analyses and reports.

B. Any persons required to monitor pursuant to subsection A of this section, shall implement a stormwater monitoring program including, but not limited to, the following:

1. Routine visual monitoring for dry weather flows;
2. Routine visual monitoring for spills which may pollute stormwater runoff;
3. A monitoring log including monitoring date, potential pollution sources, as noted in paragraphs 1 and 2 of this subsection, and a description of the mitigation measures taken to eliminate any potential pollution sources;
4. All samples must be collected using approved procedures and guidelines as set forth by federal Environmental Protection Agency (EPA) approved protocols; and
5. The samples must be analyzed by a State of California certified laboratory qualified to undertaken such analyses.

C. The enforcement official may require a person, or facility owner or operator, to install or implement stormwater pollution reduction or control measures, including, but not limited to, process modification to reduce the generation of pollutants if:

1. The person, or facility owner or operator fails to eliminate illegal or prohibited discharges after receiving a written notice from the enforcement official;
2. The person, or facility owner or operator, fails to implement a stormwater pollution prevention plan, as required by the enforcement official; or
3. The enforcement official has documented repeated violations of this chapter by any such person or facility owner or operator which has caused or contributed to stormwater pollution.

D. If testing, monitoring or mitigation required pursuant to this chapter are deemed no longer necessary by the enforcement official, then any or all of the requirements contained in subsections A, B, and C of this section may be discontinued.

E. A stormwater monitoring program prepared and implemented pursuant to any state-issued NPDES general permit shall be deemed to meet the requirements of a monitoring program for the purposes of this chapter.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.140. Concealment.**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter is unlawful and shall constitute a separate violation of this chapter.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.150. Administrative code enforcement powers and procedures.**

The enforcement agency and enforcement official can exercise any code enforcement powers and procedures as provided in Title 1 of this code. In addition to the general enforcement powers and procedures provided in Title 1 of this code, the enforcement agency and enforcement official have the authority to utilize the following administrative remedies as may be necessary to enforce this chapter:

- A. Cease and Desist Orders. When the enforcement official finds that a discharge has taken place or is likely to take place in violation of this chapter, the enforcement official may issue an order to cease and desist such discharge, practice, or operation likely to cause such discharge and direct that those persons not complying shall:
  - 1. Comply with the applicable provisions and policies of this chapter;
  - 2. Comply with a time schedule for compliance; and
  - 3. Take appropriate remedial or preventive action to prevent the violation from recurring.
- B. Notice to Clean, Test and/or Abate. Whenever the enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city's stormwater conveyance system or a non-stormwater discharge to the city's stormwater conveyance system, the enforcement official may issue orders and give written notice to remove same in any reasonable manner. The recipient of such notice shall undertake the activities as described in the notice.
- C. Stop Work Orders. Whenever any work is being done contrary to the provisions of this chapter, the enforcement official may order the work stopped by notice in writing served on any person engaged in performing or causing such work to be done, and any such person shall immediately stop such work until authorized by the enforcement official to proceed with the work.
- D. Permit or License Suspension, Denial or Revocation. Violations of this chapter may be grounds for permit or license suspension or revocation, including, but not limited to, building permits, right-of-way permits, grading permits and conditional use permits.
- E. Civil Penalties. Any person who violates any of the provisions of this chapter, fails to prepare or implement a corrective action plan when requested by the enforcement official, fails to implement a storm-water monitoring plan, violates any cease and desist order or notice to clean and abate, or fails to adopt or implement a stormwater pollution prevention plan as directed by the enforcement official shall be liable for a civil penalty not to exceed \$2,500.00 for each day such a violation exists. The responsible party shall be charged for the full costs of any investigation, inspection, or monitoring

survey which led to the detection of any such violation, for abatement costs, and for the reasonable costs of preparing and bringing legal action under this subsection. In addition to any other applicable procedures, the enforcement agency may utilize the lien procedures listed in subsection F to enforce the responsible party's liability. The responsible party may also be liable for compensatory damages for impairment, loss or destruction to water quality, wildlife, fish and aquatic life.

- F. The enforcement official shall take all appropriate legal steps to collect these obligations, including referral to the City Attorney for commencement of a civil action to recover said funds. If collected as a lien, the enforcement official shall cause a notice of lien to be filed with the County Recorder, inform the county auditor and County Recorder of the amount of the obligation, a description of the real property upon which the lien is to be recovered, and the name of the agency to which the obligation is to be paid. Upon payment in full, the enforcement official shall file a release of lien with the County Recorder.
- G. Environmental Code Enforcement Civil Penalties Fund. Civil penalties collected pursuant to this chapter shall be deposited in the environmental code enforcement civil penalties fund as established by the City Manager for the enhancement of the city's code enforcement efforts, environmental public outreach or education, environmental improvement grants, and/or to reimburse city departments for investigative costs and costs associated with the hearing process that are not paid by the responsible party. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the City Manager. The city auditor shall establish accounting procedures to ensure proper account identification, credit and collection.

(Ord. NS-880 § 1, 2008)

#### **§ 15.12.160. Administrative notice, hearing, and appeal procedures.**

- A. Unless otherwise provided herein, any notice required to be given by the enforcement official under this chapter shall be in writing and served in person or by registered or certified mail. If served by mail, the notice shall be sent to the last address known to the enforcement official. Where the address is unknown, service may be made upon the owner of record of the property involved. Such notice shall be deemed to have been given at the time of deposit, postage prepaid, in a facility regularly serviced by the United States Postal Service whether or not the registered or certified mail is accepted.
- B. When the enforcement official determines that a violation of one or more provisions of this chapter exists or has occurred, any violator(s) or property owner(s) of record shall be served by the enforcement official with a written notice and order. The notice and order shall state the municipal code section violated, describe how violated, the location and date(s) of the violation(s), and describe the corrective action required. The notice and order shall require immediate corrective action by the violator(s) or property owner(s) and explain which method(s) of administrative enforcement are being utilized by the enforcement official: cease and desist order, notice to clean and abate, establishment of a stormwater pollution prevention plan, and/or establishment of an employee training program. The notice and order shall also explain the consequences of failure to comply, including that civil penalties shall begin to immediately accrue if compliance is not achieved within 10 days from the date the notice and order is issued. The notice and order shall identify all hearing rights. The enforcement official may propose any enforcement action reasonably necessary to abate the violation.
- C. If the violation(s) is not corrected within 10 days from the date the notice and order is issued, the enforcement official shall request the City Manager to appoint a hearing officer and fix a date, time, and place for hearing. The enforcement official shall give written notice thereof to the violator(s) or owner(s) of record, at least 10 days prior to the date for hearing.

1. The hearing officer shall consider any written or oral evidence presented to determine whether the violation(s) exists, a corrective action plan should be required, a cease and desist order should be required, a notice to clean and abate should be required, a stormwater pollution prevention plan should be required, an employee training program should be required, and/or civil penalties should be imposed, consistent with rules and procedures for the conduct of hearings and rendering of decisions established and promulgated by the City Manager.
2. In determining whether action should be taken or the amount of a civil penalty to be imposed, the hearing officer may consider any of the following factors:
  - a. Duration of the violation(s).
  - b. Frequency or recurrence.
  - c. Seriousness.
  - d. History.
  - e. Violator's conduct after notice and order.
  - f. Good faith effort to comply.
  - g. Economic impact of the penalty on the violator(s).
  - h. Impact of the violation on the community.
  - i. Any other factor which justice may require.
3. If the violator(s) or owner(s) of record fail to attend the hearing, it shall constitute a waiver of the right to a hearing and adjudication of all or any portion of the notice and order.
4. The hearing officer shall render a written decision within 10 days of the close of the hearing, including findings of fact and conclusions of law, identifying the time frame involved and the factors considered in assessing civil penalties, if any. The decision shall be effective immediately unless otherwise stated in the decision. The hearing officer shall cause the decision to be served on the enforcement official and all participating violators or owners of record.
5. If the persons assessed civil penalties fail to pay them within the time specified in the hearing officer's decision, the unpaid amount constitutes either a personal obligation of the person assessed or a lien upon the real property on which the violation occurred, in the discretion of the enforcement official. If the violation(s) is not corrected as directed the civil penalty continues to accrue on a daily basis. Civil penalties may not exceed \$100,000.00 in the aggregate. When the violation is subsequently corrected, the enforcement official shall notify the violator(s) and/or owner(s) of record of the outstanding civil penalties and provide an opportunity for hearing if the amount(s) is disputed within 10 days from such notice.
6. The enforcement official shall take all appropriate legal steps to collect these obligations, including referral to the City Attorney for commencement of a civil action to recover said funds. If collected as a lien, the enforcement official shall cause a notice of lien to be filed with the County Recorder, inform the county auditor and County Recorder of the amount of the obligation, a description of the real property upon which the lien is to be recovered, and the name of the agency to which the obligation is to be paid. Upon payment in full, the enforcement official shall file a release of lien with the County Recorder.

(Ord. NS-880 § 1, 2008)

**§ 15.12.170. Judicial enforcement.**

- A. Criminal Penalties. Any person who violates any provision of this chapter or who fails to implement a stormwater monitoring plan, violates any cease and desist order or notice to clean and abate, or fails to adopt or implement stormwater pollution prevention plans or employee training programs as directed by the enforcement official shall be punished, upon conviction, by a fine not to exceed \$1,000.00 for each day in which such violation occurs, or imprisonment in the San Diego County jail for a period not to exceed six months, or both.
- B. Injunction/Abatement of Public Nuisance. Whenever a discharge into the stormwater conveyance system is in violation of the provisions of this chapter or otherwise threatens to cause a condition of contamination, pollution, or nuisance, the enforcement official may also cause the city to seek a petition to the Superior Court for the issuance of a preliminary or permanent injunction, or both, or an action to abate a public nuisance, as may be appropriate in restraining the continuance of such discharge.
- C. Other Civil Action. Whenever a notice and order, notice of determination, hearing officer's decision or City Council's decision is not complied with, the City Attorney may, at the request of the enforcement official, initiate any appropriate civil action in a court of competent jurisdiction to enforce such notice and order and decision, including the recovery of any unpaid storm drain fees and/or civil penalties provided herein.

(Ord. NS-880 § 1, 2008)

**§ 15.12.180. Violations deemed a public nuisance.**

In addition to the other civil and criminal penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety, and welfare and is declared and deemed a public nuisance, which may be summarily abated and/or restored as directed by the enforcement official in accordance with the procedures identified in Chapter 6.16. A civil action to abate, enjoin or otherwise compel the cessation of such nuisance may also be taken by the city, if necessary.

The full cost of such abatement and restoration shall be borne by the owner of the property and shall be a lien upon and against the property in accordance with the procedures set forth in Section 15.12.150(F).  
(Ord. NS-880 § 1, 2008)

**§ 15.12.190. Remedies not exclusive.**

Remedies set forth in this chapter are not exclusive but are cumulative to all other civil and criminal penalties provided by law, including, but not limited to, penalty provisions of the Federal Clean Water Act and/or the state Porter-Cologne Water Quality Control Act. The Porter-Cologne Water Quality Control Act is California Water Code Section 13000 et seq., and any future amendments. The seeking of such federal and/or state remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter.

(Ord. NS-880 § 1, 2008)

## CHAPTER 15.16 GRADING AND EROSION CONTROL

### **§ 15.16.010. Title.**

This chapter shall be known as the "Grading Ordinance."

(Ord. NS-385 § 4, 1996)

### **§ 15.16.020. Purpose.**

The purpose of this chapter is to establish minimum requirements for grading, including clearing and grubbing of vegetation, to provide for the issuance of ministerial permits and to provide for the enforcement of the requirements. These provisions are supplementary and additional to Title 20, Subdivisions, and Title 21, Zoning, of this code and shall be read and construed as an integral part of these titles and the land development patterns and controls established thereby. It is the intent of the City Council to protect life and property and promote the general welfare; enhance and improve the physical environment of the community; and preserve, subject to economic feasibility, the natural scenic character of the city. The provisions of this chapter shall be administered to achieve the intent expressed above and, to the maximum extent feasible, the following goals:

- A. Facilitate the planning, design and construction of development sites to maximize safety and human enjoyment while protecting, insofar as possible, the surrounding natural environment;
- B. Ensure compatibility of graded land development sites with surrounding land forms and land uses;
- C. Prevent unnecessary and unauthorized grading, including clearing and grubbing of vegetation, on property within Carlsbad;
- D. Preserve natural plant communities and existing mature trees;
- E. Preserve significant cultural and archaeological sites;
- F. Promote the rapid restoration of graded slopes with fire resistant, drought tolerant landscaping that is aesthetically pleasing and which enhances adjacent habitat values; and
- G. Protect public and private property, stormwater conveyance systems, downstream riparian habitats, waterways, wetlands, and lagoons by controlling soil erosion, sedimentation and other potential adverse impacts caused by grading operations or which result as a consequence of the increased rate of surface water runoff from graded sites.

(Ord. NS-385 § 4, 1996; Ord. NS-623 § 1, 2002)

### **§ 15.16.030. City Engineer authority.**

This chapter shall be administered by the City Engineer who shall have the authority and responsibility to:

- A. Establish the form and procedures for application for grading permits required pursuant to this chapter including the certification of completed applications, the approval of grading plans, construction SWPPPs, the establishment of files, the processing of secured grading and erosion control agreements and the collection of fees and security deposits;
- B. Interpret the provisions of this chapter and advise the public regarding requirements for grading plans, construction SWPPPs, specifications and special provisions;

- C. Establish the format and content of grading plans, SWMPs, SWPPPs, specifications and special provisions pursuant to the provisions of this chapter;
- D. Establish and promulgate city standards to govern grading and stormwater standards in accordance with good engineering practice pursuant to the provisions of this chapter;
- E. Issue permits and approve amendments, including extensions, to permits found to conform with this chapter and applicable city standards and the landscape manual;
- F. Issue and maintain permanent records of determinations of exemption authorized by Section 15.16.060;
- G. Approve grading and erosion control agreements;
- H. Accept surety bonds and other forms of security in connection with grading and erosion control agreements;
- I. Monitor compliance of all grading work with city codes, city standards and any limitations of the grading permit;
- J. Record notices of grading violation and/or take other administrative actions against violators of the provisions of this chapter; and
- K. Grant authority to appropriate members of the City Engineer's staff to act on behalf of the City Engineer with regard to any aspect of the administration of the provisions of this chapter.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 1, 2008; Ord. CS-151 § 2, 2011)

#### **§ 15.16.040. Definitions.**

Whenever the following words, terms or phrases are used in this chapter they shall be construed as defined in the following subsections unless from the context in which the word, term, or phrase is used a different meaning is specifically defined or intended.

"Civil engineer" means a professional engineer in the branch of civil engineering holding a valid certificate of registration issued by the State of California.

"Clearing and grubbing of vegetation" means the removal of any and all types of vegetation, roots, stumps or other plant material and the clearing or breaking up of the surface of the land by digging or other means.

"Default" means the condition or situation which results when an applicant fails to perform in compliance with the terms and requirements of the grading and erosion control agreement required pursuant to Section 15.16.140 of this chapter.

"Engineer-of-work" means the civil engineer responsible for the preparation of the grading and/or construction plans, for the certification of the completed work and preparation of the record plans.

"Excavation" means the cutting, digging, removal, displacement or any other movement of soil, sand, gravel, rock or other similar material from its natural or preexisting location upon or beneath the surface of the earth by the direct action of humans and/or human invention.

"Fill" means the depositing of soil, sand, gravel, rock, or other similar materials upon or beneath the surface of the earth by the direct action of humans and/or human invention.

"Finished grade" means the vertical location of the ground surface upon completion of any excavation or fill.

"Geologist" means a person holding a valid certificate of registration as a geologist in the specialty of engineering geology issued by the State of California under provisions of the Geologist Act of the Business and Professions Code.

"Grading" means any excavation, fill, clearing and grubbing of vegetation or any combination thereof.

"Grading permit" means the document issued by the City Engineer pursuant to Section 15.16.110, after having determined that the application demonstrates compliance with this chapter, city standards, the landscape manual, and all applicable portions of Titles 15, 19, 20 and 21 of this code.

"Minor grading" means activities described by Section 15.16.062, whereby the City Engineer may modify certain provisions of Sections 15.16.067, 15.16.070 and 15.16.080.

"Site" is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is proposed or performed.

"Soils engineer" means a person holding a valid certificate of registration as an engineer in the specialty of soils engineering issued by the State of California under the provisions of the Business and Professions Code.

"Uncontrolled stockpile" means any fill placed on land for which no soil testing was performed or no compaction reports or other soil reports were prepared or submitted.

In addition to the above defined words, terms and phrases, the definition of words, terms and phrases, as described in Chapter 15.04, shall apply to this chapter.

(Ord. NS-385 § 4, 1996; Ord. NS-623 §§ 2, 9, 10, 2002; Ord. NS-881 § 2, 2008; Ord. CS-151 § 3, 2011)

### **§ 15.16.050. Grading permit required.**

Except as provided in Section 15.16.060, no person shall do, or cause to be done, any grading, including clearing and grubbing of vegetation, without first having obtained a grading permit.

(Ord. NS-385 § 4, 1996)

### **§ 15.16.060. Work exempt from grading permit.**

A. A grading permit shall not be required for the following:

1. Cemetery graves.
2. Refuse disposal sites controlled by other regulations.
3. Excavations for wells or tunnels or utilities.
4. Exploratory excavations under the direction of soil engineers or engineering geologists.
5. Clearing and grubbing of vegetation done for the purpose of routine landscape maintenance, the removal of dead or diseased trees or shrubs or the removal of vegetation done upon order of the Fire Marshal to eliminate a potential fire hazard or for the abatement of weeds.
6. Clearing and grubbing of vegetation done preparatory to agricultural operations on land which has been used for agricultural purposes within the previous five years.

B. Unless the City Engineer determines that the work may adversely affect existing drainage patterns, result in a condition which may cause damage to adjacent property now or in the future, or may have a detrimental effect on the public health, safety or welfare, a grading permit shall not be required for

the following:

1. Grading on a site where the City Engineer finds that the following conditions exist:
  - a. The amount of soil material moved does not exceed 200 cubic yards;
  - b. No fill material is placed on an existing slope steeper than five units horizontal to one vertical;
  - c. No cut or fill material exceeds four feet in vertical depth at its deepest point, measured from the existing ground surface.
2. Grading in an isolated, self-contained area.
- C. All grading work, including any grading work exempted from the requirement of a grading permit as determined pursuant to subsection A of this section, shall comply with city standards and Titles 15, 19, 20 and 21 of this code, and within the coastal zone, shall also be consistent with all certified local coastal program provisions.

(Ord. NS-385 § 4, 1996; Ord. NS-623 §§ 3—6, 2002; Ord. NS-881 § 3, 2008; Ord. CS-151 § 3, 2011)

### **§ 15.16.062. Minor grading.**

- A. Work meeting the following criteria may qualify as minor grading, as approved by the City Engineer:
  1. The total earthwork volume (the larger of excavation or embankment, plus remedial) is less than 1,000 cubic yards;
  2. The grading work is proposed in connection with a building permit application.
- B. For minor grading, the City Engineer may modify the requirements of Sections 15.16.067, 15.16.070 and 15.16.080. Subject to a case-by-case determination, permissible modifications may include:
  1. Use of topography from city or other sources, or an assumed elevation datum;
  2. Preparation by a licensed architect or other qualified individual;
  3. Inclusion of the minor grading plan as a sheet in the building plans;
  4. Use of available, historical geotechnical data, with appropriate certifications by a geotechnical engineer.
- C. The grading plan review fee for plans showing minor grading per this section shall be 50% of the grading plan review fee calculated per the current fee schedule. A grading permit is required for minor grading.

(Ord. CS-151 § 5, 2011)

### **§ 15.16.065. Application for grading plan.**

- A. A separate application for a grading plan shall be made in advance of submittal for a grading permit.
- B. Unless otherwise approved by the City Engineer, each application for a grading plan review shall include a complete grading plan review application form, grading plans, specifications, engineering calculations, a soils investigation, a geotechnical report and other such documentation and information as may be necessary to demonstrate that the grading work will be carried out in

substantial compliance with all city codes, city standards and the requirements of the landscape manual. Each grading plan review application shall be accompanied by a SWMP and SWPPP prepared in accordance with city standards.

- C. The City Engineer may waive submission of a geotechnical report or other required documents if the applicant clearly demonstrates that the nature of the grading work applied for is such that reviewing of such report or other documents is not necessary to obtain compliance with this code.
- D. A grading plan review fee shall be charged by the city for the processing of the grading plan review. The fee shall be established by resolution of the City Council and is for the purpose of defraying the cost of processing the grading plan review. The grading plan review fee is in addition to any other plan review, inspection and permit issuance fees charged for the issuance of a grading permit or processing improvement plans and building plans or the issuance of permits thereto. An additional grading plan review fee of 25% of the current plan review fee may be charged for grading plan applications for which the city approval is not granted within 24 months following the original date of application.
- E. Grading plan applications for which city approval is not granted within three years following the date of application shall be deemed withdrawn, provided the improvement plans are not associated with a tentative map, tentative parcel map, vesting tentative map, or vesting tentative parcel map, in which case the grading plan application shall be deemed withdrawn on the date of the expiration of the associated tentative map. The grading plans and other documents submitted for review may thereafter be returned to the applicant or destroyed by the City Engineer. In order to renew action on an application after withdrawal, the applicant shall resubmit a new application and pay a new grading plan review application fee.
- F. The City Engineer may authorize refunding of not more than 80% of the grading plan review fee paid when an application for a grading plan is withdrawn (1) in accordance with this section; or (2) upon written application filed by the original permittee not later than 60 days after withdrawal of the grading plan application by the applicant, when withdrawn prior to completion of the grading plan review.
- G. Any application in process on the effective date of this code amendment shall be subject to the provisions of this section. The filing date for such application shall be considered to be the effective date of the code amendment.

(Ord. 881 § 4, 2008; Ord. CS-135 § 2, 2011; Ord. CS-151 § 6, 2011)

#### **§ 15.16.067. Information on grading plans, specifications and engineering reports.**

All grading plans, specifications and engineering reports required for grading permit submittal shall be prepared in accordance with the following requirements:

- A. Grading plans, specifications, engineering calculations and other relevant engineering data shall be prepared by a civil engineer. The grading plans shall be drawn to scale in accordance with city standards and be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this chapter, city standards, the landscape manual and Titles 15, 19, 20 and 21 of this code. All grading plans must include provisions for implementation and maintenance of all stormwater pollution prevention measures identified in the construction SWPPP prepared for the project, pursuant to Title 15 and city standards.
- B. Geotechnical investigation reports shall be based upon the proposed grading plan. The geotechnical investigation report shall include an adequate description of the geology of the site and conclusions

and recommendations regarding the effect of geologic conditions on the proposed development. Recommendations included in the report shall be consistent with the provisions of this chapter and city standards and shall be incorporated into the grading plans and/or specifications.

- C. Preliminary soils investigations and report(s) shall be based upon the proposed grading plan. Such report(s) shall include data regarding the nature, distribution and strength of existing soil types at the proposed grading site, recommendations for grading procedures and design criteria for corrective measures, if required by the soils engineer. Recommendations included in the report and approved by the City Engineer shall be incorporated into the grading plans and/or specifications.
- D. SWMPs shall be prepared if the project is subject to priority development project requirements per the SUSMP. SWMPs shall demonstrate how the project satisfies SUSMP requirements and shall recommend all required TCBMPs, which shall be incorporated into the grading plans.

(Ord. 881 § 5, 2008; Ord. CS-151 § 7, 2011)

#### **§ 15.16.070. Application for grading permit.**

- A. To obtain a grading permit, the applicant shall first file an application therefor in writing on a form furnished by the City Engineer for that purpose. Every such application shall:
  1. Identify and describe the work to be covered by the grading permit for which the application is made;
  2. Describe the land on which the proposed work is to be done by legal description, street address, and/or similar description that will readily identify and definitely locate the proposed grading work;
  3. State the quantity of excavation and fill for the proposed grading work including the amount of excavation or fill to be imported to or exported from the grading site;
  4. State the name, address, telephone number and State of California certification number of the engineer-of-work, soils engineer and geotechnical engineer who prepared the grading plan, soils report and geotechnical report for the proposed grading work;
  5. State the name, address, telephone number, state contractor's license number and Carlsbad business license number for the contractor who will perform the grading work;
  6. State the name, address and telephone number of the property owner upon whose property the work will be done and the applicant requesting the grading permit;
  7. Be signed by the applicant and property owner or their authorized agent(s); and
  8. Give other such information as may be required by the City Engineer.
- B. Each grading permit application shall be accompanied by:
  1. Grading plans, specifications, calculations, reports and other data as required in Section 15.16.080;
  2. Proof of all other applicable discretionary approvals, including a site plan approved in accordance with such prior discretionary approvals, if any, pursuant to Title 20 or 21, except where:
    - a. The grading work is necessary to complete a major arterial roadway or other major public

facility, will significantly reduce the need to haul fill material over public roads, or is incidental to the grading for another project which has obtained all appropriate development approvals in accordance with Titles 20 and 21 of this code, or

- b. The grading work is found by the City Planner to be reasonably consistent with the future development of the site pursuant to the site's existing general plan land use classification;
3. A completed environmental impact assessment form or submittal of other environmental documentation which demonstrates compliance with the California Environmental Quality Act (CEQA) and Title 19 of this code;
4. All appropriate documentation evidencing the applicant's right to enter upon and grade property not within the ownership of the person signing the grading permit application form;
5. A grading permit application fee in an amount as established by the City Council by resolution. A separate plan review and/or inspection fee shall apply to retaining walls, SWMP, SWPPP or major drainage structures as provided for elsewhere in this code. There shall be no separate charge for standard terraced drains and similar facilities. If during the grading plan review the grading or other quantities, upon which the grading plan review fee is based, are changed, the applicant shall pay any balance of fees required.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 6, 2008; Ord. CS-151 § 8, 2011; Ord. CS-164 § 10, 2011)

#### **§ 15.16.080. Grading permit submittal documents.**

- A. Each application submittal for a grading permit shall be accompanied by city approved grading plans, SWMP, SWPPP and other such documentation and information as may be necessary to demonstrate that the grading work will be carried out in substantial compliance with all city codes, city standards and the requirements of the landscape manual.
- B. The number of copies and format of the submittal documents required pursuant to this chapter shall be as prescribed by the City Engineer.
- C. All documents shall, upon submittal to the City Engineer, become the property of the city and shall be kept on file with the City Engineer.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 7, 2008; Ord. CS-151 § 9, 2011)

#### **§ 15.16.085. Construction stormwater pollution prevention plan (SWPPP).**

- A. Each grading permit issued shall be accompanied by a SWPPP prepared in accordance with city standards and approved by the City Engineer.
- B. The City Engineer may also require preparation of a SWPPP, prepared in accordance with city standards, for any person conducting development or other construction activity, including grading activities which are exempt from a grading permit, in order to reduce the risk of contamination of stormwater and the discharge of non-stormwater pollutants to the city's stormwater conveyance system.
- C. Construction activities that have no potential to add pollutants to stormwater or non-stormwater runoff may be exempt from the preparation of a SWPPP, pursuant to the SWPPP exemption requirements of city standards, the general construction permit and the municipal permit. Any construction activity exempted from the preparation of a SWPPP must still comply with the stormwater pollution prevention requirements of city standards at all times during construction.

- D. Each construction SWPPP shall be prepared in a form and include the content as specified in city standards and shall be made to comply with all other applicable NPDES permit requirements.
- E. Construction SWPPP review and inspection fees shall be charged by the city for the processing of the plan review and field inspection of the construction work. The fee shall be established by resolution of the City Council and is for the purpose of defraying the cost of processing the plan review and ensuring compliance with the construction SWPPP during construction. The construction SWPPP review and inspection fees are in addition to any other plan review, inspection and permit issuance fees charged for processing grading plans, improvement plans and building plans or the issuance of permits thereto.
- F. The processing time limits, application withdrawal and refund provisions of Section 15.16.082, subsections C and D, shall be applicable to the processing of an application for a construction SWPPP.

(Ord. NS-881 § 8, 2008; Ord. CS-151 § 10, 2011)

#### **§ 15.16.100. Withdrawal of grading permit applications.**

- A. Applications for which no grading permit is issued within three years following the date of application shall be deemed withdrawn. Plans and other documents submitted for review may thereafter be returned to the applicant or destroyed by the City Engineer. In order to renew action on an application after withdrawal, the applicant shall resubmit a new application and pay a new grading permit application fee.
- B. The City Engineer may authorize refunding of the grading permit application fee paid when an application for a grading permit is withdrawn (1) in accordance with this section; or (2) upon written application filed by the original permittee not later than 60 days after withdrawal of the grading permit application by the applicant.
- C. Any application in process on the effective date of this code amendment shall be subject to the provisions of this section. The filing date for such application shall be considered to be the effective date of the code amendment.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 9, 2008; Ord. CS-124 § 3, 2011)

#### **§ 15.16.110. Grading permit issuance.**

- A. Following submittal of a completed grading permit application and completion of the following requirements, the City Engineer shall issue a grading permit:
  1. Approval and signature of the grading plans by the City Engineer;
  2. Payment of the grading permit application fee required pursuant to Section 15.16.070(B)(6);
  3. Submittal of a fully executed grading and erosion control agreement together with the required cash and/or other securities;
  4. Approval of a SWMP prepared in accordance with the SUSMP;
  5. Approval of a SWPPP prepared in accordance with this chapter and city standards;
  6. Submittal of proof of valid Coastal Development Permit, Stream Alteration Permit, Army Corps Permit, National Pollutant Discharge Elimination System Permit or other permits, if any, required by other departments or agencies with competent authority; and

7. Completion of all environmental documentation in accordance with Chapter 19.04 of this code.
- B. The issuance or granting of a grading permit or approval of grading plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or any other chapter of this code. Permits presuming to give authority to violate or cancel the provisions of this chapter or any other chapter of this code shall not be valid.
- C. The issuance of a grading permit based on approved grading plans, construction SWPPP, specifications and other data shall not prevent the City Engineer from thereafter requiring correction of errors in said plans, specifications and other data, or from preventing grading operations being carried on thereunder when in violation of this chapter or any other chapter of this code.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 10, 2008; Ord. CS-151 § 11, 2011)

#### **§ 15.16.120. Grading permit limitations, requirements and procedures.**

All grading permits shall be subject to the following limitations, requirements and procedures:

- A. Scope of Work—Amendments. Issuance of a grading permit shall constitute authorization to do only that work which is described on the application for the permit and detailed on the grading plans and specifications approved by the City Engineer in accordance with the provisions of this chapter. No approved grading plans or specifications may be modified without approval by the City Engineer of a revised grading plan. Application for the revision of a grading plan shall be submitted to the City Engineer on the prescribed form, accompanied by a grading plan revision fee in the amount set forward in the fee schedule approved by City Council resolution. Modifications which substantially affect the basic tract design or land use as described on any prior discretionary approvals, issued pursuant to Titles 20 and 21 of this code, must have the approval of the appropriate approving authority.
- B. Jurisdictions of Other Agencies. Permits issued under the provisions of this chapter shall not relieve the owner of the responsibility for securing permits or licenses that may be required from other departments or divisions of all governing agencies.
- C. Time Limits—Extensions. The permittee shall fully perform and complete all of the work required to be done pursuant to the grading permit within the time limit specified therein or, if no time is so specified, within one year after the date of issuance of the permit. The specified time limit may be extended by action of the City Engineer upon written request of the permittee, owner or surety showing that good and sufficient cause has prevented the permittee from completing the grading work within the allotted time limit. All such extension requests shall be accompanied by an extension fee in an amount as established by City Council resolution.
- D. Time of Grading Operations. For permitted hours of operation and signage requirements, refer to Chapter 8.48.
- E. Noise Limitations. The noise limitation provisions of Chapter 8.48 of this code shall be observed.
- F. Hauling Operations. All hauling operations to or from the grading site shall be conducted in accordance with city code, over the route and in accordance with the procedures prescribed by the City Engineer in the grading permit.
- G. Storm Damage Precautions. All grading operations shall install protective measures to prevent unnecessary erosion and sedimentation as follows:
1. All grading permits issued during the rainy season or within 30 days of the start of the rainy

season shall require the installation of erosion and sedimentation control protective measures in advance of the start of the grading work in accordance with city standards;

2. All grading permits issued earlier than 30 days prior to the start of the rainy season shall require the installation of all erosion and sedimentation control protective measures within 30 days prior to the start of the rainy season in accordance with city standards;
3. All erosion and sedimentation control protective measures shall be maintained in good working order throughout the duration of the grading operation unless it can be demonstrated to the City Engineer that their removal at an earlier date will not result in any unnecessary erosion or sedimentation on public or private properties; and
4. All slopes required to be landscaped and irrigated shall be landscaped and irrigated within the time limits as specified in the landscape manual. All other erosion and sedimentation control protective measures shall be installed as quickly as practicable.

H. Inspection and Testing. The applicant shall ensure that the work is inspected and tested as follows:

1. Inspection and testing of the grading work by a soils or civil engineer to ensure proper compaction of fill materials, stability of the cut and fill slopes and general compliance of the grading work with the recommendations of the preliminary soils report, city standards, permit conditions and the provisions of this chapter.
2. Inspection and survey of the grading work by a civil engineer to ensure that all building pads, street grades and drainage facilities have been constructed in general conformance with the locations and elevations as shown on the approved grading plans.
3. Where unusual or hazardous geotechnical conditions exist upon or beneath the grading site, a geologist shall inspect all or any portion of the grading work to assure that all geologic and geotechnical conditions have been adequately addressed and that any recommended corrective measures are incorporated into the work.

I. Partial Releases. The City Engineer may authorize the partial release of a portion of the grading work to allow construction of a structure pursuant to a building permit issued in accordance with this code and in accordance with the following requirements:

1. Prior to the issuance of such building permit for any given lot or lots, the engineer-of-work, or another civil engineer as may be approved by the City Engineer, shall provide the City Engineer with a written statement certifying that, in their professional opinion, all grading for the proposed building pad was completed within the tolerances allowed pursuant to city standards and that all embankments, cut slopes and pad elevations are constructed as shown on the approved plans.
2. The soils or civil engineer shall provide the City Engineer with a written statement certifying that, in his or her professional opinion, all embankments beneath the proposed building pad site have been constructed in accordance with city standards and the recommendations of the preliminary soils report.
3. The City Engineer may also require compliance with any other requirement or condition as may be deemed necessary to ensure the health, safety and welfare of the public prior to release of the site for the purpose of issuing a building permit.

J. Final Reports. Upon completion of the grading work the permittee shall ensure that the following

reports and documents are submitted to the City Engineer:

1. A written statement signed by the engineer-of-work, or another civil engineer as may be approved by the City Engineer, which shall state that, in his or her professional opinion, all grading work and drainage facilities have been completed in substantial conformance with the grading permit. The approved grading plan on file with the city shall be amended by the engineer-of-work, or another civil engineer as may be approved by the City Engineer, to show the as-built elevations for all pads, streets and drainage facilities together with any other field modifications or changes made to the original approved plans.
  2. A report by a soils or civil engineer which shall include recommended soil bearing capacities for the project site, a statement as to the expansive qualities of the soil, and summaries of field and laboratory tests. The locations of such tests and the limits of the compacted fill shall be shown on a final plan, prepared by the soils or civil engineer and submitted to the City Engineer with the final soils report, which shall also show by plan and cross-section the location of any rock disposal areas, sub-drains and/or buttress fills if such were involved in the grading. The final soils report shall contain a written statement that all soils inspections and tests were made by, or under the supervision of, the soils or civil engineer and that in the professional opinion of the soils or civil engineer, all embankments have been constructed and compacted to city standards and in accordance with the earthwork specification of the preliminary soils report.
  3. A report and an as-graded geologic map of the site prepared by the geologist which shall include specific approval of the grading as affected by geological factors. Where necessary, such report shall include geologic cross-sections and recommendations regarding the location of buildings, sewage disposal systems or any other special requirements.
  4. TCBMP installation certification.
- K. Notification of Noncompliance. If, in the course of fulfilling their responsibility under this chapter, the engineer-of-work, soils engineer or geologist finds that the work is not being done in conformance with the grading permit, this chapter or the approved plans and specifications or with accepted engineering practices, they shall immediately notify the permittee and the City Engineer, in writing, of the nonconformity and of the recommended corrective measures to be taken.
- (Ord. NS-385 § 4, 1996; Ord. NS-623 § 8, 2002; Ord. CS-135 § 4, 2011; Ord. CS-151 § 12, 2011; Ord. CS-211 § 3, 2013)

#### **§ 15.16.130. Responsibility of permittee.**

- A. The permittee shall be responsible for the following:

1. Completion of all work in compliance with the approved grading permit, plans and specifications, city standards, the landscape manual and the requirements of this code;
2. Protection of public and/or franchise facilities, utilities or services from damage caused by the grading operation;
3. Protection of adjacent public or private properties from damage caused by the grading operation;
4. Preservation of adjacent and on site environmental resources, which are outside of the scope of work, from the impacts of the grading operation;
5. Installation and maintenance of drainage and erosion control measures to protect downstream

properties and habitats from flooding, sedimentation and other adverse impacts caused by the grading operation or the increase in surface water runoff resulting from the grading operation; and

6. Inspection and testing of the grading work to ensure conformance with the plans and specifications, the recommendations of the soils and geotechnical engineers, city standards, the landscape manual and the provisions of this chapter.
- B. The responsibilities described in this section shall also apply to the permittee's authorized agents, contractors or employees; however, any such application shall not in any way relieve or absolve the permittee from the responsibility to grade or to conduct the grading operation consistent with this section or this chapter. The permittee shall have ultimate responsibility over the actions and conduct of any and all authorized agents, contractors and employees with regard to the performance of the permitted work and compliance with this section.

(Ord. NS-385 § 4, 1996)

**§ 15.16.140. Grading and erosion control agreement and securities.**

- A. Secured Agreement Required. Prior to issuance of a grading permit, the permittee shall enter into a secured grading and erosion control agreement with the city to guarantee performance of the grading work in compliance with the grading permit.
- B. Form of Secured Agreement. The grading and erosion control agreement shall be in a form as prescribed by the City Attorney which shall include, but not be limited to, the following:
  1. Incorporation of the grading permit and the approved plans and specifications, including construction SWPPP, as part of the agreement;
  2. Agreement by the permittee to comply with all the terms and conditions of the grading permit including the grading permit time limits;
  3. Agreement by the permittee to comply with all provisions of this chapter and other applicable laws and ordinances;
  4. A cost estimate prepared by a civil engineer which provides for the construction of all earthwork, drainage facilities, retaining walls, TCBMPs, construction BMPs including the cost of maintenance during the period of time the permit is active, geotechnical mitigation measures, landscaping, irrigation and any other items needed to complete the grading work;
  5. Agreement to indemnify and hold the city harmless against any and all claims arising from the performance of the grading work; and
  6. Agreement by the permittee to maintain all safety and stormwater best management practices until the grading work is complete and stabilized against erosion in accordance with city standards.
- C. Security Types. The grading and erosion control agreement shall be secured using one or more of the security types listed in Section 20.16.070.
- D. Security Requirements. Security offered to guarantee performance in connection with the grading and erosion control agreement shall meet the following requirements:
  1. The amount of the security shall be sufficient to guarantee performance of all grading work

- described on the approved grading plans, construction SWPPP and specifications as estimated in subsection (B)(4);
2. Surety bonds shall be valid upon the date of filing with the city and shall remain valid until the work has been completed to the satisfaction of the City Engineer. Any extension of the time specified in the permit shall not be cause for release of a surety bond;
  3. The surety company which issues a surety bond shall meet or exceed the minimum qualifications established by the City Council by resolution;
  4. The City Engineer may require that up to 10% of the engineer's estimated cost for the grading work be submitted in the form of a cash deposit, provided however, that no such cash deposit shall be less than \$1,500.00. The cash deposit may be utilized by the city to cure any default in regard to the performance of work covered by the grading and erosion control agreement including, but not limited to, cleaning, repair and rehabilitation of public or private facilities that are damaged by sedimentation, erosion or construction activities and to insure that adequate safeguards for the prevention of erosion and sedimentation are in place when needed;
  5. The City Engineer may allow a single security to cover work under multiple grading permits when the work covered is either part of a progressive construction of a single project or when several concurrent projects are being constructed by one permittee. In such cases, the grading and erosion control agreement shall include reference to the multiple permit requirements or a grading and erosion control agreement shall be submitted for each separate permit; and
  6. The City Engineer may permit substitution of the required security either in kind or of any other type allowed for in Section 20.16.070; provided, however, that the substitute security is adequate to insure completion of the remaining work to be performed and the security is found to be of proper form and substance. The original security may be released upon acceptance of the new security and upon determination that all conditions of the permit are being complied with and there is no default as to the performance of the work up to the date of acceptance of the new security.
- E. Secured Agreement Waivers. The City Engineer may waive the requirement for a secured agreement or may waive all or any portion of the security amount if the applicant clearly demonstrates to the City Engineer that the proposed grading work will not adversely affect or will have minimal impact upon public or private property and upon the health, safety and welfare of the public. In no such case, shall the City Engineer reduce the security amount below the amount needed to ensure public safety and to secure the site with stormwater best management practices.
- F. Reduction of Security. The City Engineer may reduce the amount of the security commensurate with the value of the grading work which has been completed. In no case shall the security be reduced below the amount necessary to ensure public health, safety and welfare.
- G. Release of Security. The City Engineer shall release the security held by the city to secure the grading work upon completion of the work in substantial compliance with the terms and conditions of the permit and the provisions of this chapter.
- H. Default Procedures. Whenever the permittee fails to perform in compliance with the terms and requirements of the grading and erosion control agreement, the City Engineer may, in addition to any other administrative and judicial remedies allowed pursuant to this chapter, make a demand upon the cash, letter of credit, surety bond or other collateral held as security for the grading and erosion control agreement in accordance with the following procedures:

1. Notice of Default. The City Engineer shall send a written notice of default by certified mail to the permittee which specifies the permit number and identifies the location, nature and extent of the activity or condition which contributed to the default. The notice of default shall specify the work to be done to cure the default, the estimated cost of such work and the period of time deemed by the City Engineer to be reasonably necessary for the completion of such work. A copy of the notice of default shall be mailed to the owner of the grading site and to the surety company, bank or institution which provided the security for the grading and erosion control agreement.
2. Emergency Corrective Actions. In the event the work needed to cure the default is not completed by the permittee, surety company or financial institution within the period of time specified on the notice of default, the City Engineer may thereupon enter the property for the purpose of performing, by city forces or by other means, the necessary corrective or curative work. The cost for such corrective work shall be paid for by the permittee, surety company or financial institution as provided for in this section.
3. Surety Bond, Letter of Credit or Instrument of Credit. Upon receipt of the notice of default, the surety company or financial institution shall, within the time specified, cause or require the work needed to cure the default to be performed, or failing therein, shall pay over to the city the estimated cost of doing the work as set forth in the notice of default.
4. Cash Deposit. Upon expiration of the time period specified in the notice of default, the City Engineer may withdraw all or any portion of the cash deposit to reimburse the city for completing or having a third party complete the work needed to cure the default as specified in the notice of default. Upon utilizing the cash deposit, the City Engineer shall notify the applicant in writing of the amount utilized and the purpose for which the deposit was used.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 11, 2008; Ord. CS-135 § 5, 2011; Ord. CS-151 § 13, 2011)

#### **§ 15.16.150. Agreement for uncontrolled stockpile.**

- A. Applications for grading permits involving uncontrolled stockpiles shall be accompanied by an agreement signed by the property owner.
- B. The agreement shall be in a form as prescribed by the City Attorney which shall include, but not be limited to, the following:
  1. Owner acknowledgment that the grading or fill material is designated as an uncontrolled stockpile;
  2. Owner acknowledgment that the site is not eligible for a building permit unless special soils analysis and foundation design are submitted and approved by the City Engineer or, the site is subsequently graded pursuant to a valid grading permit issued in accordance with the provisions of this chapter;
  3. Agreement by the owner that the grading or stockpile work will be done in accordance with grading plans and specifications as approved by the City Engineer;
  4. Agreement by the owner that the stockpile will be maintained in a safe and sanitary manner at the sole cost, risk and responsibility of the owner;
  5. Agreement by the owner indemnifying and holding the city harmless against any and all claims arising from the grading or maintenance of the stockpile; and

6. Agreement by the owner that the agreement for uncontrolled stockpile will inure and be binding upon any and all successors in interest to the property.
- C. The agreement for uncontrolled stockpile shall be approved by the City Engineer and recorded by the City Clerk in the office of the County Recorder as constructive notice upon the land involved. The notice shall remain in effect until release of the agreement is filed by the City Engineer.
- (Ord. NS-385 § 4, 1996)

**§ 15.16.160. Appeals.**

- A. An individual may appeal the decision of the City Engineer made in regard to administration of this chapter to the City Council within 10 calendar days following the decision. Appeals shall be in writing, filed with the City Clerk and shall state the basis for the appeal. Fees for filing an appeal shall be in an amount as established by resolution of the City Council. The decision of the City Council shall be final.
- B. The City Clerk shall thereupon fix a time and place for hearing such appeal. The City Clerk shall give notice to the appellant and applicant/permittee of the time and place of hearing by serving the notice personally or by depositing it in the United States Post Office in the city, postage prepaid, addressed to such persons at their last known address.

(Ord. NS-385 § 4, 1996)

**§ 15.16.170. Unlawful acts.**

- A. It is unlawful to:
  1. Perform grading work without a grading permit when such permit is required pursuant to this chapter;
  2. Perform any grading work which is not in conformance with an approved grading permit;
  3. Make a false statement or furnish false data on any application, grading plan, engineering report or other document required pursuant to the provisions of this chapter; or
  4. Delay, frustrate or otherwise hinder the efforts of the City Engineer or designee from carrying out the duties required pursuant to the provisions of this chapter.
- B. Regardless of whether or not a grading permit has been issued or is required to be issued, it is unlawful for any person to commit or cause to be committed the following acts or, to maintain or cause to be maintained a property in such a manner as to result in the commission of the following acts:
  1. Grading in such a manner as to become a hazard to life and limb or to endanger property or to adversely affect the safe use or stability of a public property, place or way;
  2. Grading without application of appropriate stormwater best management practices (BMPs) in accordance with the provisions of this title, city standards and municipal permit;
  3. Dump, move or place any soil, sand, gravel, rock or other earthen material, or leave any bank, slope or other earthen surface unprotected so as to cause any such earthen material to be deposited upon or to roll, blow or wash upon or over the premises of another without the express consent of the owner of each such premises so affected or, upon or over any public property, place or way. Such consent shall be in writing and in a form acceptable to the City Engineer; or

4. Transport, haul or otherwise move any soil, sand, gravel, rock or other earthen material over any public or private street, place or way in such a manner as to allow such materials to blow or spill over and upon such public or private street, place or way.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 12, 2008)

#### **§ 15.16.180. Investigation fee.**

- A. Whenever any work for which a permit is required by this code has been commenced without first obtaining a grading permit or an unlawful act, as defined in Section 15.16.170, has been committed, the City Engineer shall conduct a special investigation into the cause, extent and potential remedial actions that must be undertaken before a new permit may be issued, the stop work notice is removed or the notice of grading violation is released. The City Engineer shall collect an investigation fee from the offender whether or not a permit is then or subsequently issued. The investigation fee shall be established by resolution of the City Council and shall be in addition to any required permit fee. The investigation fee may be reduced or waived if the City Engineer finds that:
  1. The amount of the investigation fee is significantly out of proportion to the cost of the administrative work necessary to investigate the violation or unlawful act;
  2. The violation or unlawful act was not in the control of the property owner and the property owner took immediate action to correct the violation upon notification by the City Engineer; or
  3. The violation or unlawful act was caused by or resulted from an unintentional action or misunderstanding of city codes or a directive issued by the City Engineer or the City Engineer's authorized representative.
- B. The payment of an investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

(Ord. NS-385 § 4, 1996)

#### **§ 15.16.190. Enforcement measures—Remedies.**

Whenever the City Engineer determines that an unlawful act, as defined in Section 15.16.170, has been committed by an individual operating with or without benefit of a grading permit, the following enforcement measures and remedies may be undertaken by the City Engineer, in lieu of or in addition to any remedial actions undertaken in accordance with Section 15.16.140.

- A. Stop Work Notice. The City Engineer may issue a stop work notice demanding that all unlawful activities, as defined in this chapter, be stopped until a valid grading permit is obtained or corrective action is authorized by the City Engineer. The City Engineer may allow continuance of the work to the extent necessary to install protective measures to safeguard the public or to secure the site against erosion, sedimentation and the discharge of non-stormwater pollutants. Prior to resumption of any work, other than as may be permitted by the City Engineer pursuant to this subsection, on a permitted grading operation, the permittee shall restore all cash deposits and/or other securities consumed by the city to the amount specified in the approved grading and erosion control agreement.
- B. Owner Notification. The owner of the property shall be notified in writing that a violation has occurred. The notification shall specify the location, nature and extent of the activity or condition which contributed to the violation, the corrective action needed to cure the violation and the period of time deemed necessary by the City Engineer to correct the violation.
- C. Record Notice of Grading Violation. In the event that the owner does not correct the violation in the

manner or within the time period requested by the City Engineer, the City Engineer shall record a notice of grading violation against the property with the County Recorder. Upon completion of any corrective action and/or issuance of a valid grading permit and upon payment of the investigation fee required pursuant to this section, the City Engineer shall file a notice of release of grading violation with the County Recorder releasing the property from the notice of grading violation.

- D. Prohibition of Development Permits. Any property which has a notice of grading violation recorded against it shall be prohibited from obtaining or using any development permit pursuant to Titles 18, 20 and 21 of this code until after all corrective actions are taken in accordance with the requirements of the City Engineer and, a notice of release of grading violation has been recorded with the County Recorder.
- E. Investigation Fee. An investigation fee shall be paid by the person responsible for the violation in accordance with the provisions of this chapter. The payment of such investigation fee shall not relieve any person from the performance of the corrective work or otherwise complying with the requirements of this chapter.
- F. Criminal Penalties. Each person, firm or corporation who commences or does any grading contrary to the provisions of this chapter, or otherwise violates the provisions of this chapter, is guilty of an infraction. Every day during any portion of which any violation of any provisions of this title is committed, continued or permitted by such person, firm or corporation, shall be deemed a separate violation and shall be punishable as provided in this title and in Section 1.08.010(B) of this code.
- G. Abatement of Public Nuisance. Any grading commenced or done contrary to the provisions of this chapter, or other violation of this chapter, shall be, and the same is declared to be, a public nuisance. Upon order of the City Council, the City Attorney shall commence necessary proceedings for the abatement of any such public nuisance in the manner provided by law. Any failure, refusal, or neglect to obtain a permit as required by this chapter shall be *prima facie* evidence of the fact that a public nuisance has been committed in connection with any grading commenced or done contrary to the provisions of this chapter.
- H. Civil Action. The City Attorney may, at the request of the City Engineer, initiate any appropriate civil action in a court of competent jurisdiction to enforce the stop work notice, including the required corrective actions, and/or the grading and erosion control agreement, including the recovery of any funds expended by the city to abate any public nuisance resulting from an unlawful act as defined in Section 15.16.170 and any additional civil penalties provided for by law.

(Ord. NS-385 § 4, 1996; Ord. NS-881 § 13, 2008)



**Title 17****FIRE PROTECTION**

Chapter 17.04 <b>FIRE PREVENTION CODE</b>	<b>§ 17.04.120.</b>	<b>California Fire Code Chapter 11—Construction Requirements for Existing Buildings— Adopted in part.</b>
<b>§ 17.04.010.</b> <b>Adoption.</b>	<b>§ 17.04.130.</b>	<b>California Fire Code Chapter 12—Energy Systems—Adopted.</b>
<b>§ 17.04.020.</b> <b>California Fire Code Chapter —Scope and Administration—Adopted and amended.</b>	<b>§ 17.04.140.</b>	<b>California Fire Code Chapter 20—Aviation Facilities—Adopted.</b>
<b>§ 17.04.030.</b> <b>California Fire Code Chapter —Definitions—Adopted and amended.</b>	<b>§ 17.04.150.</b>	<b>California Fire Code Chapter 21—Dry Cleaning—Adopted.</b>
<b>§ 17.04.040.</b> <b>California Fire Code Chapter —General Requirements—Adopted and amended.</b>	<b>§ 17.04.160.</b>	<b>California Fire Code Chapter 22—Combustible Dust-Producing Operations—Adopted.</b>
<b>§ 17.04.050.</b> <b>California Fire Code Chapter —Emergency Planning and Preparedness—Adopted in part.</b>	<b>§ 17.04.170.</b>	<b>California Fire Code Chapter 23—Motor Fuel-Dispensing Facilities and Repair Garages—Adopted.</b>
<b>§ 17.04.060.</b> <b>California Fire Code Chapter —Fire Service Features—Adopted and amended.</b>	<b>§ 17.04.180.</b>	<b>California Fire Code Chapter 24—Flammable Finishes—Adopted.</b>
<b>§ 17.04.070.</b> <b>California Fire Code Chapter —Building Services and Systems—Adopted.</b>	<b>§ 17.04.190.</b>	<b>California Fire Code Chapter 25—Fruit and Crop Ripening—Adopted.</b>
<b>§ 17.04.080.</b> <b>California Fire Code Chapter —Fire and Smoke Protection Features—Adopted.</b>	<b>§ 17.04.200.</b>	<b>California Fire Code Chapter 26—Fumigation and Insecticidal Fogging—Adopted.</b>
<b>§ 17.04.090.</b> <b>California Fire Code Chapter —Interior Finish, Decorative Materials and Furnishings—Adopted.</b>	<b>§ 17.04.210.</b>	<b>California Fire Code Chapter 27—Semiconductor Fabrication Facilities—Adopted.</b>
<b>§ 17.04.100.</b> <b>California Fire Code Chapter 9—Fire Protection and Life Safety Systems—Adopted and amended.</b>	<b>§ 17.04.220.</b>	<b>California Fire Code Chapter 28—Lumber Yards and Agro-Industrial, Solid Biomass and Woodworking Facilities—Adopted.</b>
<b>§ 17.04.110.</b> <b>California Fire Code Chapter 10—Means of Egress—Adopted.</b>	<b>§ 17.04.230.</b>	<b>California Fire Code Chapter 29—Manufacture of Organic Coatings—Adopted.</b>
	<b>§ 17.04.240.</b>	<b>California Fire Code Chapter 30—Industrial Ovens—Adopted.</b>

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§ 17.04.250.	California Fire Code Chapter 31—Tents, and Other Membrane Structures—Adopted.	§ 17.04.380.	California Fire Code Chapter 53—Compressed Gases—Adopted.
§ 17.04.260.	California Fire Code Chapter 32—High-Piled Combustible Storage—Adopted.	§ 17.04.390.	California Fire Code Chapter 54—Corrosive Materials—Adopted.
§ 17.04.270.	California Fire Code Chapter 33—Fire Safety During Construction and Demolition—Adopted.	§ 17.04.400.	California Fire Code Chapter 55—Cryogenic Fluids—Adopted.
§ 17.04.280.	California Fire Code Chapter 34—Tire Rebuilding & Tire Storage—Adopted.	§ 17.04.410.	California Fire Code Chapter 56—Explosives and Fireworks—Adopted and amended.
§ 17.04.290.	California Fire Code Chapter 35—Welding and Other Hot Work—Adopted.	§ 17.04.420.	California Fire Code Chapter 57—Flammable and Combustible Liquids—Adopted.
§ 17.04.300.	California Fire Code Chapter 36—Marinas—Adopted.	§ 17.04.430.	California Fire Code Chapter 58—Flammable Gases and Flammable Cryogenic Fluids—Adopted.
§ 17.04.310.	California Fire Code Chapter 37—Combustible Fibers—Adopted.	§ 17.04.440.	California Fire Code Chapter 59—Flammable Solids—Adopted.
§ 17.04.320.	California Fire Code Chapter 39—Processing and Extraction Facilities—Adopted.	§ 17.04.450.	California Fire Code Chapter 60—Highly Toxic and Toxic Materials—Adopted.
§ 17.04.330.	California Fire Code Chapter 40—Storage of Distilled Spirits and Wine—Adopted.	§ 17.04.460.	California Fire Code Chapter 61—Liquefied Petroleum Gases—Adopted.
§ 17.04.340.	California Fire Code Chapter 48—Motion Picture and Television Production Studio Sound Stages, Approved Production Facilities and Production Locations—Adopted.	§ 17.04.470.	California Fire Code Chapter 62—Organic Peroxides—Adopted.
§ 17.04.350.	California Fire Code Chapter 49—Requirements for Wildland-Urban Interface Fire Areas—Adopted.	§ 17.04.480.	California Fire Code Chapter 63—Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids—Adopted.
§ 17.04.360.	California Fire Code Chapter 50—Hazardous Materials—General Provisions—Adopted.	§ 17.04.490.	California Fire Code Chapter 64—Pyrophoric Materials—Adopted.
§ 17.04.370.	California Fire Code Chapter 51—Aerosols—Adopted.	§ 17.04.500.	California Fire Code Chapter 65—Pyroxylin (Cellulose Nitrate) Plastics—Adopted.
		§ 17.04.510.	California Fire Code Chapter 66—Unstable (Reactive) Materials—Adopted.

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<b>§ 17.04.520.</b>	<b>California Fire Code Chapter 67—Water-Reactive Solids and Liquids—Adopted.</b>	<b>§ 17.04.540.</b>	<b>California Fire Code Appendices—Adopted in part and amended.</b>
<b>§ 17.04.530.</b>	<b>California Fire Code Chapter 80—Referenced Standards—Adopted.</b>	<b>§ 17.04.550.</b>	<b>Severability.</b>

**CHAPTER 17.04  
FIRE PREVENTION CODE**

**§ 17.04.010. Adoption.**

The City of Carlsbad adopts by reference the 2022 Edition of the California Fire Code, including Appendix Chapters 4, B, BB, C, CC, D, E, F, G, H and O, and the California Standards, with the amendments contained in the following sections of Chapter 17.04. As adopted and amended herein, the 2022 California Fire Code (hereinafter "California Fire Code") becomes the Fire Code of the City of Carlsbad. The City of Carlsbad further amends the provisions of the California Fire Code to include the requirements of the California Fire Code for those occupancies not subject to the 2022 California Fire Code.

(Ord. CS-436 § 2, 2022)

**§ 17.04.020. California Fire Code Chapter 1—Scope and Administration—Adopted and amended.**

California Fire Code, Chapter 1, Scope and Administration, is adopted in its entirety with the following amendments:

- A. Chapter 1, Division II, Part 2, is amended to add Section 107.7, Cost Recovery, to read as follows:

The city shall be entitled to recover the cost of emergency services as described in subsections 1 through 5 below. Service costs shall be computed by the fire department under the direction of the city finance department and shall include the costs of personnel, equipment facilities, materials and other external resources.

1. Any person or corporation who allows a hazard to exist on property under the control of that person or corporation, after having been ordered by the fire department or other city department to abate that hazard, is liable for the cost of services provided by the fire department should an emergency arise as a result of said unabated hazard.
2. Any person or corporation whose negligence causes an incident to occur on any public or private street, driveway or highway, which, for the purposes of life, property or environmental protection, places a service demand on the city fire department resources beyond the scope of routine service delivery, shall be liable for all costs associated with that service demand.
3. Any person or corporation responsible for property equipped with fire protection or detection devices which, due to malfunction, improper manipulation or negligent operation causes a needless response by the fire department to the property shall, for a period of twelve months after written notification by the fire prevention bureau be liable for all future costs associated with each subsequent needless response caused by those devices.
4. Any person or corporation who conducts unlawful activity which results in fire, explosion, chemical release or any other incident to which the fire department responds for the purpose of performing services necessary for the protection of life, property or the environment, shall be liable for the costs associated with the delivery of those services.
5. When, the interest of public safety, the Fire Chief, pursuant to Section 3107.17 of this code assigns fire department employees as standby personnel at any event, or upon any premise, the person or corporation responsible for the event or premises shall reimburse the fire department for all costs associated with the standby services.

- B. Chapter 1, Division II, Part 2, Section 112.4, Violation penalties, is amended to read as follows:

Any person who violates any of the provisions of this code or standards; or fails to comply with any provision of this code; or violates or fails to comply with any order made pursuant to this code; or who builds in violation of any detailed statement or specification or plans submitted and approved pursuant to this code, or any certificate or permit issued pursuant to this code, and from which no timely appeal has been taken; or who fails to comply with an order as affirmed or modified by the City Attorney of the City of Carlsbad or by a court of competent jurisdiction within the time fixed herein, shall severally for each and every violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine not exceeding \$1,000.00 or by imprisonment in County Jail not exceeding six months, or both.

The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

- C. Chapter 1, Division II, Part 2, Section 113.4, Failure to Comply, is amended to read as follows:

Any person, who continues any work having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a fine of not less than \$250.00 dollars or more than \$1,000.00 dollars.

(Ord. CS-436 § 2, 2022)

#### **§ 17.04.030. California Fire Code Chapter 2—Definitions—Adopted and amended.**

California Fire Code, Chapter 2, Definitions, is adopted in its entirety with the following amendments:

Chapter 2, Section 202, General Definitions is amended to add the following definitions:

**Fire Hazard.** Anything or act that increases or could cause an increase of the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or anything or act which could obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

**Vegetation.** Weeds, grass, vines or other organic (cellulose) growth that is capable of being ignited and endangering property.

(Ord. CS-436 § 2, 2022)

#### **§ 17.04.040. California Fire Code Chapter 3—General Requirements—Adopted and amended.**

California Fire Code, Chapter 3, General Requirements, is adopted in its entirety with the following amendment:

Chapter 3, Section 304.1.2, Vegetation, is amended to read as follows:

Vegetation shall be cut down and removed by the owner or occupant of the premises. Vegetation clearance requirements in urban-wildland interface areas and fire suppression zones shall be in accordance with City of Carlsbad standards.

(Ord. CS-436 § 2, 2022)

#### **§ 17.04.050. California Fire Code Chapter 4—Emergency Planning and Preparedness—Adopted in**

**part.**

California Fire Code, Chapter 4, Emergency Planning and Preparedness, is amended to adopt only the sections listed below:

- A. 401—401.9;
- B. 402;
- C. 403.1;
- D. 403.2;
- E. 403.4—403.4.4;
- F. 403.10.2.1.1;
- G. 403.10.6;
- H. 403.12—403.12.3;
- I. 404.5—404.6.6;
- J. 407.

(Ord. CS-436 § 2, 2022)

**§ 17.04.060. California Fire Code Chapter 5—Fire Service Features—Adopted and amended.**

California Fire Code, Chapter 5, Fire Service Features, is adopted in its entirety with the following amendments:

- A. Chapter 5, Section 503.1.2 Additional access, is amended to add Section 503.1.2.1 Residential developments, to read as follows:

Projects having more than 40 dwelling units shall be provided with two separate and approved points of fire department access.
- B. Chapter 5 Section 503.2.1 Dimensions, is amended to read as follows:

Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm) exclusive of shoulders, except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115mm).
- C. Chapter 5, Section 503.2.1 Dimensions is amended to add Section 503.2.1.1 Minimum street width in fire hazard zones, to read as follows:

Public and private streets shall have a minimum unobstructed width of 28 foot clear travel way where adjacent lots are located within designated Fire Hazard Zones/Fire Suppression Zones within the property line.
- D. Chapter 5, Section 503.2.1 Dimensions is amended to add Section 503.2.1.2 Minimum fire apparatus access road widths for private driveways serving one or two single family dwellings to read as follows:

Private driveways used as required fire apparatus access roads serving no more than two dwellings

shall have a minimum width of 16 feet.

- E. Chapter 5, Section 503.2.1 is amended to add Section 503.2.1.3 Measurement of street width to read as follows:

Street widths are to be measured from the top face of the curb to top face of the curb on streets with curb and gutter, and from flow-line to flow-line on streets with rolled curbs.

- F. Chapter 5, Section 505.1 Address Identification is amended to add Section 505.1.1 as follows:

Street Numbers—Approved numbers and/or addresses shall be placed on the street-side of all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size:

- Single family residences: 4" high with a 1/2" stroke;
- Unit identification of multi-family residential buildings: 6" high with a ½" stroke;
- Commercial, industrial and multi-family residential buildings: minimum 12" high with a 1.5" stroke.

Additional numbers shall be required where deemed necessary by the Fire Code Official, such as rear access doors, building corners, secondary access roadways and entrances to commercial centers. The Fire Code Official may establish different minimum sizes for numbers for various categories of projects.

- G. Chapter 5, Section 505 Premises identification is amended to add Section 505.3 Easement address signs to read as follows:

All easements which are not named differently from the roadway, from which they originate, shall have an address sign installed and maintained, listing all street numbers occurring on that easement, located where the easement intersects the named roadway. Minimum size of numbers on that sign shall be four inches in height with a minimum stroke of 3/8" and shall contrast with the background.

- H. Chapter 5, Section 505 Premises identification is amended to add Section 505.4 Map/directory to read as follows:

A lighted directory map, meeting current fire department standards, shall be installed at each driveway entrance to multiple unit residential projects and mobile home parks, where the number of units in such project exceeds 15.

- I. Chapter 5, Section 505 Premises identification is amended to add Section 505.5 Response Map Updates to read as follows:

Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, shall be required to provide map updates in a format approved by the fire department. The responsible party may be charged a reasonable fee for updating the City emergency response maps.

(Ord. CS-436 § 2, 2022)

#### **§ 17.04.070. California Fire Code Chapter 6—Building Services and Systems—Adopted.**

California Fire Code, Chapter 6, Building Services and Systems, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.080. California Fire Code Chapter 7—Fire and Smoke Protection Features—Adopted.**

California Fire Code, Chapter 7, Fire and Smoke Protection Features, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.090. California Fire Code Chapter 8—Interior Finish, Decorative Materials and Furnishings—Adopted.**

California Fire Code, Chapter 8, Interior Finish, Decorative Materials and Furnishings, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.100. California Fire Code Chapter 9—Fire Protection and Life Safety Systems—Adopted and amended.**

California Fire Code, Chapter 9, Fire Protection Systems, is adopted in its entirety with the following amendments:

Chapter 9, Section 903.2 Where required, is amended to read as follows:

An approved automatic fire sprinkler system shall be provided in all new non-residential buildings constructed in which the aggregate floor area exceeds 5,000 square feet ( $464m^2$ ), regardless of occupancy classification and locations described in Sections 903.2.1 through 903.2.12. Mezzanines shall be included in the total square footage calculation.

(Ord. CS-436 § 2, 2022)

**§ 17.04.110. California Fire Code Chapter 10—Means of Egress—Adopted.**

California Fire Code, Chapter 10, Means of Egress, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.120. California Fire Code Chapter 11—Construction Requirements for Existing Buildings—Adopted in part.**

California Fire Code, Chapter 11, Construction Requirements for Existing Buildings, is amended to adopt only those sections and subsections listed below:

- A. 1103.3.3;
- B. 1103.7;
- C. 1103.7.3;
- D. 1103.7.3.1;
- E. 1103.7.8—1103.7.8.2;
- F. 1103.7.9—1103.7.9.10;
- G. 1103.8—1103.8.5.3;

H. 1103.9.1;

I. 1107;

J. 1113;

K. 1114;

L. 1115;

M. 1116.

(Ord. CS-436 § 2, 2022)

**§ 17.04.130. California Fire Code Chapter 12—Energy Systems—Adopted.**

California Fire Code, Chapter 12, Energy Systems, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.140. California Fire Code Chapter 20—Aviation Facilities—Adopted.**

California Fire Code, Chapter 20, Aviation Facilities, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.150. California Fire Code Chapter 21—Dry Cleaning—Adopted.**

California Fire Code, Chapter 21, Dry Cleaning, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.160. California Fire Code Chapter 22—Combustible Dust-Producing Operations—Adopted.**

California Fire Code, Chapter 22, Combustible Dust-Producing Operations, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.170. California Fire Code Chapter 23—Motor Fuel-Dispensing Facilities and Repair Garages—Adopted.**

California Fire Code, Chapter 23, Motor Fuel-Dispensing Facilities and Repair Garages, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.180. California Fire Code Chapter 24—Flammable Finishes—Adopted.**

California Fire Code, Chapter 24, Flammable Finishes, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.190. California Fire Code Chapter 25—Fruit and Crop Ripening—Adopted.**

California Fire Code, Chapter 25, Fruit and Crop Ripening, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.200. California Fire Code Chapter 26—Fumigation and Insecticidal Fogging—Adopted.**

California Fire Code, Chapter 26, Fumigation and Insecticidal Fogging, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.210. California Fire Code Chapter 27—Semiconductor Fabrication Facilities—Adopted.**

California Fire Code, Chapter 27, Semiconductor Fabrication Facilities, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.220. California Fire Code Chapter 28—Lumber Yards and Agro-Industrial, Solid Biomass and Woodworking Facilities—Adopted.**

California Fire Code, Chapter 28, Lumber Yards and Agro-industrial, Solid Biomass and Woodworking Facilities, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.230. California Fire Code Chapter 29—Manufacture of Organic Coatings—Adopted.**

California Fire Code, Chapter 29, Manufacture of Organic Coatings, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.240. California Fire Code Chapter 30—Industrial Ovens—Adopted.**

California Fire Code, Chapter 30, Industrial Ovens, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.250. California Fire Code Chapter 31—Tents, and Other Membrane Structures—Adopted.**

California Fire Code, Chapter 31, Tents and Other Membrane Structures, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.260. California Fire Code Chapter 32—High-Piled Combustible Storage—Adopted.**

California Fire Code, Chapter 32, High-Piled Combustible Storage, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.270. California Fire Code Chapter 33—Fire Safety During Construction and Demolition—Adopted.**

California Fire Code, Chapter 33, Fire Safety During Construction and Demolition, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.280. California Fire Code Chapter 34—Tire Rebuilding & Tire Storage—Adopted.**

California Fire Code, Chapter 34, Tire Rebuilding & Tire Storage, is adopted in its entirety without

amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.290. California Fire Code Chapter 35—Welding and Other Hot Work—Adopted.**

California Fire Code, Chapter 35, Welding and Other Hot Work, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.300. California Fire Code Chapter 36—Marinas—Adopted.**

California Fire Code, Chapter 36, Marinas, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.310. California Fire Code Chapter 37—Combustible Fibers—Adopted.**

California Fire Code, Chapter 37, Combustible Fibers, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.320. California Fire Code Chapter 39—Processing and Extraction Facilities—Adopted.**

California Fire Code, Chapter 39, Processing and Extraction Facilities, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.330. California Fire Code Chapter 40—Storage of Distilled Spirits and Wine—Adopted.**

California Fire Code, Chapter 40, Storage of Distilled Spirits and Wine, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.340. California Fire Code Chapter 48—Motion Picture and Television Production Studio Sound Stages, Approved Production Facilities and Production Locations—Adopted.**

California Fire Code, Chapter 48, Motion Picture and Television Production Studio Sound Stages, Approved Production Facilities and Production Locations, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.350. California Fire Code Chapter 49—Requirements for Wildland-Urban Interface Fire Areas—Adopted.**

California Fire Code, Chapter 49, Requirements for Wildland-Urban Interface Fire Areas, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.360. California Fire Code Chapter 50—Hazardous Materials—General Provisions—Adopted.**

California Fire Code, Chapter 50, Hazardous Materials—General Provisions, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.370. California Fire Code Chapter 51—Aerosols—Adopted.**

California Fire Code, Chapter 51, Aerosols, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.380. California Fire Code Chapter 53—Compressed Gases—Adopted.**

California Fire Code, Chapter 53, Compressed Gases, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.390. California Fire Code Chapter 54—Corrosive Materials—Adopted.**

California Fire Code, Chapter 54, Corrosive Materials, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.400. California Fire Code Chapter 55—Cryogenic Fluids—Adopted.**

California Fire Code, Chapter 55, Cryogenic Fluids, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.410. California Fire Code Chapter 56—Explosives and Fireworks—Adopted and amended.**

California Fire Code, Chapter 56, Explosives and Fireworks, is adopted in its entirety with the following amendments:

- A. Chapter 56, Section 5601.1.3 is amended to add Section 5601.1.3.1 Retail Fireworks, to read as follows:

The storage, use, sale, possession, and handling of fireworks 1.4G (commonly referred to as Safe & Sane) and fireworks 1.3G are prohibited unless they are being used as part of a public display when permitted and conducted by a licensed pyrotechnic operator.

- B. Chapter 56, Section 5601.1.3 is amended to add Section 5601.1.3.2 Seizure of Fireworks, to read as follows:

The Fire Chief shall have the authority to seize, take, or remove all fireworks stored, sold, offered for sale, used or handled in violation of the provisions of Title 19 California Code of Regulations, Chapter 6.

(Ord. CS-436 § 2, 2022)

**§ 17.04.420. California Fire Code Chapter 57—Flammable and Combustible Liquids—Adopted.**

California Fire Code, Chapter 57, Flammable and Combustible Liquids, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.430. California Fire Code Chapter 58—Flammable Gases and Flammable Cryogenic Fluids—Adopted.**

California Fire Code, Chapter 58, Flammable Gases and Flammable Cryogenic Fluids, is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.440. California Fire Code Chapter 59—Flammable Solids—Adopted.**

California Fire Code, Chapter 59, Flammable Solids, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.450. California Fire Code Chapter 60—Highly Toxic and Toxic Materials—Adopted.**

California Fire Code, Chapter 60, Highly Toxic and Toxic Materials, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.460. California Fire Code Chapter 61—Liquefied Petroleum Gases—Adopted.**

California Fire Code, Chapter 61, Liquefied Petroleum Gases, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.470. California Fire Code Chapter 62—Organic Peroxides—Adopted.**

California Fire Code, Chapter 62, Organic Peroxides, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.480. California Fire Code Chapter 63—Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids—Adopted.**

California Fire Code, Chapter 63, Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.490. California Fire Code Chapter 64—Pyrophoric Materials—Adopted.**

California Fire Code, Chapter 64, Pyrophoric Materials, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.500. California Fire Code Chapter 65—Pyroxylin (Cellulose Nitrate) Plastics—Adopted.**

California Fire Code, Chapter 65, Pyroxylin (Cellulose Nitrate) Plastics, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.510. California Fire Code Chapter 66—Unstable (Reactive) Materials—Adopted.**

California Fire Code, Chapter 66, Unstable (Reactive) Materials, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.520. California Fire Code Chapter 67—Water-Reactive Solids and Liquids—Adopted.**

California Fire Code, Chapter 67, Water-Reactive Solids and Liquids, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.530. California Fire Code Chapter 80—Referenced Standards—Adopted.**

California Fire Code, Chapter 80, Referenced Standards, is adopted in its entirety without amendments.  
(Ord. CS-436 § 2, 2022)

**§ 17.04.540. California Fire Code Appendices—Adopted in part and amended.**

The Appendices to the California Fire Code are adopted as follows:

- A. Appendix 4 is adopted in its entirety without amendments.
- B. Appendix B is adopted in its entirety with the following amendments:

Table B105.2 is amended to read as follows:

<b>TABLE B105.2</b> <b>REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE-AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES</b>		
<b>AUTOMATIC SPRINKLER SYSTEM (Design Standard)</b>	<b>MINIMUM FIRE-FLOW (gallons per minute)</b>	<b>FLOW DURATION (hours)</b>
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the <i>California Fire Code</i>	50% of the value in Table B105.1(2) <sup>a</sup>	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the <i>California Fire Code</i>	50% of the value in Table B105.1(2) <sup>b</sup>	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m

- a. The reduced fire-flow shall be not less than 1,000 gallons per minute
- b. The reduced fire-flow shall be not less than 1,500 gallons per minute
- C. Appendix BB is adopted in its entirety without amendments.
- D. Appendix C is adopted in its entirety without amendments.
- E. Appendix CC is adopted in its entirety without amendments.
- F. Appendix D is adopted in its entirety with the following amendments:

**Appendix D, Section D106: Subsection D106.1 Multiple-family residential developments** is amended to read as follows:

Projects having more than 50 dwelling units: Multiple-family residential projects having more than 50 dwelling units shall be provided with two separate and approved fire apparatus access roads.

**Appendix D, Section D107: Subsection D107.1 One-or two-family residential developments** is amended to read as follows:

Developments of one-or two-family dwellings where the number of dwelling units exceeds 40 shall be provided with two separate and approved fire apparatus access roads.

Exceptions:

1. Deleted in entirety

**Appendix D, Section D107: Subsection D107.1.1 One-or two-family residential developments** is added to read as follows:

Developments of one-or two-family dwellings located in a high or very high fire hazard severity zone where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads.

- G. Appendix E is adopted in its entirety without amendments.
- H. Appendix F is adopted in its entirety without amendments.
- I. Appendix G is adopted in its entirety without amendments.
- J. Appendix H is adopted in its entirety without amendments.
- K. Appendix O is adopted in its entirety without amendments.

(Ord. CS-436 § 2, 2022)

**§ 17.04.550. Severability.**

The City Council of the City of Carlsbad hereby declares that should any section, paragraph, sentence or word of this chapter or of the City of Carlsbad Municipal Code hereby adopted be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this chapter independently of the elimination herefrom of any such portion as may be declared invalid.

(Ord. CS-436 § 2, 2022)



## BUILDING CODES AND REGULATIONS

## Title 18

## BUILDING CODES AND REGULATIONS

	Chapter 18.03 <b>GENERAL PROVISIONS</b>	§ 18.04.075. <b>(Reserved)</b> § 18.04.080. <b>Section 1206 (Sound Transmission) of the California Building Code amended.</b>
§ 18.03.010.	.	
§ 18.03.020.	<b>Violations.</b>	§ 18.04.085. <b>Section 1501 (General) of the California Building Code amended.</b>
	Chapter 18.04 <b>BUILDING CODE</b>	§ 18.04.090. <b>Section 1505 (Fire Classification) of the California Building Code amended.</b>
§ 18.04.005.	<b>Adoption and scope.</b>	§ 18.04.095. <b>Street name signs.</b>
§ 18.04.010.	<b>Administrative regulations.</b>	
§ 18.04.015.	<b>Section 101 (Scope and General Requirements) of the California Building Code amended.</b>	Chapter 18.05 <b>BUILDING PERMIT MORATORIUM</b>
§ 18.04.020.	<b>Section 104 (Duties and Powers of the Building Official) of the California Building Code amended.</b>	§ 18.05.010. <b>Purpose and intent.</b> § 18.05.020. <b>Sewer moratorium.</b> § 18.05.030. <b>Sewer allocation system.</b>
§ 18.04.025.	<b>Section 105 (Permits) of the California Building Code amended.</b>	
§ 18.04.030.	<b>Section 107 (Submittal Documents) of the California Building Code amended.</b>	Chapter 18.06 <b>UNIFORM HOUSING CODE</b>
§ 18.04.035.	<b>Section 109 (Fees) of the California Building Code amended.</b>	§ 18.06.010. <b>Adoption and scope.</b>
§ 18.04.040.	<b>Section 110 (Inspections) of the California Building Code amended.</b>	Chapter 18.07 <b>UNREINFORCED MASONRY BUILDINGS</b>
§ 18.04.045.	<b>Section 111 (Certificate of Occupancy) of the California Building Code amended.</b>	§ 18.07.010. <b>Title.</b> § 18.07.020. <b>Uniform Code for Building Conservation adopted by reference.</b>
§ 18.04.050.	<b>Section 112 (Service Utilities) of the California Building Code amended.</b>	§ 18.07.030. <b>Actions by the building official.</b> § 18.07.040. <b>Definitions.</b>
§ 18.04.055.	<b>Section 113 (Board of Appeals) of the California Building Code amended.</b>	
§ 18.04.060.	<b>Section 114 (Violations) of the California Building Code amended.</b>	Chapter 18.08 <b>HISTORICAL BUILDING CODE</b>
§ 18.04.065.	<b>Section 115 (Stop Work Order) of the California Building Code amended.</b>	§ 18.08.010. <b>Adoption and scope.</b>
§ 18.04.070.	<b>Section 116 (Unsafe Structures and Equipment) of the California Building Code amended.</b>	Chapter 18.09 <b>EXISTING BUILDING CODE</b>
		§ 18.09.010. <b>Adoption and scope.</b>

Chapter 18.10  
**MECHANICAL CODE**

- § 18.10.010.** Adoption and scope.
- § 18.10.020.** Screening for mechanical equipment and devices.
- § 18.10.030.** Rooftop hazard avoidance.

Chapter 18.12  
**ELECTRICAL CODE**

- § 18.12.010.** Adoption and scope.
- § 18.12.020.** Permits required.
- § 18.12.030.** Permits—Exceptions.
- § 18.12.040.** Permit—Application.
- § 18.12.050.** Temporary meter sets.

Chapter 18.16  
**PLUMBING CODE**

- § 18.16.010.** Adoption and scope.
- § 18.16.020.** Section 1505 (Recycled Water Systems in Buildings) of the California Plumbing Code amended.
- § 18.16.030.** Sizing of roof drainage systems.

Chapter 18.17  
**SWIMMING POOL AND HOT TUB CODE**

- § 18.17.010.** Adoption of the Uniform Swimming Pool, Spa and Hot Tub Code.
- § 18.17.020.** Building official designated.
- § 18.17.030.** Violations.

Chapter 18.18  
**SOLAR ENERGY CODE**

- § 18.18.010.** Adoption and scope.

Chapter 18.19  
**DANGEROUS BUILDING CODE**

- § 18.19.010.** Adoption of the Uniform Code for the Abatement of Dangerous Buildings.
- § 18.19.020.** Building official designated.
- § 18.19.030.** Violations.

Chapter 18.20  
**RESIDENTIAL CODE**

- § 18.20.010.** Adoption and scope.
- § 18.20.020.** Section R104 (Duties and Powers of the Building Official) of the California Residential Code amended.
- § 18.20.030.** Section R105 (Permits) of the California Residential Code amended.
- § 18.20.040.** Section R106 (Construction Documents) of the California Residential Code amended.
- § 18.20.050.** Section R109 (Inspections) of the California Residential Code amended.
- § 18.20.060.** Section R111 (Utilities) of the California Residential Code amended.
- § 18.20.070.** Section R901 (General) of the California Residential Code amended.

Chapter 18.21  
**CALIFORNIA GREEN BUILDING STANDARDS CODE**

- § 18.21.010.** Adoption and scope.
- § 18.21.020.** Section 202 (Definitions) of the California Green Building Standards Code amended.
- § 18.21.030.** Section 4.106 (Site Development) of the California Green Building Standards Code amended.

## BUILDING CODES AND REGULATIONS

§ 18.21.040.	Section 5.106 (Planning and Design) of the California Green Building Standards Code amended.	§ 18.25.040.	Small residential rooftop solar energy system requirements.
§ 18.21.050.	Appendix A5 (Nonresidential Voluntary Measures) of the California Green Building Standards Code amended.	§ 18.25.050.	Applications and documents.
		§ 18.25.060.	Permit review.
		§ 18.25.070.	Inspection requirements.
			Chapter 18.30 CALIFORNIA ENERGY CODE
	Chapter 18.22 <b>ELECTRIC VEHICLE CHARGING STATIONS</b>	§ 18.30.010.	Adoption and scope.
§ 18.22.010.	Purpose.	§ 18.30.020.	Section 120.11 (Solar or Recovered Energy Requirements for Water Heating Systems) of the added.
§ 18.22.020.	Definitions.	§ 18.30.030.	Section 140.5 (Prescriptive Requirements for Service Water-Heating Systems) of the amended.
§ 18.22.030.	Applicability.	§ 18.30.040.	Section 141.2 (Nonresidential Photovoltaic System Required) of the added.
§ 18.22.040.	Permit application and submittal requirements.	§ 18.30.050.	Section 150 (Single-Family Residential Buildings—Mandatory Features and Devices) of the added.
§ 18.22.050.	Permit review and issuance.	§ 18.30.060.	Section 150.2 (Single-Family Residential Buildings—Additions and Alterations to Existing Residential Buildings) of the California added.
§ 18.22.060.	Waiver or modification of development standards.	§ 18.30.070.	Section 180.5 (Multifamily Residential Buildings—Additions, Alterations and Repair to Existing Multifamily Buildings) of the California added.
§ 18.22.070.	Electric vehicle charging station installation requirements.		
§ 18.22.080.	Severability.		
	Chapter 18.24 <b>MOVING BUILDINGS</b>		
§ 18.24.010.	Permit required.		
§ 18.24.020.	Application for permit.		
§ 18.24.030.	Permit fee.		
§ 18.24.040.	Granting of permit.		
§ 18.24.050.	Conditions of permit.		
§ 18.24.060.	Permit—Appeal from decision of Community and Economic Development Director.		
§ 18.24.070.	Removal of building by city.		
	Chapter 18.25 <b>SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS</b>		Chapter 18.32 <b>TENTS</b>
§ 18.25.010.	Purpose.	§ 18.32.010.	Erection requirements.
§ 18.25.020.	Definitions.		
§ 18.25.030.	Applicability.		

CARLSBAD CODE

<b>DEDICATION AND IMPROVEMENTS</b>	<b>Chapter 18.40</b>
§ 18.40.010.	<b>Findings, purpose and intent.</b>
§ 18.40.020.	<b>Definitions.</b>
§ 18.40.030.	<b>Dedications required.</b>
§ 18.40.040.	<b>Public improvements required.</b>
§ 18.40.050.	<b>Public utility relocations.</b>
§ 18.40.060.	<b>Construction of public improvements.</b>
§ 18.40.070.	<b>Deferral of improvement requirements.</b>
§ 18.40.080.	<b>Appeal.</b>
§ 18.40.090.	<b>Conditions of deferral.</b>
§ 18.40.100.	<b>Waiver or modification of requirements.</b>
§ 18.40.110.	<b>Duty to deny final building permit approval.</b>
§ 18.40.120.	<b>Applicability of requirements.</b>
<b>TRAFFIC IMPACT FEE</b>	<b>Chapter 18.42</b>
§ 18.42.010.	<b>Purpose and intent.</b>
§ 18.42.020.	<b>Definitions.</b>
§ 18.42.030.	<b>Prohibition on development.</b>
§ 18.42.040.	<b>Requirement for permit issuance.</b>
§ 18.42.050.	<b>Fee.</b>
§ 18.42.060.	<b>Exemption.</b>
§ 18.42.070.	<b>Use of fees.</b>
§ 18.42.080.	<b>Assessment district.</b>
§ 18.42.090.	<b>Advance of funds by city.</b>
§ 18.42.100.	<b>Expiration of chapter.</b>
<b>STORMWATER POLLUTION PREVENTION</b>	<b>Chapter 18.48</b>
§ 18.48.010.	<b>Purpose and intent.</b>
	<b>Definitions.</b>
	<b>Prohibition on development.</b>
	<b>Requirement for permit issuance.</b>
	<b>Duty to deny final building permit approval.</b>
	<b>Chapter 18.50</b>
	<b>WATER EFFICIENT LANDSCAPE</b>
	§ 18.50.010. <b>Purpose.</b>
	§ 18.50.020. <b>Authority.</b>
	§ 18.50.030. <b>Incorporation of the Landscape Manual by reference.</b>
	§ 18.50.040. <b>Findings.</b>
	§ 18.50.050. <b>Definitions.</b>
	§ 18.50.060. <b>Applicability.</b>
	§ 18.50.070. <b>Recycled water.</b>
	§ 18.50.080. <b>Water waste prevention.</b>
	§ 18.50.090. <b>Enforcement.</b>
	§ 18.50.100. <b>Fees.</b>
	§ 18.50.110. <b>Reporting.</b>
	<b>TRANSPORTATION DEMAND MANAGEMENT</b>
	<b>Chapter 18.51</b>
	§ 18.51.010. <b>Purpose.</b>
	§ 18.51.020. <b>Authority.</b>
	§ 18.51.030. <b>Incorporation of Transportation Demand Management Manual by reference.</b>
	§ 18.51.040. <b>Findings.</b>
	§ 18.51.050. <b>Definitions.</b>
	§ 18.51.060. <b>Applicability.</b>
	§ 18.51.080. <b>Enforcement.</b>
	§ 18.51.090. <b>Fees.</b>

**CHAPTER 18.03  
GENERAL PROVISIONS**

**§ 18.03.010. California Building Standards Code.**

- A. This title shall serve as the technical codes for building, property, health, and safety regulations for the city, which are partially comprised of the 2022 edition of the California Title 24 Codes, or California Building Standards Codes, as defined in California Health and Safety Code Section 18901 et seq. At the time of the enactment of this title, the California Building Standards Codes is comprised of Part 1 California Administrative Code; Part 2 California Building Code; Part 2.5 California Residential Code; Part 3 California Electrical Code; Part 4 California Mechanical Code; Part 5 California Plumbing Code; Part 6 California Energy Code; Part 8 California Historical Building Code; Part 9 California Fire Code; Part 10 California Existing Building Code; Part 11 California Green Building Standards Code; and Part 12 California Referenced Standards Code.
- B. The provisions of the codes and standards referenced in the California Building Standards Codes shall be considered part of the requirements of this title to the prescribed extent of each such reference.
- C. The building official or designee shall enforce the applicable provisions of the California Building Standards Codes, with such additions, deletions, and modifications, as are adopted in them, with the exception of those provisions of the Fire Code, 2022 edition, which are to be enforced by the Fire Chief. The building official may develop guidelines or division policies to implement, administer, and enforce this title.
- D. Where the phrase or reference to "name of jurisdiction" or "jurisdiction" appears in the California Building Standards Codes, such phrase or reference shall be construed by the reader to mean the same thing as the "City of Carlsbad" and the use of the term shall be interchangeable.
- E. Amendments to the building standards contained in the codes published by the model code organizations (ICC, IAPMO, and NFPA) by California state agencies, are applicable only to those occupancies or uses which the state agency making the amendment is authorized to regulate.
- F. Existing and proposed legislation may affect the requirements contained in this title at any time. In the event of any conflict between this title and any applicable federal, state, or local law, rule, or regulation shall supersede this code and shall be effective and enforceable immediately. This section is declaratory of existing law and is not to be construed as suggesting that such was not the purpose and intent of previous adoptions of the California Building Standards Code.
- G. The provisions of this title shall not be construed as imposing upon the City of Carlsbad any liability or responsibility for damage to persons or property resulting from defective work, nor shall the City of Carlsbad, or any official, employee, or agent of the city, be held as assuming any such liability or responsibility by reason of the review or inspections authorized by the provisions of this title of any permits or certificates issued under this title.

(Ord. CS-437 § 2, 2022)

**§ 18.03.020. Violations.**

- A. Unless otherwise stated by ordinance, any person, firm, or corporation who violates any of the provisions of this title is guilty of an infraction except for the fourth or each additional violation of a provision within one year which shall be a misdemeanor. Penalties for a violation of this title shall be designated in Section 1.08.010 of this code.

B. The issuance or granting of a permit or approval of plans shall not prevent the building official from thereafter requiring the correction of errors in these plans and specifications, or from preventing construction operations from being carried on thereunder when in violation of this title or of any other ordinance, or from suspending or revoking any certificate of approval when issued in error.

(Ord. CS-437 § 2, 2022)

## CHAPTER 18.04 BUILDING CODE

### **§ 18.04.005. Adoption and scope.**

The 2022 California Building Code, California Code of Regulations, Title 24, Part 2, Volumes 1 and 2, a portion of the California Building Standards Code, hereinafter referred to as the building code, is adopted in its entirety and incorporated by this reference, except for changes, additions, deletions and amendments in this chapter, which shall supersede the provisions of said code. The following appendices of the building code are included in the adoption: Appendix H (Signs). The following appendices are deleted: Appendices A through G, and I through P.

(Ord. CS-437 § 3, 2022)

### **§ 18.04.010. Administrative regulations.**

Chapter 1 (Scope and Administration) to the California Building Code, 2022 edition, shall generally constitute the Administrative Code for the city, establishing the supplementary administrative, organizational and enforcement rules and regulations as applicable for the following technical codes: Uniform Housing Code, 1997 edition; California Electrical Code, 2022 edition; California Mechanical Code, 2022 edition; California Plumbing Code, 2022 edition; Uniform Swimming Pool, Spa and Hot Tub Code, 1997 edition; Uniform Solar, Hydronics and Geothermal Code, 2021 edition; California Energy Code, 2022 edition; California Solar Energy Code, 2022 edition; California Historical Building Code, 2022 edition; California Existing Building Code, 2022 edition; and California Green Building Standards Code, 2022 edition. Each and all of the regulations, provisions, conditions and terms therein shall supplement and apply to each of the technical codes. Whenever there are practical difficulties involved in carrying out the provisions of the Administrative Code or where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable with the force of law.

(Ord. CS-437 § 3, 2022)

### **§ 18.04.015. Section 101 (Scope and General Requirements) of the California Building Code amended.**

Section 101.4.4 is amended to read as follows:

#### **101.4.4 Property maintenance.**

The provisions of the *California Existing Building Code* shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures. Decks and balconies on multi-family residential or commercial buildings or structures shall comply with Health and Safety Code Section 17973, as it may be amended from time to time.

(Ord. CS-437 § 3, 2022)

### **§ 18.04.020. Section 104 (Duties and Powers of the Building Official) of the California Building Code amended.**

A. Section 104.1 is amended to read as follows:

#### **104.1 General.**

The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies

and procedures as supplemental to this code in order to clarify the application of its provisions or to implement or facilitate inspection functions, the issuance of permits and certificates. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

- B. Section 104.2.2 is added to read as follows:

**104.2.2 Rebuild threshold and limits on repair and remodel.**

The building official shall determine the applicability of certain permitting procedures and requirements for repair and remodeling projects on a case-by-case basis. A project classified as "rebuild" pursuant to this section shall be treated as a new building or structure. Modification of fixtures, finishes, and systems shall not be considered in measuring project magnitude.

1. Generally applied rebuild threshold for construction projects. "New construction" is defined as any work, addition to, remodel, repair, renovation, or alteration of any building(s) or structure(s) when 75% or more of the exterior weight bearing walls is removed or demolished. A project shall also be defined as "new construction" when the scope of work for groups R3 and U occupancies involves the alteration, rebuild, removal, or combination thereof of any structural framing that meets or exceeds 75% or greater of the linear footage of interior and exterior walls, including the removal of roof structure in those wall areas.
2. Cumulative construction projects. The cumulative scope for permitted work within any three-year period shall be added together when determining whether the scope of work constitutes a rebuild. For the purposes of this section, the computation of time shall be measured from the latest permit's date of issuance. The calculation of the percentage of floor area affected and final determination of required improvements shall be made by the building official.
3. Special consideration for unforeseen defects and damages. If construction defects or damages (e.g., pest or water damage) are discovered after construction has begun that were not predictable or known by ordinary means such as pest damage reports and other inspections and precautions, work must cease until the building official has been notified. The building official shall have the discretion to evaluate the circumstances of the discovery and may allow the rebuild threshold to be increased provided procedures deemed appropriate by the building official are followed.

(Ord. CS-437 § 3, 2022)

**§ 18.04.025. Section 105 (Permits) of the California Building Code amended.**

- A. Section 105.1 is amended to read as follows:

**105.1 Required.**

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed shall first make application to the building official and obtain the required permit. The submission of a building permit application shall be construed as attestation that the property owner and/or permit applicant are aware of the scope of the project and will only perform or allow work within that scope unless a building permit revision is subsequently authorized by the building official.

B. Section 105.1.3 is added to read as follows:

**105.1.3 Personal or electronic submission.**

The property owner or permit applicant may submit the permit application and associated documentation to the building division by personal or electronic submittal together with any required permit processing and inspection fees. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications, and other documentation may be used in lieu of a wet signature.

C. Section 105.1.4 is added to read as follows:

**105.1.4 Partial permits.**

At the discretion of the building official, a partial permit may be issued to allow construction to begin before the project plans are approved. To qualify for a partial permit, the permit applicant must submit plans for the primary permit, and the plans must be accepted as complete for the jurisdiction's review. Work authorized by the partial permit shall be limited to underground site work, including underground plumbing, electrical, and mechanical work.

D. Section 105.2 is amended to read as follows:

**105.2 Work exempt from permit.**

Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following.

**Building:**

1. One-story detached accessory buildings or structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 square meters) and the building or structure is entirely above grade and is not located on a maintenance easement, on a public utilities easement, or within a setback area as required by any local ordinance or other applicable law. The building or structure shall not exceed the height requirements set forth in any local ordinance or other applicable law.
2. Fences not over six feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls that are not over four feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.
5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18,925 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
8. Temporary motion pictures, music, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are not greater than 5,000 gallons (18,925 L) and are installed entirely above ground.

10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to buildings and structures in this code.
12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
13. Non-fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.
14. Skateboard ramps. The building or structure shall not exceed the height requirements set forth in any local ordinances or other applicable law.

**Electrical:**

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.
3. Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

**Gas:**

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

**Mechanical:**

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (0.75kW) or less.

**Plumbing:**

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

E. Section 105.3 is amended to read as follows:

**105.3 Application for permit.**

To obtain a permit, the applicant shall first file an application in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work. The valuations or value shall include the total value of work, including materials and labor for which the building permit is requested. Contract price valuations may be subject to further review and documentation.
6. Where applicable, state the area to be landscaped in square feet and the source of water for irrigation.
7. Be signed by the property owner or applicant, or the applicant's authorized agent, who may be required to submit evidence to indicate signature authority. Whenever any constructive work, including, but not limited to, excavation or fill, requires entry onto adjacent property for any reason, the permit applicant shall obtain the written consent or written proof of legal easements or other property rights of the adjacent property owner or their authorized representative. The consent shall be in a form acceptable to the building official.
8. Diversion requirement and waste management plans. Except as otherwise provided in this code, all property owners or permit applicants shall complete and submit a waste management plan as part of the application packet for the building permit, certifying that the diversion requirements will be satisfied for construction waste reduction, disposal, and recycling.
9. Give such other data and information as required by the building official.

**105.3.1 Action on application.**

The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction drawings do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable to the property owner or the permit applicant. In the case of a new building, all fees required for connection to public water systems and to sewer systems provided by entities other than the jurisdiction must be paid or a bond posted before a permit is issued.

When the building official issues a permit, the building official shall endorse in writing or stamp on both sets of plans and specifications, "Approved." Such approval plans and specifications shall not be changed, modified, or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

**105.3.2 Time limitation of application.**

An application for a permit for any proposed work shall be deemed to have been abandoned 365 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- F. Section 105.4 is amended to read as follows:

**105.4 Validity of permit.**

The permit when issued shall be for such construction as is described in the building permit application and no deviation shall be made from the construction so described without the written approval of the building official. The permit holder (property owner or permit applicant) is obligated to maintain the accuracy of the building permit application and the approved building plan set, and shall promptly report to the building official any construction defects or damages discovered after construction has begun.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance, order or other requirement of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances, orders or other requirements of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances, orders or other requirements of this jurisdiction.

- G. Section 105.5.2 is added to read as follows:

**105.5.2 Limitations on extensions.**

An extension of time may require conditions of approval and additional fees. A fee will not be charged for the first extension of time, provided the permit is not expired.

Notwithstanding the above, all work authorized by a permit issued by the building official shall be completed within three years of issuance. A permit shall be considered abandoned if the work authorized by such building permit exceeds three calendar years to complete.

- H. Section 105.5.3 is added to read as follows:

**105.5.3 Defining commencement of work and substantial work.**

For the purpose of this section, commencement of work shall be defined as the successful completion, inspection, and approval of the entire foundation system for the permitted building or structure, including the placement of concrete. If the permit is for a building or structure that does not include a foundation, then the building official will determine that the work has commenced if the amount of work completed shows a good faith effort to substantially perform the work authorized by the permit, which shall be construed to mean measurable work such as, but not limited to, the addition of footings, structural members, flooring, wall coverings, plumbing systems, mechanical systems, and electrical systems.

- I. Section 105.5.4 is added to read as follows:

**105.5.4 Expired permits.**

It is unlawful for any person, firm, or corporation to maintain any building, structure, or equipment, or portion thereof, regulated by this code if permits required by this code are expired without final inspection approval and no application by the permittee has been made to obtain new permits to complete the work authorized under the expired permit.

Where a building or structure remains unfinished after the permit has expired, the property owner or permit applicant must, within 60 days after written notice by the building official, demolish and remove the building or structure or obtain a new permit. Before such work can be recommenced, a new building permit must be obtained.

The building permit fee collected by the building official to reinstate an expired permit shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such expiration has not exceeded one year.

- J. Section 105.5.5 is added to read as follows:

**105.5.5 Sewer allocation system.**

The provisions of any sewer allocation system adopted by local ordinance or other applicable law shall supersede the reinstatement of an expired permit if the building permit was issued pursuant to such system.

- K. Section 105.8 is added to read as follows:

**105.8 Unpermitted buildings and structures.**

No person shall own, use, occupy or maintain any "unpermitted structure." For purposes of this code, "unpermitted structure" shall be defined as any building or structure, or portion thereof, that was reconstructed, rehabilitated, repaired, altered, added to, improved, or equipped, at any point in time, without the required permit(s) having first been obtained from the building official, or any unfinished work for which a permit has expired.

(Ord. CS-437 § 3, 2022)

**§ 18.04.030. Section 107 (Submittal Documents) of the California Building Code amended.**

- A. Section 107.2.1 is amended to read as follows:

**107.2.1 Information on construction documents.**

Construction documents shall be dimensioned and drawn to scale upon suitable material. Electronic media documents are permitted to be submitted where approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules, and regulations, as determined by the building official. Computations, stress diagrams and other data sufficient to show the correctness of the plans shall be submitted when required by the building official. In lieu of detailed specifications, the building official may approve references on the plans to a specific section or part of this code or other applicable laws or ordinances.

- B. Section 107.2.6.2 is added to read as follows:

**107.2.6.2 Site drainage.**

Where proposed construction will affect site drainage, existing and proposed drainage patterns must

be shown on the plot plan.

- C. Section 107.2.6.3 is added to read as follows:

**107.2.6.3 Foundation survey.**

A survey of the lot is required by the building official to verify the proposed building or structure is located in accordance with the approved plans when a new foundation is proposed at five feet or closer to an adjacent property line.

- D. Section 107.2.6.4 is added to read as follows:

**107.2.6.4 Waiver.**

The building official may grant the omission of a site plan, design flood elevations, site drainage, and/or foundation survey information when the proposed work is of such a nature that no information is needed to determine compliance with all laws relating to the location of buildings or occupancies.

- E. Section 107.2.9 is added to read as follows:

**107.2.9 Prerequisite for pad certification.**

Except as otherwise provided in this code, upon completion of the rough grading work and prior to issuance of any building permit, the property owner or permit applicant must submit the required pad certifications and any supporting documentation to the applicable governing authority. This information shall also be maintained onsite and available to the building official at the foundation inspection, pursuant to Section 110.3.1 of this code.

(Ord. CS-437 § 3, 2022)

**§ 18.04.035. Section 109 (Fees) of the California Building Code amended.**

- A. Section 109.1.1 is added to read as follows:

**109.1.1 Building permit fee.**

A building permit fee, in an amount established by fee resolution of the City Council, shall be paid for administrative processing and building inspections prior to issuing a building permit.

- B. Section 109.1.2 is added to read as follows:

**109.1.2 Plan check fee.**

A building plan check fee, or deposit review fee, in an amount established by the fee resolution of the City Council, shall be paid when plans or documents are required to be submitted for review prior to issuing a building permit. Depending on the complexity and quality of the documentation being submitted, the final plan check fee to be paid may exceed the amount of the fee deposited to the jurisdiction. The building official may require additional charges for review required by changes, additions, or revisions of approved plans or reports, and for services beyond the first and second check due to changes, omissions, or errors on the part of the property owner or permit applicant. The payment of said fees shall not exempt any person from compliance with other provisions of this code.

- C. Section 109.3 is amended to read as follows:

**109.3 Building permit valuations.**

The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of the work, including materials and labor, for which the permit is being issued, as well as all finish work such as painting, roofing, electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official. For purposes of determining a permit fee amount, valuation or value shall be based upon either the actual contract price for the work to be permitted or shall be determined with the use of the current "ICC Building Valuation Data" as published by the International Code Council, whichever is higher.

- D. Section 109.4 is amended to read as follows:

**109.4 Other fees.**

The jurisdiction, by fee resolution, shall charge and collect other fees for services performed related to building permits issued pursuant to this code, and for such other building, construction, and development regulations as may be incorporated in this code. Fees associated with any action taken or required pursuant to this section shall be assessed in accordance with the provisions of this section and the fee resolution.

**109.4.1 Work commencing before permit.**

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee equal to the amount of the permit fee that is required by this code.

**109.4.2 Investigation fees.**

Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation fee may be required and be collected, whether or not a permit is subsequently issued. The minimum investigation fee shall be equal to the amount established by fee resolution of the City Council, whether a permit is required or not. The payment of such investigation fee shall not exempt a person from compliance with other provisions of this code, nor from a penalty prescribed by local ordinance or other applicable law.

**109.4.3 Preliminary review fees.**

Upon payment of a preliminary review fee, a property owner or permit applicant may have a building, a structure, or other specialty code requirements reviewed by the building official prior to submittal of a permit application. Such fee shall be based on the hourly rate for the purposes of cost recovery. All charges must be paid at the conclusion of any such meeting and before any written findings are issued.

**109.4.4 Reinspection fees.**

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. Reinspection fees may also be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which the inspection is requested, or for deviating from the plans requiring approval of the building official. In instances where reinspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid. The fee for each reinspection

shall be established by fee resolution of the City Council.

#### **109.4.5 Development impact fees.**

This section applies to development fees imposed by the jurisdiction for the purpose of financing capital improvements and public facilities, the need for which is attributable to such development. The provisions of this section do not apply to taxes or special assessments levied by the jurisdiction.

1. The amount of the fees due to jurisdiction shall be based on the development fee schedule in effect at the time of payment. The amount of the development impact fee established by fee resolution of the City Council, ordinance, or other applicable law shall not exceed the estimated cost of providing the proposed development with the service or facility for which the development impact fee is imposed.
2. No building permit shall be issued until all applicable development impact fees due for the development project have been paid or secured through a recorded agreement with the jurisdiction, unless payment at a later time is mandated by Government Code Section 66007 or otherwise permitted by local ordinance or other applicable law of the jurisdiction.
3. When applicable development impact fees are to be calculated during the building permit process or prior to the issuance of a building permit, it shall mean the building permit is approved by the building official and is ready to issue.
4. No temporary or final certificate of occupancy or permanent connection to utilities may be granted until all development fees have been paid in full.

(Ord. CS-437 § 3, 2022)

#### **§ 18.04.040. Section 110 (Inspections) of the California Building Code amended.**

- A. Section 110.1.1 is added to read as follows:

##### **110.1.1 Preconstruction meetings/inspections.**

The building official may be contacted by a property owner or permit holder to arrange a pre-construction meeting involving contractors, engineer of record, architects, and any other essential project participants. The meeting may be used to clarify areas of responsibility, to establish lines of communication to be used by all involved parties through the inspection process, and to answer questions about complex construction details and project phasing. For cost recovery purposes, the building official may charge their fully burdened hourly rate for time spent arranging, preparing, and participating in such meetings.

- B. Section 110.3.1 is amended to read as follows:

##### **110.3.1 Footing and foundation inspection.**

Footing and foundation inspections shall be made after excavations footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job. Except where concrete is ready mixed in accordance with ASTM C94, the concrete need not be on the job.

A California State licensed surveyor is required to certify the location and setbacks of new construction prior to the first foundation inspection if the proposed building or structure is located five feet or closer to an adjacent property line. A copy of the certification shall be available to the building

official prior to the first inspection. Prior to the approval of any foundation inspection the permit holder shall submit the setback certification that certifies by field measurement that the location of the building meets or exceeds the minimum setback distance as shown on the approved building plan set.

Pad and elevation certification information pursuant to Section 107.2.9 of this code shall be maintained onsite and available to the building official at the foundation inspection. The building official may require top of form elevation certification prior to placing concrete for slabs.

- C. Section 110.4 is amended to read as follows:

**110.4 Inspection agencies.**

The building official is authorized to accept reports of approved inspection agencies, licensed engineers, licensed contractors or other qualified individuals, provided that such agencies, licensed professionals or individuals satisfy the requirements as to qualifications and reliability.

- D. Section 110.7 is added to read as follows:

**110.7 Building service equipment and utility connections.**

Building service equipment regulated by the technical codes shall not be connected to the water, fuel or power supply, or sewer system until authorized by the building official. At the building official's discretion, the building official is authorized to release the utilities for a project prior to completion and prior to applicable city/county function approvals. When utilities are released prior to completion and prior to approvals by all applicable city/county departments, the property owner and/or permit holder shall agree, in writing, on a form provided by the building official, that the building or structure will not be occupied until released by all applicable city/county functions.

Following a natural disaster or emergency, the building official may issue such permits deemed necessary to restore a previous legal use or to allow temporary occupancy of a site, prior to the primary use being re-established.

- E. Section 110.8 is added to read as follows:

**110.8 Prior to release of occupancy of a building or structure.**

When the building or structure is ready for final inspection and occupancy pursuant to Section 111 of this code, the property owner or permit holder shall notify the building official. The building official will coordinate with other appropriate city/county functions described in Section 110.7 of this code, as amended, so they may verify compliance with all laws and ordinances they are charged with enforcing.

Passing final inspection or the final approval of the building official on the building permit inspection card does not constitute approval to occupy the structure.

(Ord. CS-437 § 3, 2022)

**§ 18.04.045. Section 111 (Certificate of Occupancy) of the California Building Code amended.**

- A. Section 111.1 is amended to read as follows:

**111.1 Requirements for occupancy.**

This section of the code is applicable to the following building permit application types: (1) new

nonresidential buildings or structures; (2) new residential dwellings; (3) other buildings and structures to be initially occupied or used; and (4) tenant improvements or building or structure additions with a change in use or change in occupancy to a different group or division of occupancy. In these instances, a building or structure shall not be used or occupied in whole or in part, and a change of occupancy of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein.

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or other applicable laws or ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other applicable laws or ordinances of the jurisdiction shall not be valid.

Exceptions:

1. Unless it is specifically required by other provisions of this code, no existing building or portion thereof shall require a certificate of occupancy provided the division of occupancy therein is the same for which the original building permit was issued.
2. Certificates of occupancy are not required for work exempt from permits in accordance with Section 105.2.
3. Certificates of occupancy are not required for new non-habitable accessory buildings or structures.
4. Shell buildings have no portion approved for occupancy and generally do not comply with the specific requirements of any group or division of occupancy. Therefore, a certificate of occupancy may not be issued for a shell building. In lieu of a certificate of occupancy, a final inspection report is issued to signify completion of a building or structure exclusive of interior build out by a tenant or a property owner.

- B. Section 111.2 is amended to read as follows:

**111.2 Certificate of occupancy issued.**

After the building official conducts a final inspection of the building or structure and does not find violations of the provision of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy within one business day in accordance with this section.

When a new certificate of occupancy is issued, it shall supersede every certificate previously issued for that portion of the building or structure described thereon. If no new certificate is required, the existing certificate on file will remain in effect. Duplicates of a previously issued certificate may be secured upon the payment of the duplication fee as set forth in a fee resolution of the City Council.

**111.2.1 Requirements to obtain a certificate of occupancy.**

The building official shall issue the certificate of occupancy when all of the following conditions have been satisfied:

1. A request for the certificate of occupancy has been accepted by the jurisdiction.
2. The applicable structural work and all electrical, plumbing, and mechanical systems serving the area to be occupied are completed and approved

3. Fire protection systems are completed, fully operable, tested, and approved in the area requested for occupancy.
4. Each structural best management practices (BMP) has been completed and is operating in compliance with all of its specifications, plans, permits, ordinances, and the requirements of the MS4 Permit.
5. All public utilities as required by Section 110.7 are fully operable, tested, and approved to serve the area requested for occupancy.
6. Certificate fees specified by a fee resolution of the City Council are collected.
7. The building or structure does not contain any violations of the provisions of this code.
8. All required permits of entitlement are effective and any applicable conditions are satisfied.

**111.2.2 Minimum information to be provided on the certificate of occupancy.**

The building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the building or structure.
3. The name and address of the owner or the owner's authorized agent.
4. A description of that portion for the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy in accordance with the provisions of Chapter 3. (The occupancy load only needs to be shown for assembly occupancies.)
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

**111.2.3 Limitations.**

A certificate of occupancy is a declaration that the building or structure substantially complies with the plans and specifications that have been submitted to, and approved by, the jurisdiction. A certificate is no guarantee of building quality or compliance with other local ordinances and applicable laws, other than documenting compliance with this code at the time the certificate was issued.

- C. Section 111.3 is amended to read as follows:

**111.3 Temporary occupancy.**

If the building official finds that no substantial hazard will result from occupancy of any building or portion thereof before all constructive work covered by the permit is completed, the building official may issue a temporary certificate of occupancy for the use of a portion or portions of a building

or structure prior to the completion of the entire building or structure. This temporary occupancy is intended to apply to the building or business owner(s) or tenants and not for members of the public. The building official may authorize the temporary connection of the building or system service equipment to the utility source of energy for the purpose of testing building service equipment, or for use under a temporary certificate of occupancy.

For cost recovery purposes, the building official will charge their fully burdened hourly rate for the time spent on processing the request and issuing the temporary certificate. Upon receipt of such request and payment of a cost recovery fee, the building official shall issue a temporary certificate that contains the same information as listed in California Building Code Section 111.2.2, as amended.

### **111.3.1 Temporary certificate criteria.**

Upon receipt of a request for a temporary certificate of occupancy and when the certificate fee has been paid, the building official may issue a temporary certificate of occupancy. The following items will be considered by the building official before a temporary certificate of occupancy is issued:

1. The scope of the remaining work and its impact on the use of space.
2. How the space will be maintained safe and accessible while the remaining work is completed.
3. The timeframe needed to complete the remaining work.
4. Whether approvals from other city departments and divisions are required prior to the issuance of a temporary certificate of occupancy including: a) Planning; b) Engineering/ Public Works; c) Fire Prevention; and d) Water and Sewer.

### **111.3.2 Time period.**

The building official shall set a time period during which the temporary certificate of occupancy is valid. A temporary certificate of occupancy shall be valid for a period not to exceed 180 days. Additional temporary certificates of occupancy may be issued, if the application is approved by the building official. Upon expiration of a temporary certificate of occupancy, the building or structure shall require a certificate of occupancy in accordance with other provisions in this code. A violation of a condition of temporary occupancy shall constitute cause to revoke or suspend the temporary certificate of occupancy.

(Ord. CS-437 § 3, 2022)

## **§ 18.04.050. Section 112 (Service Utilities) of the California Building Code amended.**

Section 112.4 is added to read as follows:

### **112.4 Authority to condemn building service equipment.**

When any building service equipment is maintained in violation of the technical codes and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct, or abate the violation. When the building official ascertains that building service equipment regulated in the technical codes has become hazardous to life, health, or property, or has become unsanitary, the building official shall order in writing that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

#### **112.4.1 Connection after order to disconnect.**

Persons shall not make connections from an energy, fuel, or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of such equipment.

(Ord. CS-437 § 3, 2022)

**§ 18.04.055. Section 113 (Board of Appeals) of the California Building Code amended.**

- A. Section 113.1 is amended to read as follows:

**113.1 General.**

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, its amendments and building requirements of the jurisdiction, there shall be and is hereby created a Board of Appeals.

- B. Section 113.3 is amended to read as follows:

**113.3 Qualifications and membership.**

The Board of Appeals shall consist of members who are qualified by experience and training to pass on matters and reach decisions on matters pertaining to building construction and applicable building codes, local ordinances, and other applicable law. The Board shall include five regular members, consisting of the building official from the cities of Oceanside, Encinitas, Vista, San Marcos, and Escondido. Voting members of the Board shall not be employees or residents of the jurisdiction whose building official made the determination or took the action that is being appealed. The term shall be considered indefinite provided that the person is authorized and directed by one of the aforementioned jurisdictions to carry out the functions of that jurisdiction's building division. Three members shall constitute a quorum for the transaction of business, and three affirmative votes shall be necessary to render a decision. The members of the Board shall serve without compensation and will not be reimbursed for their service.

**113.3.1 Standing committee.**

The Board of Appeals shall have no regular meetings, and all meetings shall be special meetings noticed pursuant to Government Code Section 54956. The Board shall be considered a "standing committee" with a continuing subject matter jurisdiction. The Board shall meet when an appeal is filed pursuant to this section; or as called upon by the building official to provide advisory comments regarding issues related to this code, such as the potential adoption of new codes or alternative methods and materials.

**113.3.2 Hearing examiner or chairperson.**

The Board of Appeals may temporarily select one member to serve as a hearing examiner or chairperson to conduct a hearing and to report the Board's findings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until a decision is made on the appeal and the business of the meeting has concluded.

- C. Section 113.4 is added to read as follows:

**113.4 Secretary.**

The building official shall be an ex officio member and shall act as the secretary to the Board of

Appeals and shall keep the minutes thereof but shall have no vote upon any matter before the Board. All meetings of the Board shall be conducted pursuant to the terms of this section and called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.).

- D. Section 113.5 is added to read as follows:

**113.5 Appeal to the Board of Appeals.**

Within 10 calendar days from the date the building official's decision was issued, any interested person or entity dissatisfied with the decision may file with the City Clerk a written appeal to the Board of Appeals specifying the reasons for the appeal, together with an appeal fee established by resolution of the City Council. Any appellant who is financially unable to pay the required appeal fee may file a written request for an appeal fee hardship waiver. The written request must be filed prior to or contemporaneous with the filing of the appeal. The appellant requesting the appeal fee hardship waiver shall indicate on the written appeal that an appeal fee hardship waiver request has been filed. The hardship waiver shall be considered by the city pursuant to the standards in Carlsbad Municipal Code section 1.10.120. Failure of any person or entity to file a timely appeal in accordance with this section shall constitute a waiver of the right to an appeal hearing and the building official's decision or action shall become final.

- E. Section 113.6 is added to read as follows:

**113.6 Hearing and conduct.**

As soon as practicable after receiving the written appeal and appeal fee, the Board shall fix a date, time, and place for the hearing of the appeal by the Board. The Board shall hold a public hearing on the matter within 60 days of the filing of the written appeal, or as soon thereafter as a quorum can be assembled. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant and any interested parties of record discovered through reasonable diligence, through either personal service or first-class mail, each appellant at the address shown on the appeal, and to the interested parties of record at the parties' last known address. Notice by mail shall be deemed effective on the date of deposit.

Hearings before the Board shall be open to the public. The appellant, the building official and any person whose interests are affected shall be given an opportunity to be heard. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

The Board of Appeals may continue the hearing for good cause.

- F. Section 113.7 is added to read as follows:

**113.7 Decision.**

The Board of Appeals shall hear the matter and approve, disapprove, or modify the decision of the building official. The Board of Appeals shall make written findings and render a written decision on each appeal which it hears; and shall cause a copy of same to be furnished to the appellant, to the building official, and to any person requesting it. The Board's written determination shall be final. There is no further administrative appeal.

- G. Section 113.8 is added to read as follows:

**113.8 Effect of building official's decision during appeal period.**

Except for orders issued by the building official because of conditions that represent an immediate threat to life or safety of the public or adjacent properties, enforcement of any notice and order of the building official shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

(Ord. CS-437 § 3, 2022)

**§ 18.04.060. Section 114 (Violations) of the California Building Code amended.**

- A. Section 114.5 is added to read as follows:

**114.5 Non-issuance.**

Except as otherwise provided in this code, no permit required by this title shall be issued to a permit applicant, and no final inspection shall be made for a property owner or permit holder, in connection with any premises or portion thereof upon which there exists a violation of any local ordinance or other applicable law. The building official may withhold building permits or other approvals for any reconstruction, rehabilitation, repair, alteration, addition, or other improvement pertaining to any existing or new building or structures on a property, or any permits pertaining to the use and development of the real property or the structure, which are subject to an administrative or other enforcement action if a request to appeal the action has not been timely filed; or after an appeal has been filed and a hearing officer affirms the enforcement officer's enforcement action; or if a notice of pending administrative enforcement action or other notice has been recorded against the property pursuant to the procedures set forth in the Carlsbad Municipal Code or other applicable law. The jurisdiction may withhold permits until the violation has been corrected, or if applicable, until a certificate of compliance or notice of release has been recorded against the property.

**114.5.1 Issuance for corrective action.**

At the discretion of the building official, building permits or certificates of occupancy may be issued to property owners or permit applicants in connection with any premises or portion thereof on which there exists a violation of a local ordinance or other applicable law when such permits are required to abate or remedy a violation of a local ordinance or other applicable law and the permits are immediately necessary to protect public health, safety, or welfare.

- B. Section 114.6 is added to read as follows:

**114.6 Certificate of noncompliance.**

If the building official determines there is a violation of this code, and the violation has been noticed or cited but not appealed, the building official may file, in the office of the County Recorder, a certificate of noncompliance against the property where the building or structure is located. The noticing, issuance, appeal procedures, and recording of the certificate of noncompliance shall comply with the requirements of Carlsbad Municipal Code section 1.10.050 for a notice of pending administrative enforcement action.

If a certificate of noncompliance is filed, and where the required permit, inspection, and/or approval required is obtained, the building official shall file a certificate of compliance with the County Recorder certifying compliance of the property. Until a certificate of compliance has been filed, all applications for grading permits, use permits, major and minor subdivisions, rezones, specific plans, specific plan amendments, general plan amendments, discretionary approvals and building permits for the property may be denied.

(Ord. CS-437 § 3, 2022)

**§ 18.04.065. Section 115 (Stop Work Order) of the California Building Code amended.**

Section 115.3 is amended to read as follows:

**115.3 Unlawful continuance.**

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, or that removes a posted stop work order without written consent of the building official, shall be subject to the penalties prescribed by Carlsbad Municipal Code Chapter 1.08 and Section 1.10.020 pertaining to stop work orders. (Ord. CS-437 § 3, 2022)

**§ 18.04.070. Section 116 (Unsafe Structures and Equipment) of the California Building Code amended.**

Section 116.1.1 is added to read as follows:

**116.1.1 Appendages and structural members.**

Parapet walls, cornices, spires, towers, and other appendages or structural members which are supported by, attached to, or part of a building or structure and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages.

(Ord. CS-437 § 3, 2022)

**§ 18.04.075. (Reserved)****§ 18.04.080. Section 1206 (Sound Transmission) of the California Building Code amended.**

A. Section 1206.4.1 is added to read as follows:

**1206.4.1 When within the noise impact boundary of an airport or freeway.**

Any new residence or addition of one or more habitable rooms to an existing residence located within the noise impact boundary of an airport or freeway must be designed to ensure that internal noise levels due to airport or freeway operations do not exceed 45 dB. This standard may be satisfied by performing the acoustical analysis described in section 1206.4.2 or by employing the prescribed construction methods described in section 1206.4.3.

For purposes of this section 1206, a noise impact boundary of an airport or freeway shall be all areas adjacent to an airport or freeway with a 65 dB or higher noise exposure. Noise exposure areas, contour lines or zones shall be identified on an existing noise contour map adopted by the jurisdiction, such as the existing noise contour map included as a figure or map in the Noise Element portion of the jurisdiction's General Plan.

For purposes of this section 1206, "freeway" shall mean expressways with controlled access and shall include Interstate 5 (I-5) and State Route 78 (SR-78).

B. Section 1206.4.2 is added to read as follows:

**1206.4.2 Acoustical analysis.**

A building permit application for a new residence or addition of one or more habitable rooms to an

existing residence located within the noise impact boundary of an airport or freeway must comply with the minimum noise insulation performance standards established in this section if it includes an acoustical analysis demonstrating that the proposed design will ensure that internal noise levels due to aircraft or freeway noise will not exceed 45 dB CNEL. The acoustical analysis shall be proven to meet the standard by providing post-construction/pre-occupancy acoustic measurement to verify compliance with the 45 dB standard. The building official has the discretion to implement policies that meet the intent of this code section.

1. The acoustical analysis must be prepared by a person experienced in the field of acoustical engineering. The analysis must consider and include: the topographical relationship between aircraft and freeway noise sources and the dwelling site, the characteristics of those noise sources, predicted noise spectra and levels at the exterior of the dwelling site, the basis for this prediction (measured or obtained from published data), the noise insulation measures to be employed, and the effectiveness of the proposed noise insulation measures.
2. If the interior allowable noise levels are to be met by requiring that windows be unopenable or closed, the design for the structure must also specify a ventilation or air-conditioning system to provide a habitable interior environment, having at least two air exchanges per hour for the affected rooms. The ventilation system must not compromise the interior room noise reduction.

C. Section 1206.4.3 is added to read as follows:

**1206.4.3 Prescribed construction methods.**

A building permit application for a new residence or addition of one or more habitable rooms to an existing residence located within the noise impact boundary of an airport or freeway must comply with the minimum noise insulation performance standards established in this section if the design incorporates the following construction methods:

1. Construction methods in the 70 dB and greater noise zone.
  - a. Exterior walls. Buildings and structures in LDN contours 70 dB and greater shall conform to the requirements for LDN contour 65 dB to 70 dB.
  - b. Exterior Windows. 1) Openable windows: all openable windows in the exterior walls of habitable rooms must have a laboratory sound transmission class rating of at least STC 40 dB and must have an air infiltration rate of no more than 0.5 cubic feet per minute when tested according to ASTM E-283. 2) Fixed Windows: all fixed windows in the exterior walls of habitable rooms must: i) have a sound transmission class rating of at least STC 40 dB, ii) or must be 5/8-inch laminated glass with STC rating of 40 dB and must be set in non-hardening glazing materials, or iii) must be glass block at least 3 1/2 inches thick. 3) The total areas of glazing in rooms used for sleeping must not exceed 20% of the wall area.
  - c. Exterior Doors. 1) Exterior hinged doors to habitable rooms that are directly exposed to aircraft or freeway noise and are facing the source of the noise must be a door and edge seal assembly that has a laboratory sound transmission class of at least STC 40 dB. 2) Exterior hinged doors to habitable rooms that are not directly exposed to aircraft or freeway noise and do not face the source of the noise must have a minimum STC rating of 35 dB. 3) Sliding glass doors in habitable rooms must not be allowed in walls that are directly exposed to aircraft or freeway noise. Sliding glass doors in walls that are not directly exposed must have an STC rating of at least 40 dB. 4) Access doors from an attached garage to the interior of a residence must have an STC rating of at least 30 dB.

- d. Roof/Ceiling Construction. Buildings and structures in LDN contours 70 dB and greater shall conform to the requirements for LDN contour 65 dB to 70 dB.
  - e. Ventilation. Buildings and structures in LDN contours 70 dB and greater shall conform to the requirements for LDN contour 65 dB to 70 dB.
2. Construction Methods in the 65 dB to 70 dB noise zone
- a. Exterior Walls. New walls that form the exterior portion of habitable rooms must be constructed as follows: 1) Studs must be at least 4 inches in nominal depth. 2) Exterior finish must be stucco, minimum 7/8-inch thickness, brick veneer, masonry, or any siding material allowed by this code. Wood or metal siding must be installed over 1/2-inch solid sheathing. 3) Masonry walls with a surface weight of less than 40 pounds per square foot will require an interior studwall that is finished with at least 5/8-inch thick gypsum wallboard or plaster. 4) Wall insulation must be at least R-11 glass fiber or mineral wool and must be installed continuously throughout the stud space. 5) Exterior solid sheathing must be covered with overlapping asphalt felt. 6) Interior wall finish must be at least 5/8-inch thick gypsum wallboard or plaster.
  - b. Exterior Windows. 1) Openable Windows: All openable windows in the exterior walls of habitable rooms must have a laboratory sound transmission class rating of at least STC 35 dB and must have an air infiltration rate of no more than 0.5 cubic feet per minute when tested according to ASTM E-283. 2) Fixed Windows: All fixed windows in the exterior walls of habitable rooms must be at least 1/4-inch thick and must be set in non-hardening glazing materials. 3) The total area of glazing in rooms used for sleeping must not exceed 20% of the floor area.
  - c. Exterior Doors. 1) Exterior hinged doors to habitable rooms that are directly exposed to aircraft or freeway noise and are facing the source of the noise must be a door and edge seal assembly that has a laboratory sound transmission class of at least STC 35 dB. 2) Exterior hinged doors to habitable rooms that are not directly exposed to aircraft or freeway noise and do not face the source of the noise must have a minimum STC rating of 30 dB. 3) Sliding glass doors in habitable rooms must have glass that is 1/4-inch thick. 4) Access doors from a garage to a habitable room must have an STC rating of at least 30 dB.
  - d. Roof/Ceiling Construction. 1) Roof rafters must have a minimum slope of 4:12 and must be covered on their top surface with minimum 1/2-inch solid sheathing and any roof covering allowed by this code. 2) Attic insulation must be batt or blow-in glass fiber or mineral wool with a minimum R-30 rating applied between the ceiling joists. 3) Attic ventilation must be: i) gable vents or vents that penetrate the roof surface that are fitted with transfer ducts at least 6 feet in length that are insulating flexible ducting or metal ducts containing internal 1-inch thick coated fiberglass sound absorbing duct liner. Each duct must have a lined 90-degree bend in the duct so that there is no direct line of sight from the exterior through the duct into the attic; or ii) noise control louver vents; or iii) eave vents that are located under the eave overhang. 4) Ceilings must be finished with gypsum board or plaster that is at least 5/8-inch thick. 5) Skylights must penetrate the ceiling by means of a completely enclosed light well that extends from the roof opening to the ceiling opening. A secondary openable glazing panel must be mounted at the ceiling line and must be glazed with at least 3/16-inch plastic, tempered or laminated glass. The weather-side skylight must be any type that is permitted by the building code.
  - e. Ventilation. 1) A ventilation system must be provided that will provide at least the

minimum air circulation and fresh air supply requirements of this code in each habitable room without opening any window, door or other opening to the exterior. All concealed ductwork must be insulated flexible glass fiber ducting that is at least 10 feet long between any two points of connection. 2) Kitchen cooktop vent hoods must be the non-ducted recirculating type with no ducted connection to the exterior.

D. Section 1206.4.4 is added to read as follows:

**1206.4.4 Complaints.**

Where a complaint as to noncompliance with this section requires a field test, the complainant shall post a bond or adequate funds in escrow for the cost of the field test in an amount as required per fee resolution of the City Council. Such costs shall be chargeable to the complainant if the field tests show compliance with this division. If the tests show noncompliance, testing costs shall be borne by the property owner or builder.

(Ord. CS-437 § 3, 2022)

**§ 18.04.085. Section 1501 (General) of the California Building Code amended.**

Section 1501.1 is amended to read as follows:

**1501.1 Scope.**

The provisions of this chapter shall govern the design, materials, construction and quality of roof assemblies, and rooftop structures.

1. Roofing assemblies, roof coverings, and roof structures shall be as specified in this code and as otherwise required by local ordinance or applicable law.
2. Roofing assemblies and roof coverings other than wood shakes and shingles shall be Class A fire rated.
3. Wood shakes and shingles of any classification are prohibited as a roof covering on all structures and on all replacement roofs.
4. Roof coverings shall be secured or fastened to the supporting roof construction and shall provide weather protection for the building at the roof.
5. Skylights shall be constructed as required in Chapter 24 of this code. Use of plastics in roofs shall comply with Chapter 26 of this code. Solar photovoltaic energy collectors located above or upon a roof shall be class A fire rated.

(Ord. CS-437 § 3, 2022)

**§ 18.04.090. Section 1505 (Fire Classification) of the California Building Code amended.**

Section 1505.9 is amended to read as follows:

**1505.9 Rooftop mounted photovoltaic (PV) panel systems.**

Rooftop mounted photovoltaic (PV) panel systems shall be tested, listed and identified with a fire classification of A, in accordance with UL 2703. Listed systems shall be installed in accordance with the manufacturers installation instructions and their listing.

(Ord. CS-437 § 3, 2022)

**§ 18.04.095. Street name signs.**

All private and public streets within the city shall have designated street names which shall be identified by signs. The size and type of street signs and the names of streets shall be subject to the approval of the city planning division, and the police and fire departments. Location and number of signs shall be as required by the city.

(Ord. CS-437 § 3, 2022)

## CHAPTER 18.05 BUILDING PERMIT MORATORIUM

### **§ 18.05.010. Purpose and intent.**

- A. The city, by contract, owns certain capacity rights in the Encina Water Pollution Control Facility. The City Council has received a series of reports indicating that after taking into account the amount of sewer capacity required for building permits in process, governmental projects, certain city contractual obligations, and other matters, the city had reached its capacity rights in the Encina facility. It is not possible for the city to exceed that capacity without violating provisions of federal and state law and its contractual obligations to the other members of the joint facility. Since sewer service, in most cases, is unavailable to serve potential building in the city, the City Council has no alternative but to impose a building moratorium until such time as there is some change in the situation. In the absence of such moratorium, buildings could be constructed in the city without adequate provisions for the disposition of sewage which is a situation of considerable danger to the public health, safety and welfare.
- B. In the event additional amounts of capacity do become available, it is also the purpose of this chapter to provide authority for the adoption by resolution of a means of allocating that capacity among the competing demands.

(Ord. 8073 § 1, 1977)

### **§ 18.05.020. Sewer moratorium.**

Notwithstanding any provisions of this code to the contrary, no building permit shall be issued nor shall any application therefor be accepted in the city except as follows:

- A. Building permits for work in that portion of the city within the service territory of the San Marcos or Leucadia County Water Districts shall be processed in accordance with this subsection. The City Manager shall monitor the sewage treatment capacity of said districts. If the City Manager determines that capacity is available, he or she may authorize the Community and Economic Development Director to accept applications for building permits. If the City Manager determines that the amount of sewer capacity necessary to service the projects in plan check would exceed the available supply, he or she shall have authority to order that no additional applications be accepted. The City Manager shall have authority to lift or reimpose such order as he or she determines appropriate, based on the availability of sewer capacity in such districts. The determinations by the City Manager pursuant to this subsection are for the administrative convenience of the city and do not indicate that sewer service will or will not in fact be available for a particular project nor that the building permit will issue. Building permits shall not be issued until the applicant presents a valid sewer connection permit for the project from said district. The Community and Economic Development Director shall verify that the sewer permit is valid prior to issuance of the building permit.
- B. Building permits may be processed and issued when the City Manager determines, pursuant to provisions of this code, that no new sewer connection permit would be necessary in connection with the work. The City Manager's determination may be appealed to the City Council whose decision shall be final.
- C. Structures existing within the city's sewer service area as of the date of the ordinance codified in this section, being served by septic tanks, may obtain a sewer connection permit if the city's public health officer certifies that the septic tank has failed and constitutes a health hazard.

- D. Permits for construction for the Plaza Camino Real expansion pursuant to the contract between the Plaza Camino Real, the city and the Carlsbad parking authority dated November 5, 1975, may be processed and issued.
- E. Building permits may be processed and issued for any public project undertaken by the city.
- F. Building permits may be processed and issued where this code provides for an alternate method of sewage disposal.
- G. The City Council may grant exceptions for projects of other governmental agencies if the City Council in its sole discretion determines that the project is necessary and in the public interest.
- H. Building permits may issue for all those projects for which applications for building permits were on file in the Carlsbad building department as of 5:00 p.m. on April 19, 1977.
- I. Building permits may be processed and issued for development within the boundaries of subdivision CT 74-6.
- J. The City Council may grant exceptions for certain private projects involving building permits for work within existing structures where the council in its sole discretion finds that:
  - 1. The building permit is for work to be performed within the exterior walls and roof of an existing structure;
  - 2. Said structure was constructed pursuant to a building permit issued prior to April 19, 1977;
  - 3. Those portions of the structure for which the building permit would be issued pursuant to this subsection have not been previously occupied;
  - 4. The purpose of the building permit is to make internal modifications to the structure as necessary to accommodate occupancy by a first user of the space.

- K. The City Council may approve the transfer of sewer connection permits from one building site to another building site in accordance with the provisions of this section. Such a transfer may only be approved if the council finds that the sewer permit is being transferred to a similar type of structure to be built on a lot located within the same development as the original lot.

The application for a transfer of a sewer permit pursuant to this section shall constitute an offer by the developer to surrender the building permit for which the sewer permit was originally issued. Upon City Council approval of the transfer, the original building permit shall be void and of no further force and effect. If construction has commenced pursuant to the original building permit, such construction shall be removed and the site restored to the satisfaction of the Utilities Director.

Notwithstanding the provisions of Section 13.08.080, the transferred sewer permit shall remain valid and it may be made available for issuance in connection with a new building permit as approved by the City Council as part of the transfer. City Council approval of a transfer shall constitute authority on the part of the City Manager to determine that sewer service is available, to issue the new building permit and to transfer the sewer permit.

Notwithstanding the provisions of Section 13.08.080, a sewer permit transferred pursuant to this section shall be void and of no further force or effect unless the building permit is obtained and construction is commenced within 120 days of the City Council's approval of the transfer. After commencement of construction, pursuant to the building permit, the validity of the building permit and sewer permit shall be determined in accordance with Section 13.08.080 and the Uniform Building

Code.

(Ord. 8073 § 1, 1977; Ord. 8074 § 1, 1977; Ord. 8075 § 1, 1977; Ord. 8076 § 1, 1977; Ord. 1261 § 18, 1983; Ord. NS-676 § 7, 2003; Ord. CS-164 §§ 3, 14, 2011)

**§ 18.05.030. Sewer allocation system.**

In the event the City Council determines that additional amounts of sewer capacity are available, but which are not of sufficient quantity to justify lifting the building permit moratorium imposed by this chapter, they shall have authority to adopt by resolution a system for allocating that capacity. In the event such an allocation system is adopted, notwithstanding any provisions of this code to the contrary, the processing, issuance, and expiration of building permits and sewer connection permits shall be in accord with such allocation system.

(Ord. 8073 § 1, 1977)

**CHAPTER 18.06  
UNIFORM HOUSING CODE**

**§ 18.06.010. Adoption and scope.**

Chapters 10, 11, 14, 15 and 16 of the Uniform Housing Code (UHC), 1997 edition, as published by the International Conference of Building Officials (ICBO), are adopted and incorporated by this reference as the housing code. The following chapters are deleted: Chapters 1 through 9, 12 and 13.

The provisions of this code that are adopted by the city shall apply to all residential buildings and structures or portions thereof used, or designed or intended to be used, including, but not limited to, any appurtenances connected or attached to such buildings or structures.

(Ord. CS-437 § 4, 2022)

## CHAPTER 18.07 UNREINFORCED MASONRY BUILDINGS

### **§ 18.07.010. Title.**

The title of this chapter shall be "Unreinforced Masonry Buildings."

(Ord. 198 § 1, 1992)

### **§ 18.07.020. Uniform Code for Building Conservation adopted by reference.**

Chapter 1 of the Appendix, and Sections 108, 109, 201, 203, 204 and 205 in the Uniform Code for Building Conservation, 1991 Edition, published by the International Conference of Building Officials (hereinafter referred to as "code") is adopted and incorporated by reference as the rules, regulations, technical guidelines and specifications for the purposes of this chapter. A copy of the code is on file in the office of the City Clerk.

(Ord. 198 § 1, 1992)

### **§ 18.07.030. Actions by the building official.**

Whenever it is determined by the building official of the city or designee that a building falls within the criteria for a potentially hazardous structure, as defined by this chapter, and the structure is not exempted for local conditions as defined by California Health and Safety Code Section 18491.6(b), the building official and designee shall take steps to ensure that the provisions of the code relating to mitigation are carried out as follows:

- A. Service of Order. The building official shall, if the property owner elects not to voluntarily participate under subsection (E)(5) of this section, issue an order as provided in this section to the owner of each building within the scope of this chapter. The order shall be in writing and shall be served either personally or by certified or registered mail upon the owner as shown on the latest equalized assessment roll, and upon the person, if any, in apparent charge or control of the building.

Prior to the service of an order a bulletin may be issued to the owner as shown upon the latest equalized assessment roll or to the person in apparent charge or control of a building considered by the building official to be within the scope of the ordinance codified in this chapter. The bulletin may contain information the building official deems appropriate. The bulletin may be issued by mail or in person.

- B. Contents of Order. The order shall specify that the building has been determined by the building official to be within the scope of this chapter and, therefore, is required to meet the minimum seismic standards as designated in the code. The order shall be accompanied by a copy of subsection E of this section, which sets forth the owner's alternatives and time limits for compliance.

- C. Appeal From Order. The owner of the building may appeal the building official's initial determination that the building is within the scope of this chapter to the City Council. Such appeal shall be filed with the City Clerk within 60 days from the date of service of the order described in this section. Appeals or requests for modifications from any other determinations, orders or actions by the building official may be appealed to the Community and Economic Development Director for a determination. In the event the owner is dissatisfied with the decision of the Community and Economic Development Director, the owner may appeal the decision to the City Council by filing with the City Clerk a written notice of appeal within 10 calendar days following the decision of the Community and Economic Development Director. The City Council shall thereupon set a hearing date for the hearing of such

appeal, shall so notify the Community and Economic Development Director and the owner, and upon such hearing date or such dates to which the hearing may be continued, the City Council shall finally determine whether or not such requests or modifications from other determinations, orders or actions shall be approved or denied. The decision of the City Council shall be final.

D. Recordation of Order. At the time that the building official serves the order, the building official shall also file with the office of the County Recorder a certificate stating that the subject building is within the scope of this chapter and is a potentially earthquake hazardous building. The certificate shall also state that the owner thereof has been ordered to structurally analyze the building and to structurally alter it where compliance with the requirements set forth in this chapter have not been met. If the building is found not to be within the scope of this chapter, or is structurally capable of resisting minimum seismic forces required by the code as a result of structural alterations or an analysis, the building official shall file with the office of the County Recorder a notice terminating the status of the subject building as being classified within the scope of this chapter and the code.

E. Compliance Requirements.

1. The owner of each building within the scope of this chapter shall, upon service of an order and within the time limits set forth in the code, cause a structural analysis to be made of the building by an engineer or architect licensed by the state to practice as such and, if the building does not comply with earthquake standards specified in the code, the owner shall cause it to be structurally altered to conform to such standards.
2. The owner of a building within the scope of this chapter shall comply with the requirements set forth in subsection (E)(1) of this section by submitting to the building official for review, the following information, within the stated time limits:
  - a. Within 270 days after service of the order, a structural analysis, which is subject to approval by the building official, which shall demonstrate that the building meets the minimum requirements of the code; or
  - b. Within 270 days after service of the order, the structural analysis and plans for structural alterations of the building to comply with the code; or
  - c. Within 120 days after service of the order, plans for the installation of wall anchors in accordance with the requirements specified in Section A110 of the code.
3. After plans are submitted and approved by the building official, the owner shall obtain a building permit and then commence and complete the required construction within the time limits set forth in Table A-1-G of this subsection. These time limits shall begin to run from the date the order is served in accordance with Section 18.07.030(A), except that the time limit to commence structural alteration shall begin to run from the date the building permit is issued. The building official may order compliance at an earlier date if the owner requests an earlier date in writing.

**Table A-1-G**  
**Time Limits for Compliance**

Required Action by Owner	Obtain Building Permit Within	Commence Construction Within	Complete Construction Within
Structural alterations or building	1 year <sup>2</sup>	180 days <sup>1</sup>	3 years <sup>2</sup>
Wall anchors	180 days <sup>2</sup>	270 days <sup>2</sup>	1 year <sup>2</sup>

**Notes:**

- 1 Measured from date of building permit issuance.
  - 2 Measured from date of service of order.
4. Owners electing to comply with paragraph (2)(c) of this subsection are also required to comply with paragraph (2)(b) of this subsection and all applicable time limits.
5. The owner of each building may commit to a voluntary program of compliance with the requirements of this chapter. The owner shall then take steps to ensure that the provisions of the code relating to mitigation are carried out as follows:
- a. The owner shall notify the building official in writing within 30 days of the effective date of the ordinance codified in this chapter of the owner's intent to initiate a voluntary compliance program for mitigation of the building. Owners whose buildings are identified as falling within the criteria of this chapter after this period, shall notify the building official within 30 days of receiving notification advising him or her of the condition.
  - b. The owner shall then, within one year of the notice of intent to the building official, cause a structural analysis of the building to be made.
    - i. The structural analysis, which is subject to approval by the building official shall demonstrate that the building meets the minimum requirements of the code; or
    - ii. The structural analysis shall include plans, which are subject to approval by the building official, for the structural alterations of the building to comply with the code; or
    - iii. The structural analysis shall include plans, which are subject to approval by the building official, for the installation of wall anchors in accordance with the requirements specified in Section A110 of the code.
  - c. Owners electing to comply with paragraph (5)(b)(iii) of this subsection are also required to comply with paragraph (5)(b)(ii) of this subsection.
  - d. When the scope of necessary repairs is approved by the building official, the owner shall commit in writing to a schedule for repairs to be agreed upon by both the owner and the building official.
  - e. The building official may issue an order, as provided in this section, to owners not in compliance with the agreed upon time lines of the owners voluntary program.
- F. Historical Buildings. Alterations or repairs to qualified historical buildings, as defined by Section

18955 of the Health and Safety Code of the state and as regulated by the State Historical Building Code (Health and Safety Code Sections 18950 et seq.), as designated on official national, state or local historical registers or inventories shall comply with the California Historical Building Code (California Code of Regulations Title 24, Building Standards Part 8), in addition to this chapter.

- G. Enforcement. If the owner in charge or control of the subject building fails to comply with any order issued by the building official pursuant to this chapter or with any of the time limits set forth in this section, the building official shall verify that the record owner of this building has been properly served. If the order has been served on the record owner, then the building official shall order the entire building vacated until such order has been complied with.
- H. Replacement of Nonconforming URM Buildings. Notwithstanding Chapter 21.48 of the Carlsbad Municipal Code, if any unreinforced masonry building (URM) which is within the scope of this chapter is determined to be nonconforming according to the development standards set forth in the Carlsbad Municipal Code, such building shall be allowed to be replaced with the same nonconforming use. This shall include building footprint, height, total square footage and on-site parking.

(Ord. 198 § 1, 1992; Ord. NS-303 § 1, 1995; Ord. CS-164 § 14, 2011)

#### **§ 18.07.040. Definitions.**

"Potentially hazardous building" means any building constructed prior to the adoption of local building codes requiring earthquake resistant design of buildings and constructed of unreinforced masonry wall construction. "Potentially hazardous building" includes all buildings of this type, including, but not limited to, public and private schools, theaters, places of public assembly, apartment buildings, hotels, motels, fire stations, police stations, and buildings housing emergency services, equipment, or supplies, such as government buildings, disaster relief centers, communications facilities, hospitals, blood banks, pharmaceutical supply warehouses, plants, and retail outlets. "Potentially hazardous building" does not include warehouses or similar structures not used for human habitation, except for warehouses or structures housing emergency services equipment or supplies. "Potentially hazardous building" does not include any building having five living units or less. "Potentially hazardous building" does not include, for purposes of subdivision (a) of Section 8877 of the California Government Code, any building which qualifies as "historical property" as determined by an appropriate governmental agency under Section 37602 of the Health and Safety Code.

(Ord. NS-303 § 2, 1995)

**CHAPTER 18.08  
HISTORICAL BUILDING CODE**

**§ 18.08.010. Adoption and scope.**

The 2022 California Historical Building Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted in its entirety and incorporated by this reference as the historical building code.

(Ord. CS-437 § 5, 2022)

**CHAPTER 18.09  
EXISTING BUILDING CODE**

**§ 18.09.010. Adoption and scope.**

The 2022 California Existing Building Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted in its entirety and incorporated by this reference as the existing building code. The following appendices of the existing building code are included in the adoption: Appendix A (Guidelines for the Seismic Retrofit of Existing Buildings) and B (Supplementary Accessibility Requirements for Existing Buildings and Facilities). The following sections, chapters, or appendices are deleted: Section 103 et seq. through Section 114 et seq.; and Appendices C and D.

The provisions of this code that are adopted by the city shall apply to all existing buildings and structures for which a legal building permit has been issued, including, but not limited to, any appurtenances connected or attached to such buildings or structures.

(Ord. CS-437 § 6, 2022)

**CHAPTER 18.10  
MECHANICAL CODE**

**§ 18.10.010. Adoption and scope.**

The 2022 California Mechanical Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted and incorporated by this reference as the mechanical code. The following sections, chapters, or appendices are deleted: Sections 103 et seq., 104.3, 104.4, 106 et seq. and 107 et seq. of Chapter 1; Chapter 15; and Appendices A through H.

The provisions of this code that are adopted by the city shall apply to mechanical systems, materials, or appurtenances or portions thereof and other related building service equipment installed, used, designed or intended to be used.

(Ord. CS-437 § 7, 2022)

**§ 18.10.020. Screening for mechanical equipment and devices.**

- A. Installation, remodel, replacement, removal, abatement or discontinuance of mechanical systems and related building service equipment shall meet the requirements of this section.
- B. Roof-Mounted Mechanical Equipment and Devices. Mechanical equipment, including, but not limited to, air conditioning, heating, tanks, ducts, elevator enclosures, cooling towers, solar panels, or other similar equipment shall be adequately screened from view from surrounding properties, adjacent public streets, and on-site parking areas. Screening shall be accomplished with mechanical roof wells recessed below the roof line, by solid and permanent roof-mounted screens, use of parapet walls, or building design integration and concealment by portions of the same building or other structure. Alternative methods for screening may include the consolidation and orientation of devices towards the center of the rooftop with enclosure and the use of neutral color surfaces or color paint matching. Chain link fencing with or without wooden/plastic slats is prohibited.
  1. All electrical and mechanical duct work and related piping shall be inside the building and not the roof. All connections related to equipment shall be made in the same roof opening on the platform or have the prior approval from the building official. Any under-roof or wall-mounted cables, raceway, conduit, or other device connection to support roof-mounted assemblies is subject to Section 2803.3.
  2. Sewer vents shall be brought to one main vent below the roof and have one penetration where restrooms or other plumbing fixtures are back to back or in the general proximity.
  3. All air exhaust fans and other equipment shall be within the building and use the same roof opening where restroom and other equipment are back to back or in the general proximity.
  4. All roof appurtenances and screening devices shall be architecturally integrated with construction and appearance similar to and compatible with the building or structure on which the equipment is placed to the satisfaction of the building official. All visible elements should have symmetry in all visible dimensions and be contextually balanced so that the screening does not dominate the element they are placed on.
- C. Ground-Mounted Mechanical Equipment and Devices. All ground-mounted mechanical equipment, including, but not limited to, heating and air conditioning units and swimming pool and spa pumps and filters, shall be completely screened from view from surrounding properties and adjacent public streets by a solid wall or fence or shall be enclosed within a building or electrical/service room.

Alternative methods for screening equipment from the public right-of-way and adjacent properties may include the placement of equipment in locations where buildings serve the purpose of screening or any other method approved by the building official. Chain link fencing with or without wooden or plastic slats is prohibited.

In locations where ground-mounted mechanical equipment is completely screened from surrounding properties and adjacent to public streets, but visible on-site, the ground-mounted equipment shall be surrounded by sight-obscuring landscaping, enclosed within a structure (i.e., equipment enclosure), and/or painted with neutral colors that are compatible with structures and landscaping on the property. Structural, design, and/or landscaping plans for any required screening under the provisions of this section shall be approved by the building official.

- D. Wall-Mounted Devices. Large wall-mounted mechanical and electrical equipment, which are greater than 36 inches in height or width, shall be completely screened from the public right-of-way, adjacent properties, and on-site parking areas or shall be enclosed within a building or electrical/service room. Minor wall-mounted mechanical and electrical equipment, such as electric panels, utility meters, or junction boxes, which are 36 inches in height and width or less shall be screened to the maximum extent practicable through the use of building design integration and concealment, enclosure, or surface color paint matching and be screened by walls or fences or sight-obscuring landscaping. Chain link fencing with or without wooden or plastic slats is prohibited.
  - 1. All exterior wall-mounted cables, raceway, conduit, or other device connection to support any roof-mounted, ground-mounted, or wall-mounted mechanical devices, shall be painted to match the color of the building wall or surface on which they are mounted and shall be sited to minimize the appearance or be in a location that is reasonably compatible and in harmony with the architectural styling and detailing of the building.
- E. Exceptions to Screening Requirements. Where it can be clearly demonstrated that the exterior mechanical equipment is not visible from any surrounding properties, adjacent public streets, and on-site parking areas, the building official may waive the screening requirements of this section. Furthermore, the following mechanical equipment and devices will be fully or partially exempt from the foregoing screening requirements of this section, but may be regulated separately by some other law or ordinance: (1) electric vehicle charging support systems; (2) electric generating facilities, including solar photovoltaic systems; and (3) satellite television antennas.
- F. Removal, Abatement and Discontinuance of Mechanical Equipment or Devices. Where roof-mounted or wall-mounted equipment, devices or other appurtenances are removed, abated or discontinued, any unused openings on any roof or wall must be sealed and restored to match the structural condition and appearance of its surroundings.

(Ord. CS-437 § 7, 2022)

#### **§ 18.10.030. Rooftop hazard avoidance.**

Rooftop mechanical equipment, other equipment requiring maintenance and roof access hatches shall be located so that routine maintenance and approach thereof is more than 10 feet of the edge of the roof. This standard may only be encroached upon approval by the building official and only when the building official is satisfied that compliance with the rooftop location requirement is impracticable because of structural or construction difficulties or it is detrimental to the preservation of a historic building.

(Ord. CS-437 § 7, 2022)

## CHAPTER 18.12 ELECTRICAL CODE

### **§ 18.12.010. Adoption and scope.**

The 2022 California Electrical Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted in its entirety and incorporated by this reference as the electrical code. The provisions of this code that are adopted by the city shall apply to electrical wiring, apparatus and systems installed, used, designed or intended to be used.

(Ord. CS-437 § 8, 2022)

### **§ 18.12.020. Permits required.**

- A. No electric wiring, devices, appliances or equipment shall be installed within or on any building, structure or premises nor shall any alteration without first securing a permit therefor from the building official except as stated in Section 18.12.030.
- B. Permits for privately-owned conduits or other materials in public places and in and across streets and alleys may be issued only after approval has been granted for the installation by the City Engineer. All work shall be done in accordance with law and special regulations applicable thereto.
- C. Permits shall only be issued to contractors licensed by the State of California to engage in the business or act in the capacity of a contractor, relating to electrical inspection installation, and to persons holding a valid master electrician certificate of competency for work performed only on the property of his or her employer, or the owner.

(Ord. CS-437 § 8, 2022)

### **§ 18.12.030. Permits—Exceptions.**

- A. No permit shall be required for minor repair work such as repairing flush or snap switches, replacing fuses, repairing lamp sockets and receptacles when such work is done in accordance with the provisions of this code.
- B. No permit shall be required for the replacement of lamps or the connection of portable appliances to suitable receptacles which have been permanently installed.
- C. No permit shall be required for the installation, alteration or repair of wiring, devices, appliances or equipment for the operation of signals or the transmission of intelligence (not including the control of lighting or appliance circuits) where such wiring, devices, appliances or equipment operate a voltage not exceeding 25 volts between conductors and do not include generating or transforming equipment capable of supplying more than 100 watts of energy.

(Ord. CS-437 § 8, 2022)

### **§ 18.12.040. Permit—Application.**

Application for permits for electrical installations where the service capacity exceeds 200 amperes shall be accompanied by two sets of electrical line drawings and load distribution calculations showing service panel and branch panel capacities and locations service switch and branch switch capacities, conduit and feeder sizes.

(Ord. CS-437 § 8, 2022)

**§ 18.12.050. Temporary meter sets.**

A temporary meter may be set on the permanent electrical service base for testing equipment, for lighting of interiors where outside sources do not light, or for health and safety and protection of persons. Failure to provide and comply with all provisions of this chapter shall constitute grounds for the removal of any or all meters on the project.

(Ord. CS-437 § 8, 2022)

## CHAPTER 18.16 PLUMBING CODE

### **§ 18.16.010. Adoption and scope.**

The 2022 California Plumbing Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted and incorporated by this reference as the plumbing code except for changes, additions, deletions and amendments in this chapter. The following appendices of the plumbing code are included in the adoption: Appendix H (Private Sewage Disposal Systems) and M (Peak Water Demand Calculator). The following sections, chapters, or appendices are deleted: Sections 103 et seq., 104.3, 104.4, 104.5, 106 et seq. and 107 et seq. of Chapter 1; and Appendices A through G, I through L, and N.

The provisions of this code that are adopted by the city shall apply to plumbing equipment, systems, materials, or appurtenances or portions thereof installed, used, designed or intended to be used.  
(Ord. CS-437 § 9, 2022)

### **§ 18.16.020. Section 1505 (Recycled Water Systems in Buildings) of the California Plumbing Code amended.**

Section 1505.10 is amended to read as follows:

#### **1505.10 Required Appurtenances.**

The recycled water supply system and the potable water system within the building and the premises shall be provided with the required appurtenances (e.g., valves, air/vacuum relief valves, etc.).

All new buildings where recycled water will be used for irrigation shall install on the building supply pipe a bypass tee for recycled water cross-connection shut down testing. The bypass tee shall be constructed of copper and the size shall match the building supply pipe size approved for the building. The bypass tee shall be connected to the building supply pipe above ground and before the pressure regulator at a point just before it enters the building. Both end connections to the building supply pipe shall be made using a union. A bronze full port straight ball valve with handle shall be installed on the inlet side of the bypass tee for the building supply pipe and sized to match the inlet tee. A bronze full port straight ball valve with tee-head and padlock wing shall be installed on the side inlet tee, which shall be threaded with a male hose thread adapter to match the building supply pipe size. The work shall be in conformance with Engineering Standard Drawing W35. All shut down tests using the bypass tee shall be conducted with a backflow prevention device to reduce potential for contamination of the potable water system.

(Ord. CS-437 § 9, 2022)

### **§ 18.16.030. Sizing of roof drainage systems.**

A rainfall participation rate of 3.7 inches per hour in a 100-year storm event (one hour duration) shall be utilized as a guideline to calculate the minimum sizing of roof drainage systems required. Roof drainage systems shall be permitted to be sized using the roof area and the slope of the roof area served by each of the drain inlets. Calculations for the roof drainage system shall be submitted along with the plan for approval.

(Ord. CS-437 § 9, 2022)

**CHAPTER 18.17  
SWIMMING POOL AND HOT TUB CODE**

**§ 18.17.010. Adoption of the Uniform Swimming Pool, Spa and Hot Tub Code.**

The Uniform Swimming Pool, Spa and Hot Tub Code, 1997 Edition, copyrighted by the International Association of Plumbing and Mechanical Officials, except Section 110.0, Fees, is adopted by reference as the city swimming pool, spa, and hot tub code.

(Ord. NS-279 § 2, 1994; Ord. NS-531 § 1, 2000)

**§ 18.17.020. Building official designated.**

The building official appointed pursuant to the provisions of Chapter 18.04 is designated as the administrative authority and authorized and directed to enforce the provisions of this chapter.

(Ord. NS-279 § 2, 1994)

**§ 18.17.030. Violations.**

Any person or corporation who violates any of the provisions of this chapter is guilty of an infraction except for the fourth and each additional violation of a provision within one year which shall be a misdemeanor. Penalties for a violation of this chapter shall be as designated in Section 1.08.010 of this code.

(Ord. NS-279 § 2, 1994)

**CHAPTER 18.18  
SOLAR ENERGY CODE**

**§ 18.18.010. Adoption and scope.**

The Uniform Solar, Hydronics and Geothermal Code, 2021 edition, copyrighted by the International Association of Plumbing and Mechanical Officials is adopted in its entirety and incorporated by this reference as the solar energy code.

(Ord. CS-437 § 10, 2022)

**CHAPTER 18.19  
DANGEROUS BUILDING CODE**

**§ 18.19.010. Adoption of the Uniform Code for the Abatement of Dangerous Buildings.**

The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, copyrighted by the International Conference of Building Officials, is adopted by reference as the city dangerous building code. (Ord. NS-279 § 4, 1994; Ord. NS-531 § 3, 2000)

**§ 18.19.020. Building official designated.**

The building official appointed pursuant to the provisions of Chapter 18.04 is authorized and directed to enforce all the provisions of this chapter.

(Ord. NS-279 § 4, 1994)

**§ 18.19.030. Violations.**

Any person or corporation who violates any of the provisions of this chapter is guilty of an infraction except for the fourth and each additional violation of a provision within one year which shall be a misdemeanor. Penalties for a violation of this chapter shall be as designated in Section 1.08.010 of this code.

(Ord. NS-279 § 4, 1994)

**CHAPTER 18.20  
RESIDENTIAL CODE**

**§ 18.20.010. Adoption and scope.**

- A. The 2022 California Residential Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted and incorporated by this reference as the residential code except for changes, additions, deletions and amendments in this chapter. The following appendices of the residential code are included in the adoption: Appendix AH (Patio Covers), AK (Sound Transmission), AQ (Tiny House), AX (Swimming Pool Safety Act) and AZ (Emergency Housing). The following sections or appendices are deleted: Sections R108 et seq., R110 et seq., R112 et seq., R113 et seq. and R114 et seq. of Chapter 1; and Appendices AF, AG, AI, AJ, AL, AO, AR through AW, and AY.

The provisions of this code that are adopted by the city shall apply to detached one-and two-family dwelling and townhomes not more than three stories and structures accessory thereto installed, used, designed or intended to be used.

- B. The building official is hereby authorized and directed to apply the administrative, organizational and enforcement rules and regulations of the building code to implement the residential code or portions of the code adopted. Administrative provisions relating to building fees, code compliance, enforcement, violations and penalties are specified in Sections 109, 111, and 113 through 115 of the California Building Code, Part 2, Volume 1, Chapter 1-Division II, as amended and adopted by the city.

(Ord. CS-437 § 11, 2022)

**§ 18.20.020. Section R104 (Duties and Powers of the Building Official) of the California Residential Code amended.**

Section R104.1 is amended to read as follows:

**R104.1 General.**

The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures as supplemental to this code in order to clarify the application of its provisions or to implement or facilitate inspection functions, the issuance of permits and certificates, and other administrative and enforcement duties imposed by the code. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

(Ord. CS-437 § 11, 2022)

**§ 18.20.030. Section R105 (Permits) of the California Residential Code amended.**

- A. Section R105.1 is amended to read as follows:

**R105.1 Required.**

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed shall first make application to the

building official and obtain the required permit. The submission of a building permit application shall be construed as attestation that the property owner and/or permit applicant are aware of the scope of the project and will only perform or allow work within that scope unless a building permit revision is subsequently authorized by the building official.

**R105.1.1 Personal or electronic submission.**

The property owner or permit applicant may submit the permit application and associated documentation to the building division by personal or electronic submittal together with any required permit processing and inspection fees. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications, and other documentation may be used in lieu of a wet signature.

**R105.1.2. Partial permits.**

At the discretion of the building official, a partial permit may be issued to allow construction to begin before the project plans are approved. To qualify for a partial permit, the permit applicant must submit plans for the primary permit, and the plans must be accepted as complete for the jurisdiction's review. Work authorized by the partial permit shall be limited to underground site work, including underground plumbing, electrical, and mechanical work.

- B. Section R105.2 is amended to read as follows:

**R105.2 Work exempt from permit.**

Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following.

**Building:**

1. Other than storm shelters, one-story detached accessory buildings or structures, provided that the floor area does not exceed 120 square feet (11.15 square meters) and the building or structure is entirely above grade and is not located on a maintenance easement, on a public utilities easement, or within a setback area as required by any local ordinance or other applicable law. The building or structure shall not exceed the height requirements set forth in any local ordinance or other applicable law. It is permissible that these buildings or structures still be regulated by Section 710A despite exemption from permit.
2. Fences not over six feet (1829 mm) high.
3. Retaining walls that are not over four feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.
4. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18,925 L) and the ratio of height to diameter or width is not greater than 2:1.
5. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
6. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
7. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment accessory to detached one-and two-family dwellings.

9. Window awnings, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
10. Decks not exceeding 200 square feet (18.58 square meters) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.
11. Skateboard ramps. The building or structure shall not exceed the height requirements set forth in any local ordinance or other applicable law.

**Electrical:**

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets therefor.
3. Replacement of branch circuit overcurrent devices of the required capacity in the same location.
4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

**Gas:**

1. Portable heating, cooking or clothes drying appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

**Mechanical:**

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative coolers.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (0.75kW) or less.
8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

**Plumbing:**

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

C. Section R105.3 is amended to read as follows:

**R105.3 Application for permit.**

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section R106.1.
5. State the valuation of the proposed work. The valuations or value shall include the total value of work, including materials and labor for which the building permit is requested. Contract price valuations may be subject to further review and documentation.
6. Where applicable, state the area to be landscaped in square feet and the source of water for irrigation.
7. Be signed by the property owner or applicant, or the applicant's authorized agent, who may be required to submit evidence to indicate signature authority. Whenever any constructive work, including, but not limited to, excavation or fill, requires entry onto adjacent property for any reason, the permit applicant shall obtain the written consent or written proof of legal easements or other property rights of the adjacent property owner or their authorized representative. The consent shall be in a form acceptable to the building official.
8. Diversion requirement and waste management plans. Except as otherwise provided in this code, all property owners or permit applicants shall complete and submit a waste management plan as part of the application packet for the building permit, certifying that the diversion requirements will be satisfied for construction waste reduction, disposal, and recycling.
9. Give such other data and information as required by the building official.

**R105.3.1 Action on application.**

The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction drawings do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable to the property owner or the permit applicant. In the case of a new building, all fees required for connection to public water systems and to sewer systems provided by entities other than the jurisdiction must be paid or a bond posted before a permit is issued.

When the building official issues a permit, the building official shall endorse in writing or stamp on

both sets of plans and specifications, "Approved." Such approval plans and specifications shall not be changed, modified, or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

**R105.3.1.2 Rebuild threshold and limits on repair and remodel.**

The building official shall determine the applicability of certain permitting procedures and requirements for repair and remodeling projects on a case-by-case basis. A project classified as "rebuild" pursuant to this section shall be treated as a new building or structure. Modification of fixtures, finishes, and systems shall not be considered in measuring project magnitude.

"New construction" is defined as any work, addition to, remodel, repair, renovation, or alteration of any building(s) or structure(s) when 75% or more of the exterior weight bearing walls is removed or demolished.

The cumulative scope for permitted work within any three-year period shall be added together when determining whether the scope of work constitutes a rebuild. For the purposes of this section, the computation of time shall be measured from the latest permit's date of issuance. The calculation of the percentage of floor area affected and final determination of required improvements shall be made by the building official.

Special consideration for unforeseen defects and damages. If construction defects or damages (e.g., pest or water damage) are discovered after construction has begun that were not predictable or known by ordinary means such as pest damage reports and other inspections and precautions, work must cease until the building official has been notified. The building official shall have the discretion to evaluate the circumstances of the discovery and may allow the rebuild threshold to be increased provided procedures deemed appropriate by the building official are followed.

**R105.3.2 Time limitation of application.**

An application for a permit for any proposed work shall be deemed to have been abandoned 365 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- E. Section R105.4 is amended to read as follows:

**R105.4 Validity of permit.**

The permit when issued shall be for such construction as is described in the building permit application and no deviation shall be made from the construction so described without the written approval of the building official. The permit holder (property owner or permit applicant) is obligated to maintain the accuracy of the building permit application and the approved building plan set, and shall promptly report to the building official any construction defects or damages discovered after construction has begun.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance, order or other requirement of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances, orders or other requirements of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official

is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances, orders or other requirements of this jurisdiction.

- F. Section R105.5.2 is added to read as follows:

**R105.5.2 Defining commencement of work and substantial work.**

For the purpose of this section, commencement of work shall be defined as the successful completion, inspection, and approval of the entire foundation system for the permitted building or structure, including the placement of concrete. If the permit is for a building or structure that does not include a foundation, then the building official will determine that the work has commenced if the amount of work completed shows a good faith effort to substantially perform the work authorized by the permit, which shall be construed to mean measurable work such as, but not limited to, the addition of footings, structural members, flooring, wall coverings, plumbing systems, mechanical systems, and electrical systems.

- G. Section R105.5.3 is added to read as follows:

**R105.5.3 Expired permits.**

It is unlawful for any person, firm, or corporation to maintain any building, structure, or equipment, or portion thereof, regulated by this code if permits required by this code are expired without final inspection approval and no application by the permittee has been made to obtain new permits to complete the work authorized under the expired permit.

Where a building or structure remains unfinished after the permit has expired, the property owner or permit applicant must, within 60 days after written notice by the building official, demolish and remove the building or structure or obtain a new permit. Before such work can be recommenced, a new building permit must be obtained.

The building permit fee collected by the building official to reinstate an expired permit shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such expiration has not exceeded one year.

- H. Section R105.5.4 is added to read as follows:

**R105.5.4 Sewer allocation system.**

The provisions of any sewer allocation system adopted by local ordinance or other applicable law shall supersede the reinstatement of an expired permit if the building permit was issued pursuant to such system.

- I. Section R105.6.1 is added to read as follows:

**R105.6.1 Unfinished building and structures.**

Where a building or structure remains unfinished after the permit therefor has been suspended or revoked, the property owner shall, within 60 days after written notice by the building official, demolish and remove the same or obtain a new permit. Before such work can be recommenced, a new building permit shall be obtained.

- J. Section R105.10 is added to read as follows:

**R105.10 Unpermitted buildings and structures.**

No person shall own, use, occupy or maintain any "unpermitted structure." For the purposes of this code, "unpermitted structure" shall be defined as any building or structure, or portion thereof, that was reconstructed, rehabilitated, repaired, altered, added to, improved, or equipped, at any point in time without the required permit(s) having first been obtained from the building official, or any unfinished work for which a permit has expired.

(Ord. CS-437 § 11, 2022)

**§ 18.20.040. Section R106 (Construction Documents) of the California Residential Code amended.**

- A. Section R106.2.1 is added to read as follows:

**R106.2.1 Site drainage.**

Where proposed construction will affect site drainage, existing and proposed drainage patterns shall be shown on the plot plan.

- B. Section R106.2.2 is added to read as follows:

**R106.2.2 Foundation survey.**

A survey of the lot is required by the building official to verify the proposed building or structure is located in accordance with the approved plans when a new foundation is proposed at five feet or closer to an adjacent property line.

- C. Section R106.2.3 is added to read as follows:

**R106.2.3 Waiver.**

The building official may grant the omission of a site plan, design flood elevations, site drainage, and/or foundation survey information when the proposed work is of such a nature that no information is needed to determine compliance with all laws relating to the location of buildings or occupancies.

- D. Section R106.6 is added to read as follows:

**R106.6 Prerequisite for pad certification.**

Except as otherwise provided in this code, upon completion of the rough grading work and prior to issuance of any building permit, the property owner or permit applicant must submit the required pad certifications/documents to the applicable governing authority. This information shall also be maintained onsite and available to the building official at the foundation inspection, pursuant to Section R109.1.1 of this code.

(Ord. CS-437 § 11, 2022)

**§ 18.20.050. Section R109 (Inspections) of the California Residential Code amended.**

- A. Section R109.1 is amended to read as follows:

**R109.1 Types of inspections.**

For on-site construction, from time to time the building official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or

her agent wherein the same fails to comply with the code. The enforcing agency upon notification of the permit holder or their agent shall within a reasonable time make the inspections set forth in Section R109.1.1, R109.1.1.1, R109.1.3, R109.1.4, R109.1.4.1, R109.1.4.2, R109.1.5, R109.1.5.1, R109.1.5.2, R109.1.5.3, R109.1.6, R109.1.6.1 and R109.1.6.2.

The building official may be contacted by a property owner or permit holder to arrange a pre-construction meeting involving contractors, engineer of record, architects, and any other essential project participants. The meeting may be used to clarify areas of responsibility, to establish lines of communication to be used by all involved parties through the inspection process, and to answer questions about complex construction details and project phasing. For cost recovery purposes, the building official may charge their fully burdened hourly rate for time spent arranging, preparing, and participating in such meetings.

Note: Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the enforcing agency.

- B. Section R109.1.1 is amended to read as follows:

**R109.1.1 Foundation inspection.**

Inspection of the foundation and footings shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The foundation or footings shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports or equipment and special requirements for wood foundations. Materials for the foundation shall be on the job except where concrete is ready mixed in accordance with ASTM C94. Under this circumstance, concrete is not required to be at the job site.

A California State licensed surveyor is required to certify the location and setbacks of new construction prior to the first foundation inspection if the proposed building or structure is located five feet or closer to an adjacent property line. A copy of the certification shall be available to the building official prior to the first inspection. Prior to the approval of any foundation inspection the permit holder shall submit the setback certification that certifies by field measurement that the location of the building meets or exceeds the minimum setback distance as shown on the approved building plan set.

Pad and elevation certification information pursuant to Section 107.2.9 of this code shall be maintained onsite and available to the building official at the foundation inspection. The building official may require top of form elevation certification prior to placing concrete for slabs.

The building official may grant exemptions to these requirements for accessory buildings or structures, on a case-by-case basis, when sufficient physical evidence (such as survey monuments) exists from which it can be demonstrated that the accessory building or structure is located in relation to property lines as shown on the approved plans.

- C. Section R109.1.2.1 is added to read as follows:

**R109.1.2.1 Building service equipment and utility connections.**

Building service equipment regulated by the technical codes shall not be connected to the water, fuel or power supply, or sewer system until authorized by the building official. At the building official's discretion, the building official is authorized to release the utilities for a project prior to completion and prior to applicable city/county function approvals. When utilities are released prior to completion

and prior to approvals by all applicable city/county departments, the property owner and/or permit holder shall agree, in writing, on a form provided by the building official, that the building or structure will not be occupied until released by all applicable city/county functions.

Following a natural disaster or emergency, the building official may issue such permits deemed necessary to restore a previous legal use or allow temporary occupancy of a site, prior to the primary use being re-established.

- D. Section R109.1.6.3 is added to read as follows:

**R109.1.6.3 Prior to release of occupancy of a building or structure.**

When the building or structure is ready for final inspection and occupancy, the property owner or permit holder shall notify the building official. The building official will coordinate with other appropriate city/county functions so they may verify compliance with all laws and ordinances they are charged with enforcing.

Passing final inspection or the final approval of the building official on the building permit inspection card does not constitute approval to occupy the structure.

- E. Section R109.2 is amended to read as follows:

**R109.2 Inspection agencies.**

The building official is authorized to accept reports of approved inspection agencies, licensed engineers, licensed contractors or other qualified individuals, provided that such agencies, licensed professionals or individuals satisfy the requirements as to qualifications and reliability.

(Ord. CS-437 § 11, 2022)

**§ 18.20.060. Section R111 (Utilities) of the California Residential Code amended.**

Section R111.4 is added to read as follows:

**R111.4 Authority to condemn building service equipment.**

When any building service equipment is maintained in violation of the technical codes and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct, or abate the violation. When the building official ascertains that building service equipment regulated in the technical codes has become hazardous to life, health or property, or has become unsanitary, the building official shall order in writing that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

**R111.4.1 Connection after order to disconnect.**

Persons shall not make connections from an energy, fuel, or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of such equipment.

(Ord. CS-437 § 11, 2022)

**§ 18.20.070. Section R901 (General) of the California Residential Code amended.**

Section R901.1 is amended to read as follows:

**R901.1 Scope.**

The provisions of this chapter shall govern the design, materials, construction and quality of roof assemblies and rooftop structures.

1. Roofing assemblies, roof coverings, and roof structures shall be as specified in this code and as otherwise required by local ordinance or applicable law.
2. Roofing assemblies and roof coverings other than wood shakes and shingles shall be Class A fire rated.
3. Wood shakes and shingles of any classification are prohibited as a roof covering on all structures and on all replacement roofs.
4. Roof coverings shall be secured or fastened to the supporting roof construction and shall provide weather protection for the building at the roof.
5. Skylights shall be constructed as required in Section R308.6 and Chapter 9. Use of plastics in roofs shall comply with R316 and Chapter 9. Solar photovoltaic energy collectors located above or upon a roof shall be class A fire rated.

(Ord. CS-437 § 11, 2022)

**CHAPTER 18.21  
CALIFORNIA GREEN BUILDING STANDARDS CODE**

**§ 18.21.010. Adoption and scope.**

The 2022 California Green Building Standards Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted and incorporated by this reference as the green building standards code except for changes, additions, deletions and amendments in this chapter.

The following sections or chapters of Appendix A5 of the green building standards code are included in the adoption: Sections A5.201, A5.202, A5.203.1.1 through A5.203.1.2.1 Tier 1, and A5.211 through A5.213, except for changes, additions, and deletions as specified in this chapter. The following appendices are deleted: A4 and A6.1.

(Ord. CS-437 § 12, 2022)

**§ 18.21.020. Section 202 (Definitions) of the California Green Building Standards Code amended.**

Section 202 of the California Green Building Standards Code is amended to revise/add the following definitions:

**Electric vehicle (EV) capable space.** A vehicle space with electrical panel space and load capacity to support a branch circuit and necessary raceways, both underground and/or surface mounted. For the purposes of this code, an EV capable space shall include a raceway capable of accommodating a 208/240-volt dedicated branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box, or enclosure in close proximity to the proposed location of the EV capable spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device. Future EV capable spaces may qualify as designated parking for clean air vehicles.

**Electric vehicle (EV) charger.** Off-board charging equipment used to charge an electric vehicle. For the purposes of this code, an EV charging space that is installed with an EV charger shall consist of a dedicated 208/240-volt branch circuit, including a listed raceway, electrical panel capacity, overcurrent protective device, wire, and receptacle. Receptacle shall be equipped with EVSE. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter) and is required to be continuous at enclosed, inaccessible, or concealed areas and spaces. The branch circuit and associated overcurrent protective device shall be rated at 40 amperes minimum. Other electrical components, including receptacle and EVSE, related to this section shall be installed in accordance with the California Electrical Code.

**Electric vehicle (EV) ready space.** A vehicle space which is provided with a branch circuit, any necessary raceways, both underground and/or surface mounted, to accommodate EV charging, terminating in a blank cover, receptacle or a charger, with a dedicated 208/240-volt branch circuit, electric panel capacity, overcurrent protective device and wire. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter) and is required to be continuous at enclosed, inaccessible, or concealed areas and spaces. The termination point shall be in close proximity to the proposed location of an EV charger. The branch circuit and associated overcurrent protective device shall be rated at 40 amperes minimum. Other electrical components, including a receptacle or blank cover, related to this section shall be installed in accordance with the California Electrical Code.

**Major residential renovations.** Alterations and additions to existing residential structures and construction sites where: 1) for one and two family dwellings, and townhouses with attached private garages, alterations

have a building permit valuation equal to or greater than \$60,000 or include an electrical service panel upgrade; or 2) for multifamily dwellings (three dwelling units or more), alterations have a building permit valuation equal to or greater than \$200,000, interior finishes are removed and significant site work and upgrades to structural, mechanical, electrical, and/or plumbing systems are proposed. Significant site work as used herein means site alterations that: Require a grading permit as required by law or ordinance of the jurisdiction; rehabilitate or install 2,500 square feet or more of landscaping; or repave, replace, or add 2,500 square feet or more of vehicle parking and drive area.

(Ord. CS-437 § 12, 2022)

**§ 18.21.030. Section 4.106 (Site Development) of the California Green Building Standards Code amended.<sup>6</sup>**

(Ord. CS-437 § 12, 2022)

**§ 18.21.040. Section 5.106 (Planning and Design) of the California Green Building Standards Code amended.**

Table 5.106.5.3.1 is amended to read as follows:

Total Number of Actual Parking Spaces	Number of Required EV Capable Spaces	Number of EVCS (EVSE Installed Space With EV Charger) <sup>2</sup>
0–9	1	1
10–25	4	1
26–50	8	2
51–75	13	3
76–100	17	5
101–150	25	6
151–200	35	9
201 and over	20 percent of total <sup>1</sup>	25 percent of EV capable spaces <sup>1</sup>

**Notes:**

1. Calculation for spaces shall be rounded up to the nearest whole number.
2. The number of required EVCS (EV capable spaces provided with EVSE) in column 3 count toward the total number of required EV capable spaces shown in column 2.

(Ord. CS-437 § 12, 2022)

**§ 18.21.050. Appendix A5 (Nonresidential Voluntary Measures) of the California Green Building Standards Code amended.**

- A. Appendix A5, Sections A5.201, A5.202, A5.203.1.1 through A5.203.1.2.1 Tier 1, and A5.211 through A5.213 are adopted and amended herein and are mandatory requirements for the construction

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6. Editor's Note: The Amendments to Section 4.106 of the California Green Building Standards Code are included as an attachment to this title.

of nonresidential buildings and structures, multi-family buildings and structures, hotels/motels, and alterations thereto having a building permit valuation of at least \$200,000.00 or additions of at least 1,000 square feet.

- B. Section A5.203.1.1.2 of the California Green Building Standards Code is amended to read as follows:

**A5.203.1.1.2 Service water heating in restaurants.**

Newly constructed restaurants shall comply with California Energy Code Section 140.5.

- C. Section A5.211 of the California Green Building Standards Code is amended to read as follows:

**A5.211.1 On-site renewable energy.**

Use on-site renewable energy sources such as solar, wind, geothermal, low-impact hydro, biomass and bio-gas for at least 1 percent of the electric power calculated as the product of the building service voltage and the amperage specified by the electrical service overcurrent protection device rating or 1 kW, (whichever is greater), in addition to the electrical demand required to meet 1 percent of the natural gas and propane use. The building project's electrical service overcurrent protection device rating shall be calculated in accordance with the California Electrical Code. Natural gas or propane use is calculated in accordance with the California Plumbing Code.

**A5.211.1.1 Documentation.**

Using a calculation method approved by the California Energy Commission, calculate the renewable on-site energy system to meet the requirements of Section A5.211.1, expressed in kW. Factor in net-metering, if offered by local utility, on an annual basis.

**A5.211.3 Green power.**

If offered by local utility provider, participate in a renewable energy portfolio program that provides a minimum of 50 percent electrical power from renewable sources. Maintain documentation through utility billings.

Exception to A5.211.1, A5.211.1.1 and A5.211.3: All new nonresidential, high-rise residential, and hotel/motel buildings, and alterations thereto having a building permit valuation of at least \$1,000,000 and affecting at least 75 percent of existing floor area, or alterations that increase roof size by at least 2,000 square feet, shall instead comply with California Energy Code Section 141.2.

(Ord. CS-437 § 12, 2022)

## CHAPTER 18.22 ELECTRIC VEHICLE CHARGING STATIONS

### **§ 18.22.010. Purpose.**

The purpose of Chapter 18.22 is to promote and encourage the use of the electric vehicles in accordance with the City's Climate Action Plan, and Government Code Section 65850.7 by providing an expedited, streamlined permitting process for electric vehicle charging stations for residential and non-residential uses. The intent is to remove unreasonable regulatory barriers and minimize permit processing costs to achieve timely and cost-effective installations and to help achieve Governor's Executive Order N-79-20. Chapter 18.22 helps the city to achieve those goals, prevents adverse impacts in the installation and use of electric vehicle charging stations, and maintains the building official's authority to protect the public health and safety and to identify and address higher priority life-safety situations, where applicable.

(Ord. CS-399 § 2, 2021)

### **§ 18.22.020. Definitions.**

The following definitions shall apply to Chapter 18.22:

"Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

"Checklist" means the submittal checklist required by the City of Carlsbad to be submitted with the permit application for an electric vehicle charging station to demonstrate compliance.

"Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of the ordinance codified in this chapter, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

"Electronic submittal" means the utilization of electronic mail (email); the Internet; facsimile (fax). "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.

"Feasible method" means a method to satisfactorily mitigate or avoid a specific, adverse impact including, 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.

(Ord. CS-399 § 2, 2021)

### **§ 18.22.030. Applicability.**

- A. Chapter 18.22 applies to the permitting of all electric vehicle charging stations in the City of Carlsbad.
- B. Electric vehicle charging stations legally established or permitted prior to the effective date of the ordinance codified in this chapter are not subject to the requirements of Chapter 18.22 unless physical modifications or alterations are undertaken that materially change the size, type, or components of the electric vehicle charging station in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.
- C. The installation of electric vehicle charging stations shall comply with the standards set forth in section 18.21.140 and 18.21.150 as applicable.

(Ord. CS-399 § 2, 2021)

**§ 18.22.040. Permit application and submittal requirements.**

- A. All electric vehicle charging stations shall meet applicable health and safety standards and requirements imposed by the state and the city.
- B. Prior to submitting an application for processing, the applicant shall verify that the installation of an electric vehicle charging station will not have specific, adverse impact to public health and safety and building occupants. Verification by the applicant includes, but is not limited to: electrical system capacity and loads; electrical system wiring, bonding, and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; areas of charging station equipment and vehicle parking.
- C. All documents required for the submission of an electric vehicle charging station application are available on the city website, including a checklist of submittal requirements for expedited review. Unless otherwise specified, the checklist shall be the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook."
- D. Electronic submittal of the required permit application and documents shall be made available to all electric vehicle charging station permit applicants. The permit application and associated documentation may be submitted to the building division in person, by mail, or by electronic submittal together with required permit processing and inspection fees. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications, and other documents may be used in lieu of a wet signature.
- E. Should this chapter conflict with any permit processing requirements specified in any other chapter of the Carlsbad Municipal Code, this chapter shall take precedence.

(Ord. CS-399 § 2, 2021)

**§ 18.22.050. Permit review and issuance.**

- A. The community development department shall implement an administrative, nondiscretionary review process to expedite approval of electric vehicle charging stations.
- B. A permit application that satisfies the information requirements in the city's checklist shall be deemed complete and be promptly processed.
- C. 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.
- D. Upon confirmation by the building official that the permit application and supporting documents meets the adopted checklist, and is consistent with all applicable laws and health and safety standards, the Building Official shall, consistent with Government Code Section 65850.7, approve the application and issue all necessary permits. Such approval does not authorize an applicant to energize or utilize the electric vehicle charging station until approval is granted by the city.
- E. The building official may require an applicant to apply for a minor site development plan pursuant to Carlsbad Municipal Code Chapter 21.06 if the building official finds, based on substantial evidence, that the electric vehicle charging station could have a specific, adverse impact upon the public health and safety.
  1. Such decisions may be appealed to the Planning Commission pursuant to Section 21.54.140.

2. If a minor site development plan is required, the city may deny such application if it 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.
3. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact.
4. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
5. No condition shall be imposed on the Minor Site Development Plan that would require prior approval by an association.

(Ord. CS-399 § 2, 2021)

#### **§ 18.22.060. Waiver or modification of development standards.**

- A. The City Planner, through the processing of a minor site development plan pursuant to Chapter 21.06, may modify the following development standards for electric vehicle charging stations.
  1. Parking standards under Chapter 21.44
  2. Sign standards under Chapter 21.41
- B. The modifications specified in Section 18.22.060(A) shall not be permitted unless the decision making authority makes the required findings specified in Section 21.06.020(b).

(Ord. CS-399 § 2, 2021)

#### **§ 18.22.070. Electric vehicle charging station installation requirements.**

- A. Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission or a Municipal Electric Utility Company regarding safety and reliability.
- B. Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means and overcurrent protective devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.
- C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.
- D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

(Ord. CS-399 § 2, 2021)

#### **§ 18.22.080. Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or

to other circumstances shall not be affected thereby.

(Ord. CS-399 § 2, 2021)

## CHAPTER 18.24 MOVING BUILDINGS

### **§ 18.24.010. Permit required.**

No person shall cause any structure to be wrecked or moved along any highway, without first obtaining from the Community and Economic Development Director of the city a permit so to do.  
(Ord. 8045 § 1; Ord. 1261 § 24, 1983; Ord. NS-176 § 5, 1991; Ord. CS-164 § 14, 2011)

### **§ 18.24.020. Application for permit.**

The Community and Economic Development Director is authorized and directed to prepare an application form for permission to wreck or move structures which shall contain all questions regarding all aspects of the protection of the general health, safety and welfare of the citizens of the city in regard to such proposed wrecking or moving of structures.

(Ord. 8045 § 2; Ord. 1261 § 24, 1983; Ord. NS-176 § 5, 1991; Ord. CS-164 § 14, 2011)

### **§ 18.24.030. Permit fee.**

Every person applying for a permit under this chapter shall pay a permit fee of \$10.00 at the time of such application.  
(Ord. 8045 § 3)

### **§ 18.24.040. Granting of permit.**

In the event of an application to move a structure into the city or to move a structure from one location to another within the city, the Community and Economic Development Director shall not issue a permit therefor until such time as the Planning Commission of the city or in the event of an appeal of the decision of the Planning Commission, the City Council, shall have approved such moving of a structure. Such approval shall be granted or denied or granted subject to conditions so as to promote the general health, safety and welfare of the citizens of the city.

(Ord. 8045 § 3.5; Ord. 8051-A § 1, 1969; Ord. 1261 § 24, 1983; Ord. NS-176 § 5, 1991; Ord. CS-164 § 14, 2011)

### **§ 18.24.050. Conditions of permit.**

The Community and Economic Development Director shall require as a condition of issuance of a permit hereunder that the applicant provide all necessary protections to the maintenance of the general health, safety and welfare as required by his or her proposed wrecking or moving of structures. The Community and Economic Development Director may decline to issue such a permit if the general health, safety and welfare so requires.

(Ord. 8045 § 4; Ord. 1261 § 24, 1983; Ord. NS-176 § 5, 1991; Ord. CS-164 § 14, 2011)

### **§ 18.24.060. Permit—Appeal from decision of Community and Economic Development Director.**

In the event the Community and Economic Development Director declines to issue a permit or the applicant is dissatisfied with the conditions upon which the permit is issued, applicant may appeal the decision of the Community and Economic Development Director to the City Council by sending to the city a written notice of appeal within 10 calendar days following the decision of the Community and Economic Development Director. The City Council shall thereupon set a hearing date for the hearing of such appeal, shall so notify the Community and Economic Development Director and the applicant and, upon such

hearing date or such dates to which the hearing may be continued, the City Council shall finally determine whether or not such permit shall be issued and, if so, upon what conditions. The decision of the City Council shall be final. Fees for filing an appeal under this section shall be established by resolution of the City Council.

(Ord. 8045 § 5; Ord. 1261 § 24, 1983; Ord. NS-176 §§ 5, 6, 1991; Ord. CS-164 § 14, 2011)

**§ 18.24.070. Removal of building by city.**

By his or her application for a permit according to the provisions of this chapter to wreck or move any structure, every person receiving such a permit agrees that in the event all required conditions are not fulfilled within the time prescribed by the Community and Economic Development Director or the City Council, the City Council may at its sole option, cause the same to be fulfilled, or to wreck and remove the structure, at the owner's expense.

(Ord. 8045 § 6; Ord. 1261 § 24, 1983; Ord. NS-176 § 5, 1991; Ord. CS-164 § 14, 2011)

## CHAPTER 18.25 SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

### **§ 18.25.010. Purpose.**

The purpose of this chapter is to provide an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (2014) amendments to California Government Code Section 65850.5 to achieve timely and cost-effective installations of small residential rooftop solar energy systems with reasonable restrictions. The use of solar systems is encouraged by streamlining processes, minimizing costs to property owners and the city, and expanding the ability of property owners to install solar energy systems while protecting public health and safety.

(Ord. CS-285 § 2, 2015)

### **§ 18.25.020. Definitions.**

"Electronic submittal" in this chapter means the utilization of one or more of either email, the Internet, or facsimile.

"Feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the city on another similarly situated application in a prior successful application for a permit. The city shall use its best efforts to ensure that the selected method, condition, or mitigation meets the definition of subsections (D)(1) and (2).

"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 significantly decrease its efficiency or specified performance" in this chapter means:

1. For a water heater system or a solar swimming pool heating system: an amount exceeding 10% of the cost of the system, but in no case more than \$1,000.00, or decreasing the efficiency of the solar energy system by an amount exceeding 10%, as originally specified and proposed.
2. For a photovoltaic system: an amount not to exceed \$1,000.00 over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10% as originally specified and proposed.

"Small residential rooftop solar energy system" is a solar energy system that:

1. Is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal; and
2. Conforms to all applicable building, electrical, plumbing, mechanical, or fire codes as adopted or amended by the city, and all state and city health and safety standards; and
3. Is installed on a single-or two-family dwelling; and
4. The solar panel or module array does not exceed the maximum building height as defined by the city.

"Solar energy system" means either:

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; or

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.

"Specific, adverse impact" in this chapter 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.

(Ord. CS-285 § 2, 2015)

#### **§ 18.25.030. Applicability.**

- A. This chapter applies to the permitting of all small residential rooftop solar energy systems in the city.
- B. A small residential rooftop solar energy system permitted prior to the effective date of the ordinance codified in this chapter is not subject to these requirements unless physical modifications or alterations are undertaken that materially change the size, type, or components of a system in such a way as to require new permitting. Routine maintenance or in-kind replacement of permitted parts for a small residential rooftop solar energy system shall not require a permit.

(Ord. CS-285 § 2, 2015)

#### **§ 18.25.040. Small residential rooftop solar energy system requirements.**

- A. A small residential rooftop solar energy system shall meet applicable building, electrical, plumbing, mechanical, or fire codes as adopted or amended by the city, and all state and city health and safety standards.
- B. A small residential rooftop solar energy system for heating water in a single-family residence or for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.
- C. A small residential rooftop solar energy system shall meet applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(Ord. CS-285 § 2, 2015)

#### **§ 18.25.050. Applications and documents.**

- A. The building official shall develop and maintain an eligibility checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.
- B. All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on the city's website.
- C. Electronic submittal of the required permit application and documents shall be made available to all small residential rooftop solar energy system permit applicants.
- D. The small residential rooftop solar energy system permit application and associated documentation may be submitted to the building division in person, by mail, or by electronic submittal. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications and other documentation may be used in lieu of a wet signature.
- E. The small residential rooftop solar energy system permit process and eligibility checklist shall

substantially conform to recommendations for expedited permitting contained in the most current version of the *California Solar Permitting Guidebook* adopted by the Governor's Office of Planning and Research.

(Ord. CS-285 § 2, 2015)

#### **§ 18.25.060. Permit review.**

- A. The building official shall implement an expedited, administrative, nondiscretionary review process with reasonable restrictions for small residential rooftop solar energy systems. The building official's review of an application shall be limited to the requirements set forth in Section 18.25.040. 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.
- B. Upon confirmation by the building official of the application and supporting documentation being complete and meeting the requirements of the eligibility checklist, the building official shall administratively approve the application and issue all required permits or authorizations. Such approval does not authorize an applicant to connect the small residential rooftop energy system to the local energy provider's electricity grid. The applicant is responsible for obtaining such approval or permission from the local utility provider.
- C. The building official may require an applicant to apply for a minor conditional use permit in accordance with Carlsbad Municipal Code Chapters 21.42 and 21.54, if a finding is made, 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 the Planning Commission in accordance with Carlsbad Municipal Code Chapter 21.54. If a minor conditional use permit is required, the building official may deny an application for the minor conditional use permit if a finding is made, 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 specific, adverse impact. The basis for the rejection of potential feasible alternatives of preventing the specific, adverse impact shall be included in the finding. The decision to deny may also be appealed to the Planning Commission in accordance with Carlsbad Municipal Code Chapter 21.54. For purposes of carrying out the requirements in this section, "building official" shall be used interchangeably with "City Planner" in Carlsbad Municipal Code Chapters 21.42 and 21.54.
- D. Any condition imposed on an application for a system shall be designed to mitigate a specific, adverse impact upon health and safety at the lowest possible cost.

(Ord. CS-285 § 2, 2015)

#### **§ 18.25.070. Inspection requirements.**

Only one inspection shall be required and performed for small residential rooftop solar energy systems eligible for expedited review. The inspection shall be done in a timely manner and should include consolidated inspections. A separate fire inspection may be performed if necessary. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this chapter.

(Ord. CS-285 § 2, 2015)

**CHAPTER 18.30  
CALIFORNIA ENERGY CODE**

**§ 18.30.010. Adoption and scope.**

The 2022 California Energy Code, California Code of Regulations, Title 24, a portion of the California Building Standards Code, is adopted in its entirety and incorporated by this reference as the energy code except for changes, additions, deletions and amendments in this chapter. The following appendices of the energy code are included in the adoption: Appendix 1-A (Standards and Documents Referenced). The following appendices are deleted: Appendix 1-B.

(Ord. CS-437 § 13, 2022)

**§ 18.30.020. Section 120.11 (Solar or Recovered Energy Requirements for Water Heating Systems) of the California Energy Code added.**

Section 120.11 is added to read as follows:

**120.11 Solar or recovered energy requirements for service water heating systems.**

Any newly constructed nonresidential building shall derive its service water heating from a system that provides at least 40 percent of the energy needed for service water heating from on-site solar energy or recovered energy. Solar energy includes solar photovoltaics and solar-water heating systems.

Exception to Section 120.11: Buildings for which the building official has determined that service water heating from on-site solar energy or recovered energy is economically or physically infeasible. Applicant is responsible for demonstrating requirement infeasibility when applying for an exemption.

(Ord. CS-437 § 13, 2022)

**§ 18.30.030. Section 140.5 (Prescriptive Requirements for Service Water-Heating Systems) of the California Energy Code amended.**

Section 140.5 is amended to read as follows:

**140.5 Prescriptive requirements for service water—heating systems.**

A. Nonresidential occupancies. Service water-heating systems in nonresidential buildings and structures shall meet the requirements of 1 or 2 below, or meet the performance compliance requirements of Section 140.1:

1. School buildings less than 25,000 square feet and less than 4 stories in Climate Zones 2 through 15. A heat pump water-heating system that meets the applicable requirements of Sections 110.1, 110.3, 120.3, 120.11 and 140.5(c).
2. All other occupancies. A service water-heating system that meets the applicable requirements of Sections 110.1, 110.3, 120.3, 120.11 and 140.5(c). In addition, a service water-heating system installed in a nonresidential building or structure shall meet the requirements of parts A, B, or C below:
  - a. A heat pump water heater. The storage tank shall be located in a conditioned space.
  - b. An electric resistance water heater.
  - c. A solar water-heating system with a minimum solar savings fraction of 0.40. Solar water-

heating systems and collectors shall be certified and rated by the Solar Rating and Certification Corporation (SRCC), the International Association of Plumbing and Mechanical Officials, Research and Testing (IAPMO R&T), or by a listing agency that is approved by the Executive Director.

- B. Hotel/motel occupancies. A service water-heating system installed in hotel/motel buildings and structures shall meet the requirements of Section 170.2(d) and Section 140.5(c) and be located in the garage or conditioned space.
- C. High-capacity service water-heating systems. Gas service water-heating systems with a total installed gas water heating input capacity of 1 MMBtu/h or greater shall have gas service waterheating equipment with a minimum thermal efficiency of 90 percent. Multiple units can meet this requirement if the water-heating input provided by equipment with thermal efficiencies above and below 90 percent averages out to an input capacity-weighted average of at least 90 percent.

Exception 1 to Section 140.5(c): If 25 percent of the annual service water-heating requirement is provided by site-solar energy or site-recovered energy.

Exception 2 to Section 140.5(c): Water heaters installed in individual dwelling units.

Exception 3 to Section 140.5(c): Individual gas water heaters with input capacity at or below 100,000 Btu/h shall not be included in the calculations of the total system input or total system efficiency.

(Ord. CS-437 § 13, 2022)

#### **§ 18.30.040. Section 141.2 (Nonresidential Photovoltaic System Required) of the California Energy Code added.**

- A. Section 141.2 is added to read as follows:

##### **141.2 Additions, alterations and repairs—nonresidential photovoltaic system required.**

Additions to existing nonresidential and hotel/motel buildings where the total roof area is increased by at least 2,000 square feet, and alterations to existing nonresidential and hotel/motel buildings with a permit valuation of at least \$1,000,000 that affect at least 75 percent of the gross floor area shall also comply with the requirements of Section 141.2.1 or 141.2.2.

The required installation of a photovoltaic (PV) system shall be sized according to one of the following methods:

1. Based on gross floor area.
  - a. Buildings with greater than or equal to 10,000 square feet of gross floor area shall install a minimum PV system sized at 15 kilowatts direct current (kWdc) per 10,000 square feet of gross floor area.

PV system size = 15 kWdc X Building Size Factor, where the Building Size Factor (BSF) shall equal gross floor area / 10,000 sq. ft., rounded to the nearest tenth. The resulting product shall then be rounded to the nearest whole number. For example, a 126,800 square foot building shall require a minimum 191 kilowatt (kWdc) PV system, as follows:

PV system size = 15 kWdc X BSF, where BSF = 126,800 s.f. / 10,000 s.f. => 12.7 (rounded) 15 kWdc X 12.7 => 191 kWdc (rounded))

- b. Buildings under 10,000 square feet of gross floor area shall install a minimum 5 kilowatt

(kWdc) PV system. Applicants are encouraged to right-size the PV system based on the building's electrical demand to improve the system's cost effectiveness.

2. Based on Time Dependent Valuation (TDV). Install a solar PV system that will offset 80 percent of the building's TDV energy on an annual basis. The system sizing requirement shall be based upon total building TDV energy use including both conditioned and unconditioned space and calculated using modeling software or other methods approved by the building official.

Exceptions:

- a. The building official may waive or reduce, by the maximum extent necessary, the provisions of this Section if the building official determines there are sufficient practical challenges to make satisfaction of the requirements infeasible. Practical challenges may be a result of the building site location, limited rooftop availability, or shading from nearby structures, topography, or vegetation. The applicant is responsible for demonstrating requirement infeasibility when applying for an exemption.
- b. The building official may waive or reduce, by the maximum extent necessary, the provisions of this Section if the building official determines the building has satisfied the purpose and intent of this provision through the use of alternate on-site renewable generation systems such as wind energy systems.

(Ord. CS-437 § 13, 2022)

**§ 18.30.050. Section 150 (Single-Family Residential Buildings—Mandatory Features and Devices) of the California Energy Code added.**

Section 150(n)5 is added to read as follows:

**150(n)5 Solar or recovered energy requirements for service water heating systems.**

Any newly constructed residential building shall derive its service water heating from a system that provides at least 60 percent of the energy needed for service water heating from on-site solar energy or recovered energy. Solar energy includes solar photovoltaics and solar-water heating systems.

Exception to Section 150(n)5: Buildings for which the building official has determined that service water heating from on-site solar energy or recovered energy is economically or physically infeasible. Applicant is responsible for demonstrating requirement infeasibility when applying for an exemption.

(Ord. CS-437 § 13, 2022)

**§ 18.30.060. Section 150.2 (Single-Family Residential Buildings—Additions and Alterations to Existing Residential Buildings) of the California Energy Code added.**

Section 150.2(d) is added to read as follows:

**150.2(d) Additions and alterations—energy efficiency required.**

All additions and alterations of residential buildings with a building permit valuation of \$60,000 or higher shall include one of the following energy efficiency measures:

- A. Additions and alterations of single-family residential buildings built before 1978 shall include one of the following:
  1. Duct sealing pursuant to the 2022 California Code of Regulations, Title 24, Section 150.2(b)1E

without verification by a Home Energy Rating System (HERS) rater. All exceptions as stated in the 2022 California Code of Regulations, Title 24, Section 150.2(b)1E are allowed. Projects that require duct sealing as part of an HVAC alteration or replacement must meet all of the requirements of the 2022 California Code of Regulations, Title 24, Part 6, including HERS rater verification.

2. Attic insulation with a minimum of R-38 rating. Buildings without vented attic spaces and buildings with existing attic insulation levels greater than R-5 are exempt from this attic insulation energy efficiency measure.
  3. Cool roof with an aged solar reflectance of greater than or equal to 0.25 and a thermal emittance of greater than or equal to 0.75. All exceptions as stated in the 2022 California Code of Regulations, Title 24, Section 150.2(b)1Ii for steep slope roofs and 150.2(b)1Iii for low slope roofs are allowed. Only areas of roof that are to be re-roofed are subject to the cool roof upgrade. Projects that are not installing a new roof as part of the scope are exempt from this cool roof energy efficiency measure.
- B. Additions and alterations of single-family residential buildings built in 1978 or after shall include one of the following:
1. A lighting package consisting of:
    - a. Replacement of all interior and exterior screw-in (A-base) incandescent and halogen lamps with screw-in LED lamps; and
    - b. Installation of manual-on automatic-off vacancy sensors that meet the 2022 California Code of Regulations, Title 24, Section 110.9(b)4 in all bathrooms, bedrooms, offices, laundry rooms, utility rooms, and garages. Spaces which already include vacancy sensors, motions sensors, or dimmers do not need to install new sensors as required by the 2022 California Code of Regulations, Title 24, Section 110.9(b)4.
  2. A water heating package consisting of:
    - a. Addition of exterior insulation meeting a minimum of R-6 to storage water heaters 20 gallons or larger in size, except if insulation installation would void the water heater warranty; and
    - b. Insulation of all accessible hot water pipes with pipe insulation a minimum of 0.75 inches in thickness. This includes insulating the supply pipe leaving the water heater, piping to faucets underneath sinks, and accessible pipes in attic spaces and crawlspaces; and
    - c. Upgrading of fitting in sinks and showers to meet current CALGreen (Title 24, Part 11 of the California Building Code) standards, except for fixtures with rated flow rates no more than 10 percent greater than current CALGreen standards.
- C. Additions and alterations of multi-family residential buildings built before 1978 shall include attic insulation with a minimum of R-38 rating. Buildings without vented attic spaces and buildings with existing attic insulation levels greater than R-5 are exempt from this attic insulation energy efficiency measure.
- D. Additions and alterations of multi-family residential buildings built between 1978 and 1991 shall include one of the following:

1. Duct sealing pursuant to the 2022 California Code of Regulations, Title 24, Section 150.2(b)1E without verification by a HERS rater. All exceptions as stated in the 2022 California Code of Regulations, Title 24, Section 150.2(b)1E are allowed. Projects that require duct sealing as part of an HVAC alteration or replacement must meet all of the requirements of the 2022 California Code of Regulations, Title 24, Part 6, including HERS rater verification.
  2. Attic insulation with a minimum of R-38 rating. Buildings without vented attic spaces and buildings with existing attic insulation levels greater than R-5 are exempt from this attic insulation energy efficiency measure.
  3. Cool roof with an aged solar reflectance of greater than or equal to 0.25 and a thermal emittance of greater than or equal to 0.75. All exceptions as stated in the 2022 California Code of Regulations, Title 24, Section 150.2(b)1Ii for steep slope roofs and Section 150.2(b)1Iii for low slope roofs are allowed. Only areas of roof that are to be re-roofed are subject to the cool roof upgrade. Projects that are not installing a new roof as part of the scope are exempt from this cool roof energy efficiency measure.
- E. Additions and alterations of multi-family residential buildings built after 1991 shall include one of the following:
1. A lighting package consisting of:
    - a. Replacement of all interior and exterior screw-in (A-base) incandescent and halogen lamps with screw-in LED lamps; and
    - b. Installation of manual-on automatic-off vacancy sensors that meet the 2022 California Code of Regulations, Title 24, Section 110.9(b)4 in all bathrooms, bedrooms, offices, laundry rooms, utility rooms, and garages. Spaces which already include vacancy sensors, motions sensors, or dimmers do not need to install new sensors as required by the 2022 California Code of Regulations, Title 24, Section 110.9(b)4.
  2. A water heating package consisting of:
    - a. Addition of exterior insulation meeting a minimum of R-6 to storage water heaters 20 gallons are larger in size, except for buildings with central water heating systems or if insulation installation would void the water heater warranty; and
    - b. Insulation of all accessible hot water pipes with pipe insulation a minimum of 0.75 inches in thickness. This includes insulating the supply pipe leaving the water heater, piping to faucets underneath sinks, and accessible pipes in attic spaces and crawlspaces; and
    - c. Upgrading of fittings in sinks and showers to meet current CALGreen standards, except for fixtures with rated flow rates no more than ten percent

Note: To the extent the provisions of 2022 California Code of Regulations, Title 24, Section 150.2(d) conflict with other provisions of the California Energy Code, then the most energy conserving provisions shall supersede and control.

Exception to 2022 California Code of Regulations, Title 24, Section 150.2(d): The requirement for inclusion of energy efficiency measures does not apply to residential buildings that receive a rating of seven or higher on the U.S. Department of Energy's Home Energy Score rating system based upon an assessment by a Home Energy Score Certified Assessor, to the satisfaction of the building official.

(Ord. CS-437 § 13, 2022)

**§ 18.30.070. Section 180.5 (Multifamily Residential Buildings—Additions, Alterations and Repair to Existing Multifamily Buildings) of the California Energy Code added.**

Section 180.5 is added to read as follows:

**180.5 Additions, alterations and repairs—residential photovoltaic system required.**

All additions, alterations and repairs multifamily residential buildings and structures with a permit valuation of \$1,000,000 that affects at least 75 percent of the gross floor area shall comply with the requirements of 2022 California Code of Regulations, Title 24, Section 141.2 for the requirements applicable to the building and structures of this code.

(Ord. CS-437 § 13, 2022)

CHAPTER 18.32  
**TENTS**

**§ 18.32.010. Erection requirements.**

No tents may be erected or occupied in the city for the purpose of living or sleeping and no overnight camping shall be permitted within the city, excepting that temporary occupancy permits for tents may be issued by the Community and Economic Development Director for youth camping under adult supervision. All buildings used for living or sleeping purposes shall be erected in accordance with the city building code and the city housing act.

(Ord. 6021 § 1; Ord. 1261 § 27, 1983; Ord. NS-676 § 7, 2003; Ord. CS-164 § 14, 2011)

**CHAPTER 18.40  
DEDICATION AND IMPROVEMENTS**

**§ 18.40.010. Findings, purpose and intent.**

- A. The City Council finds as follows:
1. There is a lack of adequate roadway edge treatments, pedestrian facilities and streets in various areas of the city which may be prejudicial and dangerous to the public health, safety, and welfare of the inhabitants of the city.
  2. The lack of improved pedestrian pathways in the city in many instances forces pedestrians, including school children, to walk in the streets and to be subject to the hazards of vehicular traffic.
  3. The lack of improved pedestrian pathways during rainy weather has caused unhealthy conditions resulting from pedestrians walking through mud or water along streets or dirt sidewalks.
  4. Streets and highways of inadequate width and design hinder vehicular movement and constitute a hazard to the safety and health of users.
  5. The lack of curbs, storm drains and other street improvements results in poor drainage and a collection of filth and waste.
  6. The lack of improved streets impedes the operation of fire trucks, police cars and other emergency vehicles as well as the operation of street sweepers and refuse collection vehicles.
- B. It is the purpose of the City Council in adopting the provisions of this chapter to:
1. Impose reasonable requirements of dedication and improvements upon persons engaged in the development, construction, reconstruction or remodeling of buildings which tend to result in increased demands upon the existing public rights-of-way and streets and highways in the city thereby increasing the danger to the public health, safety and welfare;
  2. Extend the basic requirements of the Subdivision Map Act by establishing standards and requirements for dedication and improvements in connection with the development of land in which no subdivision is involved;
  3. Alleviate the undesirable situation found to exist in subsection A of this section by spreading the cost of public improvements upon abutting property in an equitable manner and by causing the installation of those improvements required by the city to serve property about to be developed at the time of its development.
- C. The City Council intends to require, in accordance with the provisions of this chapter, the dedication of portions of the public rights-of-way including streets, highways, alleys and storm drain facilities and the construction of improvements contiguous to the property from the property line to the centerline of the public rights-of-way as necessitated by the nature and type of building or structure being constructed and the use to which the property is being put.

(Ord. 8067 § 1, 1976; Ord. NS-555 § 1, 2000)

**§ 18.40.020. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

"Alley" means a public or private way permanently reserved as a secondary means of access to abutting property.

"Alternative design streets" means any street designated by resolution of the City Council as an "alternative design street" subject to the alternative street design approval process used to determine the final improvement standards for the designated street.

"Building" includes any building, structure or dwelling of which the cost price of erecting the same is in excess of the sum of \$15,000.00 as determined by building permit valuation.

"Improvements" includes, but is not limited to, sidewalks, gutters, pavement, driveways, curbs, streets, alleys, storm drain facilities, water systems, sanitary sewer systems, street lighting, fire protection installation, undergrounding of utility facilities and pavement transitions.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind. The term "person" also includes any owner, lessee or agent constructing or arranging for the construction, modification, or alteration of a building or dwelling.

(Ord. 8067 § 1, 1976; Ord. 205 § 1, 1992; Ord. NS-555 § 2, 2000)

**§ 18.40.030. Dedications required.**

- A. Any person who constructs or causes to be constructed any building in the city shall have provided by means of an irrevocable offer of dedication, grant of easement or other appropriate conveyance, as approved by the City Attorney, the rights-of-way necessary for the construction of any street, highway, or alley as shown on the circulation element of the general plan, any applicable specific plans, or as otherwise required by the City Engineer in accord with an established street system or plan. Rights-of-way shall also be provided for any improvements to existing facilities including rights-of-way for storm drains or other required public facilities. All rights-of-way shall be accompanied by a title examination report and all liens and encumbrances shall be removed or subordinated to the city's interests.
- B. The dedications or irrevocable offer of dedication required by subsection A of this section shall also apply to any person who enlarges, expands, or causes to be enlarged, or expanded any building in the city if the cost of such work exceeds the sum of \$15,000.00 as determined by building permit valuation. Said amount is to be increased annually consistent with International Conference of Building Officials valuation schedule for the appropriate construction type.
- C. The dedications required by this chapter shall be made prior to issuance of the building permit for the subject property.
- D. Repealed by Ord. 205 § 2.  
(Ord. 8067 § 1, 1976; Ord. 7058 § 3, 1979; Ord. 205 § 2, 1992; Ord. NS-555 § 3, 2000; Ord. CS-085, 2010)

**§ 18.40.040. Public improvements required.**

- A. Any person who constructs or causes to be constructed any building in the city shall construct all necessary improvements in accordance with city specifications upon the property and along all street frontages adjoining the property upon which such building is constructed unless adequate

improvements already exist. In each instance, the City Manager shall determine whether or not the necessary improvements exist and are adequate. Each building permit application shall be so endorsed at the time it is issued.

- B. The improvements required by subsection A of this section shall also apply to any person who enlarges or expands or causes to be enlarged or expanded any building in the city if the cost of such work exceeds \$75,000.00 and increases the size of the building. Such amount is to be increased annually consistent with International Conference of Building Officials valuation scheduled for the appropriate construction type.

(Ord. 8067 § 1, 1976; Ord. NS-15 § 1, 1988; Ord. 205 § 3, 1992; Ord. NS-518 § 1, 1999; Ord. NS-555 § 4, 2000)

#### **§ 18.40.050. Public utility relocations.**

In the event the City Manager determines that the contemplated construction of improvements as required by this chapter in individual cases will necessitate the relocation or alteration of public utility facilities, including, but not limited to, gas, electricity, telephone and water, he or she may require the person requesting the building permit to produce satisfactory evidence that such person has made arrangements with such public utility company for the relocation or modification of such public utility facilities.

(Ord. 8067 § 1, 1976)

#### **§ 18.40.060. Construction of public improvements.**

If the City Manager determines that public improvements are required, these public improvements shall be designed to city standards and their construction guaranteed by an improvement agreement secured by a bond or cash deposit prior to issuance of a building permit for the subject property. If the building permit is not exercised, the improvement obligation shall terminate and the security shall be returned. The City Manager is authorized to execute such agreements on behalf of the city.

(Ord. 8067 § 1, 1976)

#### **§ 18.40.070. Deferral of improvement requirements.**

Upon written application, the City Manager by written order may defer any of the improvements required by this chapter if he or she finds that the public health, safety and welfare of the inhabitants of the city will not be endangered by the deferral of the construction of the improvements and that any one of the following exists:

- A. There is a lack of adequate data in regard to the grades, plans or surveys which complicate the construction of the improvements and indicate they should be deferred to a later time.
- B. The construction of the improvements is included in an approved or pending assessment district or otherwise guaranteed as provided by city ordinance.
- C. Construction of the improvements would be incompatible with the present state of the neighborhood's development or be impractical or premature because of the condition of the surrounding property.
- D. Construction of the improvements would create a hazardous or defective condition.
- E. Improvement would be to a street designated by resolution of the City Council as an alternative design street and subject to the alternative street design approval process.
- F. Improvements are not continuous with existing improvements and construction would be impractical.

(Ord. 8067 § 1, 1976; Ord. NS-555 § 5, 2000)

**§ 18.40.080. Appeal.**

- A. The granting or denial of a deferral of improvements pursuant to Section 18.40.070 by the City Manager shall, unless appealed to the City Council in accordance with Section 1.20.600, become final 10 days after the filing of the City Manager's written decision setting forth the findings in support thereof.
  - B. The City Council shall set the matter for hearing within 30 days and may approve, modify or disapprove the decision of the City Manager.
- (Ord. 8067 § 1, 1976; Ord. 205 § 4, 1992; Ord. NS-249 § 1, 1993)

**§ 18.40.090. Conditions of deferral.**

Any deferral of improvements pursuant to Section 18.40.070 shall be conditioned on the filing with the City Manager of a neighborhood improvement agreement in a form satisfactory to the City Attorney which provides that the property owner will construct the improvement at such time as an improvement district or neighborhood improvement program is adopted. The City Manager is authorized to execute such agreement on behalf of the city. Such agreement must be received and recorded prior to issuance of a building permit. If the building permit is not exercised, the City Manager is authorized to execute a release of agreement for the subject property.

Prior to the recordation of a neighborhood improvement agreement, there shall be paid to the engineering department a fee as set by resolution of the City Council for the processing of the agreement.

(Ord. 8067 § 1, 1976; Ord. 7058 § 4, 1979; Ord. 205 § 5, 1992; Ord. NS-555 § 6, 2000)

**§ 18.40.100. Waiver or modification of requirements.**

Upon written application, submitted to the City Council and accompanied by a fee as established by resolution of the City Council, the City Council may by resolution waive or modify the requirements of this chapter if they find that:

- A. The street fronting on the subject property has already been improved to the maximum feasible and desirable state, recognizing there are some such streets which may have less than standard improvements when necessary to preserve the character of the neighborhood and to avoid unreasonable interference with such things as trees, walls, yards and open space;
- B. The granting of the waiver or modification will not perpetuate a hazardous or defective condition or be otherwise detrimental to the health, safety or welfare of the residents of the city.

(Ord. 8067 § 1, 1976; Ord. 205 § 6, 1992)

**§ 18.40.110. Duty to deny final building permit approval.**

The Community and Economic Development Director shall deny final approval and acceptance of a building permit, and shall refuse to allow final public utility connections and occupancy in any building, structure or dwelling unless the City Manager determines that all required dedications have been made and that all necessary improvements exist, are constructed, or unless the City Manager, pursuant to Section 18.40.070, has determined to defer the installation of such improvements, and the required future improvement agreement and a lien contract has been received and recorded, or unless the requirements of the chapter have been modified or waived pursuant to Section 18.40.100.

(Ord. 8067 § 1, 1976; Ord. 1261 § 29, 1983; Ord. NS-676 § 7, 2003; Ord. CS-164 § 14, 2011)

**§ 18.40.120. Applicability of requirements.**

Requirements of this chapter shall not apply to any buildings, structures, or dwellings for which a building permit has been issued prior to June 3, 1976.

(Ord. 8067 § 1, 1976)

**CHAPTER 18.42  
TRAFFIC IMPACT FEE**

**§ 18.42.010. Purpose and intent.**

- A. This chapter imposes a fee to pay for various traffic circulation improvements within the city. The amount of the fee is based on a Traffic Engineering analysis and has been calculated to be equal to or less than the cost of the circulation improvements. The circulation improvements funded by this fee shall be designated by City Council resolution. The City Council may modify the designation by amendment to the resolution at any time. It is the City Council's intention to review the designation of circulation improvements and the amount of the fee on an annual basis. In reviewing the improvements and amount of the fee, the City Council shall consider, among other things, any changes to the land use designations or intensity of development, changes in the amount of traffic generated or anticipated, inflation and increases in cost of materials and labor.
- B. This chapter is necessary to ensure that adequate circulation facilities are available to serve the city in a manner which is consistent with the city's general plan. Without the circulation improvements which will be funded by this fee the circulation system of the city will be inadequate to serve any further development in the city.

(Ord. 8107 § 1, 1986; Ord. NS-177 § 1, 1991)

**§ 18.42.020. Definitions.**

For the purposes of this chapter, the following words or phrases shall be construed as defined in this section.

"Building permit" means a permit required by and issued pursuant to Chapter 18.04 of this code.  
"Occupancy permit" means a permit required by and issued pursuant to Chapter 21.60 of this code.

"Circulation improvements" means any street improvement identified by City Council resolution, including, but not limited to, right-of-way, traffic signals, overcrossings, underpasses, curbs, gutters, sidewalks, pavement, drainage facilities incidental to street improvements, necessary to provide traffic circulation consistent with the city's general plan. For the purpose of this definition, "street" includes highway or road.

"Project" means on any property subject to this chapter, any new or additional building, structure, or any land use change which increases the number of trips generated by the use of the lot or parcel.

"Property subject to this chapter" means any lot or parcel of land in the city.

"Trip" means an arrival at or a departure from a project by any motor vehicle averaged over a one-day period (12:01 a.m. to 11:59 p.m.) as determined according to Table 18.42.020. In using this table, the square footage of the building, structure or use shall include all interior floor area of a building or structure, and all usable ground area of a use without a structure, except any designated open space area. Where the table establishes traffic generation for a project on the basis of square footage, acreage, or some other unit, the unit establishing the greatest number of trips shall be utilized. When a project has more than one use the number of trips shall be calculated by adding together all the trips generated by each use. For uses not listed in the table the trips shall be calculated by the Transportation Director.

**Table 18.42.020**

<b>Land Use</b>	<b>Estimated Weekday Vehicle Trip Generation Rate</b>
Agricultural (Open space)	2/acre
Airports	
Commercial	12/acre, 100/flight, 70/1,000 sq. ft.
General aviation	4/acre, 2/flight, 6/based aircraft
Heliports	100/acre
Automobile	
Car wash	900/site, 600/acre
Gasoline	750/station, 130/pump
Sales (Dealer and repair)	40/1,000 sq. ft., 300/acre, 60/service stall
Auto repair center	20/1,000 sq. ft., 400/acre, 20/service stall
Banking	
Bank (Walk-in only)	150/1,000 sq. ft., 1,000/acre
Bank (with drive-through)	200/1,000 sq. ft., 1,500/acre
Drive-through only	300 (150 one-way)/lane
Savings and Loans	60/1,000 sq. ft., 600/acre
Drive-through only	100 (50 one-way)/lane
Cemeteries	5/acre
Church (or Synagogue)	15/1,000 sq. ft., 40/acre (triple rates for Sunday, or days of assembly)
Commercial/retail centers	
Super regional shopping center (more than 60 acres, more than 600,000 sq. ft., with usually 3+ major stores)	40/1,000 sq. ft., 400/acre
Regional shopping center (30—60 acres, 300,000—600,000 sq. ft., with usually 2+ major stores)	50/1,000 sq. ft., 500/acre
Community shopping center (10—30 acres, 100,000—300,000 sq. ft., with usually 1 major store and detached restaurant)	70/1,000 sq. ft., 700/acre
Neighborhood shopping center (less than 10 acres, less than 100,000 sq. ft., with usually a grocery store and drug store)	120/1,000 sq. ft., 1,200/acre
Commercial shops (also strip—commercial)	40/1,000 sq. ft., 400/acre
Grocery store	150/1,000 sq. ft., 2,000/acre
Convenience market	500/1,000 sq. ft.
Discount	70/1,000 sq. ft., 700/acre

**Table 18.42.020**

<b>Land Use</b>	<b>Estimated Weekday Vehicle Trip Generation Rate</b>
Furniture store	6/1,000 sq. ft., 100/acre
Lumber store	30/1,000 sq. ft., 150 acre
Hardware/paint store	60/1,000 sq. ft., 600/acre
Garden nursery	40/1,000 sq. ft., 90/acre
Education	
University (4 years)	2.5/student, 100/acre
Junior college (2 years)	1.6 student, 80/acre
High school	1.4 student, 50/acre
Middle/Junior High	1.0 student, 40/acre
Elementary	1.4 student, 60/acre
Day care	3/child, 70/1,000 sq. ft.
Hospitals	
General	20/bed, 20/1,000 sq. ft., 200/acre
Convalescent/Nursing	3/bed
Industrial	
Industrial/Business park (commercial included)	16/1,000 sq. ft., 200/acre
Industrial park (no commercial)	8/1,000 sq. ft., 90/acre
Industrial park (multiple shifts)	10/1,000 sq. ft., 120/acre
Manufacturing/Assembly	4/1,000 sq. ft., 60/acre
Warehousing	5/1,000 sq. ft., 60/acre
Storage	2/1,000 sq. ft., 0.2/vault, 30/acre
Science, research and development	8/1,000 sq. ft., 80/acre
Library	40/1,000 sq. ft., 400/acre
Lodging	
Hotel (with convention facilities/restaurant)	10/room, 300/acre
Motel	9/room, 200/acre
Resort hotel	8/room, 100/acre
Military	2.5 military and civilian personnel
Offices	
Standard commercial office (less than 100,000 sq. ft.)	20/1,000 sq. ft., 300/acre
Large (high-rise) commercial office (more than 100,000 sq. ft.)	17/1,000 sq. ft., 600/acre

**Table 18.42.020**

<b>Land Use</b>	<b>Estimated Weekday Vehicle Trip Generation Rate</b>
Standard commercial office (less than 100,000 sq. ft.)	20/1,000 sq. ft., 300/acre
Corporate office (single user)	10/1,000 sq. ft., 140/acre
Government office (single user)	30/1,000 sq. ft.
Post office	150/1,000 sq. ft.
Department of motor vehicles	180/1,000 sq. ft., 900/acre
Medical	50/1,000 sq. ft., 500/acre
Parks	
City (developed)	50/acre
Regional (undeveloped)	5/acre
Neighborhood	5/acre
Amusement (theme)	80/acre, 130/acre (summer only)
San Diego Zoo	115/acre
Sea World	80/acre
Recreation	
Beach, ocean or bay	600/1,000 ft. shoreline, 60/acre
Beach, lake (fresh water)	50/1,000 ft. shoreline, 5/acre
Bowling center	30/lane, 300/acre
Campground	4/campsite
Golf course	8/acre, 600/course
Marinas	4/berth, 20/acre
Racquetball/health club	40/1,000 sq. ft., 300/acre, 40/court
Tennis courts	30/1,000 sq. ft., 30/court
Sports facilities	
Outdoor stadium	50/acre, 0.2/seat
Indoor arena	30/acre, 0.1/seat
Racetrack	40/acre, 0.6/seat
Theaters (multiplex)	80/1,000 sq. ft., 1.8/seat
Residential (See Note 1)	
Single-family detached	10/dwelling unit
Condominium	8/dwelling unit
Apartments	6/dwelling unit
Mobile home	

**Table 18.42.020**

<b>Land Use</b>	<b>Estimated Weekday Vehicle Trip Generation Rate</b>
Family	5/dwelling unit, 40/acre
Adults only	3/dwelling unit, 20/acre
Retirement community	4/dwelling unit
Rural estate	12/dwelling unit
Congregate care facility	2/dwelling unit
Restaurants (See Note 2)	
Quality	100/1,000 sq. ft., 500/acre
Sit-down, high turnover	300/1,000 sq. ft., 1,200/acre
Fast food (with drive-through)	700/1,000 sq. ft., 3,000/acre
Transportation facilities	
Bus depot	25/1,000 sq. ft.
Truck terminal	10/1,000 sq. ft., 60/acre
Waterport	170/berth, 12/acre
Transit station (rail)	300/acre

**Note 1** As used in this table, "single-family detached," "condominium" and "apartments" shall be defined consistent with the Institute of Transportation Engineers guidebook "Trip Generation." "Condominium" is defined as single family ownership units that have at least one other single-family owned unit within the same building structure. "Apartments" are defined as rental dwelling units located within the same building as at least three other dwelling units. Duplexes that are not individual ownership units will be assessed at the "condominium" generation rate.

**Note 2** Square footage of dining area allowed in incidental outdoor dining areas pursuant to Section 21.26.013, and square footage of dining area allowed without any parking requirement in outdoor, sidewalk or curb cafes, as defined by and pursuant to the Village and Barrio Master Plan and the City Council, shall not count towards the generation of trips. However, any combination of outdoor dining area square footage which exceeds the amount of indoor dining area square footage shall count towards the generation of trips.

(Ord. 8107 § 1, 1986; Ord. NS-177 §§ 2, 3, 1991; Ord. CS-086, 2010; Ord. CS-164 § 2, 2011; Ord. CS-207 § 2, 2013; Ord. CS-333 § 11, 2018)

### **§ 18.42.030. Prohibition on development.**

For any property subject to this chapter, notwithstanding any provision of this code to the contrary, no building permit or occupancy permit for any project shall be issued and no person shall build, use or occupy any project, without first paying the fee established by, or otherwise complying with, this chapter. (Ord. 8107 § 1, 1986)

### **§ 18.42.040. Requirement for permit issuance.**

Prior to the issuance of a building permit or occupancy permit for a project the project owner or developer

shall:

- A. Provide the Transportation Director with detailed information regarding the size, siting, types of uses and trips to be generated by the project;
  - B. Pay the fee established by Section 18.42.050 of this code.
- (Ord. 8107 § 1, 1986; Ord. CS-164 § 2, 2011)

#### **§ 18.42.050. Fee.**

- A. A traffic impact fee of \$265.00 for each average daily trip generated by a residential project and a traffic impact fee of \$106.00 for each average daily trip generated by a commercial or industrial project, pursuant to Section 18.42.020(E), shall be paid by the owner or developer prior to issuance of any building permit or occupancy permit for a project. The traffic impact fee shall be adjusted annually as part of the capital improvement program budget process, by two percent or the annual percentage change in the Caltrans Construction Cost Index (12-month index), whichever is higher.
- B. In lieu of payment of all or part of the fee the project owner or developer may offer to construct or fund circulation improvements to the satisfaction of the City Council, other than circulation improvements required by any other law, approval or city action. If such offer is accepted by the City Council, any amount expended by the project owner or developer shall be credited against the fee. If the offer is rejected the fee shall be paid. The offer shall be made at the time of consideration of any discretionary planning or subdivision permit or approval, or if no such permit or approval is required then before building permit application is filed.
- C. The City Council shall give a credit toward the fee imposed by this chapter for properties within the boundaries of and subject to taxation by community facilities district number one. The amount of such credit shall be determined by the City Council and established by resolution.
- D. Notwithstanding subsection A of this section, all traffic impact fees for any residential development that consists of five or more dwelling units and for all new commercial, office, and industrial buildings or building additions shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant. If the applicant chooses to defer the payment of fees to prior to the request for final inspection, then the amount of the fees shall be based on the fees in effect at the time of the request for final inspection.

In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner.

(Ord. 8107 § 1, 1986; Ord. NS-158 § 2, 1991; Ord. NS-177 § 4, 1991; Ord. NS-885 § 1, 2008; Ord. NS-890 §§ 1, 2, 2008; Ord. CS-028 § 1, 2009; Ord. CS-200 § III, 2013; Ord. CS-271 § III, 2015)

#### **§ 18.42.060. Exemption.**

Projects by public agencies or entities shall be exempt from the provisions of this chapter.  
(Ord. 8107 § 1, 1986)

#### **§ 18.42.070. Use of fees.**

- A. All of the fees collected for a commercial or industrial project shall be allocated to a circulation improvement account and shall be expended only to build or finance circulation improvements serving the city.

- B. All of the fees collected for each newly constructed residential unit, excepting the portion defined in subsection C of this section, shall be allocated to a circulation improvement account and shall be expended only to build or finance circulation improvements serving the city.
- C. A portion of the fees collected for newly constructed residential housing units, excepting the fees collected for newly constructed housing units constructed for extremely low, very-low, low and moderate income households as defined in California Health and Safety Code Sections 50105, 50106, 50079.5 and 50093, during the 40-year period starting July 1, 2008 shall be allocated to a separate circulation improvement sub account and shall be used to build or finance circulation improvements to the regional arterial system as adopted by the Board of the San Diego Association of Governments. For the year from July 1, 2008 to June 30, 2009, said portion shall equal \$2,000.00 per residential housing unit. Said portion shall be adjusted annually as part of the city's capital improvement program budget process, by two percent or the annual percentage change in the Caltrans Construction Costs Index, (12-month index), whichever is higher.

(Ord. 8107 § 1, 1986; Ord. NS-177 § 5, 1991; Ord. NS-885 § 2, 2008; Ord. NS-890 § 3, 2008)

#### **§ 18.42.080. Assessment district.**

If an assessment district or special taxing district is established for all or any part of the area subject to this chapter to fund circulation improvements which are or will be funded in whole or in part by the fee established by this chapter, the owner or developer of a project may apply to the City Council for a credit against the fee in an amount equal to the assessments or taxes paid.

(Ord. 8107 § 1, 1986)

#### **§ 18.42.090. Advance of funds by city.**

The city may advance money from any available source or fund for the construction of improvements which would otherwise be paid for from the fees collected pursuant to this chapter and reimburse itself from future fees.

(Ord. 8107 § 1, 1986)

#### **§ 18.42.100. Expiration of chapter.**

This chapter shall be of no further force and effect when the City Council determines the amount of fees which have been collected reaches an amount equal to the cost of the circulation improvements.

(Ord. 8107 § 1, 1986)

## CHAPTER 18.48 STORMWATER POLLUTION PREVENTION

### **§ 18.48.010. Purpose and intent.**

The purpose of this chapter is to ensure the environmental and public health, safety, and general welfare of the residential, commercial, and industrial sectors of the City of Carlsbad by:

- A. Prohibiting non-stormwater discharges to the stormwater conveyance system.
- B. Eliminating discharges to the stormwater conveyance system from spills, dumping or disposal of materials other than stormwater or permitted or exempted discharges.
- C. Reducing pollutants in stormwater discharges, including those pollutants taken up by stormwater as it flows over urban areas (urban runoff), to the maximum extent practicable.
- D. Reducing pollutants in stormwater discharges in order to achieve applicable water quality objectives for receiving waters within the City of Carlsbad.

(Ord. NS-882 § 1, 2008)

### **§ 18.48.020. Definitions.**

For purposes of this chapter, the definitions for the words, terms or phrases defined in Chapter 15.04 of this code shall be used.

(Ord. NS-882 § 1, 2008)

### **§ 18.48.030. Prohibition on development.**

For any property subject to this chapter, notwithstanding any provision of this code to the contrary, no building permit or certificate of occupancy permit for any project shall be issued and no person shall build, use or occupy any project, without first complying with the stormwater protection provisions of Title 15 of this code.

(Ord. NS-882 § 1, 2008)

### **§ 18.48.040. Requirement for permit issuance.**

- A. Prior to the issuance of a building permit or certificate of occupancy permit for a project, the project owner or developer shall:
  1. Provide the City Engineer with a completed stormwater requirements applicability questionnaire in accordance with standard urban stormwater mitigation plan (SUSMP) requirements. If the project is determined by the City Engineer to be a priority development project, then the project owner or developer shall:
    - a. Prepare and submit a stormwater management plan in conformance with the requirements of the SUSMP and Title 15 of this code;
    - b. Enter into a permanent stormwater quality best management practices maintenance agreement or provide an alternate maintenance mechanism as approved by the City Engineer.
  2. Agree to comply with stormwater best management practices during construction of the building, structure or dwelling.

B. A city-approved construction SWPPP is required to be submitted prior to building permit issuance in accordance with city standards and Section 15.16.085 of this code for any project which has the potential for adding pollutants to stormwater or non-stormwater runoff during construction activities, unless an exemption from such requirement is provided pursuant to Section 15.16.085 and the municipal permit.

(Ord. NS-882 § 1, 2008)

**§ 18.48.050. Duty to deny final building permit approval.**

The Community and Economic Development Director shall deny final approval and acceptance of a building permit, and shall refuse to allow final public utility connection and occupancy in any building, structure or dwelling unless the project owner or developer has complied with all stormwater protection provisions of Title 15 of this code.

(Ord. NS-882 § 1, 2008; Ord. CS-164 § 14, 2011)

**CHAPTER 18.50  
WATER EFFICIENT LANDSCAPE**

**Note: Prior ordinance history: Ord. Nos. CS-089 and CS-164.**

**§ 18.50.010. Purpose.**

- A. The state legislature determined in the Water Conservation in Landscaping Act (the "Act"), Government Code Section 65591 et seq., that the state's water resources are in limited supply and are subject to ever increasing demands, and that California's continued economic prosperity is dependent on adequate supplies of water being available for future uses. The legislature also recognized that while landscaping is essential to the quality of life in California, landscape design, installation, maintenance and management must be water efficient. The general purpose of this chapter is to establish water use standards for landscaping in the City of Carlsbad that implement legislative amendment AB 1881, 2006 Stats Chapter 559 enacting the Act; and the 2006 development landscape design requirements established by the Act. Consistent with the legislature's findings, the purpose of this chapter is to:
  1. Promote the values and benefits of landscaping practices that integrate and go beyond the conservation and efficient use of water;
  2. Establish a structure for planning, designing, installing, maintaining, and managing water efficient landscapes in new construction and rehabilitated projects by encouraging the use of a watershed approach that requires cross-sector collaboration of industry, government and property owners to achieve the many benefits possible;
  3. Promote the use, when available, of treated recycled water, for irrigating landscaping;
  4. Use water efficiently without waste by setting a maximum applied water allowance (MAWA) as an upper limit for water use and reduce water use for landscaping to the lowest practical amount; and
  5. Encourage water users of existing landscapes to use water efficiently and without waste.
- B. Landscapes that are planned, designed, installed, managed and maintained with the watershed based approach can improve Carlsbad's environmental conditions and provide benefits realizing sustainability goals. Such landscapes will make the urban environment resilient in the face of climatic extremes. Consistent with the purpose of this chapter, conditions in the urban setting will be improved by:
  1. Creating the conditions to support life in the soil by reducing compaction, incorporating organic matter that increases water retention, and promoting productive plant growth that leads to more carbon storage, oxygen production, shade, habitat and aesthetic benefits.
  2. Minimizing energy use by reducing irrigation water requirements, reducing reliance on petroleum-based fertilizers and pesticides, and planting climate appropriate shade trees in urban areas.
  3. Conserving water by capturing and reusing rainwater and graywater wherever possible and selecting climate appropriate plants that need minimal supplemental water after establishment.
  4. Protecting air and water quality by reducing power equipment use and landfill disposal trips,

selecting recycled and locally sourced materials, and using compost, mulch and efficient irrigation equipment to prevent erosion.

5. Protecting existing habitat and creating new habitat by choosing local native plants, climate adapted non-natives and avoiding invasive plants. Utilizing integrated pest management with least toxic methods as the first course of action.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.020. Authority.**

The City Planner or designee, shall administer this chapter.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.030. Incorporation of the Landscape Manual by reference.**

The City of Carlsbad Landscape Manual Policies and Requirements ("Landscape Manual") is incorporated by reference into this chapter. Should any provision of the Landscape Manual conflict with any provision of this chapter, the provisions of this chapter shall control.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.040. Findings.**

This chapter implements the Act. The requirements of this chapter reduce water use associated with irrigation of outdoor landscaping by setting a maximum amount of water to be applied to landscaping. The Landscape Manual contains the technical procedures related to the planning, design, installation, maintenance and management of water efficient landscapes consistent with the water allowance. The provisions contained in this chapter and/or the Landscape Manual are equivalent to and at least as effective as the provisions of the State Model Water Efficient Landscape Ordinance because the calculation of MAWA and the resulting restrictions on irrigation and process are similar, but have been modified to account for Carlsbad's existing regulatory procedures.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.050. Definitions.**

Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

"Building permit" is as defined in Section 18.04.015 of this code.

"Compost" means the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

"Discretionary permit" means any permit requiring a decision making body to exercise judgment prior to its approval, conditional approval or denial.

"ET adjustment factor (ETAF)" means a factor that when applied to reference ET<sub>o</sub>, adjusts for plant water requirements and irrigation efficiency, two major influences on the amount of water that is required for a healthy landscape.

"Evapotranspiration (ET<sub>o</sub>)" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time period. "Reference evapotranspiration" means a standard measurement of environmental parameters which affect the water use of plants. ET<sub>o</sub> is given in inches per day, month, or year and is an estimate of the ET<sub>o</sub> of a large field of four inches to seven inches tall, cool

season turf that is well watered. Reference ETo is used as the basis of determining the MAWA so that regional differences in climate can be accommodated.

"Grading permit" means the document issued by the City Engineer pursuant to Carlsbad Municipal Code Section 15.16.110.

"Graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers. (Health and Safety Code Section 17922.12.)

"Homeowner-provided landscaping" means landscaping installed either by a homeowner or a licensed contractor hired by a homeowner for a single-family residence.

"Landscaped area" means an area with plants, turfgrass and/or other vegetation. A landscaped area includes a water feature either in an area with vegetation or that stands alone. A landscaped area may also include design features adjacent to an area with vegetation, provided that the features are integrated into the design of the landscape area and the primary purpose of the features are decorative. A landscaped area does not include the footprint of a building, decks, patio, sidewalk, driveway, parking lot or other hardscape. A landscaped area also does not include an area without irrigation designated for non-development such as designated open space or area with existing native vegetation. The landscaped area refers to the area to be landscaped as part of the work for which the current approval by the city is being sought.

"Landscape Manual" means the manual, approved by City Council Resolution No. 2012-060 as amended from time to time, which establishes specific design criteria and guidance to implement the requirements of this chapter.

"Licensed" means licensed by the State of California.

"Maximum applied water allowance (MAWA)" means the maximum allowed annual water use for a specific landscaped area based on the square footage of the area, the ETAF and the reference ETo.

"Recycled water," sometimes referred to as reclaimed water, means water obtained from the treatment of domestic water waste which is suitable for direct beneficial use or a controlled use that otherwise would not occur and also meets the highest level in conformance with California Code of Regulations, Title 22, Division 4, Chapter 3 (use of recycled water for irrigation and for impoundments), currently Sections 60304 and 60305.

"Turfgrass" means a groundcover surface of mowed grasses such as Bermuda, bluegrass, fescue, rye, St. Augustine, Zoysia, and other mowed turfgrasses or hybrid derivatives of such turfgrasses that are typically used for a recreational use.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

### **§ 18.50.060. Applicability.**

A. This chapter, together with the Landscape Manual, shall apply to the following project types which require a landscape plan in conjunction with a building permit, grading permit or a discretionary permit:

1. New development projects where the total landscaped area for the development is 500 square feet or more requiring a building permit, landscaping plan check, design review or discretionary permit.

2. A model home that includes a landscaped area.
  3. A public agency project, including, but not limited to, public parks and recreation facilities, maintenance districts, and street medians which contain a landscaped area of 500 square feet or more.
  4. A rehabilitated landscape for a project where a building permit, landscape plan check, design review or discretionary permit is being issued and the applicant is installing or modifying 2,500 square feet or more of landscaping.
  5. A project where the total landscaped area for development is less than 2,500 square feet may alternatively conform to the prescriptive requirements as noted in the Landscape Manual.
- B. The following development types are exempt from the requirement for a water efficient landscape worksheet. However, this does not relieve these project types from compliance with all other applicable sections of the Landscape Manual:
1. A registered local, state or federal historical site.
  2. An ecological restoration project that does not require a permanent irrigation system.
  3. A mined land reclamation project that does not require a permanent irrigation system.
  4. An existing botanical garden or arboretum that is open to the public.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.070. Recycled water.**

- A. A person who obtains a permit for a project that is subject to this chapter shall use recycled water for irrigation when recycled water is available from the water purveyor who supplies water to the property for which the City of Carlsbad issues a permit.
- B. This section does not excuse a person or entity which uses recycled water from complying with all state and local laws and regulations related to recycled water use.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.080. Water waste prevention.**

- A. No person shall use water for irrigation that, where due to runoff, low head drainage, overspray or other similar condition, results in irrigation water that flows onto adjacent property, non-irrigated areas, structures, walkways, roadways or other paved areas.
- B. No person whose landscape is subject to a landscape approval pursuant to this chapter shall apply water to the landscape in excess of the MAWA.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

#### **§ 18.50.090. Enforcement.**

- A. The City Manager, or designee, shall investigate and enforce this chapter. Any city authorized personnel or enforcement officer may exercise any enforcement powers as set forth in Chapters 1.08 and 1.10 of the Carlsbad Municipal Code.
- B. Upon approval of the City Council, the City Manager, or designee, may delegate to or enter into a

contract with a local agency or other person to implement and administer any of the provisions of this chapter on behalf of the city.

- C. Landscapes approved and installed pursuant to the provisions of this chapter shall be maintained in accordance with the policies and requirements of the Landscape Manual. Failure to do so may be subject to enforcement pursuant to the provisions of this section.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

**§ 18.50.100. Fees.**

An applicant for a project subject to this chapter shall include with the application, all fees established by the City Council by resolution to cover the city's cost to review an application, any required landscape documentation package and any other documents that the city staff reviews pursuant to the requirements of this chapter and the Landscape Manual.

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

**§ 18.50.110. Reporting.**

The city shall report on implementation and enforcement of this chapter to the State Department of Water Resources pursuant to the reporting requirements in the Model Water Efficient Landscape Ordinance (23 CCR Section 495).

(Ord. CS-175 § 1, 2012; Ord. CS-294 § 1, 2016)

## CHAPTER 18.51 TRANSPORTATION DEMAND MANAGEMENT

### **§ 18.51.010. Purpose.**

This chapter establishes policies and guidelines for transportation demand management in the City of Carlsbad that implements the Carlsbad Climate Action Plan (the "CAP"). The purpose of this chapter is to:

1. Reduce single-occupancy vehicle trips and increase alternative mode share among Carlsbad workers to levels indicated in the CAP to meet 2035 greenhouse gas reduction targets.
2. Support citywide efforts to promote multi-modal streets and neighborhoods consistent with the mobility element of the general plan including Livable Streets Guide.
3. Mitigate the effects of increased traffic on city infrastructure and maintain adequate provision of public facilities consistent with the city's Growth Management Plan and Local Facilities Management Plan.
4. Provide more viable travel options and improve health, quality of life, and safety for City of Carlsbad residents and employees.

(Ord. CS-350 § 2, 2019)

### **§ 18.51.020. Authority.**

The City Engineer or designee shall administer this chapter.

(Ord. CS-350 § 2, 2019)

### **§ 18.51.030. Incorporation of Transportation Demand Management Manual by reference.**

The City Engineer shall establish rules and procedures as necessary to administer this chapter. Such rules and procedures shall be referred to as the "Transportation Demand Management Handbook" ("TDM Handbook") and is incorporated by reference into this chapter. The City Engineer is hereby authorized to modify the TDM Handbook as necessary provided such amendments are consistent with this chapter and state law. Should any provisions of the TDM Handbook conflict with any provisions of this chapter, the provisions of this chapter shall control.

(Ord. CS-350 § 2, 2019)

### **§ 18.51.040. Findings.**

This chapter implements the CAP. The requirements of this chapter will help to reduce greenhouse gas emissions associated with motor vehicles through application of strategies and policies to reduce travel demand by shifting single occupancy vehicle trips to alternative modes.

(Ord. CS-350 § 2, 2019)

### **§ 18.51.050. Definitions.**

"Alternative modes" means all modes of transportation that do not include single-occupancy vehicle trips, including transit, walking, biking, ridesharing and others.

"Commuter survey" means paper or electronic survey that includes questions about commuter behavior, preferences, motivations, and barriers. A commuter survey is typically distributed to establish and monitor mode share at a work site.

"Mode share" means percentage of commuters who use different modes of transportation, such as drive-alone, transit, bike, walking, etc.

"Single-occupancy vehicle (SOV)" means one occupant per vehicle. SOV trips can be used interchangeably with drive-alone or solo driving trips.

"TDM Plan" means strategies and investments to reduce SOV mode share tailored to a specific work-site, including facilities improvements, programs, incentives/disincentives, education, marketing, and outreach.

"Transportation Demand Management (TDM)" means strategies, policies, and programs that reduce demand on roadway infrastructure by reducing single-occupancy vehicle trips.

(Ord. CS-350 § 2, 2019)

#### **§ 18.51.060. Applicability.**

This chapter, together with the TDM Handbook, shall apply to all non-residential development projects where employees produce a minimum of 110 average daily trips (ADT). Trip generation rates determined as according to the TDM Handbook. All projects that are subject to this ordinance shall submit a TDM plan in accordance with the TDM Handbook.

(Ord. CS-350 § 2, 2019)

#### **§ 18.51.080. Enforcement.**

- A. The City Manager, or designee, shall investigate and enforce this chapter. Any city authorized personnel or enforcement officer may exercise any enforcement power as set forth in Chapters 1.08 and 1.10 of the Carlsbad Municipal Code.
- B. Upon approval of the City Council, the City Manager, or designee, may delegate to or enter into a contract with a local agency or other person to implement and administer any of the provisions of this chapter on behalf of the city.
- C. TDM amenities approved and installed pursuant to the provisions of this chapter shall be maintained in accordance with the policies and requirements of the TDM Handbook. Failure to do so may be subject to enforcement to the provisions of this section.

(Ord. CS-350 § 2, 2019)

#### **§ 18.51.090. Fees.**

An applicant for a project subject to this chapter shall include with the application, all fees established by the City Council by resolution to cover the city's cost to review an application, any required TDM documentation package and any other documents that the city staff reviews pursuant to the requirements of this chapter and the TDM Plan and TDM Handbook.

(Ord. CS-350 § 2, 2019)

BUILDING CODES AND REGULATIONS

**Title 19****ENVIRONMENT**

Chapter 19.04 <b>ENVIRONMENTAL PROTECTION PROCEDURES</b>	<b>§ 19.04.120.</b>	Preparation of environmental impact report.
	<b>§ 19.04.130.</b>	Requests for additional public review time on the draft environmental document.
<b>§ 19.04.010.</b> Purpose.		Hearing.
<b>§ 19.04.020.</b> State guidelines incorporated by reference.	<b>§ 19.04.140.</b>	Consolidation.
<b>§ 19.04.030.</b> City planner responsibilities.	<b>§ 19.04.150.</b>	Time limits for preparation of environmental documents.
<b>§ 19.04.040.</b> Planning Commission responsibilities.	<b>§ 19.04.160.</b>	Appeal of environmental impact report.
<b>§ 19.04.050.</b> City Council responsibilities.	<b>§ 19.04.170.</b>	Mitigation monitoring and reporting programs.
<b>§ 19.04.060.</b> Determination of exemption and exception.	<b>§ 19.04.180.</b>	Mailing of notices on request.
<b>§ 19.04.070.</b> Exemption procedures.	<b>§ 19.04.190.</b>	Indemnification by applicant.
<b>§ 19.04.080.</b> Appeal on determinations of exemptions or exceptions.	<b>§ 19.04.200.</b>	Enforcement.
<b>§ 19.04.090.</b> Initial study.	<b>§ 19.04.210.</b>	Recordation of notices.
<b>§ 19.04.100.</b> Mailing of negative declaration on request.	<b>§ 19.04.215.</b>	Severability.
<b>§ 19.04.110.</b> Appeal of negative declaration.	<b>§ 19.04.220.</b>	

## CHAPTER 19.04 ENVIRONMENTAL PROTECTION PROCEDURES

### **§ 19.04.010. Purpose.**

This chapter is intended to provide for protection and enhancement of the environment within the city by establishing principles, objectives, criteria and procedures for evaluation of the environmental impact of public and private projects and for administering the city's responsibility under the California Environmental Quality Act, hereinafter referred to as CEQA, and the state CEQA guidelines issued pursuant thereto by the California Resources Agency. The procedures and provisions of this chapter are intended to supplement the CEQA guidelines and to provide additional guidelines for implementing CEQA and evaluating projects in the city.

(Ord. NS-593, 2001)

### **§ 19.04.020. State guidelines incorporated by reference.**

The California Environmental Quality Act (Public Resources Code, Sections 21000 et seq.) and the state CEQA guidelines contained in Title 14, Division 6 of Chapter 3, Section 15000 et seq., of the California Code of Regulations, and as amended from time to time, are adopted by reference as the environmental review regulations for the city except for changes or additions contained in this chapter that shall supplement the provisions of said guidelines.

(Ord. NS-593, 2001)

### **§ 19.04.030. City planner responsibilities.**

- A. The City Planner, or designee, is responsible for the general administration and implementation of this chapter. Whenever any notices, reports or documents are required or permitted to be filed, the City Planner shall be responsible for such filing unless otherwise provided in this title. Whenever this chapter or CEQA requires the city to make a determination or perform an act, and the person or body to make the determination or perform the act is not specified, then the City Planner shall have that responsibility, subject to appeal to the Planning Commission and City Council. The City Planner shall be responsible for the preparation of any environmental impact report ("EIR"), negative declaration, mitigated negative declaration or other related environmental documents required by this chapter.
- B. The City Planner may require an applicant for a city entitlement for any private project to submit data and information which may be necessary to determine whether the proposed project may have a significant effect on the environment prior to accepting the application as complete.
- C. The City Planner may request assistance from any city department or unit, however titled, other governmental entities or the public as determined to be necessary to carry out these responsibilities. Such requests for assistance shall be promptly responded to.
- D. Prior to completing a negative declaration, mitigated negative declaration or draft EIR, the City Planner may consult directly with any person or organization the City Planner believes will be concerned with the environmental effects of the project.
- E. If the City Planner determines that a project is to be carried out or approved by one or more public agencies in addition to the city, the City Planner shall first determine which entity will be the lead agency.
- F. Whenever the city is a responsible agency, the City Planner shall provide the information and responses to the lead agency which the City Planner deems necessary in order to comply with the

statutory responsibilities of a responsible agency.  
(Ord. NS-593, 2001; Ord. CS-079 § I, 2010; Ord. CS-164 § 10, 2011)

#### **§ 19.04.040. Planning Commission responsibilities.**

- A. For projects for which the Planning Commission is the final decision-making body, except for the possibility of appeal, it is the responsibility of the Planning Commission to hold a hearing on and adopt or disapprove adoption of a negative declaration or a mitigated negative declaration or to certify by resolution that an EIR is completed pursuant to CEQA.
- B. For projects for which the City Council is the final decision-making body, but requiring Planning Commission review of the project, it is the responsibility of the Planning Commission to forward the final environmental document to the City Council with a recommendation for City Council action.  
(Ord. NS-593, 2001)

#### **§ 19.04.050. City Council responsibilities.**

Unless the City Planner or Planning Commission is the final decision-making body for a project, it is the responsibility of the City Council to hold a hearing on and adopt a negative declaration or mitigated negative declaration or to certify, by resolution, a final EIR for the project.  
(Ord. CS-164 § 10, 2011; Ord. NS-593, 2001)

#### **§ 19.04.060. Determination of exemption and exception.**

The City Planner shall determine whether a private or public project is a ministerial project and, if not, whether it is exempted from the requirements of this chapter. The City Planner's determinations of exempt projects made according to this section shall be posted weekly for five business days in conspicuous places accessible to the public as determined by the City Planner. The City Planner shall also determine whether a private or public project is excepted from the exemptions in the state CEQA guidelines or this title, in which case the applicant will be notified in writing of the City Planner's determination. Any determination may be appealed as provided in Title 21, Chapter 21.54, Section 21.54.140 of this code.  
(Ord. NS-593, 2001; Ord. CS-079 § II, 2010; Ord. CS-164 § 10, 2011)

#### **§ 19.04.070. Exemption procedures.**

- A. The following sections implement Section 15300.4 of the CEQA guidelines which require the city to list those specific activities which fall within each of the following exempt classes:
  - 1. Statutory Exemptions. Pursuant to Section 15260, statutory exemptions are those projects that the legislature has determined should be exempted from CEQA and which are found in various state statutes. These include ministerial projects, categorical exemptions and general rule exemptions.
    - a. Ministerial Projects. Pursuant to Section 15369 of the CEQA guidelines, ministerial projects are those that involve little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. They involve the use of fixed standards or objective measurements. Projects in the city specifically deemed to be ministerial include all post-approval submittals in substantial conformance with the approval. Post-approval submittals include certified tentative subdivision maps, final maps, grading, landscape and improvement plans, CC&Rs and building plans. Other ministerial projects include final inspections, issuance of licenses, utility service connections and disconnections, city

ordered brush clearance of nonsensitive areas in accordance with City of Carlsbad procedures and other similar actions for which no discretion exists that could create or avoid environmental impacts.

- b. Categorical Exemptions. Pursuant to Section 15300 of the CEQA guidelines, categorical exemptions are classes of projects determined not to have a significant effect on the environment which are therefore exempt. No clarifications or additions are necessary to Sections 15260 to 15285 and Sections 15300 to 15332 other than to specify that preliminary design work for capital improvement projects in the city and lot line adjustments (that do not increase density or intensity of use), within prescribed parameters, fall within Class 5, Section 15305 of the guidelines.
- c. General Rule Exemptions. In addition to all other statutory exemptions provided for in the Public Resources Code and state CEQA guidelines including ministerial projects and categorically exempt projects pursuant to Section 15061(b)3 of the CEQA guidelines, general rule exemptions are defined as projects "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The following are specific actions considered not to have a significant effect pursuant to this provision:
  - i. Minor zone or municipal code amendments that do not involve physical modifications, lead to physical improvements beyond those typically exempt, or which refine or clarify existing land use standards; and
  - ii. Projects that are not specifically listed as categorical or statutory exemptions but exhibit characteristics similar to one or more specific exemptions.

B. Exceptions. Even though a project may otherwise be eligible for an exemption, no exemption shall apply in the following circumstances:

1. Grading and clearing activities affecting sensitive plant or animal habitats, which disturb, fragment or remove such areas as defined by either the California Endangered Species Act (Fish and Game Code Sections 2050 et seq.), or the Federal Endangered Species Act (16 U.S.C. Section 15131 et seq.); sensitive, rare, candidate species of special concern; endangered or threatened biological species or their habitat (specifically including sage scrub habitat for the California Gnatcatcher); or archaeological or cultural resources from either historic or prehistoric periods; or
2. Parcel maps, plot plans and all discretionary development projects otherwise exempt but which affect sensitive, threatened or endangered biological species or their habitat (as defined above), archaeological or cultural resources from either historic or prehistoric periods, wetlands, stream courses designated on U.S. Geological Survey maps, hazardous materials, unstable soils or other factors requiring special review, on all or a portion of the site.

(Ord. NS-593, 2001)

**§ 19.04.080. Appeal on determinations of exemptions or exceptions.**

- A. The determinations made according to Section 19.04.070 are final unless appealed to the Planning Commission pursuant to the procedures set forth in Title 21, Chapter 21.54, Section 21.54.140 of this code.
- B. Notice of hearing on appeal before the Planning Commission shall be sent by first class mail to the

applicant and to the appellant.  
(Ord. NS-593, 2001; Ord. NS-676 § 9, 2003)

#### **§ 19.04.090. Initial study.**

- A. The responsible city department or a private applicant for a city entitlement shall submit to the City Planner a completed environmental impact assessment form and supporting environmental studies as an aid in evaluating environmental impacts.
- B. The City Planner, with assistance from city departments or unit, however titled, shall review each project for which an initial study form has been filed. Such requests for assistance shall be promptly responded to. If the project is not categorically exempt, the City Planner shall conduct an initial study to determine if the project may have a significant effect on the environment and determine the appropriate level of environmental review necessary.
- C. If it is determined that the project will have no significant impact on the environment, the City Planner shall prepare a negative declaration.
- D. If identified significant effects on the environment can be mitigated so that the project will have no significant effect on the environment, the City Planner may, with the applicant's agreement, by imposition of appropriate project conditions, agreements or other measures, including, but not limited to, revision or redesign of the project, require the mitigation of these effects. A mitigated negative declaration may then be issued for the project provided, however, that no step or element of the project which may have a significant effect on the environment may be satisfied or carried out unless the conditions intended to mitigate that effect have been implemented or assurances have been provided that the condition will be carried out and enforced.
- E. Except as otherwise provided in subsection D of this section, if it is determined that a project may have a significant impact on the environment, the City Planner shall prepare or cause to be prepared an EIR according to the requirements of CEQA.

(Ord. NS-593, 2001; Ord. CS-079 § III, 2010; Ord. CS-164 § 10, 2011)

#### **§ 19.04.100. Mailing of negative declaration on request.**

The City Planner shall prepare a negative declaration or a mitigated negative declaration when he or she finds, after the required initial study, that the project qualifies for a negative declaration or a mitigated negative declaration under the provisions of CEQA. The declaration shall include a statement stipulating that comments on the environmental document from the public are encouraged.

(Ord. NS-593, 2001; Ord. CS-164 § 10, 2011)

#### **§ 19.04.110. Appeal of negative declaration.**

- A. If the City Planner or the Planning Commission has the authority under this code to approve or deny a project, the decision to adopt, conditionally adopt or disapprove adoption of a negative declaration or a mitigated negative declaration is final unless any interested party files an appeal of the negative declaration, as provided by this code in Title 21, Chapter 21.54, Sections 21.54.140 and 21.54.150.
- B. Notice of the hearing on appeal before either the Planning Commission or the City Council shall be sent by first class mail to the applicant and to the appellant.

(Ord. NS-593, 2001; Ord. NS-676 § 10, 2003; Ord. CS-164 § 10, 2011)

#### **§ 19.04.120. Preparation of environmental impact report.**

- A. If the City Planner determines that an environmental impact report is required for a project, the City Planner shall immediately send notice of preparation (NOP) to all parties as provided in Public Resources Code Section 21080.4 (PRC) or any successor statute and Sections 15082 and 15375 of the CEQA guidelines. The City Planner shall cause the NOP to be sent to all property owners within 600 feet of the perimeter of the subject site. Additionally, the City Planner may send the NOP to all persons or organizations that he or she believes may have an interest in the proposed project or related issues. Notices for projects with potential impacts of regional significance shall be sent to adjacent cities. Notice of preparation shall also be given by publishing once in a newspaper of general circulation in the area where the project is located and mailing to all persons who have previously requested such notice. All notices of preparation shall be posted in conspicuous places accessible to the public as determined by the City Planner, shall be sent to the City Clerk and county clerk to be posted for a period of at least 30 days and shall be sent to the State Clearinghouse when appropriate.
- B. The City Planner, with the approval of the City Manager, may enter into a contract with a private consultant(s) for the preparation of a draft EIR. The cost for such consultant(s) shall be paid in advance of work performed, by the applicant. The applicant shall have no direct contact with the consultant unless approved by the City Planner or designee upon advice from the City Attorney. The consultant shall not be an employee or affiliate of the applicant.
- C. Copies of the draft EIR may be submitted for comment to any agencies and persons that the City Planner determines to be necessary. The draft report shall be mailed to the applicant and a copy shall be available to the public in the planning division. A copy shall also be furnished and made available to both public libraries until filing of the notice of determination by the city.
- D. At the same time, a notice of completion shall be posted in conspicuous places accessible to the public as determined by the City Planner and City Clerk.
- E. In addition to the notice required by state law, the City Planner may require any additional notice deemed necessary for the project and shall assess the cost to the applicant.

(Ord. NS-593, 2001; Ord. CS-079 § IV, 2010; Ord. CS-164 §§ 10, 11, 2011)

#### **§ 19.04.130. Requests for additional public review time on the draft environmental document.**

The City Planner may approve a request from a community group or interested party for an additional review period. The additional time for review shall not extend the time for action beyond that required under law. The failure to allow additional time for review shall not invalidate any discretionary approval based upon the document for which the additional review time was requested.

(Ord. NS-593, 2001; Ord. CS-164 § 10, 2011)

#### **§ 19.04.140. Hearing.**

A negative declaration, mitigated negative declaration or EIR shall be forwarded to the City Planner, who shall cause the matter to be set for hearing by the appropriate decision-making body if required. Notice of the hearing shall be given as provided in Section 21.54.060(A) of this code. At the hearing, the Planning Commission or City Council shall hear staff comments on the environmental document and may refer it back to staff for further investigation, information and analysis and/or for the inclusion of additional material if the decision-making body determines such to be necessary for a full and complete determination to be made. The City Planner shall supplement the environmental document if any significant points are raised at the hearing which have not previously been addressed. Copies of all environmental documents shall be made available for public review at the planning division.

(Ord. NS-593, 2001; Ord. CS-164 §§ 10, 11, 2011)

**§ 19.04.150. Consolidation.**

The Planning Commission or City Council may consolidate a public hearing on a negative declaration, mitigated negative declaration or an EIR with any other public hearing held by the Planning Commission or City Council in regard to the same project. In such a case, the notice required by this chapter may be given in the same manner and at the same time as public notice otherwise required for the project. The Planning Commission or City Council shall review and consider the information contained in the environmental document before taking action on the other aspects of the project before them.

(Ord. NS-593, 2001)

**§ 19.04.160. Time limits for preparation of environmental documents.**

In accordance with CEQA, Section 21151.5, completion and adoption of a negative declaration or mitigated negative declaration shall not exceed 180 calendar days from the date the application for proposed development is determined or deemed complete. Completion and certification of an EIR shall not exceed one year from the date that the application is determined or deemed complete.

- A. Unreasonable delays by the applicant as determined by the City Planner, shall suspend these time periods for the period of such delay.
- B. These time periods may be extended in the event that compelling circumstances justify the additional time and the project applicant consents thereto.
- C. If any form of an EIR is prepared under contract with a private consultant, such contract shall be executed within 45 days from the date on which the NOP is sent, unless the City Planner and applicant mutually agree to an extension of time.

(Ord. NS-593, 2001; Ord. CS-079 § V, 2010; Ord. CS-164 § 10, 2011)

**§ 19.04.170. Appeal of environmental impact report.**

- A. Any challenge to the adequacy of an EIR certified by the Planning Commission may be appealed to the City Council in accordance with the procedures set forth in Title 21, Chapter 21.54, Section 21.54.150.
- B. Notice of the hearing on appeal before the City Council shall be sent by first class mail to the applicant and to the appellant.

(Ord. NS-593, 2001; Ord. NS-676 § 11, 2003)

**§ 19.04.180. Mitigation monitoring and reporting programs.**

It is the intent of the city to ensure that all required mitigation measures to avoid potentially significant effects are effectively implemented and monitored throughout the project approval, permitting and construction process, as well as the lifespan of the project. In conjunction with the approval of each project, an individual program shall be developed and adopted to ensure that each feature related to the mitigation measures is specifically included as a reference in the conditions of approval, incorporated into the subsequent stages of development review and permitting process and monitored during construction and final inspection, as well as on an ongoing basis. The program may contain remedies to ensure compliance with the ongoing mitigation measures beyond final inspection.

(Ord. NS-593, 2001)

**§ 19.04.190. Mailing of notices on request.**

The planning division or the City Clerk shall mail copies of all notices of appeal, notices of hearings and other notices resulting from this chapter to any individual or group who files a written request therefor. Such individual or group shall update their request annually. A fee to cover the costs of printing and postage in an amount established by City Council resolution shall accompany each such request.

(Ord. NS-593, 2001; Ord. CS-164 § 11, 2011)

**§ 19.04.200. Indemnification by applicant.**

The applicant shall be responsible and indemnify the city for any and all costs the city incurs in defending any action alleging noncompliance with CEQA or this chapter, including all costs, expenses and attorneys' fees.

(Ord. NS-593, 2001)

**§ 19.04.210. Enforcement.**

- A. Except as otherwise provided by law, it is unlawful, and an offense punishable as designated in Title 1, Chapter 1.08 of this code, for any project applicant or permittee to fail to perform any required mitigation measure(s) specified in the mitigation monitoring and reporting program for the project.
- B. The city shall also have the right to revoke or modify all approvals granted in relation to the environmental review of the project, deny or further condition issuance of any future building permits and deny, revoke or further condition all certificates of occupancy issued under the authority of the related approval.
- C. Violations may be enforced by criminal or civil judicial action, or both, or in combination with any of the administrative remedies enumerated in this code to compel compliance with said conditions or seek damages for their violation. The City Planner may record with the County Recorder's office a notice against a property which is the subject of an enforcement action pending with the City of Carlsbad.

(Ord. NS-593, 2001; Ord. CS-164 § 10, 2011)

**§ 19.04.215. Recordation of notices.**

In order to place the public on notice of adverse environmental conditions which may impact property, recordation of the following notices on title to real property, as amended from time to time by the City Attorney, may be required by the city as a condition of approval for land use entitlements; notice concerning odor environmental impacts, notice concerning railroad environmental impacts, notice concerning proximity of the commuter rail transit station, notice concerning aircraft environmental impacts, notice of multi-impacts, notice and waiver concerning odor environmental impacts, notice and waiver concerning railroad environmental impacts, notice and waiver concerning proximity of a planned or existing commuter rail transit station, notice and waiver concerning proximity of the planned or existing transportation corridor(s), notice and waiver concerning aircraft environmental impacts, and notice and waiver concerning multi-impacts. The County Recorder shall accept for recordation on title to a real property any of the specified notices, as amended from time to time by the City Attorney, provided the notices contain sufficient information and meet all recording requirements.

(Ord. CS-182 § 1, 2012)

**§ 19.04.220. Severability.**

If any provision of this title or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter. Each and every provision of this title is severable from remaining provisions.

(Ord. NS-593, 2001)



**Title 20****SUBDIVISIONS**

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## CHAPTER 20.04 GENERAL REGULATIONS

### **§ 20.04.010. Title.**

This title is adopted to supplement and implement the Subdivision Map Act and may be cited as the subdivision ordinance.

(Ord. 9417 § 2, 1975)

### **§ 20.04.020. Definitions.**

Words used in this title that are defined in the Subdivision Map Act but not specifically defined in this chapter shall have the same meaning as is given to them in the Subdivision Map Act. Whenever the following words are used in this title, they shall have the meaning ascribed to them in this section:

"Adjustment plat" means a plat prepared pursuant to Chapter 20.36 of this title and certified by the City Engineer as having been approved pursuant to this title and filed in the office of the City Engineer.

"Bicycle" means a device upon which any person may ride, propelled by human power through a belt, chain or gears, and having either two or three wheels in a tandem or tricycle arrangement.

"Bicycle route" means the generic term for all facilities that explicitly provide for bicycle travel by a course which is to be traveled.

"Cable television lines" means electronic cable, conduit and any other appurtenances thereto which distribute television or other electronic signals.

"Certificate of compliance" means a document describing a unit or contiguous units of real property and stating that the division thereof complies with applicable provisions of the Subdivision Map Act and city ordinances enacted pursuant thereto.

"City Engineer" means the City Engineer or designee, who is the Deputy City Engineer, land development engineering.

"City standards" means those standards and specifications, including standard drawings, as may be adopted from time to time by the City Engineer. These standards are to be on file in the office of the City Clerk and in the engineering department.

"Conditional certificate of compliance" means a document describing a unit or contiguous units of real property and stating that the fulfillment and implementation of the conditions set forth therein are required prior to subsequent issuance of a building or grading permit applicable thereto.

"Development permit" means any permit, entitlement or approval required pursuant to Title 20 or 21 of this code, or pursuant to any applicable master, specific, or redevelopment plan.

"Final map" means a map prepared pursuant to Chapter 20.20 of this title and the Subdivision Map Act which, after approval and recordation, is effective to complete the subdivision of a major subdivision.

"Improvement" means:

1. Such street work and utilities, including ornamental street lights and walkways to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, highways, ways, bicycle routes and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic, drainage, flood control, fire protection and sanitation needs as a condition precedent to the approval of a parcel map or final map;

2. Any other specific improvements or types of improvements, the installation of which, either by the subdivider, by public agencies, by private utilities, by any other entity approved by the City Council or by a combination thereof, is necessary to ensure conformity to or implementation of the general plan, any specific plan, any applicable local coastal plan or any applicable master plan adopted according to this title.

"Interior lot" shall have the same definition as specified by Section 21.04.230 of this code.

"Major subdivision" means a subdivision of five or more lots.

"Minor subdivision" means a subdivision of four or fewer lots.

"Notice of violation" means a recorded document describing a unit or contiguous units of real property, naming the owners thereof, and describing the manner in which the real property has been divided, or has resulted from a division in violation of the Subdivision Map Act and city ordinances enacted pursuant thereto.

"Parcel map" means a map prepared pursuant to Chapter 20.32 of this title and the Subdivision Map Act which, after approval and recordation, is effective to effect the subdivision of a minor subdivision.

"Street" means a state highway, county or city road or street, public road, street, alley or thoroughfare.

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides, or causes to be divided real property into a subdivision for himself/herself or for others, except that employees and consultants of such persons or entities, acting in such capacity, are not "subdividers."

"Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project as defined in Section 4100 of the California Civil Code, a community apartment project, as defined in Section 4105 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 4190 of the California Civil Code. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels.

"Tentative map" means a map prepared for the purpose of showing the design and improvement of a proposed major subdivision, and the existing conditions in and around it, filed with the City Planner precedent to the preparation and filing of a final map, and may, but need not be, based upon an accurate and detailed final survey of the property.

"Tentative parcel map" means a map prepared for the purpose of showing the design and improvement of a proposed minor subdivision, and the existing conditions in and around it, filed with the City Planner for approval or conditional approval prior to the preparation and filing of a parcel map or prior to waiver of the requirement for a parcel map, and may, but need not be, based upon an accurate and detailed final survey of the property.

"Through lot" means a lot having frontage on two parallel or approximately parallel streets.

"Vesting tentative map" means a tentative map for a subdivision which conforms to the requirements of Chapter 20.17 and confers upon the subdivider certain rights established by this title. "Vesting tentative parcel map" means a vesting tentative map prepared in conjunction with a parcel map.

(Ord. 9417 § 2, 1975; Ord. 9521 §§ 1, 2, 1979; Ord. 9602 § 1, 1981; Ord. 9626 § 1, 1982; Ord. 9760 § 5, 1985; Ord. 9788 § 1, 1985; Ord. 9830 § 1, 1987; Ord. NS-813 § 1, 2006; Ord. CS-155 § 1, 2011; Ord. CS-192 § 2, 2012; Ord. CS-241 § 1, 2014; Ord. CS-389 § 10, 2021)

**§ 20.04.030. Prohibition.**

No person shall create a subdivision except in accordance with the provisions of the Subdivision Map Act and this title.

(Ord. 9417 § 2, 1975)

**§ 20.04.040. Application of Subdivision Map Act.**

- A. Except as otherwise expressly provided in this title, all of the provisions of the Subdivision Map Act, which apply to subdivisions as defined in that act and all of the provisions of this title, apply to subdivisions as defined in this title.
- B. This title shall be inapplicable to:
  1. The financing or leasing of:
    - a. Apartments, offices, stores or similar space within a duplex, multiple dwelling, apartment building, industrial building, commercial building, mobile home park or trailer park;
    - b. Any parcel of land or portion thereof in conjunction with the construction of commercial or industrial buildings on a single parcel, unless the project is not subject to review under other provisions of this code regulating design and improvement;
    - c. Existing separate commercial or industrial buildings on a single parcel.
  2. The construction, financing or leasing of dwelling units and accessory dwelling units pursuant to California Government Code Sections 65852.1 and 65852.2, respectively. This title shall be applicable to the sale or transfer of those units.
  3. Mineral, oil or gas leases.
  4. Land dedicated for cemetery purposes under the Health and Safety Code of the state.
  5. A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, provided an adjustment plat pursuant to Chapter 20.36 of this title for the lot line adjustment is approved by the City Planner.
  6. Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.
  7. Any separate assessment under Revenue and Taxation Code Section 2188.7.
  8. The conversion of a community apartment project, as defined in Section 4105 of the California Civil Code or a stock cooperative, as defined in Section 4190 of the California Civil Code, to a condominium project, as defined in Section 4125 of the California Civil Code, provided that the requirements of California Government Code Section 66412(g) or (h), respectively, have been met and the subdivider provides certification that the requirements have been met.
  9. The leasing of, or the granting of an easement to, a parcel of land or any part thereof, in conjunction with the financing, erection, and sale or lease of any wind powered electrical generating device on the land, if the project is subject to discretionary action pursuant to this code.

10. The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action pursuant to this code.
11. The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a solar electrical generation device on the land, if the project is subject to review pursuant to other provisions of this code that regulate design and improvement or, if the project is subject to discretionary action pursuant to this code.
12. The leasing of, or the granting of an easement to, a parcel of land or any portion or portions of the land in conjunction with a biogas project that uses, as part of its operation, agricultural waste or byproducts from the land where the project is located and reduces overall emissions of greenhouse gases from agricultural operations on the land, if the project is subject to review pursuant to other provisions of this code regulating design and improvement or if the project is subject to discretionary action pursuant to this code.
13. Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.
14. Leases of agriculturally zoned land to nonprofit organizations for the purpose of operating an agricultural labor housing project on the property if all of the following conditions apply:
  - a. The property to be leased shall not be more than five acres;
  - b. The lease shall be for not less than 30 years;
  - c. The lease shall be executed prior to January 1, 2017.

(Ord. 9417 § 2, 1975; Ord. 9521 § 3, 1979; Ord. 9602 § 2, 1981; Ord. 9626 § 2, 1982; Ord. 9680 § 1, 1983; Ord. 9760 § 6, 1985; Ord. NS-813 § 2, 2006; Ord. CS-192 § 3, 2012; Ord. CS-241 § 2, 2014; Ord. CS-324 § 2, 2017)

#### **§ 20.04.050. Extent of regulations.**

- A. No real property, improved or unimproved, consisting of a single unit or two or more contiguous units and owned by the same person or persons shall be divided into two or more lots, including any lot retained by the owner, except in accordance with the provisions of this title.
- B. No parcel may be subdivided if it was illegally created unless, as part of the division, the illegality is eliminated. If such elimination is not possible, a notice of violation with respect to the parcel shall be recorded. In no event shall a subdivision be permitted unless the entire legal parcel is subdivided when the owner of any portion of the illegal parcel is the person who owned the property at the time of the illegal subdivision.

(Ord. 9417 § 2, 1975; Ord. 9602 § 3, 1981)

#### **§ 20.04.055. Merger.**

- A. This title shall not apply to the sale, lease or financing of one or more contiguous parcels or units of

land which have been created under the provisions of city ordinances regulating the division of real property and the Subdivision Map Act applicable at the time of their creation, or which were not subject to such provisions at the time of their creation, even though the contiguous parcels or units are held by the same owner; except that if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size to permit use or development under the zoning ordinance of the city and the standards established by subsection C of this section, then those parcels or units shall be merged.

- B. Any parcels or units created prior to January 1, 1979, pursuant to this title or any predecessor, or which are buildable lots as defined by Section 21.46.210 of the zoning ordinance of the city and which merged pursuant to the Subdivision Map Act and have not been deemed merged pursuant to this section or any of its predecessors, are exempted from the merger provisions of this section and those parcels or units shall be deemed unmerged and separate parcels, except that any parcels which merged under the provisions of this title after January 1, 1979 shall remain merged if the provisions of subsection F of this section are met. Further, any parcels or units which do not conform to the standards established by subsection C of this section shall be merged.
- C. Contiguous parcels or units of land held by the same owner, on the date that notice of intention to determine status is filed, shall be merged if one of the parcels or units does not conform to the minimum parcel size to permit use or development under Title 21 of this code and if all of the following requirements are satisfied:
  1. At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.
  2. With respect to any affected parcel, one or more of the following conditions exists:
    - a. Comprises less than 5,000 square feet in area at the time of the determination of merger;
    - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
    - c. Does not meet current standards for sewage disposal and domestic water supply;
    - d. Does not meet slope stability standards;
    - e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability;
    - f. Its development would create health or safety hazards;
    - g. Is consistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.
  3. Paragraph 2 of this subsection shall not apply if one of the following conditions exist:
    - a. On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

- b. On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.
  - c. On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.
  - d. On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.
  - e. Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either: (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based. For purposes of paragraphs (3)(c) and (d) of this subsection, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.
- D. Whenever the City Engineer has knowledge that real property has merged pursuant to this section, the City Engineer shall mail by certified mail to the current record owner of the property a notice of intention to determine status. The notice of intention shall state: that the affected parcels may be merged pursuant to this section; that the owner may request, within 30 days from the date the notice of intention was recorded, a hearing before the City Engineer to present evidence that the property does not meet the standards for merger; and that the notice of intention was recorded with the County Recorder on the date the notice of intention was mailed. Upon receipt of a request for a hearing, the City Engineer shall set the hearing for a date not less than 30 days or more than 60 days from the date of receipt of the request. The property owner shall be notified of the hearing by certified mail. After the hearing, the City Engineer shall determine whether the affected property has merged pursuant to this section. The decision shall be made and notification of the decision shall be mailed to the property owner within five working days of the date of the hearing. If the parcels have merged, the City Engineer shall file a notice of merger with the County Recorder within 30 days from the date of the hearing unless the decision has been appealed as provided in subsection E of this section. The notice of merger shall specify the name or names of the record owner or owners and shall particularly describe the real property. If the parcels have not merged, the City Engineer shall record a release of the notice of intention within 30 days from the date of the decision, and shall mail a copy of the release to the owner. If no hearing is requested, the decision shall be made not later than 90 days after the mailing of the notice of the opportunity for a hearing. A hearing on the determination of status may be postponed or continued upon the mutual consent of the City Engineer and the property owner.
- E. If the owner requested a hearing, the decision of the City Engineer may be appealed to the City Council within 10 calendar days of the date of mailing the notice of decision by filing a written appeal

with the City Clerk. A fee established by City Council resolution shall be paid at the time of filing the appeal. Upon receipt of an appeal and payment of the fee, the City Clerk shall place the matter on the council agenda not less than 30 nor more than 60 days from the date of the appeal. If after a hearing the council grants the appeal, the City Clerk shall record within 30 days with the court recorder a release of the notice of intention. If the appeal is denied, the City Clerk shall within 30 days record a notice of merger with the County Recorder. A copy of either the release or the notice of merger shall be sent to the owners.

- F. For purposes of this section, when determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

(Ord. 9521 § 4, 1979; Ord. 9602 § 4, 1981; Ord. 9723 § 1, 1984; Ord. 9806 § 1, 1986; Ord. NS-813 § 3, 2006)

#### **§ 20.04.056. Unmerger.**

Any parcel or unit of land which merged pursuant to the provisions of any law prior to January 1, 1984 but for which a notice of merge was not recorded on or before that date are deemed unmerged, if on January 1, 1984 all of the criteria established by Section 66451.30(a) of the Subdivision Map Act are met, and if none of the conditions of Section 66451.30(b) exist. Upon request of an owner the City Engineer shall file a certificate of compliance whenever the engineer determines that a parcel is unmerged pursuant to this section.

(Ord. 9723 § 2, 1984)

#### **§ 20.04.057. Request for determination of merger.**

- A. A property owner may request that the City Engineer determine whether property has merged under Section 20.04.055 or are deemed unmerged under Section 20.04.056. A request for determination shall be made in writing and shall be accompanied by a fee established by City Council resolution.
- B. Upon determination that property has merged, the City Engineer shall issue to the owner and record with the County Recorder a notice of merger.
- C. Upon determination that property is deemed unmerged the City Engineer shall issue to the owner and record with the County Recorder a certificate of compliance showing each parcel as a separate parcel.

(Ord. 9723 § 3, 1984)

#### **§ 20.04.070. Environmental impact review.**

- A. All tentative maps and tentative parcel maps shall be subject to environmental review in accordance with Title 19 of this code and the rules and procedures adopted by the City Council pursuant to the California Environmental Quality Act of 1970. Consequently, unless exempt from CEQA decisions to approve, conditionally approve or deny any tentative map or tentative parcel map shall be subject to the following:
1. Tentative Maps.
    - a. Negative Declaration. Upon receipt of a negative declaration with respect to any tentative map, the decision-making authority may proceed to consider the tentative map without an environmental impact report.
    - b. Environmental Impact Report. With respect to any tentative map for which an

environmental impact report is required, the decision-making authority shall consider such report as independent evidence in determining whether to approve, conditionally approve, or disapprove the tentative map.

2. Tentative Parcel Maps.

- a. Negative Declaration. Upon receipt of a negative declaration with respect to any tentative parcel map, the decision-making authority may proceed to consider the tentative parcel map without an environmental impact report.
  - b. Environmental Impact Report. With respect to any tentative parcel map for which an environmental impact report is required, the decision-making authority shall consider such report as independent evidence in determining whether to approve, conditionally approve, or disapprove the tentative parcel map.
- B. An application for approval of a subdivision shall not be complete, pursuant to Section 65943 of the California Government Code, until after the environmental review for such subdivision has been accomplished.

(Ord. 9417 § 2, 1975; Ord. 9521 § 6, 1979; Ord. CS-192 § 4, 2012)

**§ 20.04.080. Soil reports.**

- A. A preliminary soils report, prepared by a civil engineer registered in this state and based upon adequate test borings, shall be submitted to the appropriate official or body for every subdivision.
- B. A preliminary soils report may be waived by the City Engineer providing the City Engineer finds that, due to the knowledge the city has as to the soils qualities of the soils in the subdivision, no preliminary analysis is necessary.
- C. The preliminary soils report may be submitted to the City Planner and forwarded to the City Engineer for review. The City Engineer may require additional information or reject the report if it is found to be incomplete, inaccurate, or unsatisfactory.
- D. If the city has knowledge of, or the preliminary soils report indicates, the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, a soils investigation of each lot in the subdivision may be required by the City Engineer.
- E. If the preliminary soils report indicates the presence of rocks or liquids containing deleterious chemicals which, if not corrected, could cause construction materials such as concrete, steel, and ductile or cast iron to corrode or deteriorate, a soils investigation of each potentially affected lot in the subdivision may be required.
- F. Any soils investigation required pursuant to this section shall be done by a civil engineer registered in this state, who shall recommend the corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the area where the soils problem exists.
- G. The decision-making authority may approve the subdivision or portion thereof where such soils problems exist if it determines that the recommended action is likely to prevent structural damage to each structure to be constructed and a condition to the issuance of any building permit may require that the approved recommended action be incorporated in the construction of each structure.

(Ord. 9417 § 2, 1975; Ord. 9602 § 5, 1981; Ord. NS-813 § 4, 2006; Ord. CS-192 § 4, 2012)

**§ 20.04.090. Reservations.**

- A. As a condition of approval of a final or parcel map, the subdivider shall reserve sites appropriate in area and location for parks, recreational facilities, fire stations, libraries or other public uses according to the procedural standards and formula contained in this section.
- B. If a park, recreational facility, fire station, library or other public facility or use is shown on an adopted specific plan or adopted general plan containing a community facilities element, recreation and parks element or a public building element, the subdivider may be required to reserve sites as so determined by the city in accordance with the definite principles and standards contained in the specific plan or general plan. The reserved area must be of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient manner. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The reserved area shall conform to the adopted specific plan or general plan and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.
- C. The public agency for whose benefit an area has been reserved shall, at the time of approval of the final map or parcel map, enter into a binding agreement to acquire such reserved area within two years after the completion and acceptance of all improvements, unless such period of time is extended by mutual agreement.
- D. The purchase price shall be the market value thereof at the time of the filing of the tentative map plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including interest costs incurred on any loan covering such reserved area.
- E. If the public agency for whose benefit an area has been reserved does not enter into such a binding agreement, the reservation of such area shall automatically terminate.

(Ord. 9417 § 2, 1975)

#### **§ 20.04.100. Corrections and amendments.**

- A. Corrections and amendments to final and parcel maps may be accomplished as set forth in Sections 66469 through 66472 of the Subdivision Map Act to the extent provided for therein.
- B. Changes in any lot line, parcel line or subdivision boundary line may only be accomplished by recording an approved parcel map or adjustment plat to the extent provided for in this title.
- C. Any other change to a final or parcel map must be accomplished by processing a new tentative map or tentative parcel map.

(Ord. 9521 § 6, 1979)

#### **§ 20.04.110. Security for the payment of taxes and special assessments—Release.**

Whenever security is filed with the Board of Supervisors or the clerk thereof, pursuant to Section 66493 of the Subdivision Map Act, to secure the payment of taxes or special assessments collected as taxes, which are a lien on the property to be subdivided, but not yet payable, the clerk of the Board of Supervisors, upon notification by the tax collector that the total amount of said taxes or special assessments have been paid in full, may release said security.

(Ord. 9521 § 6, 1979)

#### **§ 20.04.120. Designated remainder parcel.**

- A. When a subdivision, as defined in Section 20.04.020, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing. Alternatively, the subdivider may omit entirely that portion of any unit of improved or unimproved land which is not divided for the purpose of sale, lease, or financing.

If the subdivider elects to designate a remainder or omit entirely that portion, the following requirements shall apply:

1. The designated remainder or omitted portion shall not be counted as a parcel for the purpose of determining whether a parcel or final map is required.
  2. The fulfillment of construction requirements for improvements, including the payment of fees associated with any deferred improvements, shall not be required until a permit or other grant of approval for development of the remainder or omitted parcel is issued. Fulfillment of the construction requirements, including the payment of fees associated with any deferred improvements, within a reasonable time following approval of the final map and prior to the issuance of a permit or other grant of approval for the development of a remainder parcel may be required upon a finding by the decision-making authority that fulfillment of the construction requirements is necessary for reasons of:
    - a. The public health and safety; or
    - b. The required construction is a necessary prerequisite to the orderly development of the surrounding area.
- B. A designated remainder or any omitted parcel is required to obtain a certificate of compliance or conditional certificate of compliance pursuant to the provisions of Chapter 20.48 of this code prior to any further development or sale of the parcel.

Prior to the issuance of a certificate of compliance or conditional certificate of compliance, the City Engineer shall make a determination under Section 20.16.040(H) of this code whether improvements should be required for the designated remainder or omitted parcel. The improvement requirements may be imposed as a condition of the certificate of compliance. For the purposes of this title, a parcel designated as "not a part" shall be deemed to be a designated remainder parcel.

(Ord. 9549 § 1, 1980; Ord. 9806 § 2, 1986; Ord. NS-813 § 5, 2006; Ord. CS-192 § 5, 2012)

#### **§ 20.04.130. Consideration of housing needs.**

In making decisions pursuant to this title, the decision-making authority shall consider the effect of that decision on the housing needs of the region and balance those needs against the public service needs of its residents and available fiscal and environmental resources.

(Ord. 9549 § 1, 1980; Ord. CS-192 § 5, 2012)

#### **§ 20.04.140. Covenants for easement.**

- A. Whenever under the provisions of Titles 18, 20 or 21 of this code an easement is necessary or required for parking, ingress, egress, emergency access, light and air access, landscaping, drainage, private utilities, sewer/storm drain access or open space purposes, the easement may be created by a covenant pursuant to this section.
- B. At the time of recording of the covenant of easement all the property benefited or burdened by the

covenant shall be in common ownership. The covenant shall be effective when recorded and shall act as an easement pursuant to Chapter 3 (commencing with Section 801) of Title 2 of Part 2 of Division 2 of the Civil Code except that it shall not merge into any other interest in the real property. Section 1104 of the Civil Code shall be applicable to conveyance of the affected real property. The covenant of easement shall describe the real property subject to the easement and the real property benefited by the easement. The covenant of easement shall also identify the approval permit or designation granted which relied upon or required the covenant.

- C. A covenant of easement shall be enforceable by the owner of the real property benefited by the covenant, and by the successors in interest to the real property benefited by the covenant. The covenant of easement shall be recorded in the office of the County Recorder. Upon recordation, the burdens of the covenant shall be binding upon and the benefits of the covenant shall inure to all successors in interest to the real property.
- D. The covenant of easement may be released upon the application of any person upon approval or conditional approval by the City Engineer. An application for release of a covenant shall be accompanied by a fee in an amount designated by City Council resolution. A request for release of a covenant of easement may be consolidated with any other application for discretionary approval under this code.
- E. This section is adopted pursuant to Article 2.7 commencing with Section 65870 of Chapter 4 of Division 1 of Title 7 of the Government Code.

(Ord. 9803 § 1, 1986; Ord. NS-813 § 6, 2006; Ord. CS-164 § 10, 2011; Ord. CS-192 § 5, 2012)

## CHAPTER 20.08 FEES

### **§ 20.08.010. Tentative map fee.**

A tentative map examination fee in an amount established by City Council resolution shall be paid at the time a tentative map is filed with the City Planner.

(Ord. 9417 § 2, 1975; Ord. 9568 § 1, 1980; Ord. 1256 § 12, 1982; Ord. 9788 § 2, 1986; Ord. NS-676 § 12, 2003; Ord. CS-155 § 7, 2011; Ord. CS-164 § 11, 2011; Ord. CS-192 § 6, 2012)

### **§ 20.08.015. Tentative map appeal fee.**

A tentative map appeal fee in an amount established by City Council resolution shall be paid at the time an appeal is filed with the City Planner.

(Ord. 9602 § 6, 1981; Ord. CS-192 § 6, 2012)

### **§ 20.08.020. Revised tentative map fee.**

A revised tentative map examination fee in an amount established by City Council resolution shall be paid at the time that a revised tentative map is filed with the City Planner. An additional fee in an amount established by City Council resolution shall be paid for the revision of a vesting tentative map.

(Ord. 9417 § 2, 1975; Ord. 9568 § 1, 1980; Ord. 1256 § 12, 1982; Ord. 9788 § 3, 1986; Ord. NS-676 § 12, 2003; Ord. CS-164 § 11, 2011; Ord. CS-192 § 6, 2012)

### **§ 20.08.030. Tentative map extension fee.**

At the time of filing a request for the extension of a tentative map with the City Planner, there shall be paid a tentative map extension processing fee equal to one-half of the fee prescribed in Section 20.08.010 for such tentative map.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. CS-192 § 6, 2012)

### **§ 20.08.035. Tentative map litigation stay fee.**

At the time of filing a request for a stay with the City Planner, there shall be paid a litigation stay processing fee equal to one-quarter of the fee prescribed in Section 20.08.010 for such tentative map.

(Ord. 9549 § 2, 1980; Ord. CS-192 § 6, 2012)

### **§ 20.08.040. Final map fee.**

At the time of filing a final map with the City Engineer, there shall be paid an examination fee in an amount established by City Council resolution.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. NS-68 § 11, 1989; Ord. CS-192 § 6, 2012)

### **§ 20.08.045. Notice fees.**

The subdivider shall pay a fee to cover the cost incurred by the city in giving any notice or providing any report required by this title or the Subdivision Map Act.

(Ord. 9602 § 7, 1981)

**§ 20.08.050. Improvement plan review and construction inspection fees.**

All construction and installation of improvements shall be subject to plan review and inspection by the City Engineer or other appropriate department, and the subdivider shall arrange for inspection prior to starting construction or installation of the improvements. The cost to the city of examining improvement plans, inspecting improvements and monuments shall be paid by the subdivider in accordance with Section 11.16.145(C).

(Ord. 9417 § 2, 1975; Ord. 9681 § 1, 1983; Ord. NS-68 § 12, 1989; Ord. CS-135 § 6, 2011)

**§ 20.08.060. Tentative parcel map fee.**

At the time of submission of a tentative parcel map, there shall be paid a tentative parcel map examination fee in an amount determined by the City Council by resolution.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. 9788 § 4, 1986; Ord. NS-68 § 13, 1989; Ord. CS-155 § 8, 2011; Ord. CS-192 § 7, 2012)

**§ 20.08.070. Parcel map fee.**

At the time of filing of a parcel map the subdivider shall pay a processing fee in an amount determined by the City Council by resolution.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. NS-68 § 14, 1989; Ord. CS-192 § 7, 2012)

**§ 20.08.080. Tentative parcel map extension fee.**

At the time of filing a request for the extension of a tentative parcel map with the City Planner, there shall be paid a tentative parcel map extension processing fee in an amount determined by the City Council by resolution.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. NS-68 § 15, 1989; Ord. CS-192 § 7, 2012)

**§ 20.08.090. Fees for adjustment plats.**

At the time of filing an adjustment plat, there shall be paid an adjustment plat examination fee in an amount determined by the City Council by resolution.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. NS-68 § 16, 1989; Ord. CS-192 § 7, 2012)

**§ 20.08.100. Fees for reversion to acreage.**

Petitions to revert property to acreage shall be accompanied by a fee in an amount determined by the City Council by resolution. If the proceedings are initiated pursuant to Section 20.40.030, the person or persons who requested the City Council to initiate the proceedings shall pay a fee in an amount determined by the City Council by resolution.

(Ord. 9417 § 2, 1975; Ord. NS-68 § 17, 1989)

**§ 20.08.110. Fees for certificates of compliance.**

At the time of filing any requests pursuant to this title intended to result in the issuance of a certificate of compliance, there shall be paid a fee in an amount determined by the City Council by resolution, to cover the cost of making the required determinations pursuant to such request and the recording of any certificate of compliance resulting therefrom.

(Ord. 9417 § 2, 1975; Ord. 7058 § 5, 1979; Ord. NS-68 § 18, 1989; Ord. CS-192 § 8, 2012)

**§ 20.08.120. Streets and lots reserved for future streets excluded from computation.**

Streets and lots reserved for future streets shall be disregarded in computing the fees and charges imposed by this chapter.

(Ord. 9417 § 2, 1975)

**§ 20.08.130. Drainage and sewer facilities—Payment of fees required.**

Prior to filing of any final map or parcel map, the subdivider shall pay or cause to be paid any fees for defraying the actual or estimated costs of constructing planned drainage facilities for the removal of surface and stormwaters from local or neighborhood drainage areas or sanitary sewer facilities for local sanitary sewer areas established pursuant to Section 66483 of the Subdivision Map Act. Payment of the fees for planned local drainage facilities shall conform with the requirements of Chapter 15.08 of this code and shall be paid prior to filing of the final or parcel map or issuance of building permits, whichever occurs first.

(Ord. 9417 § 2, 1975; Ord. NS-293 § 3, 1994)

**§ 20.08.140. Bridge crossing and major thoroughfares.**

- A. The purpose of this section is to make provision for assessing and collecting fees as a condition of approval of a final map, parcel map or as a condition of issuing a building permit for the purpose of defraying the actual or estimated costs of constructing bridges or major thoroughfares pursuant to Section 66484 of the Subdivision Map Act.
- B. Whenever the following words are used in this section, they shall have the following meaning:
  - "Construction" means design, acquisition of right-of-way, administration of construction contracts and actual construction;
  - "Major thoroughfare" means a roadway as shown on the circulation element of the general plan whose primary purpose is to carry through traffic and provide a network connecting to the state highway system.
- C. Whenever this section refers to the circulation element of the general plan or to the transportation or flood control provisions thereof, it shall mean the circulation element of the general plan and the transportation and flood control provisions thereof heretofore adopted by the city pursuant to Chapter 3 of Title 7 of the Government Code, together with any additions or amendments thereto hereafter adopted.
- D. Prior to filing a final map or parcel map which includes land within an area of benefit established pursuant to this section, the subdivider shall pay or cause to be paid any fees established and apportioned to said property pursuant to this section for the purpose of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways or canyons or constructing major thoroughfares.
- E. Prior to the issuance of a building permit for construction on any property within an area of benefit established pursuant to this section, the applicant for such permit shall pay or cause to be paid any fees established and apportioned pursuant to this section for the purpose of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways or canyons or constructing major thoroughfares, unless such fees have been paid pursuant to subsection D of this section.
- F. Notwithstanding the provisions of subsections D and E of this section:

1. Payment of bridge fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of adoption of the boundaries of the area of benefit;
  2. Payment of major thoroughfare fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the area benefit.
- G. Prior to establishing an area of benefit, a public hearing shall be held by the City Council, at which time the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment, and the fee to be collected, shall be established. Notice of the public hearing shall be given pursuant to Section 65091 of the Government Code. In addition to the requirements of Section 65091 of the Government Code, such notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost and the method of fee apportionment.
- H. At any time not later than the hour set for hearing objections to the proposed bridge facility or major thoroughfare, any owner of property to be benefited by the improvement may file a written protest against the proposed bridge facility or major thoroughfare or against the extent of the area to be benefited by the improvements or against both of them. Such protests must be in writing and must contain a description of the property in which each signer thereof is interested, sufficient to identify the same and if the signers are not shown on the last equalized assessment roll as the owners of such property, must contain or be accompanied by written evidence that such signers are the owners of such property. All such protests shall be delivered to the City Clerk and no other protest or objections shall be considered. Any protests may be withdrawn by the owners making the same, in writing, at any time prior to the conclusion of the public hearing.
- I. If there is a written protest filed with the City Clerk by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the City Council shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvements under the provisions of this section.
- If any majority protest is directed against only a portion of the improvement, then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the City Council may commence new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the City Council within such one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with such portion of the improvement or acquisition.
- J. If the City Council finds that a majority protest has not been made, they shall make the determinations required by subsection G of this section and decide whether or not to confirm the area of benefit. The council shall announce its decision by resolution, which shall be recorded with the Recorder of the County. There are established fees for the purpose of defraying the actual or estimated cost of constructing the bridge or thoroughfare as described in such resolution as the council may adopt pursuant to this section. Said fees and the area of benefit to which such fees are apportioned shall be established as set forth in said resolution. Such apportioned fees shall be applicable to all property

within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for such property or portions thereof.

K. Notwithstanding the provision of subsection J of this section, payment of such fees shall not be required for:

1. The use, alteration or enlargement of an existing building or structure or the erection of one or more buildings or structures accessory thereto, or both, on the same lot or parcel of land; provided, the total value, as determined by the Community and Economic Development Director, of all such alteration, enlargement or construction completed within any one-year period does not exceed one-half of the current market value, as determined by the Community and Economic Development Director, of all existing building on such lot or parcel of land, and the alteration or enlargement of the building is not such as to change its classification of occupancy as defined by Section 501 of the Uniform Building Code;
  2. The following accessory buildings and structures: private garages, children's playhouses, radio and television receiving antennas, windmills, silos, tank houses, shops, barns, coops and other buildings which are accessory to one-family or two-family dwellings.
- L. Upon application by the subdivider or applicant for a building permit, the City Council may accept consideration in lieu of fees required pursuant to this section, provided:
1. The City Council finds upon recommendation of the City Manager that the substitute consideration has a value equal to or greater than the fee; and
  2. The substitute consideration is in a form acceptable to the City Council.

M. The City Council shall give a credit against the fees imposed by this section for properties within the boundaries of and subject to taxation by community facilities district number one. The amount of such credit shall be determined by the City Council and established by resolution.

(Ord. 9417 § 2, 1975; Ord. 9521 § 7, 1979; Ord. 1261 § 31, 1983; Ord. 9758 § 4, 1985; Ord. NS-157 § 2, 1991; Ord. NS-676 § 13, 2003; Ord. NS-813 § 7, 2006; Ord. CS-192 § 9, 2012)

**CHAPTER 20.12  
MAJOR SUBDIVISIONS—PROCEDURE**

**§ 20.12.010. Tentative map required.**

- A. Any person proposing to create a major subdivision shall file a tentative map pursuant to this chapter with the City Planner. The City Engineer shall not approve a final map unless a tentative map of the subdivision is approved pursuant to this chapter. Prior to filing a tentative map, the subdivider or authorized agent shall confer with the City Planner and the City Engineer regarding the preparation of the map. A proposed tentative map may not be filed unless it conforms to the requirements of this chapter.
- B. Where a parcel map is authorized for a major subdivision pursuant to the Subdivision Map Act or this title, the City Engineer shall not approve such map unless a tentative map of the subdivision is approved pursuant to this chapter.
- C. Tentative maps shall be prepared and processed in accordance with the Subdivision Map Act and the provisions of this title. The subdivider shall file as many copies of the tentative map or other required information as the City Planner may require.

(Ord. 9417 § 2, 1975; Ord. 1256 §§ 6, 9, 1982; Ord. NS-676 § 14, 2003; Ord. CS-164 § 10, 2011; Ord. CS-192 § 11, 2012)

**§ 20.12.015. Application and time limits for processing.**

- A. An application for a tentative map may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  - 1. Be made in writing on a form provided by the City Planner;
  - 2. State fully the circumstances and conditions relied upon as grounds for the application; and
  - 3. Be accompanied by adequate plans, a legal description of the property involved, data specified by this title and all other materials as specified by the City Planner.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- C. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the city as represented by the Planning Commission and the City Council.
- D. The City Planner shall not accept a tentative map for processing or filing unless the City Planner finds that:
  - 1. The requirements of Title 19 of this code have been met;
  - 2. The tentative map is consistent with the provisions of Title 21 of this code and that all approvals and permits required by Title 21 for the project have been given or issued.
- E. All tentative maps shall be approved, conditionally approved or denied within the time limits specified by this title and the Subdivision Map Act.

If the decision-making authority does not take action to approve, conditionally approve or deny the tentative map within the time limits specified by this title or the Subdivision Map Act, the tentative map as filed shall be deemed to be approved, insofar as it complies with other applicable requirements of this code and the Subdivision Map Act.

- F. Notwithstanding the provisions of subsections D and E of this section, a tentative map may be processed concurrently with other development permits or approvals required for the project, pursuant to Title 19 or 21 of this code, if the subdivider for the tentative map first waives the time limits for processing, approving or conditionally approving or disapproving the tentative map established by this title or the Subdivision Map Act. Pursuant to the provisions of Chapter 19.04 of this code, a tentative map may be processed but shall not be deemed complete until the environmental documents are completed.

(Ord. 9521 § 8, 1979; Ord. 9559 § 1, 1980; Ord. 1256 § 6, 1982; Ord. 1266 § 4, 1983; Ord. 9870 § 7, 1985; Ord. NS-676 § 14, 2003; Ord. CS-164 § 10, 2011; Ord. CS-192 § 11, 2012)

#### **§ 20.12.020. Grading plan.**

There shall be filed with each tentative map a grading plan showing any grading proposed for the creation of building sites within the subdivision or for construction or installation of improvements to serve the subdivision. The grading plan, together with the original topographical contours, may be shown on the tentative map. This plan shall indicate approximate earthwork volumes of proposed excavation and filling operations. In the event no such grading is proposed, a statement to that effect shall be filed with the tentative map.

(Ord. 9417 § 2, 1975)

#### **§ 20.12.030. Preliminary title report.**

There shall be filed with each tentative map a current preliminary title report for the property being subdivided.

(Ord. 9417 § 2, 1975)

#### **§ 20.12.040. Size of map.**

The size of such tentative map is optional; the scale shall not be less than 200 feet to the inch.

(Ord. 9417 § 2, 1975)

#### **§ 20.12.050. Information on map.**

Each tentative map shall contain the following information:

- A. Name and address of the owner whose property is proposed to be subdivided and the name and address of the subdivider;
- B. Name and address of registered civil engineer, licensed surveyor, landscape architect or land planner who prepared the maps;
- C. North point;
- D. Scale;
- E. Date of preparation;
- F. The location, width and proposed names of all streets within the boundaries of the proposed

subdivision and approximate grades thereof;

- G. Location and width of alleys;
- H. Name, location and width of adjacent streets;
- I. Lot lines and approximate dimensions and numbers of each lot;
- J. Approximate location and width of watercourses or areas subject to inundation from floods, and location of structures, irrigation ditches and other permanent physical features;
- K. Approximate contours at two-foot intervals;
- L. Approximate location of existing buildings and permanent structures;
- M. Location of all major vegetation, showing size and type;
- N. Legal description of the exterior boundaries of the subdivisions;
- O. Width and location of all existing or proposed public or private easements;
- P. Classification of lots as to intended residential, commercial, industrial or other uses;
- Q. Location of railroads;
- R. Approximate radii of curves;
- S. Proposed name and city tract number of the subdivision;
- T. Any proposed phasing by units;
- U. Number of units to be constructed when a condominium or community apartment project is involved.  
(Ord. 9417 § 2, 1975)

#### **§ 20.12.060. Supplemental information.**

The tentative map shall show thereon, or be accompanied by reports and written statements from the subdivider giving essential information regarding the following matters:

- A. Source of water supply;
  - B. Type of street improvement and utilities which the subdivider proposes to install;
  - C. Proposed method of sewage disposal including location of facilities;
  - D. Proposed stormwater sewer or other means of drainage, including the location of such facilities;
  - E. Protective covenants to be recorded;
  - F. Proposed tree planting.
- (Ord. 9417 § 2, 1975)

#### **§ 20.12.062. Conversion of mobile home parks.**

- A. At the time of filing a tentative map for a subdivision to be created from the conversion of a mobile home park to another use, the subdivider shall also file a report specified by Section 66427.4 of the

Government Code.

- B. If the provisions of Chapter 21.37 apply to the mobile home park, the report specified in subsection A of this section shall include the report specified by Section 21.37.110(b)(3) of this code.
- C. In determining the impact of the conversion on displaced mobile home park residents, the report shall address the availability of adequate replacement space in mobile home parks. The subdivider shall make a copy of the report available to each resident of the mobile home park at least 15 days prior to the hearing on the map. If Chapter 21.37 applies, the subdivider shall also provide all notices required by Section 21.37.120 of this code. The decision-making authority may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobile home park residents to find adequate space in a mobile home park, and shall make all the findings required by Section 21.37.120.
- D. When approving or conditionally approving a tentative map for conversion of a mobile home park, the decision-making authority shall do one of the following:
  - 1. Mitigate any significant adverse impact of the conversion on the ability of displaced mobile home park residents to find adequate space in a mobile home park by zoning additional land for mobile home parks;
  - 2. Find that there is sufficient land zoned for mobile home parks or sufficient space available in other mobile home parks for the residents who will be displaced;
  - 3. Require the subdivider to mitigate any adverse impact pursuant to subsection C of this section;
  - 4. Find that the mitigation required by paragraphs 1 and 3 of this subsection are not feasible. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(Ord. CS-192 § 12, 2012)

#### **§ 20.12.065. Proof of notice—Major subdivisions.**

Whenever the subdivider is required by this title or the Subdivision Map Act to give any notice or provide any report or information to any person other than the city, the subdivider shall submit proof, sufficient to allow the decision-making authority to find that the notice has been given or the reports or information provided. Such proof may include declarations under penalty of perjury.

(Ord. 9602 § 8, 1981; Ord. CS-192 § 12, 2012)

#### **§ 20.12.070. City planner's duties.**

- A. The City Planner shall obtain the recommendation of the City Engineer, the Parks and Recreation Director, the Fire Chief or their authorized representatives with respect to the design of the proposed subdivision and the kind, nature and extent of the proposed improvements. Recommendations may also be obtained from affected agencies and any other person affected by or interested in the proposed subdivision, if such recommendations are found to be necessary.
- B. Within 10 days after the filing of a tentative map, the City Planner shall send notice of filing thereof with information about the location, number of units, density and any other information relevant to school districts to the governing board of any elementary, high school or unified school district within whose boundaries the proposed subdivision is located. Such governing board shall make a written report thereon to the city indicating the impact of the proposed subdivision and its recommendations

within 20 working days after said notice was mailed, or the governing board shall be deemed to have approved the proposed subdivision.

- C. The City Planner shall prepare a staff report to the decision-making authority containing recommendations regarding the tentative map. A copy of the staff report and recommendations shall be furnished to the subdivider and to each tenant of the subject property in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project at least three days prior to any hearing or action on such map by the Planning Commission.
- D. The City Planner shall set the map for public hearing before the Planning Commission.  
(Ord. 9417 § 2, 1975; Ord. 9521 § 9, 1979; Ord. 9602 § 9, 1981; Ord. 1256 § 6, 1982; Ord. NS-676 § 14, 2003; Ord. CS-164 § 10, 2011; Ord. CS-192 § 12, 2012)

#### **§ 20.12.080. Notices and hearings.**

- A. Notice of the public hearing for a tentative map application shall be given pursuant to Sections 21.54.060 and 21.54.061 of this code.

If the proposed subdivision is a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, the notice shall also be given by mail to each tenant of the subject property and shall include notification of the tenant's right to appear and be heard.

- B. Failure by any person to receive notice specified in this section shall not invalidate any action taken pursuant to this title.  
(Ord. CS-192 § 12, 2012)

#### **§ 20.12.090. Decision-making authority.**

- A. The Planning Commission shall have the authority to approve, conditionally approve or deny a tentative map based upon its review of the facts as set forth in the application, the circumstances of the particular case, and evidence presented at a public hearing.
- B. The Planning Commission shall hear the matter, and may approve or conditionally approve the tentative map if all of the findings of fact in Section 20.12.091 of this chapter are found to exist.
  1. Whenever the Planning Commission approves or conditionally approves a tentative map providing for supplemental size of improvements, the establishment of benefit districts, the execution of reimbursement agreements or the setting of fees under any of the provisions of Section 20.08.130 or 20.08.140; Chapter 20.09; or Section 20.16.041, 20.16.042 or 20.16.043, the map shall be forwarded to the City Council, which shall hold a public hearing on the issue of the improvements.
  2. Any decision to approve or conditionally approve a tentative map shall include a description, pursuant to the provisions of this title, of the kind, nature and extent of any improvements required to be constructed or installed in or to serve the subdivision. However, where the Planning Commission does not prescribe the kind, nature or extent of the improvements to be constructed or installed, improvements shall be constructed and installed in accordance with the city standards.
- C. Any decision to disapprove a tentative map shall be accompanied by a finding, identifying the

requirements which must be met or performed.

(Ord. 9417 § 2, 1975; Ord. 9521 § 10, 1979; Ord. 9532 § 2, 1979; Ord. 9559 § 2, 1980; Ord. 9602 § 10, 1981; Ord. 9626 § 3, 1982; Ord. CS-192 § 12, 2012)

**§ 20.12.091. Required findings.**

A. The decision-making authority may approve or conditionally approve a tentative map if all of the following findings are made:

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan, applicable master and specific plans and with applicable provisions of Title 21.
2. All approvals and permits required by Title 21 for the project have been obtained or will be concurrently obtained with the approval of the subdivision.
3. The site is physically suitable for the type of development.
4. The site is physically suitable for the proposed density of development.
5. The design of the subdivision or proposed improvements:
  - a. Are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat; or
  - b. If an environmental impact report was prepared with respect to the project, a finding was made, pursuant to Section 21081(a)(3) of the California Public Resources Code, that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.
6. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision; or, alternate easements for access or for use will be provided and that these will be substantially equivalent to ones previously acquired by the public.

This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the decision-making authority to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

8. All requirements of the California Environmental Quality Act have been met.
9. The proposed subdivision meets or performs all applicable requirements or conditions of this title and the Subdivision Map Act, unless failure to do so is a result of a technical and inadvertent error that does not materially affect the validity of the subdivision.
10. In the case of conversions of residential real property to condominiums, community apartments or stock cooperatives, all required notices and reports to tenants have been or will be sent as required by California Government Code Section 66427.1 and other applicable laws.
11. If the proposed subdivision is on land that is subject to any of the contracts or easements

specified in Section 66474.4 of the California Government Code:

- a. The parcels resulting from the subdivision will be large enough to sustain agricultural use, as specified in Section 66474.4 of the California Government Code; and
  - b. If the subdivision will create lots for residential use, the residential development will be incidental to the commercial agricultural use of the land.
12. The proposed subdivision complies with all requirements of the hillside development regulations, Chapter 21.95 of the Carlsbad Municipal Code.

(Ord. 9602 § 10, 1981; Ord. 9760 § 8, 1985; Ord. 9806 § 3, 1986; Ord. 9827 § 1, 1987; Ord. CS-192 § 12, 2012)

#### **§ 20.12.092. Announcement of decision and findings of fact.**

- A. When a decision on a tentative map is made pursuant to this chapter, the decision-making authority shall announce its decision and findings by formal resolution.
- B. The announcement of decision and findings shall include:
  1. A statement that the tentative map is approved, conditionally approved, or denied;
  2. The facts and reasons which, in the opinion of the decision-making authority, make the approval or denial of the tentative map necessary to carry out the provisions and general purpose of this title;
  3. Such conditions and limitations that the decision-making authority may impose in the approval of the tentative map.
- C. The announcement of decision and findings shall be mailed to:
  1. The owner of the subject real property or the owner's duly authorized agent, the subdivider and/or the subdivider's representative at the address or addresses shown on the application filed with the planning division;
  2. Any person who has filed a written request for a notice of decision.

(Ord. 9602 § 10, 1981; Ord. 9626 § 4, 1982; Ord. 9758 § 5, 1985; Ord. CS-192 § 12, 2012)

#### **§ 20.12.093. Effective date and appeals.**

Decisions on tentative maps shall become effective as of the date specified by resolution of the decision-making authority unless appealed and processed in accordance with the provisions of Section 21.54.150 of this code and Section 66452.5 of the Subdivision Map Act.

(Ord. CS-192 § 12, 2012)

#### **§ 20.12.100. Expiration of tentative maps.**

- A. The approval or conditional approval of a tentative map shall expire 24 months from the date the map was approved or conditionally approved unless it has been extended pursuant to Section 20.12.110 of this chapter.
- B. The time period specified in subsection A of this section, including any extension thereof granted pursuant to Section 20.12.110 of this chapter, shall not include any period of time during which a

development moratorium as defined in Section 66452.6(f) of the California Government Code, imposed after approval of the tentative map, is in existence; provided, however, that the length of such moratorium does not exceed five years.

- C. The period of time specified in subsection A, including any extension thereof granted pursuant to Section 20.12.110 of this chapter, shall not include any period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if a stay of such time period is approved by the City Council pursuant to this subsection.
1. An application for a stay must be filed by the subdivider in writing with the City Planner within 10 days of the service on the city of the initial petition or complaint in such lawsuit.
  2. The application shall state the reasons for the requested stay and include the names and addresses of all parties to the litigation.
  3. The City Planner shall notify all parties to the litigation of the date when the application will be heard by the City Council.
  4. Within 40 days after receiving such application, the City Council shall approve or conditionally approve the stay for up to five years or deny the requested stay.
- D. Prior to the expiration of the tentative map, a final map conforming to the requirements of Chapter 20.20 of this title may be filed with the City Engineer for approval. The final map shall be deemed filed on the date it is received by the City Engineer. Once a timely and complete filing has been made pursuant to this section, subsequent actions of the city, including, but not limited to, processing, approving, and recording, may occur after the date of expiration of the tentative map.
- E. The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map.

(Ord. 9549 § 3, 1980; Ord. 9680 § 2, 1983; Ord. 9760 § 9, 1985; Ord. 9806 §§ 4—6, 1986; Ord. CS-032 § 1, 2009; Ord. CS-135 § 7, 2011; Ord. CS-192 § 12, 2012)

### **§ 20.12.110. Extension of tentative map.**

- A. Automatic Time Extension. Pursuant to California Government Code Section 66452.23, the expiration date of any tentative map, which has not expired on or before July 15, 2011 and will expire before January 1, 2014, shall be extended by two years.
1. The expiration of all project related permits or approvals, which were granted concurrently, shall be extended by two years, provided said permits or approvals have not expired on or before July 15, 2011.
  2. This section shall automatically sunset on January 1, 2014, unless Government Code Section 66452.23 is extended by the state legislature, in which case this provision shall remain in effect concurrently with the effective date of the state law.
- B. Time Extension by City Planner.
1. The City Planner may administratively, without a public hearing or notice, extend the time within which the right or privilege granted under a tentative map is valid, subject to the following:

2. Prior to the expiration date of the tentative map, the subdivider shall submit a written request for a time extension, along with payment of the application fee contained in the most recent fee schedule adopted by the City Council.
  3. Provided the written request for a time extension is timely filed, the tentative map shall be automatically extended for 60 days or until a decision to approve, conditionally approve or deny the request is rendered, whichever occurs first; however, if a time extension is granted, it shall be based on the original approval date.
  4. The City Planner shall extend the tentative map for an additional two years, if the following findings are made:
    - a. The tentative map remains consistent with the general plan, all titles of this code and growth management program policies and standards in place at the time the extension is considered;
    - b. Circumstances have not substantially changed since the tentative map was originally approved;
    - c. The City Planner may grant no more than three two-year extensions, for a total cumulative time extension of six years;
    - d. All project related permits or approvals, which were granted concurrently, shall be extended to expire concurrently with the tentative map, provided such permits or approvals remain consistent with the general plan, all titles of this code and growth management program policies and standards in place at the time the extension is considered;
    - e. When granting an extension of a tentative map, the City Planner may impose new conditions and may revise existing conditions;
    - f. The City Planner shall announce in writing, by letter, his or her decision to grant or deny an extension of a tentative map. A copy of the letter announcing the City Planner's decision shall be mailed to the subdivider and to any person who has filed a written request to receive such notice.
  5. City planner decisions on time extensions shall become effective as of the date specified by resolution of the decision-making authority unless appealed and processed in accordance with the provisions of Section 21.54.140 of this code; except, if the City Planner denies the time extension, the subdivider may file an appeal with the City Clerk within 15 days of the denial, and said appeal shall be subject to the same process required for appeals of Planning Commission decisions specified in Section 21.54.150 of this code.
- C. Extensions when Filing Multiple or "Phased" Final Maps. In addition to the provisions for time extensions specified in subsections A and B of this section, a tentative map for which the filing of multiple or "phased" final maps has been authorized shall be extended subject to the following provisions:

When the subdivider is required to expend an amount equal to or greater than specified in California Government Code Section 66452.6(a), as determined at the time the tentative map is approved, to construct, improve or finance the construction or improvement of public improvements outside the boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property and are reasonably related to the development of that property, then each filing of a final map authorized by Section 20.20.020(C) of this code shall extend the expiration of

the approved or conditionally approved tentative map by 36 months from the date it would otherwise have expired or the date of the previously filed final map, whichever is later.

1. The extensions granted pursuant to this subsection shall not extend the tentative map for more than 10 years, excluding extensions granted pursuant to subsections A and B of this section. However, a tentative map for property subject to a development agreement authorized by the California Government Code and this code may be extended for a period of time provided for in the agreement, but not beyond the duration of the agreement.
  2. "Public improvements," as used in this subsection, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.
- D. Extensions of vesting tentative maps shall be governed solely by the provisions of Chapter 20.17 of this title, and by the provisions of subsection C of this section.
- (Ord. 9417 § 2, 1975; Ord. 9602 § 11, 1981; Ord. 9626 § 7, 1982; Ord. 9806 § 7, 1986; Ord. NS-422 § 2, 1997; Ord. CS-003 §§ 1, 3, 2008; Ord. CS-087, 2010; Ord. CS-135 § 8, 2011; Ord. CS-192 § 12, 2012)

#### **§ 20.12.120. Tentative map amendment.**

- A. An approved tentative map may be amended by following the same procedure required for the approval of said tentative map (except that if the City Council approved the original tentative map, the Planning Commission shall have the authority to act upon the amendment), and upon payment of the application fee contained in the most recent fee schedule adopted by the City Council.
  - B. If an approved tentative map was issued concurrently with the approval of another project related development permit(s), any amendment to said tentative map shall be acted on by the decision-making authority that approved the original tentative map, except that if the City Council approved the original tentative map, the Planning Commission shall have the authority to act upon the amendment.
  - C. In granting an amendment, the decision-making authority may impose new conditions and may revise existing conditions.
  - D. An amended tentative map shall conform to the following requirements:
    1. The proposed subdivision shown on such map shall generally conform to the street and lot pattern shown on the approved tentative map.
    2. The proposed subdivision shown on such map shall include only one contiguous area consisting of all or a portion of the subdivision shown on the approved tentative map together with such additional land, if any, as the subdivider desires to include.
    3. The map shall contain all of the information required on tentative maps and shall be accompanied by such data as is required to be filed with tentative maps.
- E. A tentative map amendment may be filed prior to expiration of a tentative map or within the period of time specified in any extension granted thereto.
- (Ord. 9417 § 2, 1975; Ord. 9602 § 12, 1981; Ord. 1256 § 12, 1982; Ord. NS-422 § 3, 1997; Ord. NS-676 § 12, 2003; Ord. CS-164 § 11, 2011; Ord. CS-192 § 12, 2012)

**§ 20.12.130. Vesting tentative maps.**

The vesting tentative map may be filed and processed in the same manner and subject to the same requirements as a tentative map except as provided in Chapter 20.17.

(Ord. 9788 § 5, 1986)

**CHAPTER 20.16  
MAJOR SUBDIVISIONS—REQUIREMENTS**

**§ 20.16.010. Design of subdivision.**

All major subdivisions for which a tentative map is required by this title shall conform to the following requirements as to design:

- A. Except as approved by the City Engineer, no lot shall include land in more than a single tax code area. A building permit shall not be issued for a lot which includes land in more than one tax code area and a note reflecting such restriction shall be included on the final map.
- B. Every lot shall contain the minimum lot area specified in Title 21 for the zone in which the lot is located at the time the final map is submitted to the City Council for its approval; provided, however, if no lot area is established by Title 21, every lot shall contain a net area of no less than 7,500 square feet.
- C. Every lot shall front on a dedicated street or a street offered for dedication unless otherwise authorized by Title 21 for the zone in which the lot is located at the time the final map is submitted to the City Council for its approval.
- D. Every lot shall have a width as specified in Title 21 for the zone in which the lot is located at the time the final map is submitted.
- E. Except for panhandle or flag-shaped lots approved pursuant to Title 21, lots whose side lines are approximately radial to the center of a cul-de-sac or the center of the intersection of two dead end streets shall have at least 33 feet of frontage measured at the right-of-way lines.
- F. Panhandle or flag-shaped lots, if permitted pursuant to Title 21, shall have minimum frontage of 20 feet on a dedicated public street or publicly dedicated easement accepted by the city. Where the panhandle or flag-shaped portion of a lot is adjacent to the same portion of another such lot the required minimum frontage on such street easement shall be 15 feet provided a joint easement ensuring common access to both such portions is agreed upon by the owners of such lots and recorded.
- G. Through lots shall not be allowed unless vehicular access rights are relinquished to one of the abutting streets as approved by the City Engineer.
- H. Lot depth shall be at least 90 feet. Lot depth shall be no greater than three times the average width except for minor subdivisions where the proposed lot depth to width ratio is less than that of the existing lot.
- I. Whenever practicable, subdivision of residential property abutting prime, major and secondary arterial routes shown on the circulation element of the city general plan, railroads, transmission lines and open flood-control channels shall be designed so that the lots do not front on nor have access from such rights-of-way.
- J. Whenever practicable, side and rear lot lines shall be located along the top of manmade slopes instead of at the toe or at intermediate locations on the slopes.
- K. Bicycle routes shown on the city general plan shall be included in the subdivision when such routes pass through or abut the subdivision.

Whenever rights-of-way for streets are required to be dedicated in subdivisions containing 200 or more lots, the subdivider shall include bicycle routes when necessary and feasible for the use and safety of the residents.

- L. Considerations shall be given to assuring proper development of abutting properties in the development of the street plan.
- M. The design of the subdivision shall be consistent with the provisions of Chapter 21.95 of this code relating to hillside development. Areas which are determined to be undevelopable pursuant to the applicable provisions of Chapter 21.95 of this code shall be preserved as open space areas.

(Ord. 9417 § 2, 1975; Ord. 9467 § 6, 1976; Ord. 9521 § 12, 1979; Ord. 9827 § 2, 1987)

#### **§ 20.16.015. Design for passive or natural heating opportunities.**

In addition to the requirements of Section 20.16.010, the design of a major subdivision for which a tentative map is required by this title, shall also provide to the extent feasible for future passive or natural heating or cooling opportunities in the subdivision.

- A. Examples of passive or natural heating opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.
- B. Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.
- C. In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and such provision shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in force at the time the tentative map is filed.
- D. The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.
- E. For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors as the City Council may determine.

(Ord. 9521 § 12, 1979; Ord. CS-192 § 14, 2012)

#### **§ 20.16.020. Conformance to street plans.**

All streets shown on a tentative map shall be in substantial conformance to the circulation element of the general plan and they shall relate to the existing streets in the areas adjoining the subdivision. Such streets shall also conform to any applicable master plans, specific plans or other officially adopted street plans.

(Ord. 9417 § 2, 1975)

#### **§ 20.16.030. Dedication.**

- A. The subdivider shall offer to dedicate rights-of-way for streets within the subdivision in accordance with city standards.
- B. No final map shall be approved unless the street or streets providing primary access to the subdivision are dedicated to and maintained by a city, county or state and the street or streets meet city standards for right-of-way width.

- C. Streets which are proposed on the boundaries of a subdivision shall have a dedicated width of no less than 42 feet together with a strip of land one foot wide on its outer edge which shall be offered to the city for street purposes and over which access rights are relinquished.
- D. All streets proposed to be terminated at the subdivision boundary shall include a strip of land one foot wide across the street at its point of termination at the boundary which shall be portions of the adjacent lots, offered for street purposes and over which access rights are relinquished.
- E. Intersections of existing streets or of existing streets with streets shown on the circulation element of the general plan shall be offset at least 250 feet. Four-way intersections are to be avoided wherever possible.
- F. Where it is necessary to extend a street beyond the boundaries of a subdivision to provide adequate circulation for residents of the subdivision, the subdivider shall cause the required easements to be dedicated to the city and shall improve the easements in accordance with city standards.
- G. Whenever any land to be subdivided is bounded by an inlet, bay, estuary, lagoon, river, stream or by the Pacific Ocean, there shall be a street to and along such inlet, bay, estuary, lagoon, river, stream or ocean front, or adequate public access to and along such boundary shall be provided or be made otherwise available in lieu of such street or any combination as the City Council may require to insure compliance with Chapter 4, Article 3.5 of the Subdivision Map Act.
- H. Where a drainage facility or flood control facility is necessary for the use of lot owners or for the protection of lots, adequate rights-of-way for such drainage facilities or flood control facilities shall be offered for dedication to the city or to such other public entities as the City Council designates and shall be shown on the map.
- I. Where it is necessary to extend a drainage facility or flood-control facility beyond the boundaries of the subdivision for adequate drainage or flood-control needs, the required rights-of-way shall be offered for dedication.
- J. Drainage facilities and flood-control facilities within and without the subdivision shall be provided so as to carry storm runoff, both tributary to and originating within the subdivision.
- K. The subdivider shall offer to dedicate land for park purposes, pay fees in lieu thereof, or do a combination of both, pursuant to Chapter 20.44 of this title.
- L. The subdivider shall offer to dedicate in accordance with city standards the necessary right-of-way for bicycle routes under the following circumstances:
  - 1. When such routes as shown on the city general plan pass through or abut the subdivision;
  - 2. When a subdivider is required to dedicate rights-of-way for streets in a subdivision containing 200 or more lots and such route is necessary and feasible for the use and safety of the residents.
- M. Where required, a dedication or offer of dedication of a street shall include a waiver of direct access rights to such street from any property shown on a final map as abutting thereon, and if the dedication is accepted, such waiver shall become effective in accordance with the provisions of the waiver of direct access.

(Ord. 9417 § 2, 1975)

#### **§ 20.16.040. Required improvements.**

A. Before approving a final map, the decision-making authority shall require and before a final map is approved by operation of law, it shall be required that:

1. The subdivider grade and improve or agree to grade and improve all land dedicated or to be dedicated for streets or easements, bicycle routes and all private streets and private easements laid out on a final map or parcel map in such manner and with such improvements as are necessary for the use of the lot owners in the subdivision and local neighborhood traffic and drainage needs, and in accordance with city standards;
  2. The subdivider install or agree to install all drainage and flood-control structures and facilities required by the City Engineer, which drainage and flood-control structures and facilities shall conform to city standards, or the standards of other appropriate agencies as the City Engineer adopts;
  3. The subdivider install or agree to install fire hydrants and connections of a type and location approved by the Fire Chief. For local residential streets, fire hydrant connections, including valves, shall be installed between the sidewalk and the curb and gutter in the parkway;
  4. The subdivider provide all necessary easements and rights-of-way to accommodate all streets, drainage and flood-control structures and facilities and sewer systems extending beyond the boundaries of the subdivision;
  5. The subdivider provide that the subdivision be connected to a domestic water system approved by the city and all water mains shall be of a material subject to the requirements of the water company or agency serving the subdivision. That the subdivider shall install or agree to install all required water systems necessary to serve the subdivision and that all water lines, appurtenances and service connections have been constructed or laid prior to paving or provisions have been made to insure said construction; and
  6. Where a sewer line is constructed or laid within a street or road, the subdivider has installed or agreed to install sewer lines of a type and size approved by the City Engineer to the property line of each lot within the subdivision and all sanitary sewer lines, appurtenances and service connections have been constructed or laid prior to paving or provisions have been made to insure the construction.
- B. If the offer of dedication of streets is rejected on the map pursuant to Section 66477.1 of the Subdivision Map Act, no surfacing shall be required on any street so rejected; provided, however, this provision shall not be construed as relieving the subdivider of the obligation of:
1. Grading such rejected streets to grades and widths required by city standards;
  2. Installing all drainage structures and facilities required by the City Engineer, which shall conform to city standards; or
  3. Installing water supply pipelines, fire hydrants and connections as may be required by the City Engineer and Fire Chief.
- C. No surfacing is required on any private street laid out on any parcel map where each parcel shown on such map contains a gross area of 20 acres or more; provided, however, this provision shall not be construed as relieving a subdivider of the obligation of:
1. Grading such private streets to grades and widths required by city standards;

2. Installing all drainage structures and facilities required by the City Engineer, which shall conform to city standards; and
  3. Installing water supply pipelines, fire hydrants and connections as may be required.
- D. The design of any subdivision for which a tentative map or parcel map is required pursuant to Government Code Section 66426 shall provide for appropriate cable television systems and for communication systems, including, but not limited to, telephone and internet services, to each parcel in the subdivision. All new utility distribution facilities, including cable television conduit and lines, and communications systems, within the boundaries of any new subdivision or within the half-street abutting a new subdivision, shall be placed underground. All existing utility distribution facilities shall be placed underground within the boundaries of any new subdivision or within any half-street abutting any new subdivision except where the existing facilities within any single half-street section abutting the new subdivision span a distance of less than 600 feet, or where it is determined by the City Engineer that it is not practicable to place the existing facilities underground within any single half-street section due to the existence of overhead utility services to properties on the opposite side of that half-street section, in which cases the subdivider shall execute and record a covenant running with the land not to oppose a local improvement district for underground placement of utilities.

In developments where overhead utility distribution facilities are allowed to remain, all new services to existing lots and lots created according to the provisions of this title shall be installed underground from the nearest utility pole.

The subdivider is responsible for complying with the requirements of this subsection, and the subdivider shall make the necessary arrangements with each of the serving utilities, including franchised cable television operators, and communication system providers, including, but not limited to, telephone and internet services, for the installation of such facilities. Transformers, terminal boxes, meter cabinets, pedestals, concealed ducts and other facilities necessarily appurtenant to such underground utilities and street lighting systems may be placed aboveground, subject to approval of the City Engineer as to type and location. The provisions of this subsection shall not apply to the installation and maintenance of overhead electric transmission lines in excess of 34,500 volts and long-distance and trunk communication facilities. The installation of cable television lines may be waived when, in the opinion of the City Council, no franchised cable television operator is found to be willing and able to install cable television lines in the subdivision. Notwithstanding any such waiver, the installation of cable television conduits is required.

- E. The subdivider shall construct or shall cause to be constructed at his or her cost a street lighting system conforming to city standards.
- F. Where the city has adopted a flood-control element or drainage element of the general plan, any improvements shall conform to such element wherever possible.
- G. The subdivider shall comply or agree to comply with all the conditions of approval contained in the resolution approving the tentative map and not otherwise provided for by this section.
- H. If improvements are required for a designated remainder parcel, the fulfillment of such requirements by the construction of improvements shall not be required until such time as a building or grading permit for development of the parcel is issued by the city or until such time as the construction of such improvements is required pursuant to an agreement between the subdivider and the city. In the absence of such an agreement, the City Council may require fulfillment of some or all of such construction requirements within a reasonable time following approval of the final map and prior to the issuance of a building or grading permit for the development of a remainder parcel upon a finding

that fulfillment of the construction requirements is necessary for reasons of public health and safety or that the construction is a necessary prerequisite to the orderly development of the surrounding area. (Ord. 9417 § 2, 1975; Ord. 7044 § 1, 1976; Ord. 9521 § 13, 1979; Ord. 9549 § 4, 1980; Ord. NS-603 § 2, 2001; Ord. NS-745 § 1, 2005; Ord. CS-192 § 16, 2012)

#### **§ 20.16.041. Supplemental improvements—Required.**

- A. The subdivider may be required to install improvements for the benefit of the subdivision which may contain supplemental size, capacity or number for the benefit of property not within the subdivision as a condition precedent to the approval of a subdivision or parcel map and thereafter to dedicate such improvements to the public. However, when such supplemental size, capacity or number is solely for the benefit of property not within the subdivision, the city shall enter into an agreement with the subdivider to reimburse the subdivider for that portion of the cost of such improvements equal to the difference between the amount it would have cost the subdivider to install such improvements to serve the subdivision only and the actual cost of such improvements pursuant to the provisions of the Subdivision Map Act.
- B. The City Council shall determine the method for payment of the costs required by a reimbursement agreement which may include but is not limited to the establishment and maintenance of local benefit districts for the levy collection of such charge or costs from the property benefited.

(Ord. 9521 § 14, 1979; Ord. NS-745 § 1, 2005)

#### **§ 20.16.042. Supplemental improvements—Reimbursement agreement—Funding procedures.**

- A. No charge, area of benefit or local benefit district shall be established unless and until a public hearing is held thereon by the City Council and the City Council finds that the fee or charge and the area of benefit or local benefit district is reasonably related to the cost of such supplemental improvements and the actual ultimate beneficiaries thereof.
- B. In addition to the notice required by Section 66451.3 of the Government Code, written notice of the hearing shall be given to the subdivider and to those who own property within the proposed area of benefit as shown on the latest equalized assessment roll, and the potential users of the supplemental improvements insofar as they can be ascertained at the time. Such notices shall be mailed by the City Clerk at least 10 days prior to the date established for the hearing.

(Ord. 9521 § 14, 1979)

#### **§ 20.16.043. Supplemental improvements—Drainage, sewerage, bridges and major thoroughfares.**

If the city has adopted a local drainage or sanitary sewer plan or map as required for the imposition of fees therefor, or has established an area of benefit for bridges or major thoroughfares as provided in Chapter 20.08 of this title, the city may impose a reasonable charge on property within the area benefited and may provide for the collection of said charge as set forth in Chapter 20.08. The city may enter into reimbursement agreements with a subdivider who constructs said facilities, bridges or thoroughfares and the charges collected by the city therefor may be utilized to reimburse the subdivider.

(Ord. 9521 § 14, 1979; Ord. 9602 § 14, 1981)

#### **§ 20.16.050. Monuments.**

- A. Every final map shall show the following monuments:
  - 1. Boundary Monuments. The exterior boundary of the subdivision shall be monumented with

permanent monuments not smaller than two inch iron pipes at least 24 inches long set at each corner and at intermediate points along the boundary not more than 1,000 feet apart and at the beginning and end points of all curves; provided, if any existing record and identified monument meeting the foregoing requirements is found at any such corner or point, such monument may be used in lieu of a new monument.

2. Lot Corner Monuments. All lot corners, except when coincident with exterior boundary corner, shall be monumented with permanent monuments of one of the following types:
    - a. Three-quarter inch diameter iron pipe at least 12 inches long;
    - b. One-half inch diameter steel rod at least 12 inches long;
    - c. Lead plug and copper identification disks set in concrete sidewalks or curbs.
  3. Such additional monuments to mark the limiting lines of streets as the City Engineer may require.
  4. All other monuments set or proposed to be set.
- B. The subdivider shall cause the foregoing monuments to be set by a licensed surveyor or engineer.
- C. All monuments and their installation shall conform to city standards.
- D. All of the foregoing monuments shall be set prior to the approval of the map by the City Council unless the setting thereof is deferred in accordance with Section 66496 of the Subdivision Map Act; provided, however, the setting of exterior boundary monuments shall not be deferred unless the City Engineer determines that such monuments might be disturbed by the construction of improvements.
- E. Where the setting of monuments is deferred following filing of a final map, such monuments shall be set within 30 days after the completion of the required improvements and prior to the acceptance thereof by the city. The setting of monuments shall not be deferred if a parcel map is filed unless expressly allowed by the City Engineer.
- F. Prior to approval of final map, subdivider shall provide the city with security in an amount equal to 100% of the estimated cost of setting subdivision monuments. The security shall be in a form as provided in Section 20.16.070. The security shall be released upon presentation by subdivider to the city of evidence that the monuments are set and the engineer or surveyor has received full payment for setting of the monuments.

(Ord. 9417 § 2, 1975; Ord. NS-131 § 1, 1990)

#### **§ 20.16.060. Agreement to improve.**

Unless the decision-making authority requires the subdivider to construct improvements prior to final map approval, the subdivider may elect to agree to construct improvements or to otherwise comply with the requirements of this title and with the conditions in the resolution approving the tentative map or, if authorized by the City Council, may contract to initiate and consummate special assessment district proceedings in lieu of constructing improvements, as provided in Section 66462 of the Subdivision Map Act. If the subdivider consents, or the City Council requires pursuant to Section 20.16.040, the agreement may provide for the improvements for a designated remainder parcel prior to issuance of a building or grading permit for such parcel. In addition, the subdivider shall prepare and deposit with the City Clerk detailed plans and specifications of the improvements to be constructed or the conditions to be met, and such plans and specifications shall be made a part of any such agreement or contract and of the

improvement security securing the same. The City Manager is authorized to sign such agreements on behalf of the city.

(Ord. 9417 § 2, 1975; Ord. 9549 § 4, 1980; Ord. CS-192 § 17, 2012)

#### **§ 20.16.070. Improvement security—Required.**

The improvement agreement referred to in Section 20.16.060 shall be secured by one of the following:

- A. A bond or bonds by one or more duly authorized corporate sureties substantially in the form prescribed by Sections 66499.1 and 66499.2 of the Subdivision Map Act.
- B. A deposit either with the city or a responsible escrow agent or trust company selected by the city of cash or negotiable bonds of the kind approved for securing deposits of its public moneys.
- C. An irrevocable instrument of credit from one or more responsible financial institutions regulated by federal or state government and pledging that the funds are on deposit and guaranteed for payment on demand by the city.
- D. A letter of credit in a form approved by the Finance Director and the City Attorney from a financial institution regulated by the state or federal government and approved by the Finance Director and the City Attorney.

(Ord. 9417 § 2, 1975; Ord. 9680 § 4, 1983)

#### **§ 20.16.080. Improvement security—Amount.**

Improvement security shall be in the following amounts:

- A. One hundred percent of the total estimated cost of the improvement or act to be performed conditioned upon the faithful performance of the act or agreement;
- B. Fifty percent of the total estimated cost of the improvement or act to be performed securing payment to the contractor, the subcontractors and to persons furnishing labor, materials or equipment to them for the improvement or the performance of the required act;
- C. Twenty-five percent of the total estimated cost of the improvement or act to be performed to guarantee or warranty the work for a period of one year following completion or acceptance thereof against any defective work or labor done or defective materials furnished. The security shall be obtained by retaining 25% of the security for faithful performance of the act or agreement;
- D. If the improvement security is other than a bond or bonds furnished by duly authorized corporate surety, an additional amount shall be included, as determined by the City Council, as necessary to cover the cost and reasonable expenses and fees, including reasonable attorney's fees, which may be incurred by the city in successfully enforcing the obligation secured. The improvement security shall also secure the faithful performance of any changes or alterations in the work to the extent that such changes or alterations do not exceed 10% of the original estimated cost of the improvement;
- E. Whenever an entity required to furnish security is a California nonprofit corporation funded by the United States of America or one of its agencies, or the State of California or one of its agencies, the entity shall not be required to comply with subsection A or B of this section, provided that the conditions established by subsection C of Section 66499.3 of the State Government Code are met.

(Ord. 9417 § 2, 1975; Ord. 9680 § 55, 1983; Ord. NS-131 § 2, 1990)

**§ 20.16.090. Improvement security—Release.**

The improvement security required under this chapter shall be released in the following manner:

- A. Seventy-five percent of security given for faithful performance of any act of agreement shall be released upon the final completion and acceptance of the act or work, subject to the provisions of subsection B of this section. Twenty-five percent of the security given for faithful performance of any act or agreement shall be retained for a period of one year after acceptance to guarantee or warranty the work or act as required in Section 20.16.080(C). No security given for the guarantee or warranty of work shall be released until the expiration of the period thereof.
- B. The City Engineer may release a portion of the security in conjunction with the acceptance of the performance of the act or work as it progresses upon application therefor by the subdivider; provided, however, that no such release shall be for an amount less than 25% of the total improvement security given for faithful performance of the act or work. In no event shall the City Engineer authorize a release of the improvement security which would reduce such security to an amount below that required to guarantee the completion of the act or work and any other obligation imposed by this title, the Subdivision Map Act or the improvement agreement.
- C. Security given to secure payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, six months after the completion and acceptance of the act or work, be reduced to an amount equal to the amount of all claims therefor filed and of which notice has been given to the legislative body plus an amount reasonably determined by the City Engineer to be required to assure the performance of any other obligations secured thereby. The balance of the security shall be released upon the settlement of all such claims and obligations for which the security was given.

(Ord. 9417 § 2, 1975; Ord. NS-131 § 3, 1990; Ord. CS-135 § 9, 2011)

**§ 20.16.095. Off-site improvements—Acquisition of property interests.**

- A. Whenever a subdivider is required as a condition of a tentative map to construct or install off-site improvements on property which neither the subdivider nor the city owns, then not later than 120 days prior to filing the final map for approval the subdivider shall provide the city with sufficient information, reports and data including, but not limited to, an appraisal and title report, to enable the city to commence proceedings pursuant to Title 7 of Part 3 of the Code of Civil Procedure to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property pursuant to Article 3 of said title.
- B. The subdivider shall agree pursuant to Section 20.16.060 to complete the improvements at such time as the city has a sufficient interest in the property to permit the construction of the improvements. The subdivider shall bear all costs associated with the acquisition of the property interests and the estimated cost thereof shall be secured as provided in Section 20.16.070.
- C. If the city has not required the subdivider to enter into an agreement and the city fails to meet the 120-day limitation, the condition of construction of off-site improvements shall be conclusively deemed to be waived. The waiver shall occur whether or not the city has postponed or refused approval of the final map, because the subdivider has failed to meet a tentative map condition which requires the construction or installation of off-site improvement on land owned by a third party.

(Ord. 9680 § 6, 1983; Ord. NS-704 § 1, 2004)

**§ 20.16.100. Improvement security—Forfeiture.**

Upon the failure of the subdivider to complete any improvement, acts or obligations within the time specified, the City Council may, upon notice in writing of not less than 10 days served upon the person responsible for the performance thereof, or upon notice in writing of not less than 20 days served by registered mail addressed to the last known address of such person, determine that the subdivider is in default and may cause the improvement security, or such portion thereof as is necessary to complete the work or act and any other obligations of the subdivider secured thereby, to be forfeited to the city.

(Ord. 9417 § 2, 1975)

## CHAPTER 20.17 VESTING TENTATIVE MAPS

### **§ 20.17.010. Authority.**

This chapter is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1 of Division 2 of Title 7 of the Government Code of the State of California—Subdivision Map Act) and is intended to implement the provisions of that chapter.

(Ord. 9788 § 6, 1986)

### **§ 20.17.020. Filing.**

- A. Whenever this title requires the filing of a tentative map or a tentative parcel map the subdivider may file a vesting tentative map or vesting tentative parcel map subject to the provisions of this chapter.
- B. At the time a vesting tentative map or vesting tentative parcel map is filed, it shall have printed conspicuously on its face, "Vesting Tentative Map" or "Vesting Tentative Parcel Map," whichever is applicable."

(Ord. 9788 § 6, 1986; Ord. 9806 § 8, 1986; Ord. NS-676 § 14, 2003; Ord. NS-710 § 1, 2004; Ord. CS-155 § 2, 2011)

### **§ 20.17.025. Processing.**

- A. The processing of vesting tentative maps shall be consistent with the processing of tentative maps per Chapter 20.12.
- B. The processing of vesting parcel maps shall be consistent with the processing of tentative parcel maps per Chapter 20.24.

(Ord. CS-155 § 3, 2011)

### **§ 20.17.028. Expiration.**

- A. A vesting tentative map or vesting tentative parcel map shall expire consistent with the provisions contained in this title for tentative maps and tentative parcel maps, whichever is applicable. The vesting tentative map or vesting tentative parcel map shall be subject to the same regulations regarding time extensions as provided in this title for extensions of tentative maps or tentative parcel maps, whichever is applicable. All related city permits or approvals for projects including a vesting tentative map or vesting tentative parcel map shall expire on the same day as the vesting tentative map or vesting tentative parcel map expires.
- B. The expiration of an approved or conditionally approved vesting tentative map or vesting tentative parcel shall terminate all proceedings consistent with the provisions contained in this title for tentative maps and tentative parcel maps, whichever is appropriate.

(Ord. CS-155 § 4, 2011)

### **§ 20.17.030. Rights conferred.**

- A. Approval or conditional approval of a vesting tentative map or vesting tentative parcel map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the date the application is deemed complete, as described in Section 66474.2 of the Government Code. However, if Section 66474.2 is repealed the approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies

and standards in effect at the time the vesting tentative map or vesting tentative parcel map was approved or conditionally approved. Any disputes regarding whether a development substantially complies with the approved or conditionally approved map, or with the ordinances, policies or standards described in this subsection, shall be resolved by the decision-making authority which approved the vesting tentative map or vesting tentative parcel map, in accordance with Sections 20.12.090 and 20.24.120.

- B. Notwithstanding subsection A of this section, a permit, approval, extension or entitlement for development may be conditionally approved or denied if the decision-making authority determines:
  - 1. A failure to condition or deny the permit, approval, extension or entitlement would place the residents of the subdivision or of the immediate community or both in a condition dangerous to their health or safety or both; or
  - 2. The condition or denial is required in order to comply with state or federal law.
- C. The rights conferred by a vesting tentative map or vesting tentative parcel map shall expire if:
  - 1. A final map or parcel map is not approved prior to the expiration of the vesting tentative map or the vesting tentative parcel map;
  - 2. The applicant has requested a change in the type, density, bulk or design of the development unless an amendment to the vesting tentative map or vesting tentative parcel map has been approved.
- D. If the final map or parcel map is approved prior to the expiration of the vesting tentative map or vesting tentative parcel map, the vested rights conferred by subsection A of this section shall last as follows:
  - 1. The vested rights shall last for an initial time period of two years from the recording of the final map or parcel map. Where several final maps or parcel maps are recorded on various phases of a project covered by a single vesting tentative map or vesting tentative parcel map the two-year initial period shall begin for each phase when the final map or parcel map for that phase is recorded.
  - 2. The two-year initial time period shall be automatically extended by any time used for processing a complete application for a grading permit or for design or architectural review, if such processing exceeds 30 days from the date a complete application is accepted.
  - 3. A subdivider may apply to the decision-making authority for a one-year extension of the vested rights at any time before the initial two-year time period expires. An extension may be granted only if the decision-making authority finds that the map still complies with the requirements of this title. The decision-making authority may approve, conditionally approve or deny an extension in its sole discretion, subject to appeal in accordance with Chapter 20.12 or 20.24.
  - 4. If the subdivider submits a complete application for a building permit during the periods of time set forth in paragraphs 1 through 3 of this subsection, the vested rights shall continue until the expiration of that building permit or any extension of that building permit.
- E. Upon the expiration of the time limits specified in subsections A and D, all vested rights conferred by this section shall cease, and the project shall be considered the same as any subdivision which was not processed pursuant to this chapter.

F. Notwithstanding subsection A, the amount of any fees which are required to be paid either as a condition of the map approval or by operation of any law shall be determined by application of the law or policy in effect at the time the fee is paid. The amounts of the fees are not vested upon approval of the vesting tentative map or vesting tentative parcel map.

(Ord. 9788 § 6, 1986; Ord. CS-155 § 4, 2011; Ord. CS-192 § 18, 2012)

**§ 20.17.035. Amendments.**

If the ordinances, policies, or standards described in Section 20.17.030(A) change subsequent to the approval or conditional approval of a vesting tentative map or vesting tentative parcel map, the subdivider, or assignee, may apply for an amendment to the vesting tentative map or vesting tentative parcel map to secure a vested right to proceed with the changed ordinances, policies, or standards. The application shall be made prior to the expiration of the vesting tentative map or vesting tentative parcel map pursuant to Section 20.17.028(A) and shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.

(Ord. CS-155 § 6, 11)

**§ 20.17.040. Consistency with zoning and general plan.**

No vesting tentative map or vesting tentative parcel map shall be approved if the proposed map or the design or improvement of the proposed development are not consistent with the applicable general, specific or master plans or with the applicable provisions of Title 21. If development of the project for which a vesting tentative map or vesting tentative parcel map requires any permits or approvals pursuant to Title 21 of this code those permits or approvals shall be processed concurrently with the vesting tentative map or vesting tentative parcel map. A vesting tentative map or vesting tentative parcel map shall not be approved if all other discretionary permits or approvals have not been approved either prior to or concurrently with approval of the map.

(Ord. 9788 § 6, 1986)

**CHAPTER 20.20  
FINAL MAP REQUIREMENTS**

**§ 20.20.010. Maps to conform to requirements of approved tentative map.**

All final and parcel maps for major subdivisions shall conform to the requirements of the Subdivision Map Act and this title and also shall conform to the requirements specified in the approval or conditional approval of the tentative map.

(Ord. 9417 § 2, 1975; Ord. 9602 § 15, 1981; Ord. CS-192 § 20, 2012)

**§ 20.20.020. City Engineer to approve maps.**

- A. Pursuant to California Government Code Section 66458(d), the City Engineer is authorized to approve or deny final maps.
- B. The City Engineer shall notify the City Council at its next regular meeting after the official receives the map that the City Engineer is reviewing the map for final approval.

The City Clerk shall provide notice of any pending approval or denial by the City Engineer, such notice shall be attached and posted with the City Council's regular agenda and shall be mailed to interested parties who request notice.

- C. The City Engineer shall approve or deny the final map within 10 days following the meeting of the City Council held pursuant to subsection B of this section.
- D. The City Engineer shall not consider a final map unless there is a valid tentative map for the subdivision.
- E. No final map shall be filed in the office of the County Recorder until approved by the City Engineer, but such map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map, providing that any such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. The City Engineer may waive any failure of the map to meet such requirements and conditions if such failure is a result of a technical and inadvertent error which, in the determination of the City Engineer, doesn't materially affect the validity of the map.
- F. Multiple or "phased" final maps may be filed for portions of the tentative map, provided that the tentative map approval divides a subdivision into units and the final map or "phased" final map substantially conforms to one or more of such units and complies with all conditions applicable to such units. The number of final maps or "phased" final maps which may be filed shall be determined by the decision-making authority at the time of the approval or conditional approval of the tentative map. When dividing a subdivision into units, the decision-making authority shall ensure that the design and improvement of each unit are consistent with the provisions of this title. If the subdivider is subject to a requirement to construct or improve or finance the construction and improvement of public improvements outside the boundary of the subdivision the cost of that requirement shall be established at the time the tentative map is approved. If the cost of the off-site public improvements requirement is \$100,000.00 or more it shall be a condition of the tentative map that additional conditions may be placed on the extension of the tentative map which occurs by operation of Section 20.12.110(B) of this code; and further, it shall be a condition that upon the filing of any multiple final map or phased final map the City Engineer may modify or eliminate the phasing scheme.
- G. The City Engineer shall not approve a final map for a subdivision to be created from a conversion of

residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it finds all of the following:

1. Each of the tenants of the proposed condominium project, community apartment project, or stock cooperative project has received written notification of intention to convert at least 60 days prior to the filing of a tentative map. There shall be a further finding that each such tenant and each person applying for the rental of a unit in such residential real property has or will have received all applicable notices and rights now or hereafter required by this title or the Subdivision Map Act. In addition, a finding shall be made that each tenant has received 10 days' written notification that an application for a public report will be or has been submitted to the department of real estate, and that such report will be available on request. The written notices to tenants required by this subdivision shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
2. Each of the tenants of the proposed condominium project, community apartment project, or stock cooperative project has been or will be given written notification within 10 days of approval of a final map for the proposed conversion.
3. Each of the tenants of the proposed condominium project, community apartment project, or stock cooperative project has been or will be given 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion.

The provisions of this subdivision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provisions of services, payment of rent or the obligations imposed by Sections 1941, 1941.1 and 194.1 of the California Civil Code.

4. Each of the tenants of the proposed condominium project, community apartment project, or stock cooperative project has been or will be given notice of an exclusive right to contract for the purchase of his or her respective units upon the same terms and conditions that such units will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
5. The owners of a stock cooperative or community apartment project have voted in favor of such conversion as specified by Section 66452.10 of the State Government Code.
6. This section shall not diminish, limit or expand, other than as provided herein, the authority of the decision-making authority to approve or disapprove condominium projects.

(Ord. 9417 § 2, 1975; Ord. 9521 § 15, 1979; Ord. 9602 §§ 16, 17, 1981; Ord. 9680 § 7, 1983; Ord. 9806 § 9, 1986; Ord. CS-155 § 9, 2011; Ord. CS-192 § 20, 2012)

#### **§ 20.20.030. Required offer of dedication.**

As a condition precedent to the approval by the City Engineer of any final map, all parcels of land shown thereon and intended for any public use shall be offered for dedication for public use except those parcels, other than streets, intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 20, 2012)

**§ 20.20.040. Grant of open space easement.**

In the event that a grant of an open space easement is to be made over any portion of the subdivision, the final map shall contain a certificate signed and acknowledged by those parties having any record title interest in the subdivided land granting such open space easement and stating the conditions of the grant. (Ord. 9417 § 2, 1975)

**§ 20.20.050. Type of map required.**

Unless otherwise provided in this title, a final subdivision map shall be prepared and filed pursuant to an approved tentative map for every major subdivision. In lieu of filing a final subdivision map, unless otherwise required by the Subdivision Map Act, a parcel map with a form and content in accord with Chapter 20.32 of this title may be filed pursuant to an approved tentative map when any of the following conditions prevail:

- A. The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the City Council;
- B. Each parcel created by this division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway, and no dedication is required by the City Council;
- C. The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development and which has the approval of the City Council;
- D. Each parcel created by the division has a gross area of 40 acres or more or each of which is a quarter-quarter section or larger.

(Ord. 9417 § 2, 1975)

**§ 20.20.060. Additional data on final subdivision maps.**

Every final subdivision map shall:

- A. Contain a definite description of the land subdivided by references to recorded deeds, recorded maps and official United States surveys. Reference to tracts, recorded deeds and recorded maps shall be spelled out, worded identically with original records and show the book and page of records or map numbers;
- B. Show the basis of bearings used, the relationship of the bearings to the true meridian, and the north point of the map shall appear on each sheet thereof;
- C. Show the acreage of all parcels containing one acre or more to nearest hundredth;
- D. Clearly indicate, by description or a distinctive boundary line, any area subject to flooding at times of high tide or heavy rainfall, and state that such area is subject to flooding at times of high tide or heavy rainfall;
- E. Show a solid line separating all private ways, easements and other rights-of-way not to be accepted as public streets and shown on the map from public streets and clearly designate their nature and the manner in which the right is reserved or granted;
- F. Bear the name and the Carlsbad tract number of the subdivision on every sheet of the map;

- G. Indicate the exterior boundary of the land included within the subdivision by distinctive symbols and clearly so designate. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys. If the map includes a designated remainder parcel or a parcel designated as "not a part," and the gross area of that parcel is five acres or more, that parcel need not be shown on the map and its location need not be indicated as a matter of survey but may be indicated by deed reference to the existing boundaries of the remainder parcel;
- H. Additional information as required by the City Engineer which may include, but is not limited to, building setback lines, flood hazard zones, seismic lines and setbacks, airport influence areas, archaeological sites and other restricted areas. The additional information shall be in the form of a separate document or an additional map sheet which shall indicate its relationship to the final or parcel map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest.

(Ord. 9417 § 2, 1975; Ord. 9549 § 5, 1980; Ord. 9806 § 10, 1986; Ord. NS-172 § 1, 1991)

#### **§ 20.20.070. Record of easements.**

- A. The final map shall show the centerline data, width and side lines of all easements to which the land is subject or to be subjected. If the easement is not definitely located on record, a statement as to the easement shall appear on the title sheet.
- B. Easements for storm drains, sewers and other purposes shall be denoted by broken lines.
- C. The easement shall be clearly labeled and identified and, if already of record, proper reference to the records given.
- D. Easements being dedicated shall be so indicated in the certificate of dedication.
- E. Easements for public utility companies shall be designated on the final map as "easements for public utilities."

(Ord. 9417 § 2, 1975)

#### **§ 20.20.080. Survey data.**

- A. The final map shall show the centerlines of all streets, length, tangents, radii and central angles or radial bearings of all curves, the total width of each street, the width of the portion being dedicated and the width of existing dedication and the width of each side of the centerline; also the width or rights-of-way of railroads, flood-control or drainage channels and any other easements existing or being dedicated by the map.
- B. Surveys in connection with subdivision maps prepared pursuant to this chapter shall be made in accordance with standard practices and principles for land surveying. A traverse of the boundaries of the subdivisions and all lots and blocks shall close. Sufficient data shall be shown to determine readily the bearing and length of each line. Dimensions of lots shall be net dimensions, and no ditto marks shall be used.
- C. Traverse sheets and work sheets showing the closure of the exterior boundaries and of each irregular block and lot shall be provided.
- D. The final map shall also have indicated thereon the following:
1. Suitable primary survey control points;

- a. Section corners;
  - b. Monuments (existing outside of subdivision);
2. Location of all permanent monuments within subdivision;
  3. Ties to any city or county boundary lines involved;
  4. Ties to and identification of adjacent subdivisions;
  5. Required certificates.

(Ord. 9417 § 2, 1975)

#### **§ 20.20.090. Lot numbers.**

- A. The lots shall be numbered consecutively, commencing with the number "1," with no omissions or duplications; in the case of successive subdivisions of the same basic name, the numbering may be successively extended from the previous subdivision bearing the same general name.
- B. Each lot shall be shown entirely on one sheet.

(Ord. 9417 § 2, 1975)

#### **§ 20.20.100. Established lines.**

- A. Whenever the City Engineer has established the centerline of a street or alley such data shall be considered in making the surveys and in preparing the final map, and all monuments found shall be indicated and proper references made to field books or maps of public record, relating to the monuments. If the points were reset by ties, that fact shall be stated.
- B. The final map shall show city boundaries crossing or adjoining the subdivision clearly designated and tied in.

(Ord. 9417 § 2, 1975)

#### **§ 20.20.110. Additional certificates on final subdivision maps.**

In addition to certificates and other material required by the Subdivision Map Act and this title, every final subdivision map shall bear the following certificates or endorsements:

- A. A certificate by the City Treasurer and the Director of Sanitation and Flood Control, where applicable, to the effect that there are no unpaid special assessments or bonds which may be paid in full shown by the records in their offices against the subdivision or any part thereof;
- B. A certificate by the Clerk of the Board of Supervisors that the provisions of Division 2, Title 7 of the Government Code have been complied with regarding security for payment of taxes or special assessments collected as taxes on the property whenever any part of the subdivision is subject to a lien for taxes, or special assessments collected as taxes, which are not yet payable;
- C. Certificate of the County Recorder as to the filing of the map;
- D. A certificate signed and sealed by the engineer/surveyor in accordance with Section 66441 of the Subdivision Map Act;
- E. A certificate signed by the City Engineer in accordance with Section 66442 of the Subdivision Map Act;

- F. A certificate signed by the City Engineer that the tentative map has been approved or conditionally approved by the decision-making authority;
- G. Endorsement by the City Attorney of his or her approval of the map as to form;
- H. A certificate signed by the City Engineer accepting, accepting subject to improvement, or rejecting all offers of dedication that are made by a statement on the map;
- I. If applicable, a certificate signed by the City Clerk attesting to the approval of the map by the City Council and their acceptance, acceptance subject to improvement, or rejection on behalf of the public of all dedications shown thereon;
- J. An owner's certificate as required by Section 66436 of the Subdivision Map Act which shall bear the signatures of all parties owning any record title interest in the land subdivided except those which have been omitted pursuant to Section 66436 of the Subdivision Map Act. The names of any parties who own interests described in Section 66436 of the Subdivision Map Act and who have not signed the owner's certificate shall be set forth in the owner's certificate together with a description of their respective interests and the reasons why they have not signed the certificate. All such signatures of owners and others, whether individuals or corporations, must be properly signed and acknowledged before a notary public. In case a subdivision map is signed by a corporation, a certified copy of the resolution passed by the Board of Directors of such corporation authorizing that action must accompany the map;
- K. Where dedications are required, a certificate offering to dedicate interests in real property for specified public purposes in accord with Section 66439 of the Subdivision Map Act. The certificate shall be properly signed and acknowledged before a notary public and shall be signed by all parties having any record title interest in the real property being subdivided subject to the provisions of Section 66436 of the Subdivision Map Act. In case any dedication or consent shown on a subdivision map is signed by a corporation, a certified copy of the resolution passed by the Board of Directors of such corporation authorizing that action must accompany the final map.

(Ord. 9417 § 2, 1975; Ord. 1261 § 32, 1983; Ord. NS-225 § 1, 1993; Ord. NS-676 § 14, 2003; Ord. CS-164 § 10, 2011; Ord. CS-192 § 21, 2012)

#### **§ 20.20.115. Notice of owner's development lien.**

When an owner's development lien has been created pursuant to the provisions of Article 2.5, commencing with Section 39327 of Chapter 3 of Part 23 of the California Education Code, on the real property or portion thereof subject to the final map, a notice as specified in Section 66434.1 of the California Government Code shall be placed on the face of a final map.

(Ord. 9533 § 1, 1979)

#### **§ 20.20.120. Title company certificate and report.**

Every final map submitted to the City Council shall bear the certificate of a qualified title company that the parties who executed the owner's certificate required by Section 66436 of the Subdivision Map Act are all the parties having any record title interest in the land subdivided. The certificate shall also set forth the names of the parties owning the interests set forth in Section 66436 of the Subdivision Map Act together with a description of the interests and the reasons the parties did not execute the owner's certificate. The title company shall, on the date the final map will be transmitted to the County Recorder, present to the County Recorder a letter stating that on said date the names of the parties and the other facts set forth in the title company's certificate were the same as shown by the certificate.

(Ord. 9417 § 2, 1975)

**§ 20.20.130. Title company subdivision guarantee.**

In lieu of the title company certificate required by Section 20.20.120, there may be filed with the City Engineer a subdivision guarantee from a qualified title insurance company which guarantees that the parties named therein are the only parties having any record title interest in the land subdivided. The title company shall, on the date the final map will be transmitted to the County Recorder, present to the County Recorder, pursuant to the requirements of Section 66465 of the Subdivision Map Act, a letter stating that at the time of filing of the final or parcel map in the office of the County Recorder, the parties consenting to such filing are all of the parties having a record title interest in the real property being subdivided whose signatures are required by Division 2 of Title 7 of the Government Code, as shown by the records in the office of the Recorder.

(Ord. 9417 § 2, 1975)

**§ 20.20.140. Approval as to form.**

All final subdivision maps filed with or submitted to the City Engineer shall be first submitted to the City Attorney and approved as to form by him or her.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 22, 2012)

**§ 20.20.150. Stamping or printing of certificates.**

The affidavits, certificates, acknowledgments and approvals required or permitted by this chapter or the Subdivision Map Act to appear upon maps may be legibly stamped or printed upon the map with opaque ink in such a manner as will guarantee a permanent record in black upon the tracing cloth or polyester base film. If ink is used on polyester base film, the ink surface shall be coated with suitable substance to assure permanent legibility.

(Ord. 9417 § 2, 1975)

**§ 20.20.160. Soil reports.**

When a soils report, a geologic report, or soils and geologic reports have been prepared specifically for the subdivision, such fact shall be noted on the final map, together with the date of such report or reports, the name of the engineer making the soils report and geologist making the geologic report and the location where the reports are on file. A copy of the soils report, geologic report or soils and geologic reports shall be filed with the City Clerk and shall be kept on file for public inspection.

(Ord. 9417 § 2, 1975; Ord. 9521 § 15, 1979)

**§ 20.20.165. Appeal of City Engineer decision.**

The City Engineer's approval or denial of a final map may be appealed to the City Council, subject to the same requirements for appeals of Planning Commission decisions specified in Section 21.54.150 of this code.

(Ord. CS-192 § 23, 2012)

**§ 20.20.170. Transmittal of final map.**

Upon approval of the final map, the City Engineer shall transmit the map to the appropriate county agency pursuant to Government Code Section 66464 for filing with the County Recorder.

(Ord. 9521 § 16, 1979; Ord. 9806 § 11, 1986; Ord. CS-192 § 24, 2012)

## CHAPTER 20.22 ENVIRONMENTAL SUBDIVISIONS

### **§ 20.22.010. Purpose and applicability.**

- A. This chapter is intended to implement Government Code Section 66418.2 which excepts, among other things, land being subdivided solely for the creation of an environmental subdivision from the requirement of a tentative and final map when five or more parcels are created.
- B. This chapter shall apply only upon the written request of the landowner at the time the land is divided. This section is not intended to limit or preclude subdivision by other lawful means for the mitigation of impacts to the environment, or of the land devoted to these purposes, or to require the division of land for these purposes.

(Ord. NS-677 § 1, 2003; Ord. CS-192 § 26, 2012)

### **§ 20.22.020. Definition.**

"Environmental subdivision" means a subdivision of land pursuant to this chapter for biotic and wildlife purposes that meets all of the conditions specified in Section 20.22.040.

(Ord. NS-677 § 1, 2003)

### **§ 20.22.030. Parcel map required.**

A parcel map shall be required for environmental subdivisions, pursuant to applicable requirements specified in Chapters 20.24, 20.28 and 20.32 of this title.

(Ord. NS-677 § 1, 2003; Ord. CS-164 § 11, 2011; Ord. CS-192 § 27, 2012)

### **§ 20.22.040. Required findings.**

- A. Prior to approving or conditionally approving an environmental subdivision, the decision-making authority shall find each of the following:
  1. That factual biotic or wildlife data, or both, are available to the city to support the approval of the subdivision, prior to approving or conditionally approving the environmental subdivision.
  2. That provisions have been made for the perpetual maintenance of the property as a biotic or wildlife habitat, or both, in accordance with the conditions specified by any local, state, or federal agency requiring mitigation.
  3. That an easement will be recorded in the county in which the land is located to ensure compliance with the conditions specified by any local, state, or federal agency requiring the mitigation. The easement shall contain a covenant with a county, city, or nonprofit organization running with the land in perpetuity, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument. Where the biotic or wildlife habitat, or both, are compatible, the city shall consider requiring the easement to contain a requirement for the joint management and maintenance of the resulting parcels. This reservation shall not be inconsistent with the purposes of this section and shall not be incompatible with maintaining and preserving the biotic or wildlife character, or both, of the land.
- B. Notwithstanding Government Code Section 66411.1(a) (limiting required improvements to the dedication of rights-of-way, easements, and the construction of reasonable off-site and on-site

improvements for parcels created by division of land which is not a subdivision of five or more lots), any improvement, dedication, or design required by the city as a condition of approval of an environmental subdivision shall be solely for the purposes of ensuring compliance with the conditions required by local, state, or federal agency requiring the mitigation.

- C. After recordation of certificates of compliance for an environmental subdivision, a subdivider may only abandon an environmental subdivision by reversion to acreage pursuant to Chapter 20.40 and Government Code Section 66499.11, if the city finds that all of the following conditions exist:
  - 1. None of the parcels created by the environmental subdivision has been sold or exchanged.
  - 2. None of the parcels is being used, set aside, or required for mitigation purposes pursuant to this section.
  - 3. Upon abandonment and reversion to acreage pursuant to this subdivision, the easement for biotic and wildlife purposes is extinguished.
- D. If the environmental subdivision is abandoned and reverts to acreage pursuant to subsection C of this section, all local, state, and federal requirements shall apply.
- E. This section shall apply only upon the written request of the landowner at the time the land is divided. This section is not intended to limit or preclude subdivision by other lawful means for the mitigation of impacts to the environment, or of the land devoted to these purposes, or to require the division of land for these purposes.

(Ord. NS-677 § 1, 2003; Ord. CS-192 § 28, 2012)

#### **§ 20.22.050. Improvements, dedications and design.**

Notwithstanding Government Code Section 66411.1(a) (limiting required improvements to the dedication of rights-of-way, easements, and the construction of reasonable off-site and on-site improvements for parcels created by division of land which is not a subdivision of five or more lots), any improvement, dedication, or design required by the city as a condition of approval of an environmental subdivision shall be solely for the purposes of ensuring compliance with the conditions required by local, state, or federal agency requiring the mitigation.

(Ord. CS-192 § 29, 2012)

#### **§ 20.22.060. Abandon environmental subdivision.**

- A. After recordation of a parcel map for an environmental subdivision, a subdivider may only abandon an environmental subdivision by reversion to acreage pursuant to Chapter 20.40 and Government Code Section 66499.11, if the city finds that all of the following conditions exist:
  - 1. None of the parcels created by the environmental subdivision has been sold or exchanged.
  - 2. None of the parcels is being used, set aside, or required for mitigation purposes pursuant to this section.
  - 3. Upon abandonment and reversion to acreage pursuant to this subdivision, the easement for biotic and wildlife purposes is extinguished.
- B. If the environmental subdivision is abandoned and reverts to acreage pursuant to this section, all local, state, and federal requirements shall apply.

(Ord. CS-192 § 29, 2012)

## CHAPTER 20.24 MINOR SUBDIVISIONS—PROCEDURE

### **§ 20.24.010. Minor subdivision.**

No person shall create a minor subdivision except in accordance with a parcel map approved pursuant to this title and the Subdivision Map Act and filed in the office of the County Recorder unless such requirement for a parcel map is otherwise waived pursuant to Section 20.24.150. The provisions of this chapter shall not apply to:

- A. The conveyance, transfer, creation or establishment of an easement for sewer, water or gas pipelines and appurtenances or electrical or telephone poles and lines or conduit and appurtenances;
- B. The leasing of a dwelling on a lot which, together with all contiguous land owned by the same person or persons, has an area of less than 12,000 square feet;
- C. The conveyance or transfer of land or any interest therein by or to the United States, state, county, city, school district, special district or public utility.

(Ord. 9417 § 2, 1975)

### **§ 20.24.020. Tentative parcel map required.**

Any person proposing to create a minor subdivision pursuant to this title shall file with the City Planner a tentative parcel map pursuant to the provisions of this chapter; provided, however, an adjustment plat may be filed in lieu of a tentative parcel map under the conditions specified in Chapter 20.36 of this title. The City Planner shall not certify a parcel map pursuant to Section 66450 of the Subdivision Map Act unless prior thereto a tentative parcel map of the minor subdivision shown thereon shall have been filed with and approved pursuant to this chapter.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 31, 2012)

### **§ 20.24.030. Application and time limits for processing.**

- A. An application for a tentative parcel map may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  1. Be made in writing on a form provided by the City Planner;
  2. State fully the circumstances and conditions relied upon as grounds for the application; and
  3. Be accompanied by adequate plans, a legal description of the property involved, data specified by this title and all other materials as specified by the City Planner.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- C. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the city as represented by the City Planner, Planning Commission and the City Council.
- D. The City Planner shall not accept a tentative parcel map for processing unless the City Planner finds that:

1. The requirements of Title 19 of this code have been met;
  2. The tentative parcel map is consistent with the provisions of Title 21 of this code and that all approvals and permits required by Title 21 for the project have been given or issued.
- E. All tentative parcel maps shall be approved, conditionally approved or denied within the time limits specified by this title and the Subdivision Map Act.

If the decision-making authority does not take action to approve, conditionally approve or deny the tentative parcel map within the time limits specified by this title or the Subdivision Map Act, the tentative parcel map as filed shall be deemed to be approved, insofar as it complies with other applicable requirements of this code and the Subdivision Map Act.

- F. Notwithstanding the provisions of subsections D and E of this section, a tentative parcel map may be processed concurrently with other development permits or approvals required for the project required by Titles 19 or 21 of this code, if the subdivider for the tentative parcel map first waives the time limits for processing, approving or conditionally approving or disapproving a tentative parcel map provided by this title or the Subdivision Map Act. Pursuant to the provisions of Chapter 19.04 of this code, a project may be processed according to this chapter but still not be deemed complete until the environmental documents are completed.

(Ord. 9417 § 2, 1975; Ord. 9559 § 3, 1980; Ord. 9760 § 10, 1985; Ord. CS-192 § 31, 2012)

#### **§ 20.24.040. Information to be filed with tentative parcel map.**

Such information as may be prescribed by the rules and regulations approved by the City Council pursuant to Section 20.04.060 of this title and such additional information as the City Planner may find necessary with respect to any particular case to implement the provisions of this title shall accompany the tentative parcel map at the time of submission.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 31, 2012)

#### **§ 20.24.050. Grading plan.**

There shall be filed with each tentative parcel map a grading plan showing graded building site elevations and grading proposed for the creation of building sites or for construction or installation of improvements to serve the subdivision. The grading plan together with the original topographical contours may both be shown on the tentative parcel map. In the event no such grading is proposed, a statement to that effect shall be placed on the tentative parcel map. This plan shall indicate approximate earthwork volumes of proposed excavation and filling operations.

(Ord. 9417 § 2, 1975)

#### **§ 20.24.060. Preliminary title report.**

There shall be filed with each tentative parcel map a current preliminary title report of the property being subdivided or altered.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 32, 2012)

#### **§ 20.24.065. Conversion of mobile home parks.**

At the time of filing a tentative parcel map for a subdivision to be created from the conversion of a mobile home park to another use, the subdivider shall also file a report specified by Section 66427.4 of the California Government Code and, if applicable, Section 21.37.110(B)(3) of this code. In determining the impact of the conversion on displaced mobile home park residents, the report shall address the availability

of adequate replacement space in mobile home parks. The subdivider shall make a copy of the report available to each resident of the mobile home park within 15 days of the filing of the tentative parcel map. The subdivider shall also provide all notices required by Section 21.37.120 of this code. The City Planner may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobile home park residents to find adequate space in a mobile home park, and shall make all the findings required by Section 21.37.120.

(Ord. CS-192 § 32, 2012)

#### **§ 20.24.070. Replacement tentative parcel map.**

A replacement tentative parcel map shall be submitted when the City Planner finds that the number or nature of the changes necessary for approval are such that they cannot be shown clearly or simply on the original tentative parcel map.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 32, 2012)

#### **§ 20.24.080. Revised tentative parcel map.**

Where a subdivider desires to revise an approved tentative parcel map, the subdivider may file with the City Planner, prior to the expiration of the approved tentative parcel map, a revised tentative parcel map on payment of the fees specified in Section 20.08.060.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 32, 2012)

#### **§ 20.24.090. Other department and agency review.**

- A. Within five working days after a tentative parcel map has been filed, the City Planner shall transmit copies of the tentative parcel map together with accompanying information to such public agencies and public and private utilities as the City Planner determines may be concerned. Each of the public agencies and utilities may, within 10 working days after the map has been sent to such agency, forward to the City Planner a written report of its findings and recommendations thereon.
- B. The City Planner shall obtain the recommendations of other city departments, governmental agencies or special districts as may be deemed appropriate or necessary by the City Planner in order to carry out the provisions of this title.

(Ord. 9417 § 2, 1975; Ord. 9467 § 7, 1976; Ord. 1261 § 33, 1983; Ord. NS-676 § 14, 2003; Ord. CS-192 § 32, 2012)

#### **§ 20.24.100. Assignment of certain responsibilities to the City Planner.**

The responsibilities of the City Council pursuant to Sections 66473.5, 66474, 66474.1 and 66474.6 of the Subdivision Map Act and the responsibilities of the Planning Commission pursuant to Section 65402 of the Government Code and Section 2.24.065 of this code are assigned to the City Planner with respect to those tentative parcel maps filed pursuant to this chapter.

(Ord. 9417 § 2, 1975; Ord. 9424 § 3, 1975; Ord. CS-192 § 32, 2012)

#### **§ 20.24.110. Proof of notice—Minor subdivisions.**

Whenever the subdivider is required by this title or the Subdivision Map Act to give any notice or provide any report or information to any person other than the city, the subdivider shall submit proof sufficient to allow the City Planner to find that the notice has been given or the reports or information provided. Such proof may include declarations under penalty of perjury.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 32, 2012)

**§ 20.24.115. Notices.**

- A. Notice of an application for a tentative parcel map shall be given pursuant to the provisions of Section 21.54.061 of this title and the following:
1. At least 10 calendar days prior to a decision on the application, written notice shall be given as follows:
    - a. Notice by mail. Mailed or delivered to:
      - i. The owner of the subject real property or the owner's duly authorized agent.
      - ii. The subdivider and/or the subdivider's representative.
      - iii. All owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the tentative parcel map. In lieu of utilizing the assessment roll, records of the county assessor or tax collector that contain more recent information than the assessment roll may be used. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection is greater than 1,000, in lieu of mailed or delivered notice, notice may be given by placing a display advertisement of at least one-eighth page in at least two newspapers of general circulation within the city.
      - iv. All occupants within 100 feet of the subject property and to the area office of the California Coastal Commission. This requirement applies to minor coastal development permits only.
      - v. Any person who has filed a written request for notice with the City Clerk. The City Clerk shall charge a fee established by City Council resolution which is reasonably related to the costs of providing this service. Each request shall be annually renewed.
      - vi. When a tentative parcel map is for the conversion of existing residential real property to a condominium project, community apartment project or stock cooperative project, the notice required by this section shall be sent to all tenants of the project.
  2. Once notice has been given in accordance with this section, any person may file written comments or a written request to be heard within 10 calendar days of the date of the notice. If a written request to be heard is filed, the City Planner shall:
    - a. Schedule an administrative hearing; and
    - b. Provide written notice at least five calendar days prior to the date of the administrative hearing to the owner of the subject real property or the owner's duly authorized agent, the project applicant and/or applicant's representative, and any person who filed written comments or a written request to be heard.
- B. The failure by any person to receive the notice specified herein shall not invalidate any action taken pursuant to this title.

(Ord. 9532 § 3, 1979; Ord. 9602 § 18, 1981; Ord. 9626 § 8, 1982; Ord. CS-192 § 32, 2012)

**§ 20.24.120. Decision-making authority.**

- A. The City Planner shall have the authority to approve, conditionally approve or deny a tentative parcel map based upon review of the facts as set forth in the application, the circumstances of the particular

case, and evidence presented at an administrative hearing if one is conducted pursuant to the provisions of Section 21.24.110 of this title.

- B. The City Planner may approve or conditionally approve the tentative parcel map if all of the findings of fact in Section 20.24.130 of this chapter are found to exist.
1. Whenever the City Planner approves or conditionally approves a tentative parcel map providing for supplemental size of improvements, the establishment of benefit districts, the execution of reimbursement agreements or the setting of fees under any of the provisions of Section 20.08.130 or 20.08.140; Chapter 20.09; or Section 20.16.041, 20.16.042 or 20.16.043, the map shall be forwarded to the City Council, which shall hold a public hearing on the issue of the improvements.
  2. Any decision to approve or conditionally approve a tentative parcel map shall include a description, pursuant to the provisions of this title, of the kind, nature and extent of any improvements required to be constructed or installed in or to serve the subdivision. However, where the City Planner does not prescribe the kind, nature or extent of the improvements to be constructed or installed, improvements shall be constructed and installed in accordance with the city standards.
  3. Any decision to disapprove a tentative parcel map shall be accompanied by a finding, identifying the requirements or conditions which have not been met or performed.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 32, 2012)

#### **§ 20.24.130. Required findings.**

The decision-making authority may approve, or conditionally approve a tentative parcel map if all of the findings in Section 20.12.091 of this title and the following findings are made:

- A. The land proposed for division was created legally, or the lot or parcel has been approved by the city and a certificate of compliance relative thereto has been filed with the County Recorder;
- B. The subdivision does not create five or more lots, inclusive of the total number of lots in a parcel map of which the subject land is a part of and which was approved or recorded less than two years prior to the filling of the subject tentative parcel map;
- C. The land proposed for division is not part of an approved tentative parcel map wherein the parcel map requirement was waived pursuant to provisions of this division and a certificate of compliance has been filed with the County Recorder pursuant to Chapter 20.48 of this title.

(Ord. 9417 § 2, 1975; Ord. 9521 § 17, 1979; Ord. 9559 § 4, 1980; Ord. 9602 § 20, 1981; Ord. 9760 § 11, 1985; Ord. 9806 § 12, 1986; Ord. CS-192 § 32, 2012)

#### **§ 20.24.135. Announcement of decision and findings of fact.**

- A. When a decision on a tentative parcel map is made pursuant to this chapter, the decision-making authority shall announce its decision and findings in writing.
- B. The announcement of decision and findings shall include:
  1. A statement that the tentative parcel map is approved, conditionally approved, or denied;
  2. The facts and reasons which, in the opinion of the decision-making authority, make the approval or denial of the tentative parcel map necessary to carry out the provisions and general purpose

- of this title;
3. Such conditions and limitations that the decision-making authority may impose in the approval of the tentative parcel map.
- C. The announcement of decision and findings shall be mailed to:
1. The owner of the subject real property or the owner's duly authorized agent, the subdivider and/or the subdivider's representative at the address or addresses shown on the application filed with the planning division;
  2. Any person who has filed a written request for a notice of decision;
  3. Any person who filed a written request for an administrative hearing or to be heard at an administrative hearing.
- (Ord. CS-192 § 33, 2012)

**§ 20.24.140. Effective date and appeals.**

Decisions on tentative parcel maps shall become effective as of the date specified by the decision-making authority unless appealed and processed in accordance with the provisions of Section 21.54.140 of this code and Section 66452.5 of the Subdivision Map Act.

(Ord. 9417 § 2, 1975; Ord. 9532 § 3, 1979; Ord. NS-176 § 15, 1991; Ord. CS-192 § 34, 2012)

**§ 20.24.150. Waiver of parcel map.**

- A. Other provisions of this title to the contrary notwithstanding, the requirement that a parcel map be prepared, filed with the City Engineer and recorded may be waived, provided a finding is made by the City Engineer or, on appeal, by the Planning Commission or City Council, that the proposed subdivision complies with the requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of this title and the Subdivision Map Act and with the requirements of the public facilities element of the general plan and the provisions of Chapter 20.44 of this title which would otherwise apply to the proposed subdivision.
- B. An applicant for a minor subdivision pursuant to this section shall pay the fee prescribed by Section 20.08.060 for tentative parcel maps and shall file an application and request for parcel map waiver which shall contain sufficient information in the opinion of the City Engineer to enable the City Engineer or, on appeal, the Planning Commission or City Council, to make the findings required by this section. The following types of subdivisions are deemed to comply with the findings required by this section for waiver of the parcel map unless the City Engineer or, on appeal, the Planning Commission or City Council finds, based on substantial evidence that public policy necessitates a parcel map, such map shall not be required for the following:
  1. Short-term leases, terminable by either party on 30 days' notice, of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code;
  2. Land conveyed to or from a governmental agency, public entity or public utility, or to a subsidiary of a public utility for conveyance to such public utility for rights-of-way shall include a fee interest, a leasehold interest, an easement or a license.
- C. The following minor subdivisions, provided dedications or improvements are not required by the City

Engineer, or on appeal the Planning Commission or City Council, as condition of approval in the absence of evidence to the contrary, are deemed to comply with the findings required by this section for waiver of the parcel map:

1. A minor subdivision wherein each resulting lot or parcel contains a gross area of 40 acres or more, or each of which is a quarter-quarter section or larger;
  2. A minor subdivision only for the purpose of leasing the lots resulting from such subdivision;
  3. A major subdivision as specified in Section 20.20.050 of this title.
- D. The processing of any application pursuant to this section shall be subject to the same time requirements and procedures as are provided in this title for tentative parcel maps. The City Engineer's decision to waive a parcel map may be appealed in the same manner as the appeal of City Planner decisions pursuant to the provisions of Section 21.54.140 of this code. In any case, where waiver of the parcel map is granted by the City Engineer, or on appeal by the Planning Commission or City Council, the City Engineer shall cause to be filed for record with the County Recorder a certificate of compliance pursuant to Chapter 20.48 of this title.

(Ord. 9417 § 2, 1975; Ord. 9504 §§ 1, 2, 1978; Ord. 9521 § 18, 1979; Ord. NS-636 § 3, 2002; Ord. CS-192 § 34, 2012)

#### **§ 20.24.160. Expiration of tentative parcel map.**

- A. The provisions for the expiration of tentative maps specified in Section 20.12.100 of this title shall be applicable to tentative parcel maps.
- B. Prior to the expiration of the tentative parcel map, a parcel map conforming to the requirements of Chapter 20.32 of this title may be filed with the City Engineer for approval. The parcel map shall be deemed filed on the date it is received by the City Engineer. Once a timely and complete filing has been made pursuant to this section, subsequent actions of the city, including, but not limited to, processing, approving and recording, may occur after the date of expiration of the tentative map.

(Ord. 9417 § 2, 1975; Ord. 9525 § 1, 1979; Ord. 9680 § 8, 1983; Ord. 9830 § 2, 1987; Ord. CS-032 § 2, 2009; Ord. CS-192 § 34, 2012)

#### **§ 20.24.180. Extension of tentative parcel map.**

The provisions for the extension of tentative maps specified in Section 20.12.110 of this title shall be applicable to tentative parcel maps.

(Ord. 9417 § 2, 1975; Ord. NS-422 § 4, 1997; Ord. CS-003 §§ 2, 4, 2008; Ord. CS-135 § 10, 2011; Ord. CS-192 § 34, 2012)

#### **§ 20.24.185. Tentative parcel map amendment.**

The provisions for amendments to tentative maps specified in Section 20.12.120 of this title shall be applicable to tentative parcel maps.

(Ord. CS-192 § 35, 2012)

#### **§ 20.24.190. Vesting tentative parcel map.**

A vesting tentative parcel map may be filed and processed in the same manner and subject to the same requirements as a tentative parcel map except as provided in Chapter 20.17.

(Ord. 9788 § 7, 1986)

## CHAPTER 20.28 MINOR SUBDIVISIONS—REQUIREMENTS

### **§ 20.28.010. Design of minor subdivisions.**

Except as otherwise provided in this title, all minor subdivisions shall conform to the lot design requirements of Section 20.16.010 of this title.

(Ord. 9417 § 2, 1975)

### **§ 20.28.020. Panhandle-shaped lots.**

Other provisions of this title notwithstanding, a panhandle-shaped or flag-shaped lot, if permitted by Title 21, shall have a minimum frontage of 20 feet on a dedicated public street or publicly dedicated easement accepted by the city. Panhandles may not serve as access to any lot except the lot of which the panhandle is a part.

Where the panhandle or flag-shaped portion of a lot is adjacent to the same portion of another such lot, the required minimum frontage on such street or easement shall be 15 feet provided a joint easement ensuring common access to both such portions is agreed upon by the property owners and recorded.

(Ord. 9417 § 2, 1975; Ord. 9467 § 8, 1976)

### **§ 20.28.030. Dedication and access.**

No parcel map filed pursuant to Chapter 20.32 of this title shall be approved by the City Engineer unless and until the following conditions have been satisfied:

- A. There shall be offered for dedication, pursuant to Section 20.28.050 of this title, right-of-way for streets in accordance with the circulation element of the general plan, any applicable master plans, specific plans or other officially adopted street plans and the city standards within and adjacent to the boundaries of the land to be subdivided.
- B. Streets which are proposed on the boundaries of a subdivision shall be offered for dedication to a width of no less than 42 feet. In the event that the offer of dedication for the streets is to be accepted prior to final approval of the parcel map, a strip of land one foot wide extending along the outer edge of the land offered for dedication may be required to be offered to the city for street purposes and over which access rights are relinquished.
- C. Offers of dedication for streets which will be accepted before final approval of the parcel map and which streets are proposed to be terminated at the boundary of the minor subdivision may be required to include a strip of land one foot wide extending across the street at its point of termination at the boundary which shall be portions of the adjacent lots, offered for street purposes and over which access rights are relinquished.
- D. Whenever any land to be subdivided is bounded by an inlet, bay, estuary, lagoon, river, stream or by the Pacific Ocean, there shall be a street along such inlet, bay, estuary, lagoon, river, stream or ocean front, or adequate public access to and along such boundary shall be provided or be made otherwise available in lieu of such street or any combination as the City Engineer may require to insure compliance with Chapter 4, Article 3.5 of the Subdivision Map Act.
- E. Easements for public utilities and drainage-ways shall be offered for dedication in the manner prescribed by Section 20.28.050 of this title as required by the City Engineer when he or she determines that such offers of dedication are necessary to serve the subdivision and/or are a

reasonable and logical extension of such facilities as exist in the vicinity.  
(Ord. 9417 § 2, 1975)

#### **§ 20.28.040. Waiver of direct access to streets.**

The City Engineer may impose a requirement that any dedication or offer of dedication of a street shall include a waiver of direct access rights to such street from any property shown on a parcel map as abutting thereon, and that if the dedication is accepted, such waiver shall become effective in accordance with the provisions of the waiver of direct access.

(Ord. 9417 § 2, 1975)

#### **§ 20.28.050. Dedication procedure.**

Pursuant to Section 66447 of the Subdivision Map Act, all dedications or offers of dedication required by the provisions of this chapter shall be by separate instrument and shall be completed prior to filing of the parcel map or by certificate on the parcel map as the City Engineer may elect. An offer of dedication shall be in such terms as to be binding on the owner, his or her heirs, assigns or successors in interest, and except as provided in subsection B of Section 66477.2 of the Subdivision Map Act, shall continue until such dedication is accepted or the offer is abandoned or otherwise terminated. Any such dedication or offer of dedication shall be free of any burden or encumbrance which would interfere with the purposes of which the dedication or offer of dedication is required. The subdivider shall provide a current preliminary title report or equivalent proof of title satisfactory to the City Engineer. The City Engineer is authorized to accept dedications or offers of dedication or to reject such offers on behalf of the city.

(Ord. 9417 § 2, 1975)

#### **§ 20.28.060. Required improvements.**

- A. As a condition precedent to the approval of a parcel map for a minor subdivision, the subdivider shall construct all off-site and onsite improvements in accordance with the requirements applicable to major subdivisions as set forth in Section 20.16.040 of this title for the parcels being created; provided, however, that requirements for the construction of such off-site and onsite improvements shall be noticed by certificate on the parcel map, in the instrument evidencing the waiver of such parcel map, or by separate instrument and shall be recorded on, concurrently with, or prior to the parcel map or instrument of waiver of a parcel map being filed for record.
- B. Fulfillment of such construction requirements shall not be required until at or after such time as a building or grading permit is issued by the city or at such time as may be provided by an agreement between the subdivider and the city pursuant to Section 20.28.070, except that in the absence of such agreement the City Engineer may require fulfillment of some or all of such construction requirements within a reasonable time following approval of the parcel map and prior to the issuance of a building or grading permit for the development of a parcel upon a finding that fulfillment of such construction requirements is necessary for reasons of public health and safety or that the construction is a necessary prerequisite to the orderly development of the surrounding area.

(Ord. 9417 § 2, 1975; Ord. 9521 § 19, 1979)

#### **§ 20.28.070. Agreement to improve.**

Unless the subdivider elects, with the consent of the City Engineer, to construct the improvements required by Section 20.28.060 prior to approval of the parcel map, the subdivider shall execute an agreement to construct such improvements or to otherwise comply with the requirements of this title and with the conditions of approval for the tentative parcel map for the subdivision prior to approval of the parcel map.

If the subdivider consents, the agreement may provide for the construction of such improvements prior to issuance by the city of a building or grading permit for a parcel within the subdivision. The subdivider shall provide improvement security in accord with Sections 20.16.070, 20.16.080, 20.16.090 and 20.16.100 of this title. In addition, the subdivider shall prepare and deposit with the City Clerk detailed plans and specifications of the improvements to be constructed, and such plans and specifications shall be made a part of any such agreement and of the improvement security. The City Manager is authorized to execute such agreements on behalf of the city.

(Ord. 9417 § 2, 1975; Ord. 9521 § 19, 1979)

#### **§ 20.28.090. Lien contract for improvements.**

In lieu of constructing or agreeing under Section 20.28.070 to construct any required improvements, the City Engineer may require the subdivider to enter into an agreement with the city to construct the improvements in the future, and require the subdivider to grant the city a lien on the property to be divided securing such future improvements. The lien granted under authority herein may be used to secure future improvements in easements, rights-of-way or irrevocable offers of dedication or any other improvements or conditions of the map. The City Manager is authorized to sign such agreements on behalf of the city.

(Ord. 9417 § 2, 1975)

#### **§ 20.28.095. Off-site improvements—Acquisition of property interests.**

Whenever a subdivider is required as a condition of a tentative parcel map to construct or install off-site improvements on property which neither the subdivider nor the city owns, then not later than 60 days prior to filing the parcel map for approval the subdivider shall provide the city with sufficient information, reports and data, including, but not limited to, an appraisal and title report, to enable the city to commence proceedings pursuant to Title 7 of Part 3 of the Code of Civil Procedure to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property pursuant to Article 3 of said title. The subdivider shall agree pursuant to Section 20.28.070 to complete the improvements at such time as the city has a sufficient interest in the property to permit the construction of the improvements. The subdivider shall bear all costs associated with the acquisition of the property interests and the estimated cost thereof shall be secured as provided in Section 20.28.070.

(Ord. 9680 § 6, 1983)

#### **§ 20.28.100. Covenant not to oppose an improvement district.**

In connection with a lien contract under Section 20.28.090, the City Engineer may require that the subdivider execute a covenant not to oppose the formation of an improvement district. The City Manager is authorized to sign such covenants on behalf of the city.

(Ord. 9417 § 2, 1975)

#### **§ 20.28.110. Monuments and flagging.**

Every parcel map shall show monuments which shall be set by a licensed surveyor or engineer in accordance with Section 20.16.050 of this title provided that two-inch iron pipes at least 24 inches long for exterior boundary monumentation are not required unless the City Engineer determines that the exterior boundary cannot be adequately monumented by monuments of a lesser standard, and further provided that monumentation of the exterior boundary of a remainder parcel need not be placed or shown on the parcel map. The monuments shall be set prior to the approval of the map unless the setting thereof is deferred by the City Engineer in accordance with Section 66496 of the State Government Code. The City Engineer is authorized to accept monumentation agreements and securities for parcel maps on behalf of the city.

(Ord. 9417 § 2, 1975; Ord. 9680 § 10, 1983)

## CHAPTER 20.32 PARCEL MAP REQUIREMENTS

### **§ 20.32.010. Maps to conform to requirements of approved tentative parcel map.**

All parcel maps shall conform to the requirements of the Subdivision Map Act and this chapter and also shall conform to the requirements specified in the approval or conditional approval of the tentative parcel map.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 37, 2012)

### **§ 20.32.020. City Engineer to approve parcel maps.**

- A. The City Engineer is authorized to approve or deny parcel maps.
- B. The City Engineer shall not consider a parcel map unless there is a valid tentative parcel map for the subdivision.
- C. No parcel map shall be filed in the office of the County Recorder until approved by the City Engineer, but such map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative parcel map, providing that any such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. The City Engineer may waive any failure of the map to meet such requirements and conditions if such failure is a result of a technical and inadvertent error, which in the determination of the City Engineer doesn't materially affect the validity of the map.

(Ord. 9417 § 2, 1975; Ord. 9521 § 20, 1979; Ord. CS-192 § 37, 2012)

### **§ 20.32.030. Land subject to inundation.**

Lots or portions of lots shown on a parcel map which are subject to inundation as determined by the City Engineer shall be identified and so labeled.

(Ord. 9417 § 2, 1975)

### **§ 20.32.040. Additional certificates on parcel maps.**

In addition to the certificates and other material required by the Subdivision Map Act and this title, a parcel map shall bear the following certificates:

- A. A certificate by the City Engineer that the map complies with all the provisions of this title and conforms to the approved tentative parcel map or, in the case of a parcel map for a major subdivision filed pursuant to Section 20.20.050 of this title, to the approved tentative map;
- B. A certificate by the City Engineer that the map does not appear to be a map of a major subdivision for which a final map is required pursuant to Section 66426 of the Subdivision Map Act;
- C. A certificate as required by Section 20.20.110(I); provided, however, with respect to a division of land into four or fewer parcels where dedications or offers of dedications are not required, the certificate shall be signed and acknowledged by the subdivider only; provided, however, where a subdivider does not have a record title ownership interest in the property to be divided, the City Engineer may require that the subdivider provide him or her with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this subsection, "record title ownership" shall mean fee title of record unless a leasehold interest is to be

divided, in which case "record title ownership" shall mean ownership of record of such leasehold interest; "record title ownership" does not include ownership of mineral rights or other subsurface interests which have been severed from ownership of the surface;

- D. A dedication certificate as required by Section 20.20.110(J);
- E. An engineer's/surveyor's certificate, in accordance with Section 66449(a) of the Subdivision Map Act;
- F. A recorder's certificate, in accordance with Section 66449(b) of the Subdivision Map Act;
- G. A certificate signed by the City Engineer attesting to his or her acceptance or rejection on behalf of the public of all dedications shown thereon;
- H. A certificate by the engineer or surveyor responsible for preparation of the map stating that all monuments are of the character and occupy the positions indicated, or that they will be set in such positions on or before a specified date. The certificate shall also state that the monuments are, or will be, sufficient to enable the survey to be retraced;
- I. Additional information as required by the City Engineer which may include, but is not limited to, building setback lines, flood hazard zones, seismic lines and setbacks, airport influence areas, archaeological sites and other restricted areas. The additional information shall be in the form of a separate document or an additional map sheet which shall indicate its relationship to the final or parcel map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest.

(Ord. 9417 § 2, 1975; Ord. 9521 § 21, 1979; Ord. 9680 § 11, 1983; Ord. NS-172 § 2, 1991)

#### **§ 20.32.050. Title company subdivision guarantee.**

There shall be filed with the City Engineer a subdivision guarantee from a qualified title insurance company which guarantees that the parties named therein are the only parties having any record title interest in the land subdivided. The title company shall, on the date the parcel map will be transmitted to the County Recorder, present to the County Recorder, pursuant to the requirements of Section 66465 of the Subdivision Map Act, a letter stating that at the time of filing of the parcel map in the office of the County Recorder the parties consenting to such filing are all of the parties having a record title interest in the real property being subdivided whose signatures are required by Division 2 of Title 7 of the Government Code, as shown by the records in the office of the County Recorder.

(Ord. 9417 § 2, 1975)

#### **§ 20.32.060. Stamping or printing of certificates.**

The affidavits, certificates, acknowledgments and approvals required or permitted by this chapter or the Subdivision Map Act to appear upon parcel maps may be legibly stamped or printed upon the map with opaque ink in such a manner as will guarantee a permanent record in black upon the tracing cloth or polyester base film. If ink is used on polyester base film, the base surface shall be coated with a suitable substance to assure permanent legibility.

(Ord. 9417 § 2, 1975)

#### **§ 20.32.070. Additional data on parcel maps.**

Additional data on parcel maps shall be as listed in Section 20.20.060 of this title.

(Ord. 9417 § 2, 1975)

**§ 20.32.080. Transmittal of parcel maps.**

After approval by the City Engineer and after he or she certifies that all applicable requirements of the Subdivision Map Act and this code have been satisfied, the City Engineer shall transmit the map to the City Clerk. The City Clerk shall transmit such maps directly to the County Recorder unless otherwise required by Section 66464 of the Government Code.

(Ord. 9521 § 22, 1979; Ord. 9806 § 13, 1986)

**CHAPTER 20.36  
ADJUSTMENT PLATS**

**§ 20.36.010. Purpose of chapter.**

The purpose of this chapter is to provide a simplified procedure for the adjustment of property boundaries or the consolidation of adjacent lots or parcels where no additional lots or parcels will result.  
(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975; Ord. 9521 § 23, 1979)

**§ 20.36.020. Applicability.**

Notwithstanding any other provisions of this title to the contrary, the procedure set forth in this chapter shall govern the processing of and requirements for adjustment plats. An adjustment plat may be filed in accord with the provisions of this chapter to adjust the boundaries between four or fewer adjoining parcels, provided the City Engineer determines that the boundary adjustment does not:

- A. Create any additional lots;
- B. Involve adjustments between five or more existing adjoining parcels;
- C. Include a lot or parcel created illegally unless a certificate of compliance pursuant to Chapter 20.48 of this code has been approved and recorded for such lot or parcel;
- D. Impair any existing access or create a need for a new access to any adjacent lot or parcel;
- E. Impair any existing easement or create a need for a new easement;
- F. Violate the general plan or the local coastal plan;
- G. Violate the provisions of Title 18, 21 or 22 of this code;
- H. Alter the city limit boundary;
- I. Require substantial alterations of existing public improvements or create a need for a new public improvement;
- J. Adjust the boundary between lots or parcels which are subject to an agreement for public improvements unless the City Engineer finds that the proposed adjustment plat will not materially affect such agreement or the security therefor.

(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975; Ord. 9521 § 23, 1979; Ord. 9806 § 14, 1986; Ord. NS-636 § 1, 2002)

**§ 20.36.030. Application.**

- A. An application for an adjustment plat may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  - 1. Be made in writing on a form provided by the City Engineer;
  - 2. State fully the circumstances and conditions relied upon as grounds for the application; and
  - 3. Be accompanied by adequate plans, a legal description of the property involved, data specified by this title and all other materials as specified by the City Engineer.

- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- C. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the city as represented by the City Engineer and the City Council.
- D. The City Engineer shall not accept an adjustment plat for processing unless the City Engineer finds that:
  - 1. The requirements of Title 19 of this code have been met;
  - 2. The adjustment plat is consistent with the provisions of Title 21 of this code and that all approvals and permits required by Title 21 for the project have been given or issued.

(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975; Ord. 9521 § 23, 1979; Ord. 9760 § 12, 1985; Ord. CS-192 § 39, 2012)

#### **§ 20.36.040. Decision-making authority.**

The City Engineer shall approve the adjustment plat if the City Engineer finds that the request complies with the requirements of this chapter.

(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975; Ord. CS-192 § 39, 2012)

#### **§ 20.36.050. Revised adjustment plat.**

A revised adjustment plat shall be submitted for approval when the City Engineer finds that the number or nature of any changes necessary for approval are such that they cannot be shown clearly or simply on the original adjustment plat. When required, the failure to file a revised adjustment plat within six months from the date of the conditional approval of the original plat shall terminate all proceedings.

(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975)

#### **§ 20.36.060. Conditions of approval.**

The City Engineer may impose conditions or exactions on the approval of an adjustment plat between four or fewer existing adjoining parcels to the extent that the conditions or exactions are necessary to ensure compliance with the general plan, local coastal plan and applicable provisions of the city's zoning and building laws, pertaining to lots (Titles 21 and 18 of this code), including lot frontage, depth and area, access, and requirements such as setbacks, lot coverage and parking, or to facilitate the relocation of existing utilities, infrastructure or easements. The conditions imposed by the City Engineer shall be satisfied prior to the recordation of the adjustment plat or such other document authorized by law to effectuate the lot line adjustment. Lot line adjustments between five or more existing adjoining parcels shall be subject to the provisions of the Subdivision Map Act, including the requirement for the filing of a tentative and final map.

(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975; Ord. 9806 § 15, 1986; Ord. NS-636 § 2, 2002)

#### **§ 20.36.070. Certification.**

- A. If the City Engineer determines that the adjustment plat meets all the requirements of the municipal code and that any conditions imposed have been satisfied, the City Manager shall certify on the adjustment plat that it has been approved pursuant to this chapter, notify the City Planner and file it

in the engineering department. The City Engineer shall cause to be filed with the County Recorder a certificate of compliance, having as an attachment a copy of the approved adjustment plat.

- B. In addition to the procedures established by subsection A of this section, a lot line adjustment may be effectuated by the recordation of the deed or record of survey; provided, however, that such deed or record of survey shall not be recorded unless it contains a certification by the City Engineer that all the requirements of this chapter and any condition imposed pursuant to this chapter have been satisfied and further provided that a copy of the adjustment plat shall be attached to the deed or record of survey.

(Ord. 9412 § 1, 1974; Ord. 9417 § 1, 1975; Ord. 9521 § 23, 1979; Ord. 1261 § 34, 1983; Ord. 9806 § 16, 1986; Ord. NS-676 § 14, 2003; Ord. CS-164 § 10, 2011; Ord. CS-192 § 40, 2012)

**§ 20.36.075. Announcement of decision and findings of fact.**

- A. When a decision on an adjustment plat is made pursuant to this chapter, the decision-making authority shall announce its decision and findings in writing.
- B. The announcement of decision and findings shall include:
1. A statement that the adjustment plat is approved, conditionally approved, or denied;
  2. The facts and reasons which, in the opinion of the decision-making authority, make the approval or denial of the adjustment plat necessary to carry out the provisions and general purpose of this title;
  3. Such conditions and limitations that the decision-making authority may impose in the approval of the adjustment plat.
- C. The announcement of decision and findings shall be mailed to the owner of the subject real property or the owner's duly authorized agent, the subdivider and/or the subdivider's representative at the address or addresses shown on the application filed with the engineering division.

(Ord. CS-192 § 41, 2012)

**§ 20.36.080. Appeal of City Engineer decision.**

The City Engineer's approval or denial of a final map may be appealed to the City Council, subject to the same requirements for appeals of Planning Commission decisions specified in Section 21.54.150 of this code.

(Ord. 9521 § 23, 1979; Ord. CS-192 § 42, 2012)

## CHAPTER 20.40 REVERSIONS TO ACREAGE

**Note: Prior ordinance history: Ord. Nos. 9417 and 9532.**

### **§ 20.40.010. Reversions to acreage by final map.**

Subdivided property may be reverted to acreage pursuant to the provisions of this chapter.  
(Ord. CS-192 § 44, 2012)

### **§ 20.40.020. Application.**

- A. The City Council, on its own motion, may by resolution initiate proceedings to revert property to acreage and direct the City Engineer to obtain the necessary information to initiate and conduct the proceedings; or
- B. An application to revert subdivided property to acreage may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  1. Be made in writing on a form provided by the City Engineer;
  2. State fully the circumstances and conditions relied upon as grounds for the application; and
  3. Be accompanied by all data specified in Section 20.40.030 of this chapter and all other materials as specified by the City Engineer.
- C. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- D. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the city as represented by the City Engineer and the City Council.
- E. The City Engineer shall not accept an application to revert subdivided property to acreage for processing unless the City Engineer finds that:
  1. The requirements of Title 19 of this code have been met;
  2. The application to revert subdivided property to acreage is consistent with the provisions of Title 21 of this code and that all approvals and permits required by Title 21 for the project have been given or issued.

(Ord. CS-192 § 44, 2012)

### **§ 20.40.030. Data for reversion to acreage.**

Applicants for a reversion to acreage shall file the following:

- A. Evidence of title to the real property; and
- B. Evidence of the consent of all of the owners of an interest(s) in the property; or

- C. Evidence that none of the improvements required to be made have been made within two years from the date the final map or parcel map was filed for record or within the time allowed by agreement for completion of the improvements, whichever is later; or
- D. Evidence that no lots shown on the final or parcel map have been sold within five years from the date such final or parcel map was filed for record; or
- E. A tentative map in the form prescribed by Chapter 20.12 of this title; or
- F. A final map in the form prescribed by Chapter 20.20 of this title which delineates dedications which will not be vacated and dedications required as a condition to reversion.

(Ord. CS-192 § 44, 2012)

#### **§ 20.40.040. Notices and hearings.**

- A. Notice of the public hearing for an application to revert subdivided property to acreage shall be given pursuant to Sections 21.54.060 and 21.54.061 of this code.
- B. Failure by any person to receive notice specified in this section shall not invalidate any action taken pursuant to this title.

(Ord. CS-192 § 44, 2012)

#### **§ 20.40.050. Decision-making authority.**

- A. The City Council shall have the authority to approve, conditionally approve or deny a reversion of subdivided property to acreage based upon its review of the facts as set forth in the application if one is required and submitted pursuant to this chapter, the circumstances of the particular case, and evidence presented at a public hearing.
- B. The City Council may approve or conditionally approve the reversion of subdivided property to acreage if all of the findings of fact in Section 20.40.055 of this chapter are found to exist.

(Ord. CS-192 § 44, 2012)

#### **§ 20.40.055. Required findings.**

The City Council may approve a reversion to acreage only if it finds and records in writing that:

- A. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and
- B. Either:
  - 1. All owners of an interest in the real property within the subdivision have consented to reversion; or
  - 2. None of the improvements required to be made have been made within two years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later; or
  - 3. No lots shown on the final or parcel map were filed for record.

(Ord. CS-192 § 45, 2012)

**§ 20.40.060. Conditions of approval.**

The City Council shall require as a condition of the reversion:

- A. The dedication or offer of dedication necessary for the purposes specified by this title following reversion;
- B. The retention of all or a portion of previously paid subdivision fees, deposits or improvement securities if the same are necessary to accomplish any of the provisions of this title.

(Ord. CS-192 § 46, 2012)

**§ 20.40.065. Announcement of decision and findings of fact.**

- A. When a decision on a reversion to acreage is made pursuant to this chapter, the City Council shall announce its decision and findings by formal resolution.
- B. The announcement of decision and findings shall include:
  1. A statement that the tentative map is approved, conditionally approved, or denied;
  2. The facts and reasons which, in the opinion of the City Council, make the approval or denial of the reversion to acreage necessary to carry out the provisions and general purpose of this title;
  3. Such conditions and limitations that the City Council may impose in the approval of the reversion to acreage.
- C. The announcement of decision and findings shall be mailed to:
  1. The owner of the subject real property or the owner's duly authorized agent, the subdivider and/or the subdivider's representative at the address or addresses shown on the application filed with the planning division;
  2. Any person who has filed a written request for a notice of decision.

(Ord. CS-192 § 47, 2012)

**§ 20.40.070. Return of fees and deposits—Release of securities.**

Except as provided in Section 20.40.060, upon filing of the final map for reversion of acreage with the County Recorder, all fees and deposits shall be returned to the subdivider and all improvement securities shall be released by the City Council.

(Ord. 9417 § 2, 1975)

**§ 20.40.080. Delivery of final map.**

After the hearing before the City Council and approval of the reversion, the final map shall be delivered to the County Recorder.

(Ord. 9417 § 2, 1975)

**§ 20.40.090. Effect of filing reversion map with the County Recorder.**

Reversion shall be effective upon the final map being filed for record by the County Recorder. Upon filing, all dedications and offers of dedication not shown on the final map for reversion shall be of no further force and effect.

City of Carlsbad, CA

§ 20.40.090

SUBDIVISIONS

§ 20.40.090

(Ord. 9417 § 2, 1975)

## CHAPTER 20.44 DEDICATION OF LAND FOR RECREATIONAL FACILITIES

### **§ 20.44.010. Purpose.**

This chapter is enacted pursuant to the authority granted by Section 66477 of the Government Code of the State of California. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the recreational element of the general plan of the City of Carlsbad.

(Ord. 9190 § 2; Ord. 9614 § 1, 1982)

### **§ 20.44.020. Requirements.**

As a condition of approval of a final map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the city, for park or recreational purposes at the time and according to the standards and formula contained in this chapter.

(Ord. 9190 § 3; Ord. 9521 § 24, 1979; Ord. 9549 § 6, 1980; Ord. 9614 § 1, 1982)

### **§ 20.44.030. General standard.**

It is found and determined that the public interest, convenience, health, welfare and safety require that three acres of property for each 1,000 persons residing within this city shall be devoted to local park and recreational purposes.

(Ord. 9190 § 4; Ord. 9614 § 1, 1982; Ord. 9831 § 1, 1987)

### **§ 20.44.040. Standards and formula for dedication of land.**

If the decision-making authority for the tentative map or tentative parcel map determines that a park or recreational facility is to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, at the time of the filing of the final or parcel map, dedicate land for such facility pursuant to the following standards and formula:

The formula for determining acreage to be dedicated shall be as follows:

$$\begin{array}{rcccl} \text{Average no. of persons per} & \times & 3 \text{ park acres per 1,000} & \times & \text{Total number of dwelling units} \\ \text{dwelling unit} & & \text{population} & & \\ \text{(based on most recent federal} & & & & \\ \text{census)} & & & & \end{array}$$

The total number of dwelling units shall be the number permitted by the city on the property in the subdivision at the time the final map or parcel map is filed for approval, less any existing residential units in single-family detached or duplex dwellings. The park land dedication requirement will be reviewed annually effective July 1, and adjusted as necessary by resolution of the City Council to reflect the latest federal census data.

(Ord. 9190 § 5; Ord. 9614 § 1, 1982; Ord. 9637 § 1, 1982; Ord. 9644 § 1, 1982; Ord. 9724 § 1, 1984; Ord. 9770 § 1, 1985; Ord. 9831 § 1, 1987; Ord. NS-588 § 1, 2001; Ord. NS-757 § 1, 2005; Ord. CS-162 § 1, 2011; Ord. CS-192 § 49, 2012; )

### **§ 20.44.050. Standards for fees in lieu of land dedication.**

A. If the decision-making authority for the tentative map or tentative parcel map determines that there is

no park or recreational facility to be located in whole or in part within the proposed subdivision, the subdivider shall, in lieu of dedicating land, pay a fee equal to the value of the land prescribed for dedication in Section 20.44.040 and in an amount determined in accordance with the provisions of Section 20.44.080.

- B. If the proposed subdivision contains 50 parcels or less, only the payment of fees shall be required except that when a condominium project, stock cooperative, or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.
- C. If the decision-making authority for the tentative map or tentative parcel map requires the subdivider to dedicate land and the amount of land is less than would otherwise be required by Section 20.44.040 for that subdivision, a fee equal to the value of the land which would otherwise have been required shall be paid.
- D. If fees are required, they shall be paid by the subdivider prior to the issuance of building permits for the subdivision or prior to the sale of the subdivided property, whichever occurs first. If building permits are issued for a portion of the subdivision or if a portion of the subdivision is sold, only the corresponding portion of the fees shall be paid. The subdivider's obligation to pay the fees shall be noted on the final map. If fees are required, the subdivider shall agree to pay them in accordance with this chapter. The agreement shall be secured in accordance with Section 20.16.070 of this code. The City Manager is authorized to sign such agreements on behalf of the city.

(Ord. 9190 § 9; Ord. 9614 § 1, 1982; Ord. 9637 § 2, 1982; Ord. 9654 § 1, 1982; Ord. 9830 § 3, 1987; Ord. CS-192 § 49, 2012)

#### **§ 20.44.060. Determination of land or fee.**

- A. Whether the decision-making authority for the tentative map or tentative parcel map requires land dedication or elects to accept payment of a fee in lieu thereof, or a combination of both, shall be determined by the decision-making authority at the time of approval of the tentative map or tentative parcel map. In making that determination, the decision-making authority shall consider the following:
  - 1. Park and recreation element of the general plan;
  - 2. Topography, geology, access and location of land in the subdivision available for dedication;
  - 3. Size and shape of the subdivision and land available for dedication;
  - 4. The feasibility of dedication;
  - 5. Availability of previously acquired park property.
- B. The determination of the City Council as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

(Ord. 9190 § 6; Ord. 9614 § 1, 1982; Ord. CS-192 § 49, 2012)

#### **§ 20.44.080. Amount of fee in lieu of land dedication.**

- A. When a fee is required to be paid in lieu of land dedication, the amount of the fee shall be based upon the fair market value of the amount of land which would otherwise be required to be dedicated pursuant to Section 20.44.040. The fair market value shall be determined by the City Council using the following method:

1. The City Manager may from time to time survey the market value of undeveloped property within the city. This survey may be prepared through various means including, but not limited to, selection of several real estate professionals within Carlsbad to provide current estimates of undeveloped property values with each of the city's four quadrants.
  2. The council shall adopt a resolution establishing the value of one acre of park land in each quadrant after considering the results of this survey and any other relevant information.
- B. Subdividers objecting to such valuation, may, at their own expense, obtain an appraisal of the property by a qualified real estate appraiser approved by the city, which appraisal may be accepted by the City Council if found to be reasonable. If accepted, the fee shall be based on that appraisal.
- (Ord. 9190 § 8; Ord. 9614 § 1, 1982; Ord. 9781 § 1, 1985; Ord. 9831 § 1, 1987; Ord. NS-120 § 1, 1990)

**§ 20.44.090. Limitation on use of land and fees.**

The land and fees received under this chapter shall be used for the purpose of developing new or rehabilitating existing park and recreational facilities which serve the population within the park quadrant within which the subdivision for which the fees are received is located and the location of the land and amount of fees shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(Ord. 9190 § 11; Ord. 9680 § 12, 1983; Ord. NS-842 § 1, 2007)

**§ 20.44.100. Time of commencement of facilities.**

The City Council shall develop a schedule specifying how, when and where it will use the land or fees or both to develop park or recreational facilities to serve the residents of the park quadrant in which the subdivisions are located. Any fees collected pursuant to this chapter shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(Ord. 9190 § 10; Ord. 9521 § 24, 1979; Ord. 9680 § 12, 1983; Ord. NS-842 § 2, 2007)

**§ 20.44.110. Alternate procedure—Planned community projects.**

The purpose of this section is to provide an alternate procedure for accomplishing the dedication of land or the payment of fees, or both, for recreational facilities which the City Council may elect to utilize for subdivisions processed as part of a master planned project in the planned community zone.

- A. The City Council may elect to proceed pursuant to this section by the inclusion of an appropriate condition in the master plan for a project in the planned community zone to provide for the dedication of land or for the payment of fees in lieu thereof, or any combination of the two, in connection with the master plan approval in an amount not to exceed the estimated amount of the obligations to be imposed by this chapter on the subdivisions to be developed within the planned community project.
- B. If the land to be dedicated has been improved prior to master plan approval and the City Council determines it to be in the city's interest to accept such improvements for utilization in the city's park and recreation program, the council may cause such improvements to be appraised, and the approved appraised value of such improvements may be considered a payment of fees in lieu of the dedication of land for the purposes of this section.
- C. The land dedicated or fees paid pursuant to this section may be immediately utilized by the city. A

record of the amount of such land or fees shall be maintained by the city, and the amount shall be available to be drawn upon at the option of the City Council to satisfy the requirements of this chapter for one or more of the subdivisions to be developed pursuant to the master plan within the planned community project. The amount of land or fees in lieu thereof required for each subdivision within a planned community processed under this section shall be determined in accord with this chapter in the same manner as any other subdivision.

- D. After electing to utilize the provisions of this section, the City Council may provide that the requirement for the dedication of land for a subdivision be satisfied by a credit from an equivalent amount of previously dedicated land located within the planned community project but outside the subdivision boundaries and available for such purpose pursuant to this section. A requirement for payment of fees may be satisfied in the same manner from the amount of previously deposited fees available for such purpose pursuant to this section. A record of the transactions showing the amount of land or fees required, the amount of credit used to satisfy such requirement, and the balance of land or fees remaining on account for subsequent subdivisions shall be presented to the City Council prior to final map approval.
- E. The method of accomplishing the dedication of the land or the payment of fees in lieu thereof, the method for making the land or fees available in accord with this section, and any other matters necessary to carry out the intent of this section may be established by the City Council by a contract with the developer or by the inclusion of appropriate conditions in the master plan, specific plan, tentative map, or any combination thereof. In the absence of any such specific provisions, the provisions of this chapter shall control.
- F. If the planned community project is rezoned or otherwise terminated by the City Council prior to its completion, the title to any land or improvements dedicated pursuant to this section shall remain in the city. The remaining balance of any land or the value of any improvements not utilized in satisfaction of the requirements of this chapter for approved subdivisions within the project shall remain on account with the city and shall be available to satisfy the park requirements which may apply to any future development of the property.
- G. In the event the balance of land or fees available pursuant to this section is insufficient to satisfy the requirements of this chapter for a subdivision, additional land or fees may be required pursuant to this chapter in satisfaction of such requirement, or the City Council may elect to provide for additional dedications or payments in accord with this section which shall be available for the satisfaction of the balance of such requirement and the requirements of subsequent subdivisions within the planned community.

(Ord. 9416 § 1, 1975; Ord. 9417 § 2, 1975)

#### **§ 20.44.120. Exemptions.**

- A. The provisions of this chapter shall not apply to subdivisions containing less than five parcels and not used for residential purposes; provided, however, that a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years, the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.
  - B. The provisions of this chapter also do not apply to commercial or industrial subdivision; nor to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.
- (Ord. 9416 § 2, 1982; Ord. 9680 § 12, 1983)

**§ 20.44.130. Credits against fee or land.**

- A. Whenever a subdivider provides park and recreational improvements, including equipment, to dedicated land, the value of the improvements or equipment as determined by the City Council shall be a credit against the fees to be paid or land to be dedicated pursuant to this chapter; provided, that the improvements or equipment have been done or installed with the prior approval and to the satisfaction of the Director of Parks and Recreation.
- B. Whenever a subdivider of a planned development, real estate development, stock cooperative, community development project or condominium, as defined in Sections 11003, 11003.1, 11003.2, 11003.4, and 11004 of the Business and Professions Code and Section 783 of the Civil Code respectively, has provided active recreational areas within the boundaries of the subdivision in excess of that required by Chapter 21.45 of this code, the subdivider may at the time the final or parcel map is submitted for approval request that the council give a credit of up to 10% of the amount of fees to be paid or land to be dedicated pursuant to this chapter for the value of the active recreation area.

(Ord. 9680 § 12, 1983; Ord. 9806 § 17, 1986; Ord. CS-192 § 50, 2012)

**§ 20.44.140. Fee deferral.**

- A. Notwithstanding anything in this chapter to the contrary, all park in-lieu fees for any residential development that consists of five or more dwelling units shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant.
- B. If the applicant chooses to defer the payment of fees to prior to the request for final inspection, then the amount of the fees shall be based on the fees in effect at the time of the request for final inspection.
- C. In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner.

(Ord. CS-200 § IV, 2013; Ord. CS-271 § IV, 2015)

**CHAPTER 20.48  
ENFORCEMENT—CERTIFICATES OF COMPLIANCE**

**§ 20.48.010. Enforcement.**

Whenever the county assessor or the head of any city department finds that the provisions of this title or of the Subdivision Map Act have been violated, he or she shall report such violation to the City Planner, the Housing and Neighborhood Services Director and the City Engineer. It shall be the duty of the City Engineer to investigate such report and enforce the provisions of this title and the Subdivision Map Act. (Ord. 9417 § 2, 1975; Ord. 1256 § 6, 1982; Ord. 1261 § 35, 1983; Ord. NS-676 §§ 13, 14, 2003; Ord. CS-164 §§ 10, 14, 2011; Ord. CS-192 § 51, 2012)

**§ 20.48.020. Notice of violation.**

Whenever the City Engineer has knowledge that real property has been divided in violation of the provisions of the Subdivision Map Act or of city ordinances enacted pursuant thereto, the City Engineer shall cause to be mailed by certified mail to the owner of the real property a notice of intention to record a notice of violation, describing the real property in detail, naming the owners thereof, describing the violation, and an explanation of why the parcel is not lawful under subdivision (a) or (b) of Government Code Section 66412.6, and stating that an opportunity will be given to the owner to present evidence. The notice shall specify a time, date and place at which the owner may present evidence to the City Engineer why such notice should not be recorded. The date shall be not less than 30 days and not more than 60 days from the date of mailing. If, after the owner has presented evidence, the City Engineer determines that there has been no violation, the City Engineer shall forthwith mail a clearance letter to the owner. If, however, after the owner has presented evidence, the City Engineer determines that the property has in fact been illegally divided, or if within 15 days of receipt of a copy of such notice the owner of such real property fails to inform the City Engineer of his or her objection to recording the notice of violation, the City Engineer shall record the notice of violation with the County Recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such real property.

(Ord. 9417 § 2, 1975; Ord. 9521 § 25, 1979; Ord. NS-328 § 1, 1995)

**§ 20.48.030. Development permits and approvals withheld.**

- A. The city or any other responsible agency shall not issue or grant building, grading or any other permit, or any approval necessary to develop any real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or city ordinances enacted pursuant thereto applicable at the time such division occurred unless the decision-making authority for the building, grading, or any other permit, finds that development of such real property is not contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of record at the time of such violation or whether the applicant therefor is either the current owner of record or vendee of the current owner of record pursuant to a contract of sale of the real property with or without actual or constructive knowledge of the violation at the time of the acquisition of his or her interests in such real property.
- B. All applications for permits or approvals necessary for the development of real property shall be reviewed by the City Engineer, who shall determine whether the real property has been subdivided or has resulted from a division in violation of the Subdivision Map Act or city ordinances enacted pursuant thereto. The engineer shall also make such a determination upon a receipt of a written request from the owner of such real property or the vendee of the current owner of record pursuant to

a contract of sale of the real property or upon receipt of written notification of the authority or body responsible for granting a permit or approval. The City Engineer may approve real property for development pursuant to subsection A of this section and shall so inform the owner or vendee thereof and the authority or body authorized to issue or grant the permit or approval for development. If it is determined that such real property is approved for development, the City Engineer may impose those conditions that would have been applicable to the division of the property and which had been established at such time by the Subdivision Map Act or city ordinances enacted pursuant thereto and are appropriate to satisfy public health and safety considerations and other considerations as are hereinafter specified unless the applicant was the owner of record at the time of the initial violation in which event the City Engineer may impose such conditions as would be applicable to a current division of property. If a conditional certificate of compliance has been filed for record under the provisions of Section 20.48.040, only such conditions stipulated in that certificate shall be applicable. If real property is approved for development the City Engineer shall cause a certificate of compliance relative to the subject real property and reflecting any conditions of development to be filed with the County Recorder pursuant to Section 20.48.040 of this chapter.

- C. In determining whether approval or conditional approval should be granted for development of real property divided or resulting from a division in violation of the Subdivision Map Act or city ordinances enacted pursuant thereto, the City Engineer or the City Council shall give consideration to:
  - 1. Whether the owner of the real property can rescind the agreement by which he or she acquired the real property and recover the consideration paid therefor;
  - 2. Whether the real property meets the requirements of the applicable zoning regulations;
  - 3. Whether the real property has a satisfactory potable water supply;
  - 4. Whether the real property has legal access to a city or county maintained road;
  - 5. Whether the current owner would have been required to dedicate land for any public purpose or construct or install any improvements pursuant to the terms of the Subdivision Map Act or city ordinances enacted pursuant thereto had the subdivision by which the real property was created been submitted for approval at the time the current owner acquired the property.
- D. Approval for development shall be granted for development of real property where improvements have been completed prior to the time a permit or grant of approval was required for development of the property, or for development of real property for which improvements have been completed in reliance on a previous permit or grant of approval for development, unless the City Engineer finds that development is contrary to the public health or safety.
- E. Whenever any person submits an application for a building or any other permit for proposed construction of more than one main building as defined in Title 21 on any single lot or building site, the City Engineer shall determine whether such proposed construction would create a subdivision. The permit for such proposed construction shall not be issued unless the City Engineer has approved the plot plan and determined that the proposed construction would not constitute a violation of the Subdivision Map Act or this title.
- F. A request for development approval or a certificate of compliance shall be accompanied by a fee established by City Council resolution.

(Ord. 9417 § 2, 1975; Ord. 9521 § 26, 1979; Ord. 1261 § 35, 1983; Ord. 9760 § 13, 1985; Ord. NS-676 § 13, 2003; Ord. CS-192 § 52, 2012)

**§ 20.48.040. Certificate of compliance.**

- A. Any owner of real property or a vendee of such person pursuant to a contract of sale of such real property may request in writing that the City Engineer make a determination whether such real property complies with applicable provisions of the Subdivision Map Act and city ordinances enacted pursuant thereto, or that such real property does not comply with the provisions, and the City Engineer shall so notify the owner thereof setting forth the particulars of such compliance or noncompliance. If the subject real property is found to be in compliance with the Subdivision Map Act and city ordinances enacted pursuant thereto, the City Engineer shall cause a certification of compliance relative to such real property to be filed for record with the County Recorder.

If the subject real property is found not to be in compliance with the Subdivision Map Act and city ordinances enacted pursuant thereto, the City Engineer may issue a notice of violation or a conditional certificate of compliance. When issuing a conditional certificate of compliance the City Engineer may impose such conditions as would have been applicable to the division of the property at the time the applicant acquired his or her interest in the property and which had been established at such time by the Subdivision Map Act or city ordinances enacted pursuant thereto. Upon making such a determination and establishing such conditions, the City Engineer shall cause a conditional certification of compliance setting forth such conditions to be filed for record with the County Recorder, fulfillment and implementation of the conditions shall be required prior to the subsequent issuance of a permit or grant of approval for development of the property, but compliance with such conditions shall not be required until such time as a building permit or granting permit is issued by the city.

- B. Certificates of compliance shall be issued for real property that:

1. Has been approved for development pursuant to Section 20.48.030 of this chapter;
2. Has been approved for division, and the requirement for preparing, filing and recording a parcel map has been waived pursuant to Section 20.24.150 of this title.

- C. A recorded final subdivision map or recorded parcel map shall constitute a certificate of compliance with respect to the lots described therein, and no additional certificates of compliance shall be issued therefor.

(Ord. 9417 § 2, 1975; Ord. 9521 § 27, 1979; Ord. 9588 § 1, 1981; Ord. 9760 § 14, 1985)

**§ 20.48.050. Appeal.**

Decisions on actions of the City Engineer made pursuant to this chapter shall become effective unless appealed and processed in the same manner as the appeal of City Planner decisions pursuant to the provisions of Section 21.54.140 of this code.

(Ord. 9417 § 2, 1975; Ord. CS-192 § 53, 2012)

**§ 20.48.060. Violations.**

Any person violating any of the provisions of this title is guilty of a misdemeanor and shall be subject to imprisonment for a period not exceeding six months and a fine not exceeding \$500.00, or by both such imprisonment and such fine.

(Ord. 9417 § 2, 1975)

**§ 20.48.070. Severability.**

If any provision of this title or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application thereof, and to this end the provisions of this title are severable.

(Ord. 9417 § 2, 1975)

**§ 20.48.090. Presumption of lawful creation.**

- A. For purposes of this title, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation of the parcel there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.
- B. For purposes of this title, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcels or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to this chapter prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of this title or the Subdivision Map Act, as required pursuant to Section 20.48.040, the presumption declared in this subdivision shall not be operative.

(Ord. 9626 § 9, 1982)

## SUBDIVISIONS

**Title 21****ZONING**

	Chapter 21.02	<b>§ 21.04.091.</b>	Coin-operated arcade.
	<b>PURPOSE</b>	<b>§ 21.04.093.</b>	Commercial living unit.
		<b>§ 21.04.095.</b>	Commission.
<b>§ 21.02.010.</b>	<b>Designated.</b>	<b>§ 21.04.098.</b>	Common wall.
<b>§ 21.02.020.</b>	<b>Short title.</b>	<b>§ 21.04.099.</b>	Community and Economic Development Director.
	Chapter 21.04	<b>§ 21.04.100.</b>	Court.
	<b>DEFINITIONS</b>	<b>§ 21.04.105.</b>	Dairy.
<b>§ 21.04.005.</b>	<b>Provisions not affected by headings.</b>	<b>§ 21.04.106.</b>	Delicatessen.
<b>§ 21.04.010.</b>	Tenses.	<b>§ 21.04.107.</b>	Development (in the coastal zone).
<b>§ 21.04.015.</b>	Number.	<b>§ 21.04.109.</b>	Drive-thru restaurant.
<b>§ 21.04.020.</b>	Accessory.	<b>§ 21.04.110.</b>	Dump.
<b>§ 21.04.021.</b>	Affordable housing.	<b>§ 21.04.115.</b>	Dwelling.
<b>§ 21.04.023.</b>	Agriculture.	<b>§ 21.04.120.</b>	Dwelling unit.
<b>§ 21.04.025.</b>	Alley.	<b>§ 21.04.121.</b>	Dwelling unit, accessory (ADU).
<b>§ 21.04.027.</b>	Alter.	<b>§ 21.04.122.</b>	Dwelling unit, junior accessory (JADU).
<b>§ 21.04.030.</b>	Apartment.	<b>§ 21.04.125.</b>	Dwelling, one-family.
<b>§ 21.04.035.</b>	Apartment house.	<b>§ 21.04.130.</b>	Dwelling, two-family.
<b>§ 21.04.036.</b>	Aquaculture.	<b>§ 21.04.135.</b>	Dwelling, multiple-family.
<b>§ 21.04.040.</b>	Automobile wrecking.	<b>§ 21.04.137.</b>	Educational facilities, other.
<b>§ 21.04.041.</b>	Bar or cocktail lounge.	<b>§ 21.04.140.</b>	Educational institution or school.
<b>§ 21.04.045.</b>	Basement.		Expansion.
<b>§ 21.04.046.</b>	Bed and breakfast uses.	<b>§ 21.04.140.1.</b>	Emergency shelter.
<b>§ 21.04.048.</b>	Biological habitat preserve.	<b>§ 21.04.140.5.</b>	Escort service.
<b>§ 21.04.050.</b>	Block.	<b>§ 21.04.141.</b>	Factory-built housing.
<b>§ 21.04.055.</b>	Boardinghouse.	<b>§ 21.04.142.</b>	Family.
<b>§ 21.04.056.</b>	Bona fide public eating establishment.	<b>§ 21.04.145.</b>	Family day care home.
<b>§ 21.04.057.</b>	Bowling alley.	<b>§ 21.04.146.</b>	Family day care home, large.
<b>§ 21.04.060.</b>	Building.	<b>§ 21.04.147.</b>	Family day care home, small.
<b>§ 21.04.061.</b>	Building coverage.	<b>§ 21.04.148.</b>	Farmworker.
<b>§ 21.04.065.</b>	Building height.	<b>§ 21.04.148.1.</b>	Farmworker housing complex, large.
<b>§ 21.04.070.</b>	Building, main.	<b>§ 21.04.148.3.</b>	Farmworker housing complex, small.
<b>§ 21.04.075.</b>	Building site.	<b>§ 21.04.148.4.</b>	Employer-sponsored child day care center.
<b>§ 21.04.080.</b>	Business or commerce.	<b>§ 21.04.149.</b>	Garage, private.
<b>§ 21.04.085.</b>	Cellar.		
<b>§ 21.04.086.</b>	Child day care center.		
<b>§ 21.04.090.</b>	Club.	<b>§ 21.04.150.</b>	

## ZONING

§ 21.04.155.	Garage, public.	§ 21.04.273.	Motel.
§ 21.04.156.	Gas station.	§ 21.04.275.	Nonconforming structure.
§ 21.04.160.	Grade, existing.	§ 21.04.278.	Nonconforming lot.
§ 21.04.161.	Grade, finished.	§ 21.04.280.	Nonconforming nonresidential use.
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Permitted uses.

Building height.

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Side yard.

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<b>FLOODPLAIN MANAGEMENT REGULATIONS</b>  <b>Chapter 21.110</b>  <b>§ 21.110.010.</b> Statutory authorization. <b>§ 21.110.030.</b> Statement of purpose. <b>§ 21.110.040.</b> Methods of reducing flood losses. <b>§ 21.110.050.</b> Definitions. <b>§ 21.110.060.</b> Lands to which this chapter applies. <b>§ 21.110.070.</b> Basis for establishing the areas of special flood hazard. <b>§ 21.110.080.</b> Compliance. <b>§ 21.110.090.</b> Abrogation and greater regulations. <b>§ 21.110.100.</b> Interpretation. <b>§ 21.110.110.</b> Warning and disclaimer of liability. <b>§ 21.110.120.</b> Severability. <b>§ 21.110.130.</b> Special use permit. <b>§ 21.110.135.</b> Findings for approval. <b>§ 21.110.140.</b> Designation of floodplain administrator. <b>§ 21.110.150.</b> Duties and responsibilities of the floodplain administrator. <b>§ 21.110.160.</b> Standards of construction. <b>§ 21.110.170.</b> Standards for utilities. <b>§ 21.110.180.</b> Standards for subdivisions. <b>§ 21.110.190.</b> Standards for manufactured homes. <b>§ 21.110.200.</b> Floodways. <b>§ 21.110.210.</b> Coastal high hazard areas. <b>§ 21.110.220.</b> Mudslide (i.e., mudflow) prone areas. <b>§ 21.110.230.</b> Flood-related erosion-prone areas. <b>§ 21.110.240.</b> Appeals. <b>§ 21.110.250.</b> Conditions for variances.	<b>§ 21.201.015.</b> Applicability. <b>§ 21.201.020.</b> Definitions. <b>§ 21.201.030.</b> Requirements for minor coastal development permits and coastal development permits. <b>§ 21.201.050.</b> Determination of applicable procedures. <b>§ 21.201.060.</b> Exemptions and categorical exclusions from minor coastal development permit and coastal development permit procedures. <b>§ 21.201.070.</b> Repair and maintenance activities requiring a coastal development permit. <b>§ 21.201.080.</b> Minor coastal development permits and coastal development permits. <b>§ 21.201.090.</b> Announcement of decision and notice of final local government action. <b>§ 21.201.120.</b> Effective date and appeal. <b>§ 21.201.130.</b> Developments appealable to the Coastal Commission. <b>§ 21.201.140.</b> Exhaustion of local appeals. <b>§ 21.201.150.</b> Public hearing on appealable developments. <b>§ 21.201.160.</b> Finality of city action. <b>§ 21.201.190.</b> Emergency coastal development permits. <b>§ 21.201.200.</b> Expiration of minor coastal development permits and coastal development permits. <b>§ 21.201.210.</b> Extensions. <b>§ 21.201.220.</b> Permit amendment. <b>§ 21.201.230.</b> Coastal development permits issued by Coastal Commission. <b>§ 21.201.240.</b> Violations of the .
<b>COASTAL DEVELOPMENT PERMIT PROCEDURES</b>  <b>Chapter 21.201</b>  <b>§ 21.201.010.</b> Purpose.	<b>Chapter 21.202</b>  <b>COASTAL AGRICULTURE OVERLAY ZONE</b>  <b>§ 21.202.010.</b> Intent and purpose. <b>§ 21.202.020.</b> Definitions.

## CARLSBAD CODE

<b>§ 21.202.030.</b>	<b>Urban development of coastal agricultural land.</b>
<b>§ 21.202.040.</b>	<b>Permits required.</b>
<b>§ 21.202.050.</b>	<b>Permitted uses on agricultural lands.</b>
<b>§ 21.202.055.</b>	<b>Lot and yard standards—Agricultural lands.</b>
<b>§ 21.202.060.</b>	<b>Development of coastal agricultural land.</b>
<b>§ 21.202.070.</b>	<b>Findings required before conversion to urban uses.</b>
<b>§ 21.202.075.</b>	<b>Development on coastal agricultural lands not consistent with underlying land use designations.</b>
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## Chapter 21.203

**COASTAL RESOURCE PROTECTION  
OVERLAY ZONE**

<b>§ 21.203.010.</b>	<b>Intent and purpose.</b>
<b>§ 21.203.020.</b>	<b>Applicability.</b>
<b>§ 21.203.030.</b>	<b>Permit required.</b>
<b>§ 21.203.040.</b>	<b>Development standards.</b>

## Chapter 21.204

**COASTAL SHORELINE DEVELOPMENT  
OVERLAY ZONE**

<b>§ 21.204.010.</b>	<b>Intent and purpose.</b>
<b>§ 21.204.020.</b>	<b>Application.</b>
<b>§ 21.204.030.</b>	<b>Permitted beach uses.</b>
<b>§ 21.204.040.</b>	<b>Conditional beach uses.</b>
<b>§ 21.204.050.</b>	<b>Uses not on the beach subject to coastal shoreline development permit.</b>
<b>§ 21.204.060.</b>	<b>Requirements for public access.</b>
<b>§ 21.204.070.</b>	<b>Special access requirements for developments or new developments on sites containing evidence of historic public use.</b>

<b>§ 21.204.080.</b>	<b>Mechanism for guaranteeing public access.</b>
<b>§ 21.204.090.</b>	<b>Site plans required.</b>
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<b>§ 21.204.110.</b>	<b>Geotechnical reports.</b>
<b>§ 21.204.120.</b>	<b>Waiver of public liability.</b>

## Chapter 21.205

**COASTAL RESOURCE OVERLAY ZONE  
MELLO I LCP SEGMENT**

<b>§ 21.205.010.</b>	<b>Intent and purpose.</b>
<b>§ 21.205.020.</b>	<b>Authority—Conflict.</b>
<b>§ 21.205.030.</b>	<b>Permits—Required.</b>
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<b>§ 21.205.050.</b>	<b>Mitigation.</b>
<b>§ 21.205.060.</b>	<b>Erosion sedimentation, drainage.</b>
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## Chapter 21.208

**COMMERCIAL/VISITOR-SERVING  
OVERLAY ZONE**

<b>§ 21.208.010.</b>	<b>Intent and purpose.</b>
<b>§ 21.208.020.</b>	<b>Definitions.</b>
<b>§ 21.208.030.</b>	<b>Boundaries—Exceptions—Applicability.</b>
<b>§ 21.208.040.</b>	<b>Permitted uses.</b>
<b>§ 21.208.050.</b>	<b>Uses permitted by a conditional use permit.</b>
<b>§ 21.208.060.</b>	<b>Prohibited uses.</b>
<b>§ 21.208.070.</b>	<b>Decision-making authority.</b>
<b>§ 21.208.080.</b>	<b>Preliminary review submittal and meeting—Application for conditional use permit.</b>
<b>§ 21.208.090.</b>	<b>Project site notification.</b>
<b>§ 21.208.100.</b>	<b>Development standards.</b>
<b>§ 21.208.110.</b>	<b>Required findings.</b>
<b>§ 21.208.120.</b>	<b>Performance monitoring condition.</b>
<b>§ 21.208.130.</b>	<b>Existing uses, building permits and business licenses.</b>
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		§ 21.210.030.	Applicability.
§ 21.209.010.	Intent and purpose.	§ 21.210.040.	Habitat preservation requirements.
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§ 21.209.050.	Conditional use permit requirement.	§ 21.210.075.	Incidental take permit.
§ 21.209.060.	Site development plan requirement.	§ 21.210.080.	Habitat management plan amendment.
§ 21.209.070.	Pre-submittal community input process.	§ 21.210.090.	Guidelines.
§ 21.209.080.	Development and design standards.	§ 21.210.100.	Enforcement measures—Violations and remedies.

**CHAPTER 21.02  
PURPOSE**

**§ 21.02.010. Designated.**

An official land-use plan for the city is adopted and established to serve the public health, safety and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources.

(Ord. 9060 § 100)

**§ 21.02.020. Short title.**

This title shall be known as "The Zoning Ordinance."

(Ord. 9060 § 101)

## CHAPTER 21.04 DEFINITIONS

### **§ 21.04.005. Provisions not affected by headings.**

Chapter and section headings contained in this title shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of any section of this title.

(Ord. 9060 § 200)

### **§ 21.04.010. Tenses.**

The present tense includes the future, and the future the present.

(Ord. 9060 § 201)

### **§ 21.04.015. Number.**

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

(Ord. 9060 § 202)

### **§ 21.04.020. Accessory.**

"Accessory" means a building, part of a building or structure, or use that is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, with a width dimension of at least three feet and a height dimension of at least one story, such building area is considered a part of the main building and not an accessory building or structure, except for "accessory dwelling units" or "junior accessory dwelling units" as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020), respectively, are considered accessory.

(Ord. 9060 § 203; Ord. NS-355 § 1, 1996; CS-384 § 7, 2020; Ord. CS-427 § 2, 2022)

### **§ 21.04.021. Affordable housing.**

"Affordable housing" means housing for which the allowable housing expenses for a for-sale or rental dwelling unit paid by a household would not exceed thirty percent of the gross monthly income for target income levels, adjusted for household size.

(Ord. 207 § 1, 1992)

### **§ 21.04.023. Agriculture.**

"Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

(Ord. CS-189 § II, 2012)

**§ 21.04.025. Alley.**

"Alley" means a public thoroughfare or way having a width of not more than twenty feet which affords only a secondary means of access to abutting property.

(Ord. 9060 § 204)

**§ 21.04.027. Alter.**

"Alter" means any change to the interior or exterior of a structure that does not result in an increase to the gross floor area of the structure.

(Ord. CS-050 § II, 2009)

**§ 21.04.030. Apartment.**

"Apartment" means a room, or a suite of two or more rooms in a multiple-family dwelling, occupied or suitable for occupancy as a residence for one family.

(Ord. 9060 § 205; Ord. NS-718 § 2, 2004)

**§ 21.04.035. Apartment house.**

"Apartment house" means a building or a portion of a building, designed for occupancy by three or more families living independently of each other, and containing three or more dwelling units.

(Ord. 9060 § 206)

**§ 21.04.036. Aquaculture.**

"Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes. This definition specifically excludes hydroponics.

(Ord. 9809 § 1, 1986)

**§ 21.04.040. Automobile wrecking.**

"Automobile wrecking" means the commercial or noncommercial dismantling or wrecking of used motor vehicles or trailers or the storage, sale or dumping of dismantled or wrecked vehicles or their parts.

(Ord. 9060 § 207)

**§ 21.04.041. Bar or cocktail lounge.**

"Bar or cocktail lounge" means any establishment serving an alcoholic beverage, not meeting the requirements of a bona fide public eating establishment as defined in Section 21.04.056.

(Ord. 9527 § 2, 1979)

**§ 21.04.045. Basement.**

"Basement" means that portion of a building between floor and ceiling which is completely or partially below the existing grade or finished grade, whichever is lower, but so located that the vertical distance from exterior grade to the adjacent interior floor below is greater than the vertical distance from exterior grade to the adjacent interior ceiling above. This definition must apply to a minimum of seventy-five percent of

the perimeter of the basement for that portion of a building to qualify as a basement.  
(Ord. 9060 § 208; Ord. NS-180 § 1, 1991; Ord. NS-204 § 1, 1992; Ord. NS-532 § 1, 2000; Ord. CS-045 § II, 2009)

**§ 21.04.046. Bed and breakfast uses.**

"Bed and breakfast uses" means an historical or architecturally significant building which is located in a scenic or other environment with a distinct character which has no less than three and no more than eight attractively decorated lodging rooms, and one common room is available for social interaction where short-term lodging and primarily breakfast meals are provided for compensation. "Bed and breakfast uses" does not include rest homes, convalescent homes, hotels, motels, boarding houses or lodging houses.  
(Ord. 9800 § 1, 1986; Ord. NS-81 § 1, 1989)

**§ 21.04.048. Biological habitat preserve.**

"Biological habitat preserve" means any area which is designated and accepted by a federal, state or local agency as a permanent or temporary sanctuary, reserve or protected area for biological species of any kind.  
(Ord. NS-322 § 1, 1995)

**§ 21.04.050. Block.**

"Block" means all property fronting upon one side of a street between intersecting and intercepting streets, or between a street and a railroad right-of-way, waterway, terminus or dead-end street, or city boundary. An intercepting street shall determine only the boundary of the block on the side of the street which it intercepts.  
(Ord. 9060 § 209)

**§ 21.04.055. Boardinghouse.**

"Boardinghouse" means a building with more than four guest rooms where lodging and meals are provided for compensation but does not include rest homes or convalescent homes.  
(Ord. 9060 § 210)

**§ 21.04.056. Bona fide public eating establishment.**

"Bona fide public eating establishment" means any establishment at which the primary business is the preparation, service and retail sale of meals comprising a varied selection of foods and nonalcoholic beverages prepared, served and consumed on the premises.

To be classified as a bona fide public eating establishment, an establishment which engages in the sale of beer, wine or distilled spirits for consumption on the premises shall meet the following requirements:

- (1) Be designed and operated in such a way that the sale of alcoholic beverages is incidental to the primary restaurant operation;
- (2) On any day the restaurant is open to the public for business and engaged in the incidental sale of alcoholic beverages, restaurant services shall be available to the public for the evening meal for a period of not less than five hours, or for not less than four hours, if the morning or noon meal is also served to the public for a period of not less than two hours;
- (3) Restaurant service shall include, but not be limited to, an offering of a varied menu of foods or not less than five main courses with appropriate nonalcoholic beverages, desserts, salads and other

attendant dishes;

- (4) The sale of any food prepared for consumption off the premises shall be occasional only and clearly incidental and subordinate to the on-premises restaurant operation;
- (5) No more than twenty-five percent of the interior area of the restaurant shall be designed, arranged or devoted to a use commonly associated with a bar or other establishment primarily engaged in the on-premises sale of alcoholic beverages. The interior area shall include only those portions of the establishment devoted to regular use by the public;
- (6) A minimum of twenty percent of the gross floor area of the establishment shall be used solely for food storage, preparation, maintenance and storage of eating utensils, dishes and glassware and shall include refrigeration, cooking, warming and dishwashing equipment, and any other equipment necessary for a fully equipped restaurant kitchen;
- (7) During the above specified minimum hours for restaurant services, there shall be not less than one employee per two hundred and fifty square feet of floor area devoted to food service use. Said employee or employees shall be on the job during the specified minimum hours for the restaurant service as described in subsection (2) of this section.

The City Council may waive the above requirements relating to hours, menus, alcoholic beverage area, kitchen area, employees and equipment if they find a proposed restaurant will provide equivalencies, meets the other requirements of this section and will, in fact, be operated as a bona fide restaurant.

Uses not specifically named in this section but which are of substantially the same general type and character and are within the intent and purpose of this section may be permitted; provided, however, that the burden of proving the same shall rest with the person seeking to establish that use.

(Ord. 9527 § 2, 1979)

#### **§ 21.04.057. Bowling alley.**

"Bowling alley" means any structure in which a ball or balls are rolled on a green or down an alley or lane at any object or group of objects.

(Ord. 9527 § 2, 1979)

#### **§ 21.04.060. Building.**

"Building" means any structure having a roof, including all forms of inhabitable vehicles even though immobilized. Where this title requires, or where special authority granted pursuant to this title requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding "and enclosed on all sides."

(Ord. 9060 § 211)

#### **§ 21.04.061. Building coverage.**

"Building coverage" means the total ground area of a site occupied by any building or structure as measured from the outside of its surrounding external walls or supporting members. Building coverage includes exterior structures such as stairs, arcades, bridges, permanent structural elements protruding from buildings such as overhanging balconies, oriel windows, stories which overhang a ground level story, garages and covered carports. Building coverage also includes the perimeter area of a basement. Excluded from building coverage are roof eaves extending less than thirty inches from the face of any building,

awnings, open parking areas, structures under thirty inches in height and masonry walls not greater than six feet in height such as wing-walls, planter walls or grade-separation retaining walls.

(Ord. NS-180 § 2, 1991)

#### **§ 21.04.065. Building height.**

"Building height" is limited to the vertical distance measured from "existing grade" (defined: Section 21.04.160) or "finished grade" (defined: Section 21.04.161), whichever is lower, at all points along the "building coverage" (defined: 21.04.061) up to a warped plane located at a height, above all points along the "building coverage," that is equal to the height limit of the underlying zone. All portions of the building shall be located at or below the building height limit, except as provided below.

1. "Building height" includes:
  - a. All portions of a building exposed above the existing grade or finished grade, whichever is lower. This includes, but is not limited to, all portions of exterior walls of a basement, underground parking or other subterranean areas that are exposed above existing grade or finished grade, whichever is lower, and the exposed exterior portion of a basement located on the downhill or uphill side of a building on a sloping lot, but does not include the exposed portion of an "underground parking" structure entrance (defined: Section 21.04.370) that is minimally necessary to provide vehicle access to the "underground parking" structure and which is below the existing or finished grade, whichever is lower, of the area that is immediately adjacent to the "underground parking" structure.
  - b. Per Section 21.46.020 of this title, protrusions above the building height limit may be allowed.
2. If a discretionary permit for a development or alteration of an existing development is approved, and such approval includes a grading plan that shows a finished grade higher in elevation than the existing grade, then building height may be measured from the approved finished grade. In approving a finished grade through a discretionary permit that is higher in elevation than the existing grade, consideration shall be given to the natural topography of the site, compatibility with the existing grade of adjacent and surrounding properties, and the need to comply with required access, utility and drainage standards.
3. When nondiscretionary permits allow retaining walls, fill or other grading, which create a finished grade higher in elevation than the grade that existed prior to the retaining wall, fill, or grading, then building height shall be measured from existing grade.

(Ord. 9060 § 212; Ord. 9141 § 1; Ord. 9498 § 1, 1978; Ord. 9667, 1983; Ord. NS-180 § 3, 1991; Ord. NS-204 § 2, 1992; Ord. NS-675 § 1, 2003; Ord. CS-045 § III, 2009)

#### **§ 21.04.070. Building, main.**

"Main building" means the principal building on a lot or building site designed or used to accommodate the primary use to which the premises are devoted; where a permissible use involves more than one structure designed or used for the primary purpose, as in the case of group houses, each such permissible building on one lot as defined by this title is construed as comprising a main building.

(Ord. 9060 § 213)

#### **§ 21.04.075. Building site.**

"Building site" means:

- (1) The ground area of one lot; or
  - (2) The ground area of two or more lots when used in combination for a building or group of buildings, together with all open spaces as required by this title.
- (Ord. 9060 § 214)

**§ 21.04.080. Business or commerce.**

"Business" or "commerce" means the purchase, sale or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management of office building, offices, recreational or amusement enterprises; or the maintenance and use of offices, structures and premises by professions and trades rendering services.

(Ord. 9060 § 215)

**§ 21.04.085. Cellar.**

"Cellar" means that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance between the ceiling and the average adjoining ground level is equal to or greater than the vertical distance from grade to ceiling.

(Ord. 9060 § 216)

**§ 21.04.086. Child day care center.**

"Child day care center" means a facility, other than a family day care home which provides nonmedical care, protection and supervision for children under eighteen years of age for periods of less than twenty-four hours per day. "Child day care center" includes preschools, nursery schools, employer-sponsored day care facilities and before-and after-school recreational programs, but does not include public or private elementary schools.

(Ord. 9731 § 1, 1984; Ord. NS-409 § 1, 1997)

**§ 21.04.090. Club.**

"Club" means an association of persons for some common nonprofit purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

(Ord. 9060 § 217)

**§ 21.04.091. Coin-operated arcade.**

"Coin-operated arcade" means any place wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled machines, shooting galleries, or any other amusement devices, are maintained for use by five or fewer persons per machine at any one time.

(Ord. 9527 § 2, 1979)

**§ 21.04.093. Commercial living unit.**

"Commercial living unit" means a unit that may be within but is not limited to a professional care facility, hotel, motel, time-share or bed and breakfast that provides the basic amenities for everyday living and may include but is not limited to a sleeping area or bedroom(s), closet space, restroom, sitting/entertainment area and kitchen facilities. Commercial living units are distinguished from dwelling units due to the assistance/services provided in conjunction with the living unit and/or the use of the living unit for temporary lodging.

(Ord. NS-284 § 1, 1994)

**§ 21.04.095. Commission.**

"Commission" means the Planning Commission of the city.

(Ord. 9060 § 218)

**§ 21.04.098. Common wall.**

"Common wall" is used for the purpose of distinguishing between an otherwise accessory building or structure and a main dwelling unit building or structure within residential zones. A "common wall" divides, yet is shared by, two adjacent enclosed building areas. A common wall may or may not provide a door or accessway to accommodate passage between the two building areas separated by a common wall. Accessory structures do not involve an attachment to the main building by a common wall.

(Ord. NS-355 § 2, 1996)

**§ 21.04.099. Community and Economic Development Director.**

"Community and Economic Development Director" means the Director of Community and Economic Development of the city or his or her designee.

(Ord. NS-675 § 2, 2003; Ord. CS-164 § 14, 2011)

**§ 21.04.100. Court.**

"Court" means any portion of the interior of a lot or building site which is wholly or partially surrounded by buildings, and which is not a required front, side or rear yard.

(Ord. 9060 § 219)

**§ 21.04.105. Dairy.**

"Dairy" means any premises where three or more cows, three or more goats, or any combination thereof are kept, milked or maintained.

(Ord. 9060 § 220)

**§ 21.04.106. Delicatessen.**

"Delicatessen" means a type of restaurant, totaling less than one thousand six hundred square feet in total floor area, selling ready-to-eat food and canned or bottled beverages to the public. Food is pre-cooked or prepared at another location and only heated or toasted on the site. No stoves or ovens for the cooking or preparation of food nor tableware or dishwashing facilities (other than a standard sink) are permitted. No waiters or waitresses are employed on the premises.

(Ord. NS-791 § 3, 2006)

**§ 21.04.107. Development (in the coastal zone).**

"Development (within the coastal zone)" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of

such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.  
(Ord. NS-365 § 1, 1996)

#### **§ 21.04.109. Drive-thru restaurant.**

"Drive-thru restaurant" means a restaurant that has a drive-thru lane to serve customers in motor vehicles.  
(Ord. NS-439 § 1, 1998)

#### **§ 21.04.110. Dump.**

"Dump" means an area devoted to the disposal of refuse including incineration, reduction, or dumping of ashes, garbage, combustible or noncombustible refuse, offal or dead animals.  
(Ord. 9060 § 221)

#### **§ 21.04.115. Dwelling.**

"Dwelling" means a building or portion thereof designed exclusively for residential purposes, including one-family, two-family and multiple-family dwellings, but does not include commercial living units.  
(Ord. 9060 § 222; Ord. NS-284 § 2, 1994; Ord. NS-718 § 3, 2004)

#### **§ 21.04.120. Dwelling unit.**

"Dwelling unit" means a single unit providing a complete, independent living facility for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and having only one kitchen. For the purposes of this section, provisions for sanitation include a toilet, sink and shower or bathtub.  
(Ord. 9060 § 223; Ord. CS-243 § 1, 2014)

#### **§ 21.04.121. Dwelling unit, accessory (ADU).**

Refer to California Government Code Section 65852.2 (effective Jan. 1, 2022).  
(Ord. CS 324 § 3, 2017; Ord. CS-384 § 8, 2020; Ord. CS-427 § 3, 2022)

#### **§ 21.04.122. Dwelling unit, junior accessory (JADU).**

Refer to California Government Code Section 65852.22 (effective Jan. 1, 2020).  
(Ord. CS-384 § 9, 2020; Ord. CS-427 § 4, 2022)

#### **§ 21.04.125. Dwelling, one-family.**

"One-family dwelling" means a detached building designed exclusively for occupancy by one family and containing one dwelling unit.  
(Ord. 9060 § 224)

**§ 21.04.130. Dwelling, two-family.**

"Two-family dwelling" means a building designed exclusively for occupancy by two families living independently of each other and containing two dwelling units.

(Ord. 9060 § 225)

**§ 21.04.135. Dwelling, multiple-family.**

"Multiple-family dwelling" means a building, or portion thereof, designed for occupancy by three or more families living independently of each other, and containing three or more dwelling units.

(Ord. 9060 § 226; Ord. NS-718 §§ 1, 4, 2004)

**§ 21.04.137. Educational facilities, other.**

"Educational facilities, other" means educational training and tutoring services not subject to the California Education Code nor standards set by the State Board of Education, including, but not limited to, trade, cosmetology, pet grooming, music, dance, martial arts, gymnastics and language.

(Ord. NS-791 § 4, 2006)

**§ 21.04.140. Educational institution or school.**

"Educational institution or school" means an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of higher education, including a community or junior college, college or university.

(Ord. 9060 § 227; Ord. NS-409 § 1, 1997)

**§ 21.04.140.1. Expansion.**

"Expansion" means to enlarge or increase the size of an existing structure or use including the physical size of the property, building, parking and other improvements.

(Ord. CS-050 § II, 2009)

**§ 21.04.140.5. Emergency shelter.**

"Emergency shelter" means year-round housing with minimal supportive services for homeless persons or families with occupancy limited to six months or less by homeless persons.

(Ord. CS-190 §§ I, II, 2012)

**§ 21.04.141. Escort service.**

"Escort service" means any place where patrons can purchase the social company or companionship of another person to be given either on or off the premises, excluding any use regulated by Chapter 21.43 of this code.

(Ord. 9527 § 2, 1979)

**§ 21.04.142. Factory-built housing.**

"Factory-built housing" means a residential building, dwelling unit, or an individual dwelling room or combination of rooms thereof, or building component, assembly or system manufactured in such a manner

that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage or destruction of the part, including units designed for use as part of an institution for resident or patient care, which is either wholly manufactured or is in substantial part manufactured at an off-site location to be wholly or partially assembled on-site in accordance with building standards published in the State Building Standards Code and other regulations adopted by the Commission pursuant to StateHealth and Safety Code Section 19990. "Factory-built housing" does not include a mobile home, mobile accessory building or structure, a recreational vehicle, or a commercial coach. "Factory-built housing" means the same as modular housing.

(Ord. 9564 § 1, 1980)

#### **§ 21.04.145. Family.**

"Family" means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit. Residents and operators of a residential care facility serving six or fewer persons shall be considered a family for purposes of any zoning regulation relating to residential use of such facilities.

(Ord. 9060 § 228; Ord. 9455 § 1, 1976; Ord. 9513 § 7, 1978; Ord. 9592 § 1, 1981; Ord. CS-102 § II, 2010)

#### **§ 21.04.146. Family day care home.**

"Family day care home" means a detached single-family dwelling which regularly provides nonmedical care, protection, and supervision of fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardians are away. The actual number of children permitted in a family day care home is based on age composition as determined by the State of California, Department of Social Services. Family day care homes include large or small family day care homes.

(Ord. 9731 § 1, 1984; Ord. NS-409 § 1, 1997)

#### **§ 21.04.147. Family day care home, large.**

"Large family day care home" means a detached, single-family dwelling which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home as defined by Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

(Ord. 9731 § 1, 1984; Ord. NS-409 § 1, 1997)

#### **§ 21.04.148. Family day care home, small.**

"Small family day care home" means a detached, single-family dwelling which provides family day care for eight or fewer children, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

(Ord. NS-409 § 1, 1997)

#### **§ 21.04.148.1. Farmworker.**

"Farmworker" means any individual engaged in agriculture (as defined in Section 21.04.023).

(Ord. CS-189 § III, 2012)

#### **§ 21.04.148.3. Farmworker housing complex, large.**

"Farmworker housing complex, large" includes conventional and nonconventional structures, housing

more than thirty-six farmworkers or more than twelve units/spaces, such as: group living quarters (including barracks and bunkhouses); a dwelling, boardinghouse, or tent; a mobile home, manufactured home, recreational vehicle, or travel trailer; or other housing accommodations, and which is occupied by farmworkers or farm-workers and their households, and may be for temporary, seasonal, or permanent residence.

(Ord. CS-189 § IV, 2012)

**§ 21.04.148.4. Farmworker housing complex, small.**

"Farmworker housing complex, small" includes conventional and nonconventional structures, housing up to thirty-six farmworkers or twelve units/spaces, such as: group living quarters (including barracks and bunk-houses); a dwelling, boardinghouse, or tent; a mobile home, manufactured home, recreational vehicle, or travel trailer; or other housing accommodations, and which is occupied by farmworkers or farmworkers and their households, and may be for temporary, seasonal, or permanent residence.

(Ord. CS-189 § V, 2012)

**§ 21.04.149. Employer-sponsored child day care center.**

"Employer-sponsored child day care center" means any child day care center at the employer's site of business and operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of that employer, and of the officers, managers, and employees of the employer.

(Ord. NS-409 § 1, 1997)

**§ 21.04.150. Garage, private.**

"Private garage" means an accessory building or an accessory portion of the main building, enclosed on all sides and designed or used only for the shelter or storage of vehicles owned or operated by the occupants of the main building.

(Ord. 9060 § 229)

**§ 21.04.155. Garage, public.**

"Public garage" means a building other than a private garage used for the care, repair or equipping of automobiles, or where such vehicles are kept for remuneration, hire or sale.

(Ord. 9060 § 230)

**§ 21.04.156. Gas station.**

"Gas station" means a retail business used primarily for the sale of vehicular fuels; minor servicing and repair of automobiles; and the sale and installation of lubricants, tires, batteries and similar vehicle accessories. A gas station may include a mini-mart convenience store as an accessory use.

(Ord. NS-791 § 5, 2006)

**§ 21.04.160. Grade, existing.**

"Existing grade," for the purposes of measuring building height, means the ground elevation prior to any grading or other site preparation related to, or to be incorporated into, a proposed development or alteration of an existing development.

(Ord. 9060 § 231; Ord. NS-180 § 4, 1991; Ord. CS-045 § IV, 2009)

**§ 21.04.161. Grade, finished.**

"Finished grade," for the purposes of measuring building height, means the final ground elevation after the completion of any grading or other site preparation related to, or to be incorporated into, a proposed development or alteration of an existing development.

(Ord. CS-045 § V, 2009)

**§ 21.04.165. Guest house or accessory living quarters.**

"Guest house" or "accessory living quarters" means living quarters within an accessory building for the sole use of persons employed on the premises, or for temporary use by guests of the occupants of the premises. Such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate dwelling unit.

(Ord. 9060 § 232)

**§ 21.04.166. Hazardous waste.**

"Hazardous waste" shall be defined by Chapter 6.5 of Division 20 of the Health and Safety Code.

(Ord. NS-208 § 1, 1992)

**§ 21.04.167. Hazardous waste facility.**

"Hazardous waste facility" shall be defined by Chapter 6.5 of Division 20 of the Health and Safety Code.

(Ord. NS-208 § 1, 1992)

**§ 21.04.170. Hospital.**

"Hospital" means an institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics and general medical practice excluding however, facilities for treatment of mental and nervous disorders, but not excluding surgical and post-surgical treatment of mental cases.

(Ord. 9060 § 233)

**§ 21.04.175. Hospital, mental.**

"Mental hospital" means an institution licensed by state agencies under provisions of law to offer facilities, care and treatment for cases of mental and nervous disorders but not licensed to provide facilities and services in surgery, obstetrics and general medical practice. Establishments limiting services to juveniles below the age of five years, and establishments housing and caring for cases of cerebral palsy are specifically excluded from this definition.

(Ord. 9060 § 234)

**§ 21.04.185. Hotel.**

"Hotel" means a building in which there are five or more guest rooms where lodging with or without meals is provided for compensation, and where no provision is made for cooking in any individual room or suite, but shall not include jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed and detained under legal restraint.

(Ord. 9060 § 236)

**§ 21.04.186. Household—Low-income.**

"Low-income household" means those households whose gross income is at least fifty percent but less than eighty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

(Ord. 207 § 2, 1992)

**§ 21.04.187. Household—Moderate-income.**

"Moderate-income household" means those households whose gross income is at least eighty percent but less than one hundred twenty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

(Ord. 207 § 3, 1992)

**§ 21.04.188. Household—Very low-income.**

"Very low-income household" means a household earning a gross income equal to fifty percent or less of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

(Ord. 207 § 4, 1992)

**§ 21.04.189. Income level—Target.**

"Target income level" means the income standards for very low, low and moderate income levels within San Diego County as determined annually by the U.S. Department of Housing and Urban Development and adjusted for family size.

(Ord. 207 § 5, 1992)

**§ 21.04.190. Institution.**

"Institution" means an establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, education or similar service to the public, groups or individuals.

(Ord. 9060 § 237)

**§ 21.04.195. Kennel.**

"Kennel" means a place where four or more adult dogs or cats, in any combination, are kept, whether by owners of the dogs and cats or by persons providing facilities and care, whether or not for compensation. An adult dog or cat is an animal of either sex, altered or unaltered, that has reached the age of four months. (Ord. 9060 § 238; Ord. 9502 § 2, 1978)

**§ 21.04.200. Kitchen.**

"Kitchen" means any room or portion of a room used or intended or designed to be used for the preparation and storage of food and containing one or both of the following:

1. Cooking appliances or rough-in facilities for cooking appliances including, but not limited to: stoves or stovetops, built-in grills, ovens (gas or electric); microwave ovens or similar appliances. Rough-in facilities may include, but not necessarily be limited to: built-in counter tops and cabinetry, gas lines or electrical wiring.

2. A refrigerator or rough-in space for a refrigerator.  
(Ord. 9060 § 239; Ord. CS-243 § 2, 2014)

**§ 21.04.202. Level.**

An occupied or useable horizontal and vertical space of a structure.  
(Ord. NS-180 § 5, 1991)

**§ 21.04.203. Liquor store.**

"Liquor store" means any store designed and operated for the selling of alcoholic beverages with the selling of any other merchandise being incidental to the primary operation of selling liquor.  
(Ord. 9527 § 2, 1979; Ord. 9807 § 1, 1986)

**§ 21.04.205. Lodginghouse.**

"Lodginghouse" means the same as boardinghouse, but no meals shall be provided.  
(Ord. 9060 § 240)

**§ 21.04.210. Lot.**

"Lot" means a parcel of record legally created by subdivision map, adjustment plat, certificate of compliance or a parcel legally in existence prior to incorporation of the lot into the jurisdiction of the city. Any parcel created prior to May 1, 1956, shall be presumed to be lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created. A lot shall have frontage that allows usable access on a dedicated public street accepted by the city. This street or easement shall have a minimum right-of-way width of forty-two feet. Special lot and street configurations for affordable housing projects may be allowed subject to the provisions of Section 21.53.120.  
(Ord. 9060 § 241; Ord. 9459 § 1, 1976; Ord. 9605 § 1, 1981; Ord. 207 § 7, 1992; Ord. NS-602 § 1, 2001)

**§ 21.04.215. Lot area.**

"Lot area" means the total horizontal area within the boundary lines of a lot.  
(Ord. 9060 § 242)

**§ 21.04.220. Lot, corner.**

"Corner lot" means a lot situated at the intersection of two or more streets, which streets have an angle of intersection of not more than one hundred thirty-five degrees.  
(Ord. 9060 § 243)

**§ 21.04.222. Lot coverage.**

See "building coverage."  
(Ord. NS-180 § 6, 1991)

**§ 21.04.225. Lot depth.**

"Lot depth" means the horizontal length of a straight line drawn from the midpoint of the front lot line and at right angles to such line, connecting with a line intersecting the midpoint of the rear lot line and parallel to the front lot line. In the case of a lot having a curved front line the front lot line, for purposes of this

section, shall be deemed to be a line tangent to the curve and parallel to a straight line connecting the points of intersection of the side lot lines of the lot with the front lot line.

(Ord. 9060 § 244)

**§ 21.04.230. Lot, interior.**

"Interior lot" means a lot other than a corner lot or reversed corner lot.

(Ord. 9060 § 245)

**§ 21.04.235. Lot, key.**

"Key lot" means the first lot to the rear of the reversed corner lot and whether or not separated by an alley.

(Ord. 9060 § 246)

**§ 21.04.240. Lot line, front.**

"Front lot line" means in the case of an interior lot, a line separating the lot from the street. In the case of a corner lot the front lot line shall be the line separating the narrowest street frontage of the lot from the street.

(Ord. 9060 § 247)

**§ 21.04.245. Lot line, rear.**

"Rear lot line" means a lot line which is opposite and most distant from the front lot line. For the purpose of establishing the rear lot line of a triangular or trapezoidal lot, or of a lot the rear line of which is formed by two or more lines, the following shall apply:

- (1) For a triangular or gore-shaped lot, a line ten feet in length within the lot and farthest removed from the front lot line and at right angles to the line comprising the depth of such lot shall be used as the rear lot line;
- (2) In the case of a trapezoidal lot the rear line of which is not parallel to the front lot line, the rear lot line shall be deemed to be a line at right angles to the line comprising the depth of such lot and drawn through a point bisecting the recorded rear lot line; or
- (3) In the case of a pentagonal lot the rear boundary of which includes an angle formed by two lines, such angle shall be employed for determining the rear lot line in the same manner as prescribed for a triangular lot.

In no case shall the application of the provisions of this section be interpreted as permitting a main building to locate closer than five feet in any property line.

(Ord. 9060 § 248)

**§ 21.04.250. Lot line, side.**

"Side lot line" means any lot boundary line not a front lot line or a rear lot line.

(Ord. 9060 § 249)

**§ 21.04.255. Lot, reversed corner.**

"Reversed corner lot" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the lot upon which the rear of the corner lot abuts.

(Ord. 9060 § 250)

**§ 21.04.256. Lot—Planned unit development (PUD).**

"PUD lot" means a designated portion of or division of land, air space or combination thereof within the boundaries of a planned unit development which does not meet the definition of a lot. A PUD lot may be approved by the City Council as part of a planned unit development permit. A PUD lot, if so approved, need not have frontage on a public street or otherwise comply with the requirements of the underlying zone or Title 20.

(Ord. 9459 § 1, 1976)

**§ 21.04.260. Lot, through.**

"Through lot" means a lot having frontage on two parallel or approximately parallel streets.

(Ord. 9060 § 251)

**§ 21.04.263. Lot width.**

"Lot width" means the horizontal distance of the line constituting the required front yard setback, as required in certain zone classifications. For those zone classifications without required front yards, the lot width is the horizontal distance between the side lot lines measured at right angles to a line comprising the depth of the lot at a point midway between the front and rear lot lines. All lots located on the inside of a curve of a public street whose rear property line is at least twenty feet less in length than the front property line shall have their lot width calculated, for the purpose of computing required side yard setbacks, using the average width of the lot.

(Ord. 9060 § 252; Ord. 9467 § 1, 1976; Ord. 9506 § 1, 1978; Ord. NS-746 § 1, 2005)

**§ 21.04.265. Mobile building.**

"Mobile building" means a structure constructed on a permanent chassis, transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, commercial, educational, or temporary housing (e.g., farmworker or transitional housing) purposes to be used primarily with a temporary foundation system. A "mobile building" requires vehicle registration from the state Department of Transportation pursuant to the state Vehicle Code and requires registration and title from the state Department of Housing and Community Development pursuant to the state Health and Safety Code. "Mobile building" does not include a recreational trailer, mobile homes, manufactured home, or prefabricated home but may include a commercial coach or trailer coach.

(Ord. NS-746 § 2, 2005)

**§ 21.04.266. Mobile home.**

"Mobile home" means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit to be used with or without a foundation system. "Mobile home" does not include a recreational vehicle, trailer coach, commercial coach, auto trailer or factory-built housing.

(Ord. 9564 § 1, 1980)

**§ 21.04.267. Mobile home accessory structure.**

"Mobile home accessory structure" means any awning, portable, demountable or permanent cabana, ramada, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobile home.

(Ord. 9564 § 1, 1980)

**§ 21.04.268. Mobile home lot.**

"Mobile home lot" means a portion of a mobile home park designated or used for the occupancy of one mobile home.

(Ord. 9564 § 1, 1980)

**§ 21.04.269. Mobile home park.**

"Mobile home park" means an area or tract of land where two or more mobile home lots are rented, leased or sold, or held out for rental, lease or sale, or owned in common as part of a condominium, to accommodate mobile homes for human habitation. "Mobile home park" does not include mobile home sales or display lots, or areas containing mobile homes used exclusively to provide temporary housing for farm employees for which a temporary occupancy permit has been issued by the Department of Public Health.

(Ord. 9564 § 1, 1980)

**§ 21.04.270. Modular building.**

"Modular building" means a structure not constructed on a permanent chassis, transportable in one or more sections on a separate trailer, designed for human occupancy for industrial, professional, or commercial purposes to be placed upon a permanent foundation. A "modular building" is constructed in prefabricated sections and its construction and assembly is subject to the California Building, Electrical, Mechanical, and Plumbing Codes. "Modular building" does not include mobile offices, mobile homes, manufactured home, prefabricated home, commercial coach, or trailer coach. For the purposes of permitted uses in each zone, "modular building" is considered the same as any standard building.

(Ord. NS-746 § 3, 2005)

**§ 21.04.273. Motel.**

"Motel" means a group of attached or detached buildings containing individual sleeping or living units where a majority of such units open individually and directly to the outside, and where a garage is attached or a parking space is conveniently located to each unit, all for the temporary use by automobile tourists or transients, and such word shall include motor lodges. An establishment shall be considered a motel when it is required by the Health and Safety Code of the State of California to obtain the name and address of the guests, the make, year and license number of the vehicle and the state in which it was issued.

(Ord. 9060 § 253; Ord. 9135 § 1; Ord. NS-746 § 4, 2005)

**§ 21.04.275. Nonconforming structure.**

"Nonconforming structure" means a structure, or portion thereof, which was lawfully erected or altered and maintained, but which, because of the application of this title to it, no longer conforms to the current requirements and development standards of the zone in which it is located.

(Ord. CS-050 § II, 2009)

**§ 21.04.278. Nonconforming lot.**

"Nonconforming lot" means a lot which was legally created, but which, because of the application of this title to it, no longer conforms to the current requirements and development standards of the zone in which it is located.

(Ord. CS-050 § II, 2009)

**§ 21.04.280. Nonconforming nonresidential use.**

"Nonconforming nonresidential use" means a nonresidential use which was lawfully established and maintained, but which, because of the application of this title to it, no longer conforms to the current use regulations of the zone in which it is located.

(Ord. 9060 § 255; Ord. CS-050 § II, 2009)

**§ 21.04.281. Nonconforming residential use.**

"Nonconforming residential use" means a residential use which was lawfully established and maintained, but which exceeds the growth management control point or the maximum density range of the underlying general plan land use designation.

(Ord. CS-050 § II, 2009)

**§ 21.04.285. Outdoor advertising display.**

"Outdoor advertising display" means any card, paper, cloth, metal, glass, wooden, plastic or other display or device of any kind or character whatsoever placed for outdoor advertising purposes on the ground or on any tree, wall, rock, structure or thing whatsoever.

(Ord. 9060 § 256)

**§ 21.04.290. Outdoor advertising structure.**

"Outdoor advertising structure" means a structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising display may be placed.

(Ord. 9060 § 257)

**§ 21.04.290.1. Outdoor dining (incidental).**

"Outdoor dining (incidental)" means an outdoor dining area that is part of any business that serves food and/or beverages for onsite consumption, such as but not limited to restaurants, bona fide eating establishments and delicatessens, and which does not exceed the limitations established in Chapter 21.26.

(Ord. CS-102 § IV, 2010; Ord. CS-178 § I, 2012)

**§ 21.04.291. Pawnshop.**

"Pawnshop" means any place engaged in the business of loaning money to any person, upon any personal property, personal security, or purchasing personal property and reselling such articles to the vendor or other assignee at prices previously agreed upon.

(Ord. 9527 § 2, 1979)

**§ 21.04.292. Planner, city.**

"City planner" means the City Planner of the city or his or her designee. In addition, the term "Director" as used throughout this title shall also mean the City Planner unless the context clearly requires otherwise.

(Ord. NS-675 § 6, 2003; Ord. CS-164 § 10, 2011)

**§ 21.04.293. Poolhall or billiard parlor.**

"Poolhall" or "billiard parlor" means any place of business where billiards or pool is played, and a fee is charged to those playing for the use of the equipment. The billiard room shall not be connected with any other business, nor shall any other business be permitted to be carried on, except that the billiard room may have therein ordinary merchandise vending machines and no more than four coin-operated games of skill, including pinball machines. A bar or cocktail lounge, having two or less pool or billiard tables, shall not be considered to be a poolhall or billiard parlor.

(Ord. 9527 § 2, 1979)

**§ 21.04.295. Professional care facility.**

"Professional care facility" means a facility in which food, shelter, and some form of professional service is provided such as nursing, medical, dietary, exercising or other medically recommended programs. Not included in this definition are hospitals and mental hospitals.

(Ord. 9060 § 258; Ord. 9455 § 1, 1976)

**§ 21.04.297. Public and quasi-public office buildings and accessory utility buildings and facilities.**

"Public and quasi-public office buildings and accessory utility buildings and facilities" means and includes, but are not limited to, government office buildings and accessory utility buildings and facilities such as: water wells, water storage, pump stations, booster stations, transmission or distribution electrical substations, operating centers, gas metering and regulating stations, or neighboring telephone exchanges, with the necessary apparatus or appurtenances incident thereto. Such uses do not include water, sewer or drainage pipelines or utility buildings/facilities that are built, operated or maintained by a public utility to the extent that they are regulated by the California Public Utilities Commission.

(Ord. NS-791 § 6, 2006)

**§ 21.04.298. Recreational vehicle (RV).**

"Recreational vehicle" means any vehicle (self-propelled or drawn by another vehicle), including campers, motor homes, travel trailers, boats and other vehicles, whose major intended use is for recreational purposes.

(Ord. 9537 § 2, 1979)

**§ 21.04.299. Recreational vehicle (RV) storage.**

"Recreational vehicle storage" means any area or tract of land used substantially for the purpose of storing two or more recreational vehicles.

(Ord. 9537 § 2, 1979)

**§ 21.04.299.1. Repair.**

"Repair" means any improvements to correct deficiencies in a building or structure.

(Ord. CS-050 § II, 2009)

**§ 21.04.299.2. Replace.**

"Replace" means to construct a structure that is substantially equivalent in size, shape and location to a structure that has been destroyed or demolished.

(Ord. CS-050 § II, 2009)

**§ 21.04.300. Residential care facility.**

"Residential care facility" means any family home, group care facility, or similar facility, licensed by the State of California, for twenty-four hour nonmedical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual as provided in Section 1502 of the California Health and Safety Code.

(Ord. 9060 § 259; Ord. 9455 § 1, 1976; Ord. CS-191 § II, 2012)

**§ 21.04.301. Secondhand or thrift shop.**

"Secondhand shop" or "thrift shop" means a place of business that engages in buying and selling, trading or accepting for sale on consignment previously sold property, excluding bona fide antique shops. "Secondhand property" means personal property of which prior use has been made. A bona fide antique shop is one in which substantially all the merchandise is antique. "Antique" means any collectible, object of art, bric-a-brac, curio, household furniture or furnishing offered for sale upon the basis, expressed or implied, that the value of the property, in whole or in substantial part, is derived from its age or from historical associations.

(Ord. 9527 § 2, 1979)

**§ 21.04.302. Satellite television antenna.**

"Satellite television antenna" or "satellite antenna" means any instrument or device capable of transmitting or receiving television, microwave, or other electronic communications from a transmitter, or a transmitter relay, located in planetary orbit. This may include, but is not limited to, "satellite earth stations," "satellite receiving dish," and "dish antenna."

(Ord. 9785 § 1, 1986)

**§ 21.04.305. Sign.**

"Sign" means any outdoor advertising display or outdoor advertising structure or any indoor advertising display or indoor advertising structure designed and placed so as to be readable principally from the outside.

(Ord. 9060 § 260)

**§ 21.04.306. Space or structure, habitable.**

"Habitable space or structure" means any space in a structure for living, sleeping, eating or cooking.

(Ord. NS-243 § 1, 1993)

**§ 21.04.307. Specified hazardous waste facility.**

"Specified hazardous waste facility" shall be defined by Chapter 6.5 of Division 20 of the Health and Safety Code.

(Ord. NS-208 § 1, 1992)

**§ 21.04.310. Stable, private.**

"Private stable" means a detached accessory building in which horses owned by the occupants of the premises are kept, and in which no horses are kept for hire or sale.

(Ord. 9060 § 261)

**§ 21.04.315. Stable, public.**

"Public stable" means a stable other than a private stable.  
(Ord. 9060 § 262)

**§ 21.04.320. Stand.**

"Stand" means a structure for the display and sale of products with no space for customers within the structure itself.  
(Ord. 9060 § 263)

**§ 21.04.325. State freeway.**

"State freeway" means any section of a state highway which has been declared to be a freeway by resolution of the California Highway Commission pursuant to the Streets and Highways Code.  
(Ord. 9060 § 264)

**§ 21.04.330. Story.**

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be considered a story. Underground parking, a basement or a cellar shall not be considered a story. Lofts or mezzanines shall not be considered a story provided that they do not exceed fifty percent of the floor area of the story they are located within.  
(Ord. 9060 § 265; Ord. NS-180 § 7, 1991)

**§ 21.04.335. Street.**

"Street" means a publicly dedicated and accepted thoroughfare which affords primary means of access to abutting property and having a minimum right-of-way width of not less than forty-two feet.  
(Ord. 9060 § 266; Ord. NS-602 § 2, 2001)

**§ 21.04.340. Street line.**

"Street line" means the boundary line between a street and the abutting property.  
(Ord. 9060 § 267)

**§ 21.04.345. Street, side.**

"Side street" means a street which is adjacent to a corner lot and which extends in the general direction of the line determining the depth of the lot.  
(Ord. 9060 § 268)

**§ 21.04.350. Structural alterations.**

"Structural alterations" mean any changes in the supporting members of a building such as foundations, bearing walls, columns, beams, floor or roof joists, girders or rafters, or changes in roof or exterior lines.  
(Ord. 9060 § 270)

**§ 21.04.354. Structure.**

"Structure" means anything constructed or erected which requires location on the ground or attached to

something having a location on the ground, but not including fences or walls used as fences six feet or less in height. All buildings are structures.

(Ord. CS-050 § II, 2009)

#### **§ 21.04.355. Substandard lot.**

See "Nonconforming lot."

(Ord. 9060 § 269; Ord. CS-050 § II, 2009)

#### **§ 21.04.355.1. Supportive housing.**

"Supportive housing" means housing with no limit on length of stay that is occupied by the target population (as defined in Government Code Section 65582) and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is a residential use and is subject to only those restrictions that apply to other residential uses of the same type in the same zone.

(Ord. CS-191 § III, 2012; Ord. CS-249 § I, 2014)

#### **§ 21.04.356. Tattoo parlor.**

"Tattoo parlor" means any place of business that engages in tattooing persons by any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or colors, by the aid of needles or instruments.

(Ord. 9527 § 2, 1979)

#### **§ 21.04.357. Time-share project.**

"Time-share project" means a project in which a purchaser receives a right in perpetuity, for life, or for a term of years to the recurrent exclusive use or occupancy of a lot, parcel, unit or segment of real property annually or on some other periodic basis, for a period of time that has been, or will be, allotted from the use or occupancy periods onto which the project has been divided.

(Ord. 9663 § 1, 1983)

#### **§ 21.04.360. To place.**

The verb "to place" and any of its variants as applied to advertising displays and outdoor advertising structures, includes maintaining, erecting, constructing, posting, painting, printing, nailing, glueing or otherwise fastening, affixing or making visible in any manner whatsoever.

(Ord. 9060 § 271)

#### **§ 21.04.362. Transitional housing.**

"Transitional housing" means rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. Transitional housing is a residential use and is subject to only those restrictions that apply to other residential uses of the same type in the same zone.

(Ord. CS-191 § IV, 2012; Ord. CS-249 § II, 2014)

**§ 21.04.370. Underground parking.**

"Underground parking" means parking areas that are located completely or partially underground where the finished floor of the parking area is below grade to the point where the parking area qualifies as a basement as defined in Section 21.04.045.

(Ord. NS-180 § 8, 1991; Ord. NS-204 § 3, 1992; Ord. CS-045 § VI, 2009)

**§ 21.04.375. Use.**

"Use" means the purpose for which land or building is arranged, designed or intended, or for which either is or may be occupied or maintained.

(Ord. 9060 § 274)

**§ 21.04.376. Useable living area.**

"Useable living area" means the area of a building intended for habitation and/or use by the building's occupants.

(Ord. NS-180 § 9, 1991; Ord. NS-204 § 4, 1992)

**§ 21.04.378. Veterinarian and small-animal hospital.**

"Veterinarian and small-animal hospital" means a place of business operated by a qualified veterinarian for the treatment of small domestic animals, where boarding, training and grooming of animals are only incidental to such treatment.

(Ord. 9502 § 3, 1978)

**§ 21.04.378.1. Wet bar.**

"Wet bar" means an area within a dwelling unit, notwithstanding a kitchen as defined in Section 21.04.200, designed for the purpose of preparing beverages and containing a small counter top and sink with running water. For the purposes of this section, a wet bar does not contain:

1. Gas lines or electrical wiring exceeding one hundred and ten volts that could power cooking appliances including, but not limited to: stoves or stovetops, built-in grills, ovens (gas or electric); microwave ovens or similar appliances.
2. A refrigerator exceeding six cubic feet in capacity or rough-in space for a refrigerator exceeding six cubic feet in capacity, (the typical dimensions of which are:
  - a. Depth of twenty-five inches;
  - b. Height of thirty-five inches; and
  - c. Width of twenty-five inches).
3. A sink or rough-in space for a sink with a waste line drain exceeding one and a half inches in diameter, a depth of eighteen inches or an overall size of two square feet.
4. Cabinetry or counter space exceeding eight lineal feet.

(Ord. CS-243 § 3, 2014)

**§ 21.04.379. Wireless communication facility.**

"Wireless communication facility" means any component, including antennas and all related equipment, buildings and improvements for the provision of personal wireless services defined by the Federal Telecommunications Act of 1996 and as subsequently amended. Personal wireless services include but are not limited to, cellular, personal communication services (PCS), enhanced specialized mobile radio (ESMR), paging, ground-based repeaters for satellite radio services, micro-cell antennae and similar systems which exhibit technological characteristics similar to them.

(Ord. NS-675 § 7, 2003; Ord. NS-791 § 31, 2006)

**§ 21.04.380. Yard.**

"Yard" means an open space other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

(Ord. 9060 § 275)

**§ 21.04.385. Yard, front.**

"Front yard" means an area extending across the full width of the lot and lying between the front lot line and a line parallel thereto, and having a distance between them equal to the required front yard depth as prescribed in each zone. Front yards shall be measured by a line at right angles to the front lot line, or by the radial line in the case of a curved front lot line. When a lot lies partially within a planned street indicated on a precise plan for such a street, and where such planned street is of the type that will afford legal access to such lot, the depth of the front yard shall be measured from the contiguous edge of such planned street in the manner prescribed in this definition.

(Ord. 9060 § 276)

**§ 21.04.390. Yard, rear line of required front.**

"Rear line of the required front yard" means a line parallel to the front lot line and at a distance therefrom equal to the depth of the required front yard and extending across the full width of the lot.

(Ord. 9060 § 277)

**§ 21.04.395. Yard, side.**

"Side yard" means a yard between the main building and the side lot lines extending from the rear line of the required front yard, or the front lot line where no front yard is required, to the rear line of the main building, or the rear line of the rearmost building if there is more than one, the width of which side yard shall be measured horizontally from, and at right angles to, the nearest point of a side lot line towards the nearest part of a main building.

(Ord. 9060 § 278)

**§ 21.04.400. Zoo, private.**

"Private zoo" means any lot, building, structure, enclosure or premises whereupon or wherein are kept by any person, other than a municipal corporation, the United States, the State of California, or any political subdivision thereof, two or more wild animals, whether such keeping is for pleasure, profit, breeding or exhibiting, and including places where two or more wild animals are boarded, kept for sale or kept for hire.

(Ord. 9501 § 1, 1978)

**CHAPTER 21.05  
ZONE ESTABLISHMENT—BOUNDARIES**

**§ 21.05.010. Names of zones.**

In order to classify, regulate, restrict and segregate the uses of land and buildings, to regulate and restrict the height and bulk of buildings, to regulate the area of yards and other open spaces about buildings, and to regulate the density of population, 36 classes of zones and overlay zones are established by this chapter to be known as follows:

C-1—Neighborhood Commercial Zone

C-2—General Commercial Zone

C-F—Community Facilities Zone

C-L—Local Shopping Center Zone

C-M—Heavy Commercial-Limited Industrial Zone

CR-A/OS—Cannon Road-Agricultural/Open Space Zone

C-T—Commercial Tourist Zone

E-A—Exclusive Agricultural Zone

L-C—Limited Control Zone

M—Industrial Zone

O—Office Zone

O-S—Open Space Zone

P-C—Planned Community Zone

P-M—Planned Industrial Zone

P-U—Public Utility Zone

R-1—One-Family Residential Zone

R-2—Two-Family Residential Zone

R-3—Multiple-Family Residential Zone

R-A—Residential Agricultural Zone

R-E—Residential Estate Zone

R-P—Residential-Professional Zone

R-T—Residential Tourist Zone

R-W—Residential Waterway Zone

RD-M—Residential Density-Multiple Zone

RMHP—Residential Mobile Home Park

T-C—Transportation Corridor Zone

V-B—Village-Barrio Zone

BAO—Beach Area Overlay Zone

Coastal Agriculture Overlay Zone

Coastal Resource Protection Overlay Zone

Coastal Shoreline Development Overlay Zone

Coastal Resource Overlay Zone Mello I LCP Segment

C/V-SO—Commercial/Visitor-Serving Overlay Zone

F-P—Floodplain Overlay Zone

H-O—Hospital Overlay Zone

Q—Qualified Development Overlay Zone

S-P—Scenic Preservation Overlay Zone

(Ord. 9060 § 300; Ord. 9151 § 2; Ord. 9204 § 1, 1967; Ord. 9337 § 3, 1973; Ord. 9383 § 1, 1974; Ord. 9384 § 1, 1974; Ord. 9385 § 1, 1974; Ord. 9368 § 1, 1974; Ord. 9425 §§ 1, 2, 1975; Ord. 9450 § 2, 1976; Ord. 9498 § 2, 1978; Ord. 9671 § 1, 1983; Ord. NS-675 § 8, 2003; Ord. NS-765 § 5, 2005; Ord. CS-099 § I, 2010; Ord. CS-317 § 4, 2017; Ord. CS-334 § 3, 2018)

### **§ 21.05.020. Degree of restrictiveness.**

"More restrictive uses," as employed in this title, means the following:

- (1) Those uses first permitted in the R-1 zone are the most restrictive.
- (2) All other uses are less restrictive in the order they are first permitted in the respective zones. All other zones are less restrictive in the order established by this subsection. Residential zones are more restrictive than commercial zones and commercial zones more restrictive than industrial zones.
  - (a) The degree of restrictiveness for residential zones shall be in a sequence from most restrictive to least restrictive as follows:
    - R-1, R-E, R-A, equally restrictive except as provided in subsection (3);
    - R-2, RMHP, equally restrictive;
    - R-3, RD-M, equally restrictive;
    - R-T, RW, equally restrictive;
    - R-P, least restrictive.
  - (b) The degree of restrictiveness for commercial zones shall be in a sequence from most restrictive to least restrictive as follows: C-1, C-2, C-T, C-M.

- (c) The degree of restrictiveness for industrial zones shall be in a sequence from most restrictive to least restrictive as follows: P-M, M.
- (3) Uses permitted in the R-A zone, the O-S zone, the E-A zone and the R-E zone shall be considered to be as restrictive as those permitted in the R-1 zone, except that those uses pertaining to animals shall be considered as "more restrictive uses" for purposes of this section.
- (4) The V-B, P-U and P-C zones have special conditions for their application and shall be considered as more restrictive than other zones.
- (Ord. 9060 § 301; Ord. 9151 § 3; Ord. 9384 § 1, 1974; Ord. 9385 § 1, 1974; Ord. 9425 § 2, 1975; Ord. 9450 § 3, 1976; Ord. 9498 § 3, 1978; Ord. 9671 §§ 2, 3, 1983; Ord. NS-675 § 9, 2003; Ord. CS-334 § 4, 2018)

#### **§ 21.05.030. Establishment of zones by map.**

The location and boundaries of the various zones are such as are shown and delineated on the zoning map of the city, which map is on file in the office of the City Clerk and made a part of this title.

(Ord. 9060 § 302; Ord. 9425 § 2, 1975; Ord. NS-481 § 1, 1999; Ord. NS-502 § 1, 1999; Ord. NS-519 § 1, 1999; Ord. NS-533 § 1, 2000; Ord. NS-576 § 1, 2001; Ord. NS-577 § 1, 2001; Ord. NS-580 § 1, 2001; Ord. NS-598 § 1, 2001; Ord. NS-610 § 1, 2001; Ord. NS-611 § 1, 2001; Ord. NS-617 § 1, 2002; Ord. NS-618 § 1, 2002; Ord. NS-619 § 1, 2002; Ord. NS-620 § 1, 2002; Ord. NS-629 § 1, 2002; Ord. 651 § 1, 2002; Ord. NS-654 § 1, 2003; Ord. NS-657 § 1, 2003; Ord. NS-673 § 1, 2003; Ord. NS-679 § 1, 2003; Ord. NS-692 § 1, 2004; Ord. NS-693 § 1, 2004; Ord. NS-697 § 1, 2004; Ord. NS-705 § 1, 2004; Ord. NS-715 § 1, 2004; Ord. NS-719 § 1, 2004; Ord. NS-723 § 1, 2004; Ord. NS-729 § 1, 2004; Ord. NS-730 § 1, 2004; Ord. NS-734 § 1, 2004; Ord. NS-735 § 1, 2004; Ord. NS-737 § 1, 2005; Ord. NS-740 § 1, 2005; Ord. NS-743 § 1, 2005; Ord. NS-748 § 1, 2005; Ord. NS-774 § 1, 2005; Ord. NS-780 § 1, 2005; Ord. NS-788 § 1, 2006; Ord. NS-803 § 1, 2006; Ord. NS-808 § 1, 2006; Ord. NS-809 § 1, 2006; Ord. NS-817 § 1, 2006; Ord. NS-823 § 1, 2006; Ord. NS-828 § 1, 2007; Ord. NS-837 § 1, 2007; Ord. NS-840 § 1, 2007; Ord. NS-847 § 1, 2007; Ord. NS-852 § 1, 2007; Ord. CS-011 § 1, 2008; Ord. CS-016 § 1, 2008; Ord. CS-030 § I, 2009; Ord. CS-056 § 1, 2009; Ord. CS-064 § I, 2009; Ord. CS-075 § I, 2010; Ord. CS-091 § I, 2010; Ord. CS-099 § VIII, 2010; Ord. CS-106 § I, 2010; Ord. CS-113 § 1, 2010; Ord. CS-117 § I, 2011; Ord. CS-163 § 1, 2011; Ord. CS-169 § I, 2012; Ord. CS-173 § I, 2012; Ord. CS-205 § 1, 2013; Ord. CS-206 § 1, 2013; Ord. CS-208 § 1, 2013; Ord. CS-228 § 1, 2013; Ord. CS-260 § I, 2014; Ord. CS-282 § I, 2015; Ord. CS-284 § 1, 2015; Ord. CS-300 § 1, 2016; Ord. CS-302 § 1, 2016; Ord. CS-292 § 1, 2016; Ord. CS-316 § 2, 2017; Ord. CS-317 § 5, 2017; Ord. CS-344 § 1, 2018; Ord. CS-334 § 5, 2018; Ord. CS-358 § 2, 2019; Ord. CS-415 § 2, 2022)

#### **§ 21.05.040. Division of zoning map.**

The zoning map may, for convenience, be divided into parts, and each such part may, for purposes of more readily identifying areas within such zoning map, be subdivided into units, and such parts and units may be separately employed for purposes of amending the zoning map or for any official reference to the zoning map.

(Ord. 9060 § 303; Ord. 9425 § 2, 1975)

#### **§ 21.05.050. Changes in boundaries.**

Changes in the boundaries of the zones shall be made by ordinance adopting an amended zoning map, or part of the map, or unit of a part of the zoning map, which amended maps, or parts or units of parts, when so adopted, shall be published in the manner prescribed by law and become a part of this title.

(Ord. 9060 § 304; Ord. 9425 § 2, 1975)

**§ 21.05.060. Uncertainty of boundaries.**

Where uncertainty exists as to the boundaries of any zone shown upon a zoning map or any part or unit thereof, the following rules shall apply:

- (1) Where such boundaries are indicated as approximately following street and alley lines or lot lines, such lines shall be construed to be such boundaries.
- (2) In the case of unsubdivided property, and where a zone boundary divides a lot, the location of such boundaries, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the zoning map.
- (3) Where a public street or alley is officially vacated or abandoned, the area comprising such vacated street or alley shall acquire the classification of the property to which it reverts.
- (4) Areas of dedicated streets or alleys and railroad rights-of-way, other than such as are designated on the zoning map as being classified in one of the zones provided in this title, shall be deemed to be unclassified and, in the case of streets, permitted to be used only for purposes lawfully allowed and, in the case of railroad rights-of-way, permitted to be used solely for the purpose of accommodating tracks, signals, other operative devices and the movement of rolling stock.

(Ord. 9060 § 305; Ord. 9425 § 2, 1975)

**§ 21.05.070. Classification of annexed lands and unclassified property.**

Any unprezoned property which is annexed to the city and any property within the city limits which is unzoned is automatically zoned L-C. Unincorporated territory or property adjacent to the city may be prezoned for the purpose of determining a zone which will apply to such property in the event of subsequent annexation to the city. The method of accomplishing such prezoning shall be the same as that for changing zones on property within the city. Such zoning shall become effective at such time as the annexation becomes effective.

(Ord. 9060 § 306; Ord. 9183 § 1; Ord. 9337 § 2, 1973; Ord. 9425 § 2, 1975)

**§ 21.05.080. Limitation of land use.**

Except as provided in this title, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as hereinafter specifically provided and allowed in the same zone in which such building and land is located. Cardrooms (Ch. 5.12), retail sales of dogs and cats (Ch. 7.16), camping on public property (Ch. 8.36), mini-satellite wagering (Ch. 8.80) and cannabis activities (Ch. 8.90) prohibited elsewhere in this code are also prohibited as land uses under this title.

(Ord. 9060 § 307; Ord. 9425 § 2, 1975; Ord. CS-325 § 2, 2017; Ord. CS-339 § 2, 2018)

**§ 21.05.090. Area zoning symbols.**

Where a number follows the zoning symbol on the zoning map, it shall represent the minimum lot area required in lieu of the minimum area established in each zone as herein defined. If the number is a thousand or larger, it refers to square feet. If the number is a hundred or less, it refers to acres. If no number follows the zoning symbol, the area prescribed in the chapter governing such zone shall apply.

(Ord. 9060 § 308; Ord. 9337 § 4, 1973; Ord. 9425 § 2, 1975)

**§ 21.05.095. Combination zoning.**

As provided by the Carlsbad General Plan, some areas of the city are suitable for more than one land

use classification; and often, multiple land use designations are assigned to areas in the early planning stages when it is unclear what the most appropriate designation may be or where the boundaries of such designations should be located. These areas are referred to in the general plan as "combination districts." It is the intent of this section to implement the general plan provisions for "combination districts," as follows:

- (1) Two or more zones (combination zoning) may be permitted on property with two or more general plan land use designations (combination district), as a means of implementing the combination district.
- (2) The designation of combination zoning requires additional comprehensive planning. Prior to the approval of any permits for development of property with combination zoning, the following must occur:
  - (a) If the combination zoning applies to property consisting of 25 acres or more, a specific plan shall be approved pursuant to Section 65450 et seq., of the Government Code. The specific plan shall establish the regulations and development standards for such property and the uses permitted thereon, consistent with the underlying general plan designations.
  - (b) If the combination zoning applies to property consisting of less than 25 acres, a site development plan shall be approved and shall establish the regulations and development standards for such property and the uses permitted thereon shall be consistent with the underlying zoning designations.

(Ord. 9652 § 1, 1982; Ord. CS-102 § V, 2010)

## CHAPTER 21.06 Q QUALIFIED DEVELOPMENT OVERLAY ZONE

### **§ 21.06.010. Intent and purpose.**

The intent and purpose of the Q qualified development overlay zone is to supplement the underlying zoning by providing additional regulations for development within designated areas to:

- (1) Require that property development criteria are used to insure compliance with the general plan and any applicable master plan or specific plan;
- (2) Provide that development will be compatible with surrounding developments, both existing and proposed;
- (3) Insure that development occurs with due regard to environmental factors;
- (4) Allow a property to be granted a particular zone where some or all of the permitted uses would be appropriate to the area only in certain cases with the addition of specific conditions;
- (5) Provide for public improvements necessitated by the development;
- (6) Promote orderly, attractive and harmonious development, and promote the general welfare by preventing the establishment of uses or erection of structures which are not properly related to or which would adversely impact their sites, surroundings, traffic circulation or environmental setting;
- (7) Provide a process for the review and approval of site development plans as called for by this chapter or other provisions of this title.

(Ord. 9425 § 3, 1975; Ord. 9739 § 1, 1984; Ord. NS-765 § 1, 2005; Ord. CS-317 § 6, 2017)

### **§ 21.06.015. Application of Q zone.**

- (a) It is intended that the Q zone be placed on properties with unique circumstances. Examples of situations that are considered unique include but are not limited to the following:
  - (1) Special treatment areas as indicated in the general plan;
  - (2) Commercial zones that are in close proximity and relationship with residentially zoned properties;
  - (3) Property proposed to be developed within a floodplain;
  - (4) Property proposed to be developed as hillside development or other physically sensitive areas;
  - (5) Property where development could be detrimental to the environment, or the health, safety and general welfare of the public.
- (b) The requirements of this chapter shall not apply to adult businesses that are located on properties in the Q zone.

(Ord. 9425 § 3, 1975; Ord. CS-063 § II, 2009)

### **§ 21.06.020. Permitted uses and findings of fact.**

- (a) Subject to the provisions of subsection (b), in the Q qualified development overlay zone, any principal use, accessory use, transitional use or conditional use permitted in the underlying zone is permitted,

subject to the same conditions and restrictions applicable in such underlying zone and to all of the requirements of this chapter.

- (b) Notwithstanding subsection (a) of this section, no development or use shall be permitted unless the decision-making authority finds:
- (1) That the proposed development or use is consistent with the general plan and any applicable master plan or specific plan, complies with all applicable provisions of this chapter, and all other applicable provisions of this code;
  - (2) That the requested development or use is properly related to the site, surroundings and environmental settings, will not be detrimental to existing development or uses or to development or uses specifically permitted in the area in which the proposed development or use is to be located, and will not adversely impact the site, surroundings or traffic circulation;
  - (3) That the site for the intended development or use is adequate in size and shape to accommodate the use;
  - (4) That all of the yards, setbacks, walls, fences, landscaping, and other features necessary to adjust the requested development or use to existing or permitted future development or use in the neighborhood will be provided and maintained;
  - (5) That the street system serving the proposed development or use is adequate to properly handle all traffic generated by the proposed use; and
  - (6) The proposed development or use meets all other specific additional findings as required by this title.

(Ord. 9425 § 3, 1975; Ord. 9739 § 2, 1984; Ord. NS-765 § 1, 2005; Ord. CS-178 § III, 2012)

#### **§ 21.06.030. Site development plan requirement.**

Unless specifically exempted from the requirements of this chapter, no building permit or other entitlement shall be issued for any development or use in the Q zone unless there is a valid minor site development plan or site development plan approved for the property.

(Ord. 9425 § 3, 1975; Ord. CS-317 § 7, 2017)

#### **§ 21.06.040. Exceptions.**

The following developments or uses are exempted from the site development plan requirements:

- (1) One single-family residential structure may be constructed or enlarged on any residentially zoned lot;
- (2) One office building of less than one thousand square feet may be constructed on any commercially or industrially zoned lot;
- (3) One enlargement of less than one thousand square feet of any existing commercial or industrial building on any commercially or industrially zoned lot.

(Ord. 9425 § 3, 1975; Ord. CS-317 § 7, 2017)

#### **§ 21.06.050. Application and fees.**

- (a) An application for a minor site development plan or site development plan may be made by the owner of the property affected or the authorized agent of the owner. The application shall:

- (1) Be made in writing on a form provided by the City Planner;
  - (2) State fully the circumstances and conditions relied upon as grounds for the application; and
  - (3) Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner.
- (b) At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- (Ord. 9425 § 3, 1975; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-317 § 7, 2017)

**§ 21.06.060. Notices and hearings.**

- A. Notice of an application for a minor site development plan shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
  - B. Notice of an application for a site development plan shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.
- (Ord. 9425 § 3, 1975; Ord. 9568 § 2, 1980; Ord. 1261 § 36, 1983; Ord. NS-675 § 81, 2003; Ord. CS-164 § 11, 2011; Ord. CS-178 § IV, 2012)

**§ 21.06.070. Decision-making authority.**

- A. Applications for minor site development plans or site development plans shall be acted upon in accordance with the following:
    1. Minor Site Development Plan.
      - a. An application for a minor site development plan may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
      - b. The City Planner may approve or conditionally approve the minor site development plan if all of the findings of fact in Section 21.06.020 of this title are found to exist.
    2. Site Development Plan.
      - a. An application for a site development plan may be approved, conditionally approved or denied by the Planning Commission based upon its review of the facts as set forth in the application, the circumstances of the particular case, and evidence presented at the public hearing.
      - b. The Planning Commission shall hear the matter, and may approve or conditionally approve the site development plan if all of the findings of fact in Section 21.06.020 of this title are found to exist.
- (Ord. 9425 § 3, 1975; Ord. 1256 § 7, 1982; Ord. 9739 § 3, 1984; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § IV, 2012)

**§ 21.06.080. Announcement of decision and findings of fact.**

When a decision on a minor site development plan or site development plan is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

(Ord. 9425 § 3, 1975; Ord. CS-178 § IV, 2012)

**§ 21.06.090. Effective date and appeals.**

- A. Decisions on minor site development plans shall become effective unless appealed in accordance with the provisions of Section 21.54.140 of this title.
- B. Decisions on site development plans shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.

(Ord. 9425 § 3, 1975; Ord. 207 § 8, 1992; Ord. NS-402 § 6, 1997; Ord. NS-765 § 1, 2005; Ord. CS-178 § IV, 2012)

**§ 21.06.100. Expiration, extensions and amendments.**

- A. The expiration period for an approved minor site development plan or site development plan shall be as specified in Section 21.58.030 of this title.
- B. The expiration period for an approved minor site development plan or site development plan may be extended pursuant to the provisions of Section 21.58.040 of this title.
- C. An approved minor site development plan or site development plan may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. 9425 § 3, 1975; Ord. CS-178 § IV, 2012)

**§ 21.06.110. Development standards.**

Property in the Q zone shall be subject to the development standards required in the underlying zone and any applicable master plan or specific plan, except for affordable housing projects as expressly modified by the site development plan. The site development plan for affordable housing projects may allow less restrictive development standards than specified in the underlying zone or elsewhere, provided that the project is in conformity with the general plan and adopted policies and goals of the city, it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this chapter shall be consistent with all certified local coastal program provisions, with the exception of density. In addition, the City Planner in approving a minor site development plan, or the Planning Commission or the City Council in approving a site development plan may impose special conditions or requirements which are more restrictive than the development standards in the underlying zone or elsewhere that include provisions for, but are not limited to, the following:

1. Special setbacks, yards, active or passive open space, required as part of the entitlement process;
2. Special height and bulk of building regulations;
3. Fences and walls;
4. Regulation of signs;
5. Additional landscaping;

6. Special grading restrictions;
7. Requiring street dedication and improvements (or posting of bonds);
8. Requiring public improvements either on or off the subject site that are needed to service the proposed development;
9. Time period within which the project or any phases of the project shall be completed;
10. Regulation of point of ingress and egress;
11. Architecture, color, texture, materials and adornments;
12. Such other conditions as deemed necessary to insure conformity with the general plan and other adopted policies, goals or objectives of the city.

(Ord. 9425 § 3, 1975; Ord. CS-178 § IV, 2012)

#### **§ 21.06.120. Lot requirements.**

The Q zone may be placed on any size or dimensioned, legally created lot.

(Ord. 9425 § 3, 1975; Ord. CS-178 § IV, 2012)

#### **§ 21.06.130. Final site development plan.**

- A. After approval the applicant shall submit a reproducible copy of the minor site development plan or site development plan which incorporates all requirements of the approval to the City Planner. Prior to signing the final minor site development plan or site development plan, the City Planner shall determine that all applicable requirements have been incorporated into the plan.
- B. The final signed minor site development plan or site development plan shall be the official site layout plan for the property and shall be attached to any application for a grading and/or a building permit on the subject property.

(Ord. 9425 § 3, 1975; Ord. NS-352 § 1, 1996; Ord. NS-506 § 1, 1999; Ord. NS-675 § 11, 2003; Ord. CS-178 § IV, 2012)

**CHAPTER 21.07  
E-A EXCLUSIVE AGRICULTURAL ZONE**

**§ 21.07.010. Intent and purpose.**

The intent and purpose of the E-A zone district is to:

- (1) Provide for those uses, such as agriculture, which are customarily conducted in areas which are not yet appropriate or suited for urban development;
- (2) Protect and encourage agricultural uses wherever feasible;
- (3) Implement the goals and objectives of the general plan;
- (4) Recognize that agricultural activities are a necessary part of the ongoing character of Carlsbad;
- (5) Help assure the continuation of a healthy, agricultural economy in appropriate areas of Carlsbad.  
(Ord. NS-9384 § 2, 1974)

**§ 21.07.020. Permitted uses.**

- A. In an E-A zone, notwithstanding any other provision of this title, only the uses listed in Table A below, shall be permitted subject to the requirements and development standards specified in this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A, may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this exclusive agricultural zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates use is permitted. (See note 6 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 6 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory uses and structures (see note 4)			X
Airports	3		
Animals and poultry—small (less than 25) (see note 1)	X		
Animals and poultry—small (more than 25) (see note 1)	1		
Apiary/bee keeping (subject to Section 21.42.140(B)(5))	1		
Aquaculture (defined: Section 21.04.036)	2		
Aviary	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cattle, sheep, goats and swine production (see note 2)	X		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Columbariums, crematories, and mausoleums (not within a cemetery)	2		
Crop production	X		
Drive-thru facilities (not restaurants)	2		
Dwelling, single-family (farm house)			X
Fairgrounds	3		
Family day care home (large) (defined: Section 21.04.147; subject to Chapter 21.83)			X
Family day care home (small) (defined: Section 21.04.148; subject to Chapter 21.83)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Floriculture	X		
Golf courses	3		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Greenhouses (2,000 square feet maximum)	X		
Guest house			X
Hay and feed stores	1		
Horses, private use	X		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		

Use	P	CUP	Acc
Mobile home (see note 5)			X
Nursery crop production	X		
Other uses or enterprises similar to the above customarily carried on in the field of agriculture	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Plant nurseries and nursery supplies		1	
Processing plant (for crops) (subject to Section 21.04.140(B)(115))		1	
Produce/flower stand for display and sale of products produced on the same premises (see note 3)	X		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)		2	
Radio/television/microwave/broadcast station/tower		2	
Recreation facilities		2	
Satellite television antennae (subject to Section 21.53.130, et seq.)			X
Signs (subject to Chapter 21.41; defined: Section 21.04.305)			X
Stables/riding academies (defined: Sections 21.04.310 and 21.04.315)		2	
Stadiums		3	
Tree farms	X		
Truck farms	X		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)		1	
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))		2	
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)		2	

**Notes:**

1. Small animals and poultry. Provided that not more than twenty-five of any one or combination thereof shall be kept within seventy-five feet of any habitable structure, nor shall they be located within three hundred feet of a habitable structure on an adjoining parcel zoned for residential uses, nor shall they be located within one hundred feet of a parcel zoned for residential uses when a habitable structure is not involved. In any event, the distance from the parcel zoned for residential uses shall be the greater of the distances so indicated.
2. Cattle, sheep, goats and swine production. Provided that the number of any one or combination of said animals shall not exceed one animal per half acre of lot area. Said animals shall not be located within seventy-five feet of any habitable structure, nor shall they be located within three hundred feet of a habitable structure on an adjoining parcel zoned for residential uses, nor shall they be located within one hundred feet of a parcel zoned for residential uses when a habitable structure is not involved. In any event, the distance from the parcel zoned for residential uses shall be the greater of the distances so indicated.
3. Produce/flower stands. Provided that the floor area shall not exceed two hundred square feet and is located not nearer than twenty feet to any street or highway.
4. Accessory uses/structures. Include but are not limited to: private garages, children's playhouses, radio and television receiving antennas, windmills, silos, tank houses, shops, barns, offices, coops, lath houses, stables, pens, corrals, and other similar accessory uses and structures required for the conduct of the permitted uses.
5. Mobile home. Certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the State Health and Safety Code.
6. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9384 § 2, 1974; Ord. 9427 § 1, 1975; Ord. 9674 § 2, 1983; Ord. 9785 § 2, 1986; Ord. 9804 § 6, 1986; Ord. NS-409 § 2, 1997; Ord. NS-791 § 8, 2006; Ord. CS-102 §§ VI, VII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § VI, 2012; Ord. CS-224 §§ I, II, 2013)

**§ 21.07.050. Lot area, minimum.**

The minimum required area of a lot in the E-A zone district shall conform to the area expressed in acres of not less than the number following the zoning symbol on the official zoning map, except that in no event shall a lot be created into less than ten acres in area.

Example: E-A-15 shall mean fifteen-acre minimum lot required.  
(Ord. 9384 § 2, 1974)

**§ 21.07.060. Lot width, minimum.**

Every lot hereafter created in the E-A zone shall maintain a minimum width at the rear line of the required front yard of not less than three hundred feet.  
(Ord. 9384 § 2, 1974)

**§ 21.07.070. Front yard.**

No building or structure, except as otherwise provided by this chapter, shall be erected or placed less than

forty feet from the front lot line.

(Ord. 9384 § 2, 1974)

#### **§ 21.07.080. Side yards.**

Every lot and building site shall have a side yard on each side of the lot or building site, and each side yard, except as otherwise provided by this chapter, shall be not less than fifteen feet in width.

(Ord. 9384 § 2, 1974)

#### **§ 21.07.090. Rear yard.**

Every lot and building site, except as otherwise provided by this chapter, shall have a rear yard not less than twenty-five feet in depth.

(Ord. 9384 § 2, 1974)

#### **§ 21.07.100. Building height.**

No building in the E-A zone used for dwelling purposes, wherever located, and no building or structure used for other than dwelling purposes and located less than one hundred feet from any property line, shall exceed thirty feet and two stories if a minimum roof pitch of three to twelve (3:12) is provided or twenty-four feet and two stories if less than a 3:12 roof pitch is provided. A building or structure used for other than dwelling purposes and located one hundred feet or more from any property line may exceed the maximum allowable height pursuant to conditional use permit. Single-family residences on lots with a lot area of twenty thousand square feet or greater shall not exceed thirty-five feet and three stories with a minimum roof pitch of 3:12 provided.

(Ord. 9384 § 2, 1974; Ord. NS-180 § 10, 1991; Ord. NS-204 § 5, 1992)

#### **§ 21.07.110. Lot coverage.**

Lot coverage with buildings and structures shall not exceed forty percent of the lot. Buildings and structures used for growing or raising plants are not counted as coverage.

(Ord. 9384 § 2, 1974; Ord. 9427 § 3, 1975)

#### **§ 21.07.120. Development standards.**

No one-family dwelling unit, whether it be conventionally built, modular or a mobile home, shall be located on a lot in this zone unless such dwelling unit complies with the following development standards:

- (1) Garage(s), which are provided to meet the parking requirements for dwellings pursuant to Section 21.44.020 of this title, shall be architecturally integrated with and have an exterior similar to the dwelling unit.
- (2) All dwelling units shall have a permanent foundation. For mobile homes a foundation system installed pursuant to Section 18551 of the State Health and Safety Code shall satisfy the requirements of this section.
- (3) Exterior siding material shall be stucco, masonry, wood or brick unless an alternative exterior material is approved by the City Planner. The City Planner may approve a siding material other than those listed in this section only if he or she finds that use of such material is in harmony with other dwelling units in the neighborhood.
- (4) All roofs shall have a pitch of at least three inches in twenty inches unless another pitch is approved

by the City Planner. No roof shall be made of corrugated, extruded or stamped metal.

(5) All dwelling units shall have a minimum width of twenty feet.

(Ord. 9599 § 2, 1981; Ord. 1261 § 37, 1983; Ord. NS-675 § 76, 2003; Ord. CS-102 § VIII, 2010; Ord. CS-164 § 10, 2011)

**CHAPTER 21.08  
R-A RESIDENTIAL AGRICULTURAL ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9224, 9336, 9343, 9427, 9467, 9502, 9599, 9674, 9785, 9804, 1256, 1261, NS-180, NS-204, NS-243, NS-283, NS-355, NS-409, and NS-675.**

**§ 21.08.010. Intent and purpose.**

- A. Implement the residential low density (RL) and residential low-medium density (RLM) land use designations of the Carlsbad general plan; and
  - B. Provide regulations and standards for the development of one-family dwellings and other permitted or conditionally permitted uses as specified in this chapter.
- (Ord. NS-718 § 5, 2004)

**§ 21.08.020. Permitted uses.**

- A. In an R-A zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted subject to the requirements and development standards specified in this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 7 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 7 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (ex. garages, workshops, tool sheds, patio covers, decks, etc.) (see note 1, below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Agricultural crops	X		

Use	P	CUP	Acc
Agricultural stand (for display of products raised on premises) ("stand" defined: Section 21.04.320)	X		
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping/grazing (horses, sheep or bovine animals), excluding dairies (see notes 2 and 4, below)	X		
Animal keeping (poultry, rabbits, chinchillas and any fur bearing animals for domestic or commercial purposes) (see notes 3 and 4, below)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Aquaculture (defined: Section 21.04.036)	2		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries and other places of worship	2		
Dwelling, one-family (defined: Section 21.04.125)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large), subject to Chapter 21.83 (defined: Section 21.04.147)			X
Family day care home (small), subject to Chapter 21.83 (defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Golf courses (see note 5, below)	3		
Greenhouses (2,000 square feet maximum)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Home occupation (subject to Section 21.10.040)			X
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Mobile home (see note 6, below) (defined: Section 21.04.266)	X		
Packing/sorting sheds (600 square feet maximum)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Plant nursery/nursery supplies	1		

Use	P	CUP	Acc
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Satellite TV antennae (subject to Section 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41; defined: Section 21.04.305)			X
Stables/riding academics (defined: Sections 21.04.310 and 21.04.315)	2		
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction) (subject to Sections 21.53.090 and 21.53.110)	X		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)	2		

**Notes:**

1. Private garages (defined: Section 21.04.150) shall accommodate not more than four cars; however, additional garage or implement shelters may be erected, maintained and used on sites of ten acres or more, provided that such structures shall not occupy any required yard space.
2. On sites of four acres or less, there shall not be more than two horses, or two sheep or two bovine animals per acre of ground devoted to feed such animals (excluding feed lots).
3. Poultry, rabbits and other fur-bearing animals shall be confined at all times within an enclosure.
4. The keeping of all domestic animals provided for in this section shall conform to all other provisions of law governing the same, and no fowl or animal, or any pen, coop, stable, or barn, shall be kept or maintained within forty feet of any building used for human habitation located on adjoining property, or within forty feet of any street or public property.
5. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.
6. Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.
7. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. NS-718 § 5, 2004; Ord. NS-746 § 5, 2005; Ord. NS-753 § 1, 2005; Ord. NS-791 § 9, 2006; Ord. CS-102 §§ IX—XI, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § VII, 2012; Ord. CS-191 § V, 2012; Ord. CS-224 §§ III, IV, 2013; Ord. CS-249 § III, 2014; Ord. CS-324 § 2, 2017; Ord. CS-384 § 10, 2020)

**§ 21.08.030. Building height.**

- A. No building in the R-A zone shall exceed a height of thirty feet and two stories if a minimum roof pitch of 3:12 is provided or twenty-four feet and two stories if less than a 3:12 roof pitch is provided for lots under twenty-thousand square feet.
- B. Single-family residences on lots with a lot area of twenty thousand square feet or greater and within an R-A zone and specifying a -20 or greater area zoning symbol shall not exceed thirty-five feet and three stories with a minimum roof pitch of 3:12 provided.

(Ord. NS-718 § 5, 2004)

#### **§ 21.08.040. Front yard.**

Every lot in an R-A zone shall have a front yard which has a depth of not less than twenty feet, except that on key lots and lots which side upon commercially or industrially zone property, the required front yard need not exceed fifteen feet.

(Ord. NS-718 § 5, 2004)

#### **§ 21.08.050. Side yards.**

- A. In the R-A zone every lot shall have side yards as follows:

1. Interior lots shall have the following side yards:
    - a. A side yard shall be provided on each side of the lot which side yard has a width equal to ten percent of the lot width; provided, that such side yard shall not be less than five feet in width and need not exceed ten feet;
      - i. The width of one side yard may be reduced, subject to the following:
        - (A) The opposite side yard shall be increased in width by an amount equal to the reduction or shall be a minimum of ten feet in width, whichever is greater;
        - (B) The reduced side yard shall not be less than five feet in width nor shall it abut a lot or parcel of land with an adjacent reduced side yard;
        - (C) In the event special circumstances exist, such as extreme topographical features and/or irregular shaped lots (such as those which front on cul-de-sacs), a reduced side yard may be permitted adjacent to a reduced side yard, provided a minimum of ten feet between buildings is maintained.

2. Corner lots and reversed corner lots shall have the following side yards:

- a. On the side lot line which adjoins another lot, the side yard shall be equal to ten percent of the lot width; provided that such side yard shall not be less than five feet in width and need not exceed ten feet; and
    - b. On the side street, the width of the required side yard shall be ten feet and such side yard shall extend the full length of the lot.

(Ord. NS-718 § 5, 2004; Ord. CS-164 § 10, 2011; Ord. CS-178 § VI, 2012)

#### **§ 21.08.060. Placement of buildings.**

- A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section

## 21.10.030:

## 1. Interior Lots.

- a. No building shall occupy any portion of a required yard;
- b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
- c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- d. All accessory structures shall comply with the following development standards:
  - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
  - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
  - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
  - iv. Buildings shall not exceed one story,
  - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
  - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
  - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
  - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
  - iv. The additional development standards listed above (subsections (A)(1)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

## 2. Corner Lots and Reversed Corner Lots.

- a. No building shall occupy any portion of a required yard;
- b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
- d. All accessory structures shall comply with the following development standards:
  - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
  - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
  - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
  - iv. Buildings shall not exceed one story,
  - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
  - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
  - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
  - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
  - iv. The additional development standards listed above (subsections (A)(2)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. NS-718 § 5, 2004; Ord. CS-324 § 5, 2017; Ord. CS-384 § 11, 2020)

#### **§ 21.08.070. Minimum lot area.**

- A. The minimum required area of a lot in the R-A zone when the zone implements the RL land use designations shall be not less than one-half acre (twenty-one thousand seven hundred eighty square

feet), unless a greater minimum lot area is specified on the zoning map (ex. R-A-2.5 = two and one-half acre minimum lot area).

- B. The minimum required area of a lot in the R-A zone, when the zone implements the RLM land use designation, shall be not less than seven thousand five hundred square feet, unless otherwise shown on the zoning map.

(Ord. NS-718 § 5, 2004)

**§ 21.08.080. Lot width.**

- A. In the R-A zone every lot shall have a minimum lot width as follows:

1. Lots required to have an area up to ten thousand square feet, sixty feet;
2. Lots required to have an area of at least ten thousand square feet and up to twenty thousand square feet, seventy-five feet;
3. Lots required to have an area of twenty thousand square feet or more, eighty feet.

- B. The official or decision-making body with the authority to otherwise approve the subdivision may approve panhandle or flag-shaped lots where the lot width and yards shall be measured in accord with this section if the following circumstances are found to exist:

1. The property cannot be served adequately with a public street without panhandle lots due to unfavorable conditions resulting from unusual topography, surrounding land development, or lot configuration; and
2. Subdivision with panhandle lots will not preclude or adversely affect the ability to provide full public street access to other properties within the same block of the subject property.

- C. In approving a panhandle lot a determination shall be made as to what portion of such lot shall be the buildable lot; for purposes of this chapter, the buildable portion shall be the entire lot exclusive of any portion of the lot less than thirty-five feet in width that is used for access to the lot. Also, a determination shall be made on which property lines of the buildable lots are the front, sides and rear for purposes of providing required yards.

- D. Any panhandle lot approved pursuant to this section shall meet the following requirements:

1. The area of the buildable portion of the lot shall be a minimum ten thousand square feet or the minimum required by the zone, whichever is greater. In zone districts permitting less than ten thousand square-foot lots, the buildable portion of the lot may be less than ten thousand square feet provided the official or decision-making body with the authority to otherwise approve the subdivision finds from evidence submitted on a site plan that all requirements of this section will be met; however, in no case shall the buildable portion of the lot be less than eight thousand square feet in area. If a site plan for a subdivision with panhandle lots, with a buildable portion of less than ten thousand square feet, is approved, development within such subdivision shall conform to the plan as approved;
2. The width requirements for the buildable portion of the lot shall be met as required for lots in the zone district;
3. The yard requirements of the zone district shall be met as required for interior lots;
4. The length of the portion of the lot fronting on a public street or publicly dedicated easement

afforded access to the buildable lot shall not be greater than one hundred fifty feet for a single lot or two hundred feet when two such lots are adjoining. The minimum width for such access portion shall be twenty feet except where the access portion is adjacent to the same portion of another such lot, in which case the required minimum frontage shall be fifteen feet, provided a joint easement, ensuring common access to both such portions, is recorded;

5. An improved driveway shall be provided within the access portion of the lot from the public street or public easement to the parking area on the buildable lot at least fourteen feet wide for single lots and twenty feet wide when serving more than one lot. The minimum overhead clearance shall be ten feet. The driveway shall be constructed to accommodate public service vehicles with a minimum of two-inch thick asphalt concrete paving on proper base with rolled edges;
6. Drainage from the lot shall be channeled down the private access to a public street or special drainage means must be provided to the satisfaction of the City Engineer;
7. Each lot shall have three nontandem parking spaces with an approach not less than twenty-four feet in length with proper turnaround space to permit complete turnaround for forward access to the street. This parking and access arrangement shall be designed to the satisfaction of the City Engineer;
8. Structures permitted in the access portion of the lot shall be limited to mailboxes, fences, trash enclosures, landscape containers and nameplates. Except for mailboxes, these structures shall not be greater than forty-two inches in height if located within twenty feet of the street property line or greater than six feet in height beyond this point;
9. The property owner of such a lot shall agree to hold the city or any other public service agency harmless from liability for any damage to the driveway when being used to perform a public service;
10. Any other condition the official or decision-making body with the authority to otherwise approve the subdivision may determine to be necessary to properly develop such property.

(Ord. NS-718 § 5, 2004; Ord. CS-178 § VII, 2012)

#### **§ 21.08.090. Lot coverage.**

Lot coverage with buildings and structures shall not exceed forty percent of the lot. Buildings and structures used for growing or raising plants are not counted as coverage.

(Ord. NS-718 § 5, 2004)

#### **§ 21.08.100. Development standards.**

- A. No one-family dwelling unit, whether it be conventionally built, modular or a mobile home, shall be located on a lot in this zone unless such dwelling unit complies with the following development standards:
  1. Garage(s), which are provided to meet the parking requirements for dwellings pursuant to Section 21.44.020 of this title, shall be architecturally integrated with and have an exterior similar to the dwelling unit.
  2. All dwelling units shall have a permanent foundation. For mobile homes a foundation system installed pursuant to Section 18551 of the StateHealth and Safety Code shall satisfy the

requirements of this section.

3. Exterior siding material shall be stucco, masonry, wood or brick unless an alternative exterior material is approved by the City Planner. The City Planner may approve a siding material other than those listed in this section only if he or she finds that use of such materials is in harmony with other dwelling units in the neighborhood.
4. All roofs shall have a pitch of at least three inches in twenty inches unless another pitch is approved by the City Planner. No roof shall be made of corrugated, extruded or stamped metal.
5. All dwelling units shall have a minimum width of twenty feet.

(Ord. NS-718 § 5, 2004; Ord. CS-102 § XII, 2010; Ord. CS-164 § 10, 2011)

**CHAPTER 21.09  
R-E RURAL RESIDENTIAL ESTATE ZONE**

**§ 21.09.010. Intent and purpose.**

The intent of the R-E zone is to provide a residential area in harmony with the natural terrain and wildlife. Where feasible or desirable, there are to be large open areas between structures, large yards and areas left in a natural setting. The zones shall be limited to single-family development, with incidental and compatible agricultural uses. Public facilities shall be sufficient to provide for convenience and safety, but need not meet full city standards.

(Ord. 9498 § 4, 1978)

**§ 21.09.020. Permitted uses.**

- A. In an R-E zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates the use is permitted. (See note 6 below)

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 6 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory dwelling units (subject to Section 21.10.030; defined: Section 21.04.121)			X
Animals and poultry — small ( $\leq 25$ )	1		
Apiary/bee keeping (subject to Section 21.42.140(B)(5))	1		
Aquaculture (defined: Section 21.04.036)	2		
Aviary	1		

Use	P	CUP	Acc
Barns, private garages, playhouses, windmills, silos, radio and television receiving antennas, stables and other similar accessory uses required for the conduct of the permitted uses			X
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries and other places of worship	2		
Crop production	X		
Drive-thru facilities (not restaurants)	2		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Fairgrounds	3		
Family day care home (large) (defined: Section 21.04.147; subject to Chapter 21.83)			X
Family day care home (small) (defined: Section 21.04.148; subject to Chapter 21.83)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Floriculture	X		
Golf courses	3		
Grazing of ruminant animals (see note 1 below)	X		
Greenhouses > 2000 square feet (subject to Section 21.42.140(B)(70))	1		
Greenhouses less than or equal to two thousand square feet, provided all requirements for yards, setbacks and height are met			X
Hay and feed store	1		
Horses and other grazing animals (see note 2 below)			X
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Maintaining mail address for commercial and business license purposes only (see note 3 below)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Mobile homes (see note 4 below)	X		
One one-family dwelling unit per lot	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		

Use	P	CUP	Acc
Plant nurseries and nursery supplies	1		
Poultry, rabbits, chinchillas and other small animals (see note 5 below)			X
Produce stand	1		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Recreation facilities	2		
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Satellite television antennae (subject to Section 21.53.130)	X		
Signs (subject to Chapter 21.41; defined: Section 21.04.305)	X		
Stables/riding academics (defined: Sections 21.04.310 and 21.04.315)	2		
Supportive housing (defined: Section 21.04.355.1)	X		
Transitional housing (defined: Section 21.04.362)	X		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)	1		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Youth farm projects that are sponsored by nonprofit organizations such as 4-H			X
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)	2		

**Notes:**

1. Provided that there is a minimum of ten acres of land used exclusively for such grazing and the number of horses and cattle does not exceed four per acre, or small animals, such as goats and sheep, does not exceed twelve per acre. For combining of animals, one large animal is equivalent to three small animals.
2. Provided that such animals shall not exceed one for each twenty thousand square feet of land specifically designated for such animal.
3. Provided no stock in trade, supplies, professional equipment, apparatus or business equipment, except such as are accessory to a permitted use, are kept on the premises; and provided that no employees or assistants are engaged for services on the premises except in connection with uses specifically listed as permissible in this chapter; provided, further, that no more than one motor vehicle may contain equipment, tools and stock in trade maintained therein, provided such tools and equipment are not used for the performance of services upon the premises and the stock in trade is not sold from the premises.
4. Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.

**Notes:**

5. Provided that all such animals shall at all times be confined to an enclosure, and that not more than twenty-five of any one animal or combination of such animals may be maintained at any time on any single lot.
6. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9498 § 4, 1978; Ord. 9599 § 1, 1981; Ord. 9674 § 2, 1983; Ord. 9785 § 4, 1986; Ord. 9804 § 6, 1986; Ord. NS-409 § 4, 1997; Ord. NS-791 § 10, 2006; Ord. CS-102 §§ XIII—XV, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § VIII, 2012; Ord. CS-191 § VI, 2012; Ord. CS-224 §§ V, VI, 2013; Ord. CS-249 § IV, 2014; Ord. CS-324 § 6, 2017; Ord. CS-384 §§ 10, 12, 2020)

**§ 21.09.050. District requirements.**

The R-E zone shall not be applied to any area of less than ten acres of contiguous land. Property separated by a public street shall be considered contiguous if more than one hundred feet of frontage is on direct opposite sides of the street.

(Ord. 9498 § 4, 1978)

**§ 21.09.060. Storage requirements.**

Storage of all equipment, supplies and recreation vehicles shall be within enclosed buildings or shall be shielded from view from public streets or easements by landscape barrier or other methods.

(Ord. 9498 § 4, 1978)

**§ 21.09.070. Building height.**

No building in the R-E zone shall exceed a height of thirty-five feet.

(Ord. 9498 § 4, 1978)

**§ 21.09.075. Fire-retardant roof required.**

All buildings in the R-E zone shall be constructed with a fire-retardant roof covering, as defined in Section 3203(e) of the 1976 edition of the Uniform Building Code.

(Ord. 9498 § 4, 1978)

**§ 21.09.080. Front yard.**

Every lot in the R-E zone shall have a front yard which has a depth of not less than seventy feet. Buildings or structures may occupy a portion of the front yard, as follows:

- (1) Fences of wood or wood and masonry combination, chain link or equal quality, not to exceed five feet in height, provided the fence is at least fifty percent open and is located at least ten feet from the front property line;
- (2) Roofed shelter for animals, open on at least three sides, provided it is located at least twenty feet from any property line fronting on a public street or easement;
- (3) The Planning Commission may approve the construction of dwellings and garages provided they are located at least twenty feet from the street property line in cases where the difference in elevation of

the required front yard setback line and the center line of the street exceed fifteen feet. Application for such reduction in required front yard setback shall be made by site development plan, as provided in Chapter 21.06.

(Ord. 9498 § 4, 1978)

#### **§ 21.09.090. Side yard.**

In an R-E zone, an interior side yard shall not be less than fifteen feet in width and street side yard shall not be less than fifty feet in width. The Planning Commission may approve the construction of dwellings and garages, provided they are located at least twenty feet from the street side yard property line in cases where the difference in elevation of the required street side yard setback line and the center line of the street exceeds ten feet. Application for such reduction in required street side yard setback shall be made by site development plan as provided in Chapter 21.06.

(Ord. 9498 § 4, 1978)

#### **§ 21.09.100. Placement of buildings.**

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- (1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.
- (2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard.
- (3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.
- (4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.
- (5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the Fire Chief. The Fire Chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval.

(Ord. 9498 § 4, 1978; Ord. CS-324 § 7, 2017; Ord. CS-384 § 13, 2020)

#### **§ 21.09.110. Minimum lot area.**

The minimum required area of a lot in the R-E zone shall be determined by average natural slope of each lot proposed for the property. In no case shall a lot be created with an area of less than one acre. The area of a lot shall be determined by the application of the following formula:

- (1) Lot area requirements shall be as follows:

Average Natural Slope	Minimum Lot Size
0% to 12.5%	1 acre
12.5% to 20%	2 acres
20% to 25%	3 acres

Average Natural Slope	Minimum Lot Size
Over 25%	4 acres

- (2) Average natural slope shall be determined when the property is subdivided. The subdivision map shall indicate the proposed boundaries of each lot and the natural slope of each lot. To calculate average natural slope, the subdivision map shall be drawn to an appropriate scale (not greater than one inch equals two hundred feet) and contain contour intervals not greater than five feet. Computation of the average natural slope shall be done using the following formula:

$$S = \frac{0.00229 \times I \times L}{A}$$

where:      S = Average natural slope in percent

I = Contour interval in feet

L = Length of contour in feet

A = Acres of area being measured

0.00229 = Constant which converts square feet into acres and expresses slope in percent

The average natural slope shall be certified by a registered civil engineer.

- (3) When the subdivision is approved and recorded, the lot areas contained therein shall be a part of the zoning restrictions imposed on the subject property by this chapter.

(Ord. 9498 § 4, 1978)

### **§ 21.09.120. Lot width.**

- (1) In the R-E zone, every lot created shall have a minimum lot width of one hundred feet.
- (2) The official or decision-making body with the authority to otherwise approve the subdivision may approve panhandle or flag-shaped lots where the lot width and yards shall be measured as follows.
- (A) The buildable portion of the lot, which is the total area minus that portion containing the access portion (handle), shall meet the minimum area requirements of the R-E zone.
  - (B) The width requirement for the buildable portion of the lot shall be as required for lots in the R-E zone.
  - (C) The yard requirements of the R-E zone shall be met, except that front yard setbacks may be reduced to thirty feet.
  - (D) The minimum width of the access portion shall be twenty-four feet, except where the access portion is adjacent to the same portion of another such lot, in which case the required minimum width shall be fifteen feet, provided a joint easement ensuring common access of a minimum width of thirty feet to both such portions is recorded.
  - (E) An improved driveway shall be provided within the access portion of the lot from a public street or public easement to the parking area on the buildable portion of the lot which is at least fourteen feet wide for single lots and twenty feet wide when serving more than one lot. The minimum overhead clearance shall be ten feet. The driveway shall be constructed of two inch thick asphalt concrete paving on a proper base with rolled edges.

- (F) Each lot shall have at least three nontandem parking spaces, with an approach not less than twenty-four feet in length, with proper turnaround space to permit complete turnaround for forward access to the street. This parking and access arrangement shall be designated to the satisfaction of the City Engineer.
- (G) Structures permitted in the access portion of the lot shall be limited to mailboxes, fences, gates, trash enclosures, landscape containers and nameplates. Except for mailboxes, these structures shall not be greater than forty-two inches in height if located within twenty feet of the street property line or greater than six feet in height beyond this point.
- (H) The property owner of such a lot shall agree to hold the city or any other public service agency harmless from liability for any damage to the driveway when being used to perform a public service.

(Ord. 9498 § 4, 1978; Ord. 1256 § 7, 1982; Ord. NS-675 §§ 19, 20, 2003; Ord. CS-178 § VIII, 2012)

#### **§ 21.09.130. Lot coverage.**

All buildings including accessory buildings and structures, excluding greenhouses, shall not cover more than twenty percent of the area of the lot.

(Ord. 9498 § 4, 1978)

#### **§ 21.09.140. Parking.**

Notwithstanding parking requirements of Chapter 21.44, not fewer than two off-street parking spaces shall be provided for each residence. The required two spaces shall be covered by a garage or carport, and the driveway adequately paved with either concrete or asphalt cement prepared over adequate base. The following is an exception to the two parking space requirement:

One additional paved off-street (covered or uncovered) parking space shall be provided for an accessory dwelling unit and shall comply with the requirements of Chapter 21.44 of this title. The additional parking space may be provided through tandem parking (provided that the garage is set back a minimum of twenty feet from the property line) or in the front yard setback.

(Ord. 9498 § 4, 1978; Ord. NS-283 § 13, 1994; Ord. CS-324 § 2, 2017)

#### **§ 21.09.150. Subdivision of land.**

The subdivision of land in the R-E zone shall be subject to the following:

- (1) Subdivisions shall be subject to all provisions of the city's subdivision regulations (Title 20), except as specified in Section 21.09.160.
- (2) In addition, the City Council will review the tentative map for compliance with the intent and purpose of the R-E zone and with the following standards:
  - (A) Preservation of the rural and natural characteristics of the area within the R-E zone;
  - (B) That the orientation of improvements on the individual sites to relate with the natural topography;
  - (C) Property lines shall be designed in keeping with the terrain by following natural drainage courses, ridge lines and tops of graded slopes, wherever practicable;
  - (D) Grading shall be minimized but, where grading is necessary, it is to blend with the natural

- topography wherever practicable;
- (E) Favorable features of the individual sites (i.e., mature trees and other significant vegetation, rock outcroppings, mounds, view, etc.) can be preserved and maximized;
  - (F) The individual sites will have a desirable visual appearance from all practical view points, adjoining developments, streets, trails and other view corridors; and
  - (G) Each lot of the subdivision is buildable with usable access without undue alteration of the terrain.
- (3) To facilitate this review, the applicant shall submit a preliminary grading plan to the city with the tentative map. The preliminary grading plan shall show existing topography, preliminary grading, drainage, drives, building pads, streets and trails. In addition, the preliminary grading plans shall indicate all areas of mature trees and native perennial vegetation.
  - (4) In addition to the findings required by Title 20 and the Subdivision Map Act, the City Council must also find that a subdivision is consistent with the requirements of this section. Failure of a subdivision to meet the standards of this section shall be grounds for denial.

(Ord. 9498 § 4, 1978)

#### **§ 21.09.160. Modifications of public improvements.**

- (a) All public facilities, dedications and improvements shall be required in accord with this code and adopted policies and standards of the city; however, as hereinafter provided, the City Engineer may modify certain special public improvement standards provided the design of these modified improvements is related to the function, topography and needs of the area. Any such modifications shall be reflected as conditions of approval to a tentative subdivision map.
- (b) Street improvements and dedications for streets inside subdivisions may be modified as follows:
  - (1) All or part of the required sidewalks, curbs, gutters or drainage structures may be waived or modified if it is found that such improvements are unwarranted and would distract from the rural character of the area. If such requirements are waived, the City Engineer may require that drainage easements and/or drainage releases be made part of the tract map to ensure proper drainage over private property.
  - (2) Horizontal and vertical alignment standards may be modified or waived to reduce grading. In such cases, an adequate right-of-way shall be provided to accommodate possible future corrections to meet city standards.
  - (3) The City Council shall have the option of requiring that street right-of-way be privately maintained under a property owners' association or may accept an offer of dedication. If privately owned, the streets shall be open to the public by easement.
- (c) Public sewer systems shall be required to serve each lot in the R-E zone unless specifically waived by the City Council. Such waiver shall be conditioned on the installation of an alternative sewer disposal system permitted by this code and found by the City Council to be feasible for each lot. The determination of the adequacy of such alternate system shall be based on detailed soils testing on each existing or proposed lot as provided for by the county health department. If an alternate system is approved, the subdivider shall prepare plans for a future public sewer system as a backup system. Dedication of all easements necessary to construct such a backup public sewer system shall be required as a condition of final map approval.

- (d) Any modification pursuant to this section shall not relieve the subdivider from providing public facilities, dedications and improvements that also provide services necessary for the welfare of the general public, as required by the general plan, applicable specific plans or city ordinances or policies. (Ord. 9498 § 4, 1978; Ord. NS-602 § 3, 2001)

#### **§ 21.09.170. Covenants, conditions and restrictions.**

The filing of a tentative map in an R-E zone shall include the submittal of proposed private deed covenants, conditions and restrictions. As a minimum these documents shall include the following provisions:

- (1) Lots in the R-E zone may not be resubdivided.
- (2) Minimum floor area for dwelling units shall be included.
- (3) Provisions for the maintenance of private property, including private streets, pedestrian and equestrian trails and open areas, are in a manner consistent with the purposes of this zone.
- (4) The city shall be a party.
- (5) The covenants, conditions and restrictions may not be amended without the approval of the City Council. They must be approved by the City Council prior to approval of the final map and they must be recorded.

(Ord. 9498 § 4, 1978)

#### **§ 21.09.180. Findings required for rezoning or resubdivision to a more intensive use.**

Once an R-E zone has been adopted and subdivisions have occurred under the provisions of this chapter, no rezoning or resubdivision to a more intensive use may be granted on any lot without a finding by the City Council, in addition to all other findings required by law, that an improvement district has been formed which will provide for the financing of the improvements necessary to bring all public improvements, on-site and off-site, to full city standards and specifications applicable at the time of such rezoning, or that said improvements have otherwise been provided. This restriction shall be made a part of the covenants, conditions and restrictions required by Section 21.09.170.

(Ord. 9498 § 4, 1978)

#### **§ 21.09.190. Development standards.**

No one-family dwelling unit, whether it be conventionally built, modular or a mobile home, shall be located on a lot in this zone unless such dwelling unit complies with the following development standards:

- (1) Garage(s), which are provided to meet the parking requirements for dwellings pursuant to Section 21.44.020 of this title, shall be architecturally integrated with and have an exterior similar to the dwelling unit.
- (2) All dwelling units shall have a permanent foundation. For mobile homes a foundation system installed pursuant to Section 18551 of the State Health and Safety Code shall satisfy the requirements of this section.
- (3) Exterior siding material shall be stucco, masonry, wood or brick unless an alternative exterior material is approved by the City Planner. The City Planner may approve a siding material other than those listed in this section only if he finds that use of such material is in harmony with other dwelling units in the neighborhood.

(4) All roofs shall have a pitch of at least three inches in twenty inches unless another pitch is approved by the City Planner. No roof shall be made of corrugated, extruded or stamped metal.

(5) All dwelling units shall have a minimum width of twenty feet.

(Ord. 9599 § 2, 1981; Ord. 1261 § 39, 1983; Ord. NS-283 § 14, 1994; Ord. NS-675 § 76, 2003; Ord. CS-102 § XVI, 2010; Ord. CS-164 § 10, 2011)

**CHAPTER 21.10  
R-1 ONE-FAMILY RESIDENTIAL ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9103, 9170, 9224, 9239, 9343, 9427, 9455, 9467, 9502, 9559, 9598, 9599, 9624, 9686, 9731, 9785, 9804, 1256, 1261, 5336, NS-180, NS-204, NS-243, NS-283, NS-355, NS-402, NS-409, NS-663, and NS-675.**

**§ 21.10.010. Intent and purpose.**

- A. The intent and purpose of the R-1 one-family residential zone is to:
1. Implement the residential low density (RL), residential low-medium density (RLM) and residential medium density (RM) land use designations of the Carlsbad general plan; and
  2. Provide regulations and standards for the development of one-family dwellings and other permitted or conditionally permitted uses as specified in this chapter.

(Ord. NS-718 § 7, 2004)

**§ 21.10.020. Permitted uses.**

- A. In an R-1 zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates use is permitted. (See note 4 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 4 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (ex. garages, workshops, tool sheds, patio covers, decks, etc.) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Agricultural crops	X		
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping (horses) (see note 1, below)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Aquaculture (defined: Section 21.04.036)	2		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries and other places of worship	2		
Dwelling, one-family (defined: Section 21.04.125) (see note 3, below)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large) (subject to Chapter 21.83; defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83; defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Golf courses (see note 2, below)	3		
Greenhouses (2,000 square feet maximum)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Home occupation (subject to Section 21.10.040)			X
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	X	2	
Packing/sorting sheds (600 square feet maximum)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		

Use	P	CUP	Acc
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41; defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction) (subject to Sections 21.53.090 and 21.53.110)	X		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)		2	

**Notes:**

1. On each lot or combination of adjacent lots under one ownership, there may be kept one horse for each ten thousand square feet in the lot or lots; provided, however, that any such horse may be kept only if it is fenced and stabled so that at no time it is able to graze, stray or roam closer than seventy-five feet to any building used for human habitation, other than buildings on the lot or lots, and as to those buildings, no closer than fifty feet.
2. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.
3. Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.
4. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. CS-384 § 10, 2020; Ord. CS-324 § 2, 2017; Ord. CS-249 § V, 2014; Ord. CS-224 §§ VII, VIII, 2013; Ord. CS-191 § VII, 2012; Ord. CS-189 §§ XI, XII, 2012; Ord. CS-164 § 10, 2011; Ord. CS-102 §§ XVII—XIX, 2010; Ord. NS-791 § 11, 2006; Ord. NS-746 § 6, 2005; Ord. NS-718 § 7, 2004)

**§ 21.10.030. Accessory dwelling units and junior accessory dwelling units.**

- A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020), local governments have the authority to adopt regulations designed to promote ADUs and JADUs.
- B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:
  1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section are met, notwithstanding any other requirements of state law or this development code.

2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.
  3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020).
  4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020) shall be tolled for the period of the delay.
- C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section and California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020):
1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
  2. Shall not be considered to exceed the allowable density for the lot upon which it is located.
- D. Number and Location.
1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020). Refer to a specific zone's permitted uses table within this title.
  2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone's permitted uses table within this title.
  3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020).
- E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:
1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020).
  2. When not in conflict with California Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020) and the coastal resource and public access protection requirements of the certified local coastal program, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.
  3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California

Government Code Sections 65852.2 (effective Jan. 1, 2022) and 65852.22 (effective Jan. 1, 2020):

- a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;
- b. Detached ADUs – 1,200 square feet;
- c. JADUs – 500 square feet.
4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.
5. Roof decks shall not be permitted on detached ADUs.
6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure, shall be consistent with all habitat preserve buffers, geologic stability setbacks, and visual resource protection policies in the certified local coastal program, habitat management plan, general plan, or geotechnical report, as applicable.
7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.
8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.
9. Parking.
  - a. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2 (effective Jan. 1, 2022).
  - b. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22 (effective Jan. 1, 2020).
  - c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, the loss of parking for the primary dwelling does not need to be replaced, except on lots located west of the rail corridor and on lots located east of the rail corridor and west of Interstate 5 between Avenida Encinas to the north and Batiquitos Lagoon to the south. In which case, the loss of parking for the primary dwelling shall be replaced subject to the parking requirements in Chapter 21.44 (Parking), except as follows:
    - i. The replacement parking spaces may be covered, uncovered, or tandem spaces, or provided by the use of mechanical automobile parking lifts (within a garage); and may be located in the front, side or rear yard, provided the parking area is an improved parking surface, such as paving, hardscape, decomposed granite, etc.

- ii. The location of the replacement parking spaces shall be consistent with all habitat preserve buffers, geologic stability setbacks, and visual resource protection policies in the certified local coastal program.
10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.
  11. A notice of restriction shall be recorded on the property declaring that:
    - a. An ADU or JADU shall not be used for short-term rentals of less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.
    - b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 (effective Jan. 1, 2022) or JADU per California Government Code Section 65852.22 (effective Jan. 1, 2020) are binding on all present and future property owners.
    - c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is prohibited; said prohibition is binding on all present owners and future purchasers.
  12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.
  13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26 (effective Jan. 1, 2022).

(Ord. CS-427 § 5, 2022)

#### **§ 21.10.040. Home occupations.**

- A. Home occupations which are not disruptive to the residential character of the neighborhood shall be permitted as an accessory use, subject to the following conditions:
1. Home occupations shall be conducted as a secondary use by a resident or residents of the premises;
  2. No employees shall be employed on the premises;
  3. All home occupation activities shall be conducted entirely within the residential structure, except for permitted agricultural or horticultural uses;
  4. There shall be no external alteration to the appearance of the residential structure that would reflect the existence of the home occupation;
  5. No storage of materials, goods, equipment or stock in trade shall be permitted where visible from the exterior of the property;
  6. No deliveries or pickups by heavy duty commercial vehicles shall be permitted;
  7. Sale of goods or services shall not be conducted on the property, except for agricultural goods grown on the premises. This provision shall not be construed to prohibit taking orders for sale where delivery of goods or performance of services does not occur on the property;

8. The home occupation shall not cause any external effect that is inconsistent with the residential zone or disrupts the neighborhood, including, but not limited to, noise from equipment, traffic, lighting, offensive odor or electrical interference;
9. No advertising, signs or displays of any kind indicating the existence of the home occupation shall be permitted on the premises;
10. The home occupation shall not cause the elimination of required off-street parking;
11. The home occupation may not utilize an area greater than twenty percent of the combined total floor area of all on-site structures; and
12. A city business license is required for the conduct of a home occupation.

(Ord. NS-718 § 7, 2004)

#### **§ 21.10.050. Building height.**

In the R-1 zone no building shall exceed a height of thirty feet and two stories if a minimum roof pitch of 3:12 is provided or twenty-four feet and two stories if less than a 3:12 roof pitch is provided for lots under twenty thousand square feet. Single-family residences on lots with a lot area of twenty thousand square feet or greater and within a R-1 zone and specifying a -20 or greater area zoning symbol shall not exceed thirty-five feet and three stories with a minimum roof pitch of 3:12 provided.

(Ord. NS-718 § 7, 2004)

#### **§ 21.10.060. Front yard.**

Every lot in the R-1 zone shall have a front yard which has a depth not less than twenty feet, except that on key lots and lots which side upon commercially or industrially zoned property, the required front yard need not exceed fifteen feet.

(Ord. NS-718 § 7, 2004)

#### **§ 21.10.070. Side yards.**

A. In the R-1 zone every lot shall have side yards as follows:

1. Interior lots shall have the following side yards:
  - a. A side yard shall be provided on each side of the lot, which side yard has a width equal to ten percent of the lot width; provided, that such side yard shall not be less than five feet in width and need not exceed ten feet;
    - i. The width of one side yard may be reduced, subject to the following:
      - (A) The opposite side yard shall be increased in width by an amount equal to the reduction or shall be a minimum of ten feet in width, whichever is greater;
      - (B) The reduced side yard shall not be less than five feet in width nor shall it abut a lot or parcel of land with an adjacent reduced side yard;
      - (C) In the event special circumstances exist, such as extreme topographical features and/or irregularly shaped lots (such as those which front on cul-de-sacs), a reduced side yard may be permitted adjacent to a reduced side yard, provided a minimum of ten feet between buildings is maintained.

2. Corner lots and reversed corner lots shall have the following side yards:
  - a. On the side lot line which adjoins another lot, the side yard shall be equal to ten percent of the lot width; provided that such side yard shall not be less than five feet in width and need not exceed ten feet; and
  - b. On the side street, the width of the required side yard shall be ten feet and such side yard shall extend the full length of the lot.

(Ord. NS-718 § 7, 2004; Ord. CS-164 § 10, 2011; Ord. CS-178 § X, 2012)

#### **§ 21.10.080. Placement of buildings.**

- A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:
  1. Interior Lots.
    - a. No building shall occupy any portion of a required yard;
    - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
    - c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
    - d. All accessory structures shall comply with the following development standards:
      - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
      - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
      - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
      - iv. Buildings shall not exceed one story,
      - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
    - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
    - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
      - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
      - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard

- setback of five feet, a side yard setback of five feet and an alley setback of five feet,
- iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures;
  - iv. The additional development standards listed above (subsections (A)(1)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
  - g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
2. Corner Lots and Reversed Corner Lots.
- a. No building shall occupy any portion of a required yard;
  - b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
  - c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
  - d. All accessory structures shall comply with the following development standards:
    - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
    - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
    - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
    - iv. Buildings shall not exceed one story,
    - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
  - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
  - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
    - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
    - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
    - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

iv. The additional development standards listed above (subsections (A)(2)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. NS-718 § 7, 2004; Ord. CS-324 § 10, 2017; Ord. CS-384 § 11, 2020)

#### **§ 21.10.090. Minimum lot area.**

- A. The minimum required area of a lot in the R-1 zone, when the zone implements the RL land use designation, shall be not less than one-half acre (twenty-one thousand seven hundred eighty square feet), unless a greater minimum lot area is specified on the zoning map (i.e., R-1-40,000 = forty thousand square foot minimum lot area).
- B. The minimum required area of a lot in the R-1 zone, when the zone implements the RLM land use designation, shall be not less than seven thousand five hundred square feet, unless otherwise shown on the zoning map.
- C. The minimum required area of a lot in the R-1 zone, when the zone implements the RM land use designation, shall be not less than six thousand square feet, unless otherwise shown on the zoning map.

(Ord. NS-718 § 7, 2004)

#### **§ 21.10.100. Lot width.**

- A. In the R-1 zone every lot shall have a minimum lot width as follows:
  1. Lots required to have an area up to ten thousand square feet, sixty feet;
  2. Lots required to have an area of at least ten thousand square feet and up to twenty thousand square feet, seventy-five feet; and
  3. Lots required to have an area of twenty thousand square feet or more, eighty feet.
- B. The official or decision-making body with the authority to otherwise approve the subdivision may approve panhandle or flag-shaped lots where the lot width and yards shall be measured in accord with this section if the following circumstances are found to exist.
  1. The property cannot be served adequately with a public street without panhandle lots due to unfavorable conditions resulting from unusual topography, surrounding land development, or lot configuration; and
  2. Subdivision with panhandle lots will not preclude or adversely affect the ability to provide full public street access to other properties within the same block of the subject property.
- C. In approving a panhandle lot, a determination shall be made as to what portion of such lot shall be the buildable lot; for purposes of this chapter, the buildable portion shall be the entire lot exclusive of any portion of the lot less than thirty-five feet in width that is used for access to the lot. Also, a determination shall be made on which property lines of the buildable lots are the front, sides and rear for purposes of providing required yards.
- D. Any panhandle lot approved pursuant to this section shall meet the following requirements:

1. The area of the buildable portion of the lot shall be a minimum ten thousand square feet or the minimum required by the zone whichever is greater. In zone districts permitting less than ten thousand square-foot lots, the buildable portion of the lot may be less than ten thousand square feet provided the official or decision-making body with authority to otherwise approve the subdivision finds from evidence submitted on a site plan that all requirements of this section will be met; however, in no case shall the buildable portion of the lot be less than eight thousand square feet in area. If a site plan for a subdivision with panhandle lots with a buildable portion of less than ten thousand square feet is approved, development within such subdivision shall conform to the plan as approved;
2. The width requirements for the buildable portion of the lot shall be met as required for lots in the zone district;
3. The yard requirements of the zone district shall be met as required for interior lots;
4. The length of the portion of the lot fronting on a public street or publicly dedicated easement afforded access to the buildable lot shall not be greater than one hundred fifty feet for a single lot or two hundred feet when two such lots are adjoining. The minimum width for such access portion shall be twenty feet except where the access portion is adjacent to the same portion of another such lot, in which case the required minimum frontage shall be fifteen feet, provided a joint easement ensuring common access to both such portions is recorded;
5. An improved driveway shall be provided within the access portion of the lot from the street or public easement to the parking area on the buildable lot at least fourteen feet wide for single lots and twenty feet wide when serving more than one lot. The minimum overhead clearance shall be ten feet. The driveway shall be constructed to accommodate public service vehicles with a minimum of two-inch thick asphalt concrete paving on proper base with rolled edges;
6. Drainage from the lot shall be channeled down the private access to a public street or special drainage means must be provided to the satisfaction of the City Engineer;
7. Each lot shall have three nontandem parking spaces with an approach not less than twenty-four feet in length with proper turnaround space to permit complete turnaround for forward access to the street. The parking and access arrangement shall be designed to the satisfaction of the City Engineer;
8. Structures permitted in the access portion of the lot shall be limited to mailboxes, fences, trash enclosures, landscape containers and nameplates. Except for mailboxes, the structures shall not be greater than forty-two inches in height if located within twenty feet of the street property line or greater than six feet in height beyond this point;
9. The property owner of such a lot shall agree to hold the city or any other public service agency harmless from liability for any damage to the driveway when being used to perform a public service;
10. Any other condition the official or decision-making body with the authority to otherwise approve the subdivision may determine to be necessary to properly develop such property.

(Ord. NS-718 § 7, 2004; Ord. CS-178 § XI, 2012)

#### **§ 21.10.110. Lot coverage.**

Lot coverage with buildings and structures shall not exceed forty percent of the lot. Buildings and

structures used for growing or raising plants or animals are not counted as coverage.  
(Ord. NS-718 § 7, 2004)

#### **§ 21.10.120. Development standards.**

- A. No one-family dwelling unit, whether it be conventionally built, modular or a mobile home, shall be located on a lot in this zone unless such dwelling unit complies with the following development standards:
  1. Garage(s), which are provided to meet the parking requirements for dwellings pursuant to Section 21.44.020 of this title, shall be architecturally integrated with and have an exterior similar to the dwelling unit;
  2. All dwelling units shall have a permanent foundation. For mobile homes a foundation system installed pursuant to Section 18551 of the StateHealth and Safety Code shall satisfy the requirements of this section;
  3. Exterior siding materials shall be stucco, masonry, wood or brick unless an alternative exterior material is approved by the City Planner. The City Planner may approve a siding material other than those listed in this section only if he or she finds that use of such material is in harmony with other dwelling units in the neighborhood;
  4. All roofs shall have a pitch of at least three inches in twenty inches unless another pitch is approved by the City Planner. No roof shall be made of corrugated, extruded or stamped metal;
  5. All dwelling units shall have a minimum width of twenty feet.

(Ord. NS-718 § 7, 2004; Ord. CS-102 § XXI, 2010; Ord. CS-164 § 10, 2011)

#### **§ 21.10.125. Farmworker housing complex standards.**

- A. Purpose.
  1. The purpose of this section is to establish standards to ensure that the development of farmworker housing complexes does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Carlsbad.
  2. The Employee Housing Act allows for flexibility in housing types for farmworker housing, including conventional and nonconventional structures, such as: living quarters, boardinghouse, tent, bunkhouse, mobilehome, manufactured home, recreational vehicle and travel trailers. The laws and regulations governing these structures depends on the housing type; however, all employee housing must comply with: the Employee Housing Act (Health and Safety Code Section 17000 et seq.) and the Employee Housing Regulations (Title 25—Housing and Community Development), which outline specific requirements for the construction of housing, maintenance of grounds, buildings, sleeping space and facilities, sanitation and heating; and the provisions of this section.
- B. The provisions of this section shall apply to: 1) single-family zones E-A, R-A, R-E, R-T, R-W, RD-M, L-C and R-1, areas designated by a master plan for single-family detached dwellings in P-C zones where agricultural uses are allowed; 2) lots within multifamily zones R-2, R-3, R-P and RMHP; 3) commercial, office and industrial zones C-1, O, C-2, C-T, C-M, C-L, M, P-M and P-U; and 4) open space zones O-S and CR-A/OS, which are developed with a farmworker housing complex.

- C. The property owner shall obtain all permits and/or approvals from the City of Carlsbad, as applicable, and the State Department of Housing and Community Development (HCD) pursuant to Title 25 of the California Code of Regulations. A farmworker housing complex may require a building permit, and if located in the coastal zone, may also require a coastal development permit issued according to the provisions of Chapter 21.201 of this title.
- D. A farmworker housing complex shall meet the setback, lot coverage, height, and other development standards applicable to the zone in which it is located. Additionally, a farmworker housing complex shall be located not less than seventy-five feet from barns, pens, or other structures that house livestock or poultry, pursuant to Title 25 of the California Code of Regulations, and not less than fifty feet from any other agricultural and non-agricultural use.
- E. All permanent farmworker housing shall provide landscaping around the entire perimeter of the housing to shield the housing from adjacent structures.
- F. Parking shall be as required by Chapter 21.44.
- G. Farmworker housing complexes shall comply, as applicable, with the following: 1) Employee Housing Act (California Health and Safety Code Sections 17000—17062); 2) Mobilehome Parks Act (California Health and Safety Code Sections 18200—18700); and Special Occupancy Parks Act (California Health and Safety Code Sections 18860—18874).
- H. Within thirty days after approval from the City of Carlsbad for farmworker housing, the applicant shall record in the office of the County Registrar-Recorder/County Clerk a covenant running with the land for the benefit of the City of Carlsbad, declaring that the farmworker housing will continuously be maintained as such in accordance with Title 21 of the Carlsbad Municipal Code and also that:
  - 1. The applicant will obtain and maintain, for as long as the farmworker housing is operated, the appropriate permit(s) from State Department of Housing and Community Development (HCD) pursuant to the Employee Housing Act and the regulations promulgated thereunder;
  - 2. The improvements required by the City of Carlsbad related to the farmworker housing shall be constructed and/or installed, and continuously maintained by the applicant;
  - 3. The applicant will submit the annual verification form to the City Planner as required by Section 21.10.125(I); and
  - 4. Any violation of the covenant and agreement required by this section shall be subject to the enforcement procedures of Title 1 of the Carlsbad Municipal Code.
- I. The property owner shall, if applicable: (1) complete and submit to the City Planner a verification form no later than thirty days after receiving a permit to operate from HCD; (2) a verification form shall be submitted to the City Planner annually to ensure compliance with Title 21 of the Carlsbad Municipal Code; and (3) the verification form shall include: information regarding the agricultural use, housing type, number of dwelling units or beds, number of occupants, occupants' employment information, and proof that a permit to operate from HCD has been obtained and maintained.
- J. Farmworker housing complex shall be removed from the property within 90 days of termination of the property's use from agricultural production.

(Ord. CS-189 § XIII, 2012)

**§ 21.10.130. Severability.**

If any section, subsection, sentence, clause, phrase or part of this chapter is for any reason found by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter, which shall be in full force and effect. The City Council hereby declares that it would have adopted this chapter with each section, subsection, sentence, clause, phrase or part thereof regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, or parts be declared invalid or unconstitutional.

(Ord. NS-718 § 7, 2004)

**CHAPTER 21.12  
R-2 TWO-FAMILY RESIDENTIAL ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9336, 9343, 9674, 9731, 9785, 9804, 1256, NS-180, NS-243, NS-283, NS-355, NS-565, NS-663, and NS-675.**

**§ 21.12.010. Intent and purpose.**

- A. The intent and purpose of the R-2 two-family residential zone is to:
1. Implement the residential medium density (RM) land use designation of the Carlsbad general plan; and
  2. Provide regulations and standards for the development of residential dwellings, and other permitted or conditionally permitted uses, as specified in this chapter.

(Ord. NS-718 § 8, 2004)

**§ 21.12.020. Permitted uses.**

- A. In the R-2 zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates the use is permitted. (See note 7 below)

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 7 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (ex. garages, workshops, tool sheds, patio covers, decks, etc.) (see notes 1 and 2, below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Agricultural crops	X		
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Aquaculture (defined: Section 21.04.036)	2		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries and other places of worship	2		
Dwelling, one-family (defined: Section 21.04.125)	X		
Dwelling, two-family (see note 3, below) (defined: Section 21.04.130)	X		
Dwelling, multiple-family (see note 4, below) (defined: Section 21.04.135)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Family day care home (large) (subject to Chapter 21.83; defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83; defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Golf courses (see note 5, below)		3	
Greenhouses (2,000 square feet maximum)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Home occupation (subject to Section 21.10.040)			X
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		2	
Mobile home (see note 6, below) (defined: Section 21.04.266)	X		
Packing/sorting sheds (600 square feet maximum)	X		

Use	P	CUP	Acc
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)		2	
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41; defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction) (subject to Sections 21.53.090 and 21.53.110)	X		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)		2	

**Notes:**

1. Private garages (defined: Section 21.04.150) shall accommodate not more than two cars per dwelling unit.
2. When associated with a two-family or multiple-family dwelling, accessory buildings shall not include guesthouses or accessory living quarters (defined: Section 21.04.165).
3. If a one-family dwelling existed on a lot on the effective date of the ordinance codified in this title, a second one-family dwelling may be erected. Also, on corner lots two one-family dwellings may be erected if one house faces the street upon which such lot fronts and the other house faces upon the side street.
4. A multiple-family dwelling with a maximum of four units may be erected when the side lot line of a lot abuts R-P, commercial or industrial zoned lots, but in no case shall the property consist of more than one lot, or be more than ninety feet in width.
5. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.
6. Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.
7. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. NS-718 § 8, 2004; Ord. NS-746 § 7, 2005; Ord. NS-791 § 12, 2006; Ord. CS-102 §§ XXII—XXIV, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § XIV, 2012; Ord. CS-191 § VIII, 2012; Ord. CS-224 §§ IX, X, 2013; Ord. CS-249 § VI, 2014; Ord. CS-324 § 2, 2017; Ord. CS-384 §§ 10, 15, 2020)

**§ 21.12.030. Building height.**

No building in the R-2 zone shall exceed a height of thirty feet and two stories if a minimum roof pitch of 3:12 is provided or twenty-four feet and two stories if less than a 3:12 roof pitch is provided for lots under twenty thousand square feet. Buildings on lots with a lot area of twenty thousand square feet or greater shall not exceed thirty-five feet and three stories with a minimum roof pitch of 3:12 provided.

(Ord. NS-718 § 8, 2004)

**§ 21.12.040. Front yard.**

Every lot in the R-2 zone shall have a front yard which has a depth not less than twenty feet, except that on key lots and on lots which side upon commercially or industrially zoned property, the depth of the required front yard need not exceed fifteen feet.

(Ord. NS-718 § 8, 2004)

**§ 21.12.050. Side yards.**

A. In the R-2 zone every lot shall have side yards as follows:

1. Interior lots shall have the following side yards:
  - a. A side yard shall be provided on each side of the lot which side yard has a width equal to ten percent of the lot width; provided that such side yard shall not be less than five feet in width and need not exceed ten feet;
  - b. The City Planner may approve a reduction in width of one side yard provided that the opposite side yard is increased in width by an amount equal to the reduction. The reduced side yard shall not be less than five feet in width nor shall it abut a lot or parcel of land with an adjacent reduced side yard, nor shall the increased side yard have a width of less than ten feet; and
  - c. In the event special circumstances exist, such as extreme topographical features and/or irregular shaped lots (such as those which front on cul-de-sacs), the City Planner may approve the application of a reduced side yard adjacent to a reduced side yard, subject to the following condition: a minimum of ten feet between buildings shall be maintained.
2. Corner lots and reversed corner lots shall have the following side yards:
  - a. On the side lot line which adjoins another lot, the side yard shall be equal to ten percent of the lot width; provided that such side yard shall not be less than five feet in width and need not exceed ten feet; and
  - b. On the side street, the width of the required side yard shall be ten feet and such side yard shall extend the full length of the lot.

(Ord. NS-718 § 8, 2004; Ord. CS-164 § 10, 2011)

**§ 21.12.060. Placement of buildings.**

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.

- a. No building shall occupy any portion of a required yard;
  - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
  - c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
  - d. All accessory structures shall comply with the following development standards:
    - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
    - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
    - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
    - iv. Buildings shall not exceed one story,
    - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
  - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
  - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
    - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
    - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
    - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
    - iv. The additional development standards listed above (subsections (A)(1)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
  - g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
2. Corner Lots and Reversed Corner Lots.
    - a. No building shall occupy any portion of a required yard;
    - b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;

- c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
- d. All accessory structures shall comply with the following development standards:
  - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
  - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
  - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
  - iv. Buildings shall not exceed one story,
  - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
  - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
  - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
  - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
  - iv. The additional development standards listed above (subsections (A)(2)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. NS-718 § 8, 2004; Ord. CS-324 § 11, 2017; Ord. CS-384 § 11, 2020)

#### **§ 21.12.070. Minimum lot area.**

- A. The minimum required area of a lot in the R-2 zone shall be not less than seven thousand five hundred square feet; except that when a lot is developed with a one-family dwelling, the minimum required lot area shall be not less than six thousand square feet, unless otherwise shown on the zoning map.
- B. All legally existing R-2 zoned lots, as of December 1, 1986, may be developed with a two-family dwelling regardless of the density allowed by the underlying general plan designation if they can comply with all applicable development standards in effect at the time of their development, and if

the findings to exceed the growth management control point density, as specified in Section 21.90.045, can be made.

(Ord. NS-718 § 8, 2004)

**§ 21.12.080. Lot width.**

- A. In the R-2 zone, every lot created after the effective date of the ordinance codified in this title shall maintain a width at the rear line of the required front yard of not less than the following:
  1. Lots required to have a minimum lot area of less than ten thousand square feet, sixty feet;
  2. Lots required to have a minimum lot area between ten thousand square feet to, but not including twenty thousand square feet, seventy-five feet;
  3. Lots required to have an area of twenty thousand square feet or more, eighty feet.

(Ord. NS-718 § 8, 2004)

**§ 21.12.090. Lot coverage.**

All buildings, including accessory buildings and structures, shall not cover more than fifty percent of the area of a lot.

(Ord. NS-718 § 8, 2004)

**CHAPTER 21.16  
R-3 MULTIPLE-FAMILY RESIDENTIAL ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9135, 9224, 9336, 9455, 9513, 9638, 9674, 9785, 9800, 9804, NS-243, NS-274, NS-283, NS-355, NS-409, NS-662, NS-663, and NS-675.**

**§ 21.16.010. Intent and purpose.**

- A. The intent and purpose of the R-3 multiple-family residential zone is to:
1. Implement the residential medium-high density (RMH) and residential high density (RH) land use designations of the Carlsbad general plan; and
  2. Provide regulations and standards for the development of residential dwellings and other permitted or conditionally permitted uses as specified in this chapter.

(Ord. NS-718 § 9, 2004)

**§ 21.16.020. Permitted uses.**

- A. In the R-3 zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates the use is permitted. (See note 7 below)

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 7 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (ex. garages, workshops, tool sheds, patio covers, decks, etc.) (see notes 1 and 2, below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Agricultural crops	X		
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Aquaculture (defined: Section 21.04.036)	2		
Bed and breakfasts (subject to Section 21.42.140(B)(5); defined: Section 21.04.046)	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)	1		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Dwelling, one-family (see note 3, below) (defined: Section 21.04.125)	X		
Dwelling, two-family (defined: Section 21.04.130)	X		
Dwelling, multiple-family (subject to Section 21.53.120 if more than 4 units are proposed; defined: Section 21.04.135)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large) (subject to Chapter 21.83; defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83; defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Greenhouses (2,000 square feet maximum)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Golf courses (see note 4, below)	3		
Home occupation (subject to Section 21.10.040)			X
Housing for senior citizens (subject to Chapter 21.84)	X		
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X

Use	P	CUP	Acc
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Mobile home (see notes 3 and 5, below) (defined: Section 21.04.266)	X		
Packing/sorting sheds (600 square feet maximum)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Professional care facilities (defined: Section 21.04.295)	2		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Residential care facilities (serving more than six persons) (subject to Section 21.42.140(B)(125); defined: Section 21.04.300)	2		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41; defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction) (subject to Sections 21.53.090 and 21.53.110)	X		
Time-share projects (subject to Section 21.42.140(B)(155); defined: Section 21.04.357)	3		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)	2		

**Notes:**

1. Private garages (defined: Section 21.04.150) shall accommodate not more than two cars per dwelling unit.
2. When associated with a two-family or multiple-family dwelling, accessory buildings shall not include guesthouses or accessory living quarters (defined: Section 21.04.165).
3. One-family dwellings are permitted when developed as two or more detached units on one lot. Also, a single one-family dwelling shall be permitted on any legal lot that existed as of October 28, 2004, and which is designated and zoned for residential use. Any proposal to subdivide land or construct more than one dwelling shall be subject to the density provisions of the general plan and intent of the underlying residential land use designation.
4. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.

**Notes:**

5. Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.
6. A parking lot/structure (commercial) is permitted with approval of a CUP when the lot on which it is located in the R-3 zone abuts upon a lot zoned for commercial or industrial purposes.
7. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. NS-718 § 9, 2004; Ord. NS-746 § 8, 2005; Ord. NS-791 § 13, 2006; Ord. CS-102 §§ XXV—XXVII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § XII, 2012; Ord. CS-189 § XV, 2012; Ord. CS-191 § IX, 2012; Ord. CS-224 §§ XI, XII, 2013; Ord. CS-249 § VII, 2014; Ord. CS-324 § 2, 2017; Ord. CS-384 §§ 10, 15, 2020)

**§ 21.16.030. Building height.**

In the R-3 zone no building shall exceed a height of thirty-five feet.  
(Ord. NS-718 § 9, 2004)

**§ 21.16.040. Front yard.**

Every lot in the R-3 zone shall have a front yard of not less than twenty feet, except that on key lots and lots which side upon commercially or industrially zoned property the depth of the required front yard need not exceed fifteen feet.

(Ord. NS-718 § 9, 2004)

**§ 21.16.050. Side yards.**

A. In the R-3 zone every lot shall have side yards as follows:

1. Interior lots shall have a side yard on each side of the lot which side yard has a width not less than ten percent of the width of the lot; provided, that such side yard shall be not less than five feet in width and need not exceed ten feet; and
2. Corner lots and reversed corner lots shall have the following side yards:
  - a. On the side lot line which adjoins another lot, the side yard shall be the same as that required on an interior lot, and
  - b. On the side street side the width of the required side yard shall be ten feet and said side yard shall extend the full length of the lot.

(Ord. NS-718 § 9, 2004)

**§ 21.16.060. Placement of buildings.**

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.
  - a. No building shall occupy any portion of a required yard;
  - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
  - c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
  - d. All accessory structures shall comply with the following development standards:
    - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
    - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
    - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
    - iv. Buildings shall not exceed one story,
    - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
  - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
  - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
    - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
    - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
    - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
    - iv. The additional development standards listed above (subsections (A)(1)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
  - g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
2. Corner Lots and Reversed Corner Lots.
  - a. No building shall occupy any portion of a required yard;

- b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
- d. All accessory structures shall comply with the following development standards:
  - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
  - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
  - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
  - iv. Buildings shall not exceed one story,
  - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
  - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
  - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
  - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
  - iv. The additional development standards listed above (subsections (A)(2)(f)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. NS-718 § 9, 2004; Ord. CS-324 § 12, 2017; Ord. CS-384 § 11, 2020)

#### **§ 21.16.070. Minimum lot area.**

The minimum required area of a lot in the R-3 zone shall be not less than seven thousand five hundred square feet.

(Ord. NS-718 § 9, 2004; Ord. CS-102 § XXVIII, 2010)

**§ 21.16.080. Lot width.**

Every lot created after the effective date of the ordinance codified in this chapter shall maintain a width not less than sixty feet at the rear line of the required front yard.

(Ord. NS-718 § 9, 2004; Ord. CS-102 § XXIX, 2010)

**§ 21.16.090. Lot coverage.**

All buildings, including accessory buildings and structures, shall not cover more than sixty percent of the area of a lot.

(Ord. NS-718 § 9, 2004)

**CHAPTER 21.18  
R-P RESIDENTIAL PROFESSIONAL ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9224, 9336, 9391, 1256, 8674, 9606, 9785, 9804, NS-179, NS-240, NS-243, NS-274, NS-283, NS-402, NS-662, NS-663, and NS-675.**

**§ 21.18.010. Intent and purpose.**

- A. The intent and purpose of the R-P residential-professional zone is to:
1. Implement the office and related commercial (O), residential medium-high density (RMH) and residential high density (RH) land use designations of the Carlsbad general plan;
  2. Provide areas for the development of certain low-intensity business and professional offices and related uses in locations in conjunction with or adjacent to residential areas;
  3. Provide transitional light traffic-generating commercial areas between established residential areas and nearby commercial or industrial development; and
  4. Provide regulations and standards for the development of office and residential uses and other permitted or conditionally permitted uses as specified in this chapter.

(Ord. NS-718 § 10, 2004)

**§ 21.18.020. Permitted uses.**

- A. In an R-P residential zone, notwithstanding any other provision of this title, only the uses listed in Tables A and B, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Tables A and B, shall be subject to the provisions of Chapter 21.42 of this title.
- C. Uses similar to those listed in Tables A and B may be permitted if the City Planner determines such similar use falls within the intent and purpose of this zone, and is substantially similar to a specified permitted use.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "offices" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in any zone, the use shall not be permitted in this R-P zone (even under a general use category), unless it is specifically listed in the zone as permitted or conditionally permitted.

**Table A  
Uses Permitted When the R-P Zone Implements the "O" (Office) General Plan Land Use  
Designation**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates the use is permitted. (See note 2 below)

**Table A**  
**Uses Permitted When the R-P Zone Implements the "O" (Office) General Plan Land Use Designation**

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 2 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures, which are customarily appurtenant to a permitted use (ex. incidental storage facilities) (see note 1, below) (defined: Section 21.04.020)			X
Banks/financial services (no drive-thru)	X		
Biological habitat preserve (subject to Section 21.42.010(B)(30); defined: Section 21.04.048)		2	
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)		1	
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs — Nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Delicatessen (defined: Section 21.04.106)	X		
Educational facilities, other (defined: Section 21.04.137)		1	
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Greenhouses (2,000 square feet maximum)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Medical uses (excluding hospitals), including offices for medical practitioners, clinics, and incidental laboratories and pharmacies (prescription only)	X		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		1	
Office uses, (may include incidental commercial uses such as blueprint services, photocopy services and news stands)	X		
Packing/sorting sheds (600 square feet maximum)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	

Use	P	CUP	Acc
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Radio/television/microwave/broadcast station/tower	2		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Schools (business, vocational, and for such subjects as dance, drama, cosmetology, music, martial arts, etc.)	X		
Services, provided directly to consumers, focusing on the needs of the local neighborhood, including, but not limited to, personal grooming, dry cleaning, and tailoring services	1		
Signs, subject to Chapter 21.41 (defined: Section 21.04.305)			X
Temporary bldg./trailer (construction) (subject to Section 21.53.110)	X		
Transit passenger terminals (bus and train)	2		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)	1		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		

**Notes:**

1. Accessory uses shall be developed as an integral part of a permitted use within or on the same structure or parcel of land.
2. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

**Table B**  
**Uses Permitted When the R-P Zone Implements the "RMH" or "RH" General Plan Land Use Designations**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates the use is permitted.

"CUP" indicates that the use is permitted with approval of a conditional use permit.

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (ex. garages, workshops, tool sheds, patio covers, decks, etc.) (see notes 1 and 2, below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Agricultural crops	X		
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Bed and breakfasts (subject to Section 21.42.140(B)(25); defined: Section 21.04.046)	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)	1		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Clubs — Nonprofit; business, civic, professional, etc. (defined: Section 21.04.090)	1		
Dwelling, one-family (see note 3, below) (defined: Section 21.04.125)	X		
Dwelling, two-family (see note 4, below) (defined: Section 21.04.130)	X		
Dwelling, multiple-family (subject to Section 21.53.120 if more than 4 units are proposed; defined: Section 21.04.135)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large) (subject to Chapter 21.83; defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83; defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Greenhouses (2,000 square feet maximum)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Home occupation (subject to Section 21.10.040)			X
Housing for senior citizens (subject to Chapter 21.84)	X		
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	1		

<b>Use</b>	<b>P</b>	<b>CUP</b>	<b>Acc</b>
Mobile home (see notes 3 and 5, below) (defined: Section 21.04.266)	X		
Packing/sorting sheds (600 square feet maximum)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	
Professional care facilities (defined: Section 21.04.295)		2	
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)		2	
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Residential care facilities (serving more than six persons) (subject to Section 21.42.140(B)(125); defined: Section 21.04.300)		2	
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41; defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction), (subject to Sections 21.53.090 and 21.53.110)	X		
Time-share projects (subject to Section 21.42.140(B)(155); defined: Section 21.04.357)		2	
Transitional housing (defined: Section 21.04.362)	X		
Transit passenger terminals (bus and train)		2	
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)		2	

**Notes:**

1. Private garages (defined: Section 21.04.150) shall accommodate not more than two cars per dwelling unit.
2. When associated with a two-family or multiple-family dwelling, accessory buildings shall not include guesthouses or accessory living quarters (defined: Section 21.04.165).
3. One-family dwellings are permitted when developed as two or more detached units on one lot. Also, a single one-family dwelling shall be permitted on any legal lot that existed as of October 28, 2004, and which is designated and zoned for residential use. Any proposal to subdivide land or construct more than one dwelling shall be subject to the density and intent of the underlying residential land use designation.
4. A two-family dwelling shall not be permitted within the RH land use designation.

**Notes:**

5. Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.

(Ord. NS-718 § 10, 2004; Ord. NS-746 § 9, 2005; Ord. NS-791 § 14, 2006; Ord. CS-102 §§ XXX, XXXI, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 §§ XIII, XIV, 2012; Ord. CS-189 §§ XVI—XVIII, 2012; Ord. CS-191 § X, 2012; Ord. CS-224 §§ XIII, XIV, 2013; Ord. CS-249 § VIII, 2014; Ord. CS-324 § 2, 2017; Ord. CS-384 §§ 10, 15, 2020)

**§ 21.18.030. Development standards.**

- A. Subject to the general development standards of Chapters 21.41 and 21.44, no lot shall be created or structure constructed in the R-P zone that does not conform to the following specific standards:
  1. Lot Area Minimum. In the R-P zone the minimum area of all lots hereafter created shall be seven thousand five hundred square feet.
  2. Lot Width Minimum. Every lot hereafter created in the R-P zone shall maintain a minimum lot width at the rear line of the required front yard on the basis of the following:

Lot Area	Required Width
Less than 10,000 sq. ft.	60 feet
Less than 20,000 sq. ft.	75 feet
More than 20,000 sq. ft.	80 feet

3. Front Yard. Every lot in the R-P zone shall have a front yard of not less than twenty feet in depth, except key lots which side upon commercially or industrially-zoned property shall maintain a front yard of not less than fifteen feet.
4. Side Yard. In the R-P zone every lot shall have side yards as follows:
  - a. Interior lots shall have side yards that have width equal to ten percent of the lot width, provided that such side yard shall not be less than five feet in width and need not exceed ten feet in width; and
  - b. Corner lots shall have a side yard on the side lot line adjacent to another lot of a width within the limitations for an interior lot above and a side yard adjacent to the street of ten feet.
5. Rear Yard. In the R-P zone every lot shall have a rear yard of a depth equal to twenty percent of the lot width, provided that such rear yard need not exceed twenty feet.
6. Separation of Buildings. In addition to the required yards, buildings shall be set as follows:
  - a. Minimum distance between habitable buildings, ten feet; and
  - b. Minimum distance between habitable buildings and accessory structures, ten feet.
7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

- a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
  - b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
  - c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
  - d. Buildings shall not exceed one story; and
  - e. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
8. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks.
  9. Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
    - a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
    - b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
    - c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
    - d. The additional development standards listed above (subsections (A)(10)(a) through (c) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
  10. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
  11. Other than as provided in subsection (A)(9) above, no building shall be located in any of the required yards.
  12. Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.
  13. Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.
  14. Parking Off-Street. Parking shall not be provided in the required front or side yards.
- (Ord. NS-718 § 10, 2004; Ord. CS-324 § 13, 2017; Ord. CS-384 § 16, 2020)

#### **§ 21.18.040. Special conditions and standards.**

- A. In addition to the established development standards, when applicable the following conditions shall be met:
  1. Outside Display and Storage. No outdoor display of products or storage shall be permitted.

2. Residential Structure Conversion. All existing residential structures converted to commercial purposes shall be brought into conformance with all the requirements of this title and Title 18 of this code.
3. Walls. Any lot proposed for nonresidential development which adjoins a lot located in a residential zone district shall have a solid masonry wall of six feet in height installed along the common lot line, except in the front yard area where the wall shall be reduced to forty-two inches in height.
4. Enclosure of Activities. All nonresidential uses shall be located in a completely enclosed building.

(Ord. NS-718 § 10, 2004)

**CHAPTER 21.20  
R-T RESIDENTIAL TOURIST ZONE**

**§ 21.20.010. Permitted uses.**

- A. In an R-T zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates the use is permitted. (See note 2 below)

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 2 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings (subject to Section 21.20.080 of this chapter)			X
Accessory buildings and structures, including private garages to accommodate not more than two cars per dwelling unit	X		
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Aquaculture (defined: Section 21.04.036)	2		
Aquariums	2		
Athletic clubs, gymnasiums, and health clubs	2		
Bait shop (accessory to rec. facility)	1		
Bathhouses	3		
Beds and breakfasts (subject to Section 21.42.140(B)(25); defined: Section 21.04.046)	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		

Use	P	CUP	Acc
Boarding house (defined: Section 21.04.055)	2		
Boat launching/docking facility	2		
Boat part shop (accessory to rec. facility)	2		
Boat repair (accessory to rec. facility)	2		
Boat rides	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Clubs—Nonprofit; business, civic, professional, etc. (defined: Section 21.04.090)	2		
Commercial use (accessory to rec. facility)	2		
Country clubs	2		
Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers (subject to Section 21.20.080 of this chapter)			X
Dwellings	X		
Fraternal associations and lodges (except college fraternities/sororities)	2		
Fraternities and sororities	2		
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	1		
Games of skill	2		
Golf courses	3		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Habitable detached accessory structures (subject to Section 21.20.080 of this chapter)			X
Hotels and motels (subject to Section 21.42.140(B)(80))	3		
Large family day care homes, subject to the provisions of Chapter 21.83 of this title	X		
Lodging house (defined: Section 21.04.205)	2		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Parks (private)	2		
Playgrounds/playfields	2		

Use	P	CUP	Acc
Public meeting halls, exhibit halls, and museums	2		
Public/quasi-public buildings and facilities and accessory utility buildings/ facilities (defined: Section 21.04.279)	2		
Recreation facilities	2		
Refreshment facilities	1		
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Satellite television antennae subject to the provisions of Section 21.53.130 of this code	X		
Signs (see note 1, below)	X		
Small family day care homes	X		
Sporting clubs	2		
Sporting goods shops (acc. to rec. facilities)	2		
Supportive housing (defined: Section 21.04.355.1)	X		
Time-share projects (subject to Section 21.42.140(B)(155); defined: Section 21.04.357)	3		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.279)	1 / 2		
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)	2		

**Notes:**

1. Signs. (A) Nameplates not exceeding two square feet in area containing the name of the occupant of the premises, (B) One lighted sign not exceeding twenty square feet in area identifying permitted uses, provided such sign is stationary and nonflashing, is placed on the wall of the building, does not extend above or out from the front wall, and contains no advertising matter except the name and street address of the building upon which it is placed, (C) One unlighted sign not exceeding twelve square feet in area pertaining only to the sale, lease or hire of only the particular building, property or premises upon which displayed, or to identify public parking lots as permitted in this zone, (D) Location of the above signs shall not be closer to the front property line than midway between the front property line and the front setback line, and under no conditions closer than seven and one-half feet from the front property line; except that on key lots and lots which side upon commercially or industrially zoned property, the sign may be placed not closer than five feet to the property line.
2. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9060 § 900; Ord. 9135 § 1; Ord. 9146 § 1; Ord. 9171 § 1; Ord. 9188 § 1; Ord. 9785 § 10, 1986; Ord. 9800 § 4, 1986; Ord. 9804 § 6, 1986; Ord. NS-409 § 8, 1997; Ord. NS-791 § 15, 2006; Ord. CS-102 §§ XXXII, XXXIII, 2010; Ord. CS-189 § XIX, 2012; Ord. CS-191 § XI, 2012; Ord. CS-224 §§ XV, XVI,

2013; Ord. CS-225 § I, 2013; Ord. CS-249 § IX, 2014; Ord. CS-324 § 14, 2017; Ord. CS-384 § 17, 2020)

**§ 21.20.030. Building height.**

No building in the R-T zone shall exceed a height of thirty-five feet.  
(Ord. 9060 § 902; Ord. 9188 § 1; Ord. NS-180 § 14, 1991)

**§ 21.20.040. Front yard.**

There shall be a front yard of not less than twenty feet in depth.  
(Ord. 9060 § 903; Ord. 9188 § 1)

**§ 21.20.050. Side yards.**

In the R-T zone every lot shall have side yards as follows:

- (1) Interior lots shall have a side yard of not less than ten feet in width on one side of the lot and not less than five feet in width on the other side;
- (2) Corner lots and reversed corner lots shall have the following side yards:
  - (A) On the side lot line which adjoins another lot, the side yard shall be not less than five feet in width,
  - (B) On the side street side the width of the required side yard shall be ten feet in width and said side yard shall extend the full length of the lot;
  - (C) Garages or carports with vehicular egress opening toward a side street shall be located with a minimum of twenty feet between the garage or carport and the side street property line.

(Ord. 9060 § 904; Ord. 9188 § 1)

**§ 21.20.060. Use of setback areas.**

A required front or side yard shall not be used for vehicle parking except such portion as is devoted to driveway use. No automobile trailer, camper or boat may be stored or parked in a required front or side yard for any period exceeding seventy-two hours.

(Ord. 9060 § 905; Ord. 9188 § 1)

**§ 21.20.070. Rear yard.**

There shall be a rear yard of not less than twenty feet in depth.  
(Ord. 9060 § 906; Ord. 9188 § 1)

**§ 21.20.080. Accessory structures.**

- (1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
  - (A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.
  - (B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.

- (C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.
- (D) Buildings shall not exceed one story.
- (E) Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- (2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- (3) Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
- (A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.
- (B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.
- (C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.
- (D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- (4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. 9060 § 907; Ord. 9188 § 1; Ord. NS-243 § 17, 1993; Ord. NS-355 § 12, 1996; Ord. NS-718 § 12, 2004; Ord. CS-324 § 15, 2017; Ord. CS-384 § 18, 2020)

#### **§ 21.20.090. Minimum lot area.**

- (a) The minimum lot area shall be not less than seven thousand five hundred square feet except when an application for site plan review has been approved.
- (b) Lot sizes larger than the required area: A number following the zoning symbol shall mean the minimum lot size in square feet.

(Ord. 9060 § 908; Ord. 9188 § 1; Ord. 9336 § 7, 1972)

#### **§ 21.20.100. Lot width.**

Every lot created after the effective date of the ordinance amendment codified in this section shall maintain a width of not less than the following:

- (1) Lots with a minimum area of nine thousand nine hundred ninety-nine square feet or less shall have a width of not less than sixty feet except when an application for site plan review has been approved;
- (2) Lots which have a minimum lot area of ten thousand square feet or more shall maintain a width of not less than seventy-five feet.

(Ord. 9060 § 910; Ord. 9188 § 1; Ord. NS-675 § 29, 2003)

**§ 21.20.110. Lot coverage.**

All buildings, including accessory buildings and structures, shall not cover more than seventy-five percent of the area of the lot, except when an application for site plan review has been approved.  
(Ord. 9060 § 911; Ord. 9188 § 1; Ord. NS-675 § 29, 2003)

## CHAPTER 21.21 H-O HOSPITAL OVERLAY ZONE

### **§ 21.21.010. Intent and purpose.**

The intent and purpose of the hospital overlay (H-O) zone is to:

- (1) Provide for the development of hospital facilities to meet the community's major medical needs;
- (2) Provide a method whereby hospitals may be developed in existing zones;
- (3) Promote comprehensive planning of a major hospital in conjunction with supporting facilities;
- (4) Ensure the compatibility of a hospital with surrounding future and existing land use;
- (5) Provide the city with a procedure to analyze fiscal and environmental impacts caused by a hospital and its supporting facilities.

(Ord. 9743 § 1, 1984)

### **§ 21.21.015. Prohibition.**

Hospitals shall be located only on property which has hospital overlay zoning.

(Ord. 9743 § 1, 1984)

### **§ 21.21.020. Application.**

The H-O zone may be applied to property in any zone except the CT, R-T, R-W, O-S and RMHP zones. The H-O zone may not be applied to an area less than twenty-five acres in size. In addition to the required application for a zone change, application for the H-O zone shall also include a traffic study analyzing possible impacts on surrounding streets and intersections, and an economic impact analysis describing the positive and negative fiscal impacts of a hospital and any supporting facility on the city.

(Ord. 9743 § 1, 1984)

### **§ 21.21.030. Criteria for implementation.**

Before application of the H-O zone to any property the following conditions must exist:

- (1) There is a need in the community for a hospital at the proposed location;
- (2) The proposed zone will be compatible with surrounding zoning and land use;
- (3) Development of a hospital at the proposed location will not be detrimental to public safety and welfare;
- (4) The proposed site is suitable in size and location for a major hospital facility;
- (5) The circulation system is adequate to serve a major hospital facility;
- (6) The proposed hospital will not create any significant impacts on the environment;
- (7) Development of the hospital will not cause adverse economic impacts on the city which cannot be mitigated to an acceptable level or for which the council cannot find that the need for the hospital overrides the negative economic impact;

(8) The proposed hospital has met all the criteria for hospitals under Division 1, Part 1.5 of the California Health and Safety Code;

(9) A site development plan is submitted under this chapter concurrently with the application for the zone change.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.040. Permitted uses.**

Subject to the approval of a site development plan processed pursuant to this chapter the following uses are permitted in the H-O zone:

(1) Hospital (as defined in Section 21.04.170 of this code);

(2) Accessory uses and structures where related to the hospital, including, but not limited to, the following:

(A) Laboratories,

(B) Medical offices,

(C) Pharmacies,

(D) Health services such as senior citizens nutrition centers, physical therapy facilities and medical clinics,

(E) Trauma facilities, including, but not limited to, overnight residential facilities for trauma staff, helicopter pads,

(F) Skilled nurse facilities,

(G) Residential care facilities,

(H) Alcohol and drug care facilities,

(I) Restaurants within a hospital,

(J) Medical research facilities,

(K) Other similar uses normally associated with a hospital or medical offices;

(3) Child day care centers, subject to the provisions of Chapter 21.83 of this title.

(Ord. 9743 § 1, 1984; Ord. NS-409 § 9, 1997)

#### **§ 21.21.050. Site development plan.**

(a) Approval of a site development plan, processed according to the provisions of Chapter 21.06 (Q-overlay) shall be required for any development in the H-O zone except that for review of a hospital the Planning Commission shall act in an advisory capacity to the City Council. After review by the Planning Commission, the site development plan for the hospital shall be submitted to the City Council for approval. The site plan shall be processed for review by the City Council in the same manner as the plan is processed for Planning Commission review. After construction of the hospital, site plans for the development of accessory uses permitted in this zone shall be reviewed by the Planning Commission with appeal to the City Council. A hospital and accessory uses proposed as one

development may be approved by a single site plan which would be processed in the same manner as a hospital alone.

- (b) The site development plan shall include any conditions necessary to ensure compliance with the provisions of Section 21.21.030. Such conditions may include, but shall not be limited to, requirements for street and public facility improvements on and off the site, requirements for mitigation of adverse economic impacts, including, but not limited to, the payment of fees to provide public facilities, and requirements for mitigation of adverse environmental impacts.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.060. Lot area.**

The minimum lot size for newly created lots within this zone shall be twenty-five thousand square feet.  
 (Ord. 9743 § 1, 1984)

#### **§ 21.21.070. Lot width.**

Every newly created lot shall have a width of not less than one hundred feet at the rear line of the required front yard.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.080. Building height.**

The maximum height of structures within the H-O zone shall not exceed thirty-five feet. Additional building height may be permitted by a site development plan approved by the City Council.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.090. Setbacks.**

Every lot shall provide required yards, measured from the property line as follows:

	<b>Driveways/Parking</b>	<b>1 Story Building</b>	<b>2—3 Stories up to 35'</b>
Front yard	10	15	20
Front yard on an arterial	20	25	35
Front yard on a prime arterial	30	40	50
Street side yard	10	15	20
Side yard on an arterial	15	20	30
Side yard on a prime arterial	30	40	50
Interior side yard	5	10	10
Rear yard	5	10	10

Through lots shall be considered to have two front yards and shall observe setbacks accordingly.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.100. Setbacks—Structures over thirty-five feet in height.**

The above specified yard requirements apply only to those structures up to a height of thirty-five feet. For any other structure, which has been approved for increased height by site development plan, all required

yards shall be increased at a ratio of 0.5 additional feet horizontally, for every 1.5 feet of additional vertical construction.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.110. Landscaping.**

All landscaping shall comply with the city landscape guidelines manual. All landscaped areas shall be served by a permanent irrigation system including bubblers or sprinklers. Prior to approval of a building permit, each applicant shall submit a landscape and irrigation plan for the approval of the City Planner. All approved improvements shall be installed prior to occupancy of the building.

- (1) Required Yards. All setback areas shall be planted with plant species consistent with the city landscape guidelines manual. Variations in ground plane by use of undulating mounding is encouraged to screen parking areas and to enhance the landscaping and building architecture. Landscaping along arterials should comply with the city's streetscaping program.
- (2) Parking Areas. A minimum of ten percent of that portion of the site devoted to uncovered parking shall be landscaped. Landscaping shall be designed so as to offer relief from the monotony of rows of parked cars, and to create an overhead canopy. A minimum of one fifteen gallon tree per five parking stalls shall be required in the parking area. All exposed parking areas shall be screened with landscaping, contouring and mounding.

(Ord. 9743 § 1, 1984; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.21.120. Building coverage.**

- (a) For developments which utilize surface parking, all structures shall not cover more than fifty percent of the lot on which they are located.
- (b) For developments which include a parking structure or parking is located within or under the building it serves, the total coverage of all structures shall not exceed seventy-five percent of the lot. This provision shall apply only if seventy-five percent of the required parking is located in the parking structure or within or under the building it serves.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.130. Signs.**

A detailed sign program shall be submitted to the City Planner for approval prior to occupancy of any new building or installation of any new signs. All signs proposed in the H-O zone shall comply with the provisions of Chapter 21.41 and the following regulations:

- (1) Total Permitted Sign Area. Total maximum allowable area of all signs, including monument signs, shall not exceed one square foot per lineal foot of building frontage.
- (2) Monument Signs. One freestanding monument sign may be permitted for each lot. Said monument sign shall be no greater than six feet in height or six feet in length, (including the base) with a maximum of two sign faces. Comprehensively planned developments of a hospital and accessory uses may be permitted additional monument signs, above the allowable area, through the site development plan process.

(Ord. 9743 § 1, 1984; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.21.140. Parking.**

A. Parking shall be provided subject to the provisions of Chapter 21.44 of this title.

B. Additional parking may be required as part of the site development plan.  
(Ord. 9743 § 1, 1984; Ord. 9804 § 3, 1986; Ord. CS-102 § XXXIV, 2010)

#### **§ 21.21.150. Walls and fences.**

A solid masonry or stucco wall, six feet in height, shall be constructed along the common lot line with any residentially zoned property, except in the front yard where the wall shall be reduced to forty-two inches in height. Walls and fences up to a height of six feet are permitted except that no wall or fence shall be erected in any front yard setback in excess of forty-two inches and that all walls and fences shall observe a minimum setback of ten feet from the property line for a side yard on a street. Chain link, barbed wire, razor ribbon or other similar fences are specifically not permitted.

(Ord. 9743 § 1, 1984)

#### **§ 21.21.160. Lighting.**

- (a) Exterior lighting is required for all employee and visitor parking areas, walkways, and building entrances and exits.
  - (b) Light sources shall be designed to avoid direct or indirect glare to any off-site properties or public rights-of-way.
- (Ord. 9743 § 1, 1984)

#### **§ 21.21.170. Roof—Appurtenances.**

All roof appurtenances, including air conditioners, shall be architecturally integrated and shielded from view and the sound buffered from adjacent properties and streets, to the satisfaction of the City Planner.  
(Ord. 9743 § 1, 1984; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.21.180. Trash enclosures.**

Trash receptacle areas shall be enclosed by a six-foot-high masonry wall with gates pursuant to city standards.  
(Ord. 9743 § 1, 1984)

#### **§ 21.21.190. Loading areas.**

All loading areas shall be oriented and/or screened so as to be unobtrusive from the adjacent streets or properties.  
(Ord. 9743 § 1, 1984)

#### **§ 21.21.200. Expiration.**

If construction of the hospital has not commenced within two years from the approval of the hospital overlay zone and site development plan on a specific area, the H-O zone and site plan shall expire and the property will return to its underlying zoning.  
(Ord. 9743 § 1, 1984)

**CHAPTER 21.22  
R-W RESIDENTIAL WATERWAY ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9189, 9336, 9638, 9785, 9804, NS-180, NS-243, NS-274, NS-283, NS-355, NS-409, NS-662, NS-663, and NS-675.**

**§ 21.22.010. Intent and purpose.**

- A. The intent and purpose of the R-W residential waterway zone is to:
1. Implement the residential high density (RH) land use designation of the Carlsbad general plan;
  2. Provide an area in which residential development centered about a navigable waterway may be accommodated; and
  3. Provide regulations and standards for the development of residential dwellings and other permitted or conditionally permitted uses as specified in this chapter.

(Ord. NS-718 § 13, 2004)

**§ 21.22.020. Permitted uses.**

- A. In an R-W zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates use is permitted. (See note 7 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 7 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (e.g., garages, workshops, tool sheds, patio covers, decks, etc.) (see notes 1 and 2 below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Aquaculture (defined: Section 21.04.036)	2		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Boat launching/docking facilities (see note 3 below)	X		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Dwelling, one-family (see note 4 below) (defined: Section 21.04.125)	X		
Dwelling, two-family (defined: Section 21.04.130)	X		
Dwelling, multiple-family (subject to Section 21.53.120 if more than 4 units are proposed; defined: Section 21.04.135)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large), subject to Chapter 21.83 (defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83; defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	1		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Golf courses (see note 5 below)	3		
Home occupation (subject to Section 21.10.040)			X
Housing for senior citizens (subject to Chapter 21.84)	X		
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Mobile home (see notes 4 and 6 below) (defined: Section 21.04.266)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		

Use	P	CUP	Acc
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs, subject to Chapter 21.41 (defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction), subject to Sections 21.53.090 and 21.53.110	X		
Transitional housing (defined: Section 21.04.362)	X		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))	1 / 2		
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)	2		

**Notes:**

1. Private garages (defined: Section 21.04.150) shall accommodate not more than two cars per dwelling unit.
2. When associated with a two-family or multiple-family dwelling, accessory buildings shall not include guesthouses or accessory living quarters (defined: Section 21.04.165).
3. Boat launching and docking facilities are permitted only for the sole use of residents of any subdivision in which the facility is located, and which is within the R-W zone.
4. One-family dwellings are permitted when developed as two or more detached units on one lot. Also, a single one-family dwelling shall be permitted on any legal lot that existed as of October 28, 2004, and which is designated and zoned for residential use. Any proposal to subdivide land or construct more than one dwelling shall be subject to the density provisions of the general plan and intent of the underlying residential land use designation.
5. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.
6. Mobile homes must be certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.
7. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. NS-718 § 13, 2004; Ord. NS-746 § 10, 2005; Ord. NS-791 § 16, 2006; Ord. CS-102 §§ XXXV—XXXVII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § XX, 2012; Ord. CS-191 § XII, 2012; Ord. CS-224 § XVII, 2013; Ord. CS-249 § X, 2014; Ord. CS-324 § 2, 2017; Ord. CS-384 §§ 10, 15, 2020)

**§ 21.22.030. Building height.**

No building in the R-W zone shall exceed a height of thirty-five feet.  
(Ord. NS-718 § 13, 2004)

**§ 21.22.040. Front yard.**

Every lot shall have a front yard of not less than ten feet in depth.  
(Ord. NS-718 § 13, 2004)

**§ 21.22.050. Side yard.**

A. Every lot shall have side yards as follows:

1. Interior lots shall have a side yard on each side of the lot of not less than four feet in width;
2. Corner lots and reversed corner lots shall have the following side yards:
  - a. On the side lot line which adjoins another lot, the side yard shall be the same as that required on an interior lot, and
  - b. On the side street side the width of the required side yard shall be eight feet.

(Ord. NS-718 § 13, 2004)

**§ 21.22.060. Rear yard.**

There shall be a rear yard of not less than eight feet in depth.  
(Ord. NS-718 § 13, 2004)

**§ 21.22.070. Accessory structures.**

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
  1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
  2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
  3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
  4. Buildings shall not exceed one story;
  5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
  2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
  3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
  4. The additional development standards listed above (subsections (C)(1) through (3) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. NS-718 § 13, 2004; Ord. CS-324 § 16, 2017; Ord. CS-384 § 19, 2020)

#### **§ 21.22.080. Minimum lot area.**

The minimum required area of a lot in the R-W zone shall not be less than five thousand square feet.  
(Ord. NS-718 § 13, 2004)

#### **§ 21.22.090. Lot width.**

Every lot shall have a width of not less than forty feet at the rear line of the required front yard.  
(Ord. NS-718 § 13, 2004)

#### **§ 21.22.100. Lot coverage.**

All buildings, including accessory buildings and structures, shall not cover more than seventy-five percent of the area of the lot.

(Ord. NS-718 § 13, 2004)

#### **§ 21.22.110. Waterway access.**

- A. Not less than seventy percent in number of the R-W zoned lots in any subdivision in an R-W zone shall have direct access to a navigable waterway.
- B. For each twenty lots or portion thereof without direct access to a navigable waterway, there shall be provided a boat launching facility within the subdivision on an R-W zoned lot which does have direct access to a navigable waterway. The area of such lot not utilized for the boat launching facility shall be improved for parking and shall conform to the requirements of Sections 21.44.080 and 21.44.100.
- C. "Direct access" for the purpose of this section means that at least twenty feet or one-half, whichever is the longer, of a side or rear lot line shall border upon such navigable waterway.
- D. "Navigable waterway" for the purpose of this section means an ocean inlet or lagoon, or other arm of the sea, actually usable for boating; and any channel actually usable for boating and docking facilities connecting with an ocean inlet or lagoon or other arm of the sea.

(Ord. NS-718 § 13, 2004)

**CHAPTER 21.24  
RD-M RESIDENTIAL DENSITY-MULTIPLE ZONE**

**Note: Prior ordinance history: Ord. Nos. 9060, 9251, 9336, 9455, 9513, 9534, 9638, 9658, 9674, 9785, 9804, 1256, 1261, NS-186, NS-243, NS-274, NS-283, NS-355, NS-409, NS-662, NS-663, and NS-675.**

**§ 21.24.010. Intent and purpose.**

- A. The intent and purpose of the RD-M residential density-multiple zone is to:
  - 1. Implement the residential medium density (RM), residential medium-high density (RMH) and residential high density (RH) land use designations of the Carlsbad general plan; and
  - 2. Provide regulations and standards for the development of residential dwellings and other permitted or conditionally permitted uses as specified in this chapter.

(Ord. NS-718 § 14, 2004)

**§ 21.24.020. Permitted uses.**

- A. In the RD-M zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. Uses similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purpose of this zone, and is substantially similar to a specified permitted use.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 6 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 6 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures (ex. garages, workshops, tool sheds, patio covers, decks, etc.) (see note 1 below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Animal keeping (household pets) (subject to Section 21.53.084)			X

<b>Use</b>	<b>P</b>	<b>CUP</b>	<b>Acc</b>
Animal keeping (wild animals) (subject to Section 21.53.085)			X
Aquaculture (defined: Section 21.04.036)	2		
Bed and breakfasts (subject to Section 21.42.140(B)(25); defined: Section 21.04.046)	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)	1		
Churches, synagogues, temples, convents, monasteries and other places of worship	2		
Dwelling, one-family (see notes 2 and 3 below) (defined: Section 21.04.125)	X		
Dwelling, two-family (defined: Section 21.04.130)	X		
Dwelling, multiple-family (subject to Section 21.53.120 if more than 4 units are proposed; defined: Section 21.04.135)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large) (subject to Chapter 21.83; defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83; defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	1		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Golf courses (see note 4 below)	3		
Home occupation (subject to Section 21.10.040)			X
Housing for senior citizens (subject to Chapter 21.84)	2		
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Mobile home (see notes 2, 3 and 5 below) (defined: Section 21.04.266)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Professional care facilities (defined: Section 21.04.295)	2		

Use	P	CUP	Acc
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Residential care facilities (serving six or fewer persons) (defined: Section 21.04.300)	X		
Residential care facilities (serving more than six persons) (subject to Section 21.42.140(B)(125); defined: Section 21.04.300)	2		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs, subject to Chapter 21.41 (defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary bldg./trailer (real estate or construction) (subject to Sections 21.53.090 and 21.53.110)	X		
Time-share projects (subject to Section 21.42.140(B)(155); defined: Section 21.04.357)	3		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Zoos (private) (subject to Section 21.41.140(B)(170); defined: Section 21.04.4000)	2		

**Notes:**

- When associated with a two-family or multiple-family dwelling, accessory buildings shall not include guesthouses or accessory living quarters (defined: Section 21.04.165).
- Within the RM land use designation, a one-family dwelling/subdivision is permitted.
- Within the RMH and RH land use designations, one-family dwellings are permitted when developed as two or more detached units on one lot. Also, a single one-family dwelling shall be permitted on any legal lot that existed as of October 28, 2004, and which is designated and zoned for residential use. Any proposal to subdivide land or construct more than one dwelling shall be subject to the density and intent of the underlying residential land use designation.
- A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.
- Mobile homes must be certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the StateHealth and Safety Code.
- Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. NS-718 § 14, 2004; Ord. NS-746 § 11, 2005; Ord. NS-791 § 17, 2006; Ord. CS-102 §§ XXXVIII—XL, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § XV, 2012; Ord. CS-189 § XXI, 2012; Ord. CS-191 § XIII, 2012; Ord. CS-224 §§ XVIII, XIX, 2013; Ord. CS-249 § XI, 2014; Ord. CS-324 § 2, 2017; Ord. CS-384 §§ 10, 15, 2020)

**§ 21.24.030. Building height.**

No building shall exceed a height of thirty-five feet.

(Ord. NS-718 § 14, 2004)

**§ 21.24.040. Front yard.**

A. There shall be a front yard of not less than twenty feet in depth with exceptions as follows:

1. Fifteen feet shall be permitted providing carport or garage openings do not face onto the front yard; and
2. Ten feet shall be permitted providing carport or garage openings do not face onto the front yard, and that the remaining front yard is landscaped with a combination of flowers, shrubs, trees and irrigated with a sprinkler system. Landscape plans and irrigation system plans shall be approved by the City Planner prior to issuance of a building permit for a proposed structure.

(Ord. NS-718 § 14, 2004; Ord. CS-164 § 10, 2011)

**§ 21.24.050. Side yard.**

A. Every lot shall have side yard as follows:

1. Interior lots shall have a side yard on each side of the lot of not less than five feet in width;
2. Corner lots and reversed corner lots shall have side yards as follows:
  - a. On the side lot line which adjoins another lot, the side yard shall be the same as that required on an interior lot, and
  - b. On any side of a lot which is adjacent to a street, the side yard shall be ten feet, with exception that: the required ten-foot side yard abutting a street may be reduced to five feet, providing parking spaces do not open directly onto the street and, that the side yard is landscaped and maintained as prescribed in Section 21.24.040;
3. A zero foot side yard setback shall be permitted to one interior side yard, provided:
  - a. That the owners of both lots common to the proposed zero foot side yard are in agreement;
  - b. That the remaining side yard shall be not less than twenty-five percent of the total lot width measured at the front setback line;
  - c. That the building permit application and other permit applications required by this code (if any) for the project shall include a site plan that shows the proposed building location, parking, and side yard setback for both lots common with the proposed zero foot side yard, to the satisfaction of the City Planner; and
  - d. That an easement or other recorded agreement for maintenance purposes be granted to provide access to the adjoining lot when there is no side yard.

(Ord. NS-718 § 14, 2004; Ord. CS-102 § XLI, 2010; Ord. CS-164 § 10, 2011)

**§ 21.24.060. Setbacks—Subterranean parking.**

Zero foot setback for subterranean parking shall be permitted provided the required setbacks for the dwelling structure are landscaped and maintained as prescribed in Section 21.24.040.

(Ord. NS-718 § 14, 2004)

**§ 21.24.070. Rear yard.**

There shall be a rear yard of not less than ten feet in depth.

(Ord. NS-718 § 14, 2004)

**§ 21.24.080. Yards—Structures over thirty-five feet in height.**

The above specified yard requirements apply only to those structures up to a height of thirty-five feet. For any other structure which has had its height increased by approval of a specific plan, the yards shall be increased at a ratio of one and one-half additional foot horizontally, for each eight feet of vertical construction.

(Ord. NS-718 § 14, 2004)

**§ 21.24.090. Accessory structures.**

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
4. Buildings shall not exceed one story; and
5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks

C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
4. The additional development standards listed above (subsections (D)(1) through (3) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

(Ord. NS-718 § 14, 2004; Ord. CS-324 § 17, 2017; Ord. CS-384 § 20, 2020)

#### **§ 21.24.100. Lot area.**

- A. The minimum required area of a lot in the RD-M zone, when the zone implements the RM land use designation, shall be as follows:
1. For one-family dwellings: a lot area not less than six thousand square feet; and
  2. For two-family and multiple dwellings: a lot area not less than ten thousand square feet, except that the joining of two smaller lots shall be permitted although their total area does not equal the required lot area.
- B. The minimum lot area of a lot in the RD-M zone, when the zone implements the RMH or RH land use designations, shall not be less than ten thousand square feet, except that the joining of two smaller lots shall be permitted although their total area does not equal the required lot area.

(Ord. NS-718 § 14, 2004)

#### **§ 21.24.110. Lot coverage.**

All buildings, including accessory buildings and structures, shall cover no more of the lot than sixty percent.

(Ord. NS-718 § 14, 2004)

#### **§ 21.24.120. Lot width.**

Every lot shall have a width of not less than sixty feet at the rear line of the required front yard.

(Ord. NS-718 § 14, 2004)

#### **§ 21.24.130. Improvements required.**

- A. Prior to an occupancy permit being issued by the Community and Economic Development Director for any new units constructed in the RD-M zone, it shall be necessary for the developer to upgrade or install those public improvements deemed necessary for public convenience and necessity.
- B. Improvements as may be required by the City Engineer shall be constructed to city standards and specifications.
- C. In such case where there are not adjacent improvements or official street grade has not been established, the City Engineer may recommend to the City Council that a future street improvement agreement be entered into.

(Ord. NS-718 § 14, 2004; Ord. CS-164 § 14, 2011)

#### **§ 21.24.140. Special conditions for certain lots.**

- A. In approving a site development plan, planned development permit, tentative map or other discretionary permit, for a property located in the RD-M zone and adjacent to an R-1 zone, the Planning Commission or City Council may impose special conditions or requirements that include but are not limited to provisions for the following:

1. Special setbacks, yards, open space;
2. Special height and bulk of building regulations;
3. Additional landscaping;
4. Signs, fences and walls;
5. Special grading restrictions;
6. Regulation of point of ingress and egress;
7. Compatibility with surrounding properties and land uses; and
8. Such other conditions as deemed necessary to ensure conformity with the general plan and other adopted policies, goals or objectives of the city.

(Ord. NS-718 § 14, 2004)

## CHAPTER 21.25 COMMUNITY FACILITIES ZONE

### **§ 21.25.010. Intent and purpose.**

The intent and purpose of the C-F, community facilities, zone is:

- (1) To ensure that all master plans and residential specific plans (i.e., specific plans which include residential units) reserve community facilities sites of adequate size for uses which benefit the community as a whole by satisfying social/religious/institutional/human service needs;
- (2) To identify those uses which can be utilized to satisfy the community facilities uses requirements in master plans pursuant to Chapter 21.38 of this code and residential specific plans; and
- (3) To establish development standards for community facilities uses in master plans and residential specific plans.

(Ord. NS-579 § 1, 2001; Ord. CS-224 § XX, 2013)

### **§ 21.25.020. Applicability.**

This chapter applies as follows:

- (1) This chapter applies to those properties developed through a new master plan pursuant to Chapter 21.38 of this code approved after the effective date of the ordinance codified in this chapter.
- (2) This chapter applies to those properties developed through a new residential specific plan (a specific plan which includes residential units) of at least one hundred gross acres approved after the effective date of the ordinance codified in this chapter.
- (3) This chapter applies to any master plan or residential specific plan approved prior to the effective date of the ordinance codified in this chapter for which an application for amendment involving at least one hundred gross acres of undeveloped land is made by the property owner.
- (4) Master plans and residential specific plans approved prior to the effective date of the ordinance codified in this chapter and not described in subsection (3) of this section may satisfy their community facilities requirements (if any) as required by those approved master plans or specific plans.

(Ord. NS-579 § 1, 2001)

### **§ 21.25.030. Time period of reservation.**

As part of the master plan or residential specific plan application, the developer shall designate a portion(s) of the site for community facilities uses. The community facilities designation shall be for a minimum time period of ten years. The ten-year time period shall commence when final inspections have been approved for one hundred percent of the units in the first residential planning area in the master plan or specific plan. There shall be no automatic reversion of the community facilities site to other uses. If, at the end of the ten-year reservation period, community facilities have not developed in the community facilities designated area, then the developer may make an application for a major master plan amendment to eliminate the community facilities site(s) or to designate a different site(s) of the master plan or residential specific plan for such uses. If the developer proposes to eliminate the community facilities area, he or she shall demonstrate why it is infeasible that the designated area will ever develop with community facilities uses. If the developer proposes to designate a different site(s) for the community facilities uses, he or she shall demonstrate why the proposed alternative location is better than the originally designated location. If an

alternative location(s) is proposed, the total amount of acreage for the community facilities uses shall not be reduced from the originally designated acreage.

(Ord. NS-579 § 1, 2001)

**§ 21.25.040. Permitted uses.**

- A. In a C-F zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this C-F community facilities zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Uses Permitted**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates the use is permitted. (See note 1 below)

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Adult and/or senior day care and/or recreation facility (private or nonprivate)		1	
Athletic fields		2	
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)	X		
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs — nonprofit; business, civic, professional, etc. (defined: Section 21.04.090)		1	
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	

Use	P	CUP	Acc
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	1		
Office area (see note 2 below)			X
Religious reading room (separate from church)	1		
Satellite television antennae (subject to Sections 21.53.130—21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41)			X
Veterans' organizations (including meeting facilities)	1		
Welfare and charitable services (private or semi-private) with no permanent residential uses (e.g., Good Will, Red Cross, Traveler's Aid)	1		
Wireless communication facilities (subject to Section 21.42.140 (B)(165); defined: Section 21.04.379)	1 / 2		
Youth organizations (e.g., Boy Scouts, Girl Scouts, Boys and Girls Clubs, YMCA and YWCA, except lodgings)	1		

**Notes:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.
2. If any office area is proposed with a use, the office area must be ancillary to the main use; it cannot be the principal use.

(Ord. NS-579 § 1, 2001; Ord. NS-791 § 18, 2006; Ord. CS-102 § XLII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § XVI, 2012; Ord. CS-189 § XXII, 2012; Ord. CS-224 § XXI, 2013)

**§ 21.25.060. Limitations on permitted uses.**

All uses shall be conducted wholly within a building except such uses as athletic fields, outdoor play areas, and other uses customarily conducted in the open.

(Ord. NS-579 § 1, 2001)

**§ 21.25.070. Minimum requirements for community facilities area.**

- (1) The minimum size of the community facilities area for new master plan developments and new residential specific plan developments is two net developable acres plus one percent of the total net developable acreage in the entire master plan or residential specific plan area.
- (2) The minimum size of the community facilities area for master plan developments and residential specific plan developments approved prior to the effective date of the ordinance codified in this chapter and described in Section 21.25.020(3) is two net developable acres plus one percent of the total net developable acreage in the area included in the proposed amendment.
- (3) All master plans and residential specific plans must provide for a child day care facility somewhere within their community facilities area.

(Ord. NS-579 § 1, 2001)

**§ 21.25.080. Building height.**

No building in the C-F zone shall exceed a height of thirty-five feet and three levels if a minimum roof pitch of 3:12 is provided or twenty-four feet and two levels if a roof pitch less steep than 3:12 is provided. Architectural projections may be allowed pursuant to Section 21.46.020 of this code.

(Ord. NS-579 § 1, 2001)

**§ 21.25.090. Yards.**

Front yard, side yard, or rear yard setbacks shall be as required through the development standards contained in the master plan or residential specific plan.

(Ord. NS-579 § 1, 2001)

**§ 21.25.100. Location and design standards.**

Every community facilities site shall satisfy the following criteria:

- (1) The community facilities uses shall be located so as to assure compatibility with adjacent land uses.
- (2) The community facilities area(s) shall be located and designed so as to provide adequate buffering from, and to minimize any negative impacts to, surrounding residential developments.
- (3) The community facilities structures shall be designed to be architecturally compatible with surrounding developments.
- (4) The community facilities site(s) shall be centrally located within the master plan or residential specific plan unless a noncentral location more effectively serves a greater number of residents of the master plan or residential specific plan.
- (5) All community facilities uses shall be located on one unified site unless provision of two or more sites more effectively serves a greater number of residents of the master plan or residential specific plan.

(Ord. NS-579 § 1, 2001)

**§ 21.25.110. Required notification.**

Full disclosure shall be made to all buyers of surrounding residential units and owners of surrounding properties within six hundred feet that a community facility will be located on the reserved portion of the property. All approvals of new master plans, new residential specific plans, and amendments to previously approved master plans and residential specific plans involving one hundred or more gross acres of undeveloped land shall be conditioned to provide documentation that this disclosure requirement has been accomplished to the satisfaction of the City Planner.

(Ord. NS-579 § 1, 2001; Ord. CS-164 § 10, 2011)

**§ 21.25.120. Severability.**

Should any section, subsection, sentence, clause, or phrase of the ordinance codified in this chapter be held for any reason to be invalid or unconditional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any part thereof be declared invalid or unconditional.

City of Carlsbad, CA

§ 21.25.120

ZONING

§ 21.25.120

(Ord. NS-579 § 1, 2001)

**CHAPTER 21.26  
C-1 NEIGHBORHOOD COMMERCIAL ZONE**

**§ 21.26.010. Permitted uses.**

- A. In a C-1 zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this C-1 neighborhood commercial zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 1 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Accountants	X		
Adult and/or senior daycare and/or recreation facility (private/non-private)		1	
Alcoholic treatment centers	2		
Amusement parks		3	
Arcades—coin-operated (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)		1	
Athletic clubs, gyms, health clubs, and physical conditioning businesses	X		
Attorneys	X		

Use	P	CUP	Acc
Banks and other financial institutions without drive-thru facilities	X		
Bakeries	X		
Barbershops or beauty parlors	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Book or stationery stores	X		
Child day care centers, subject to the provisions of Chapter 21.83 of this title	X		
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Columbariums, crematories, and mausoleums (not within a cemetery)		2	
Delicatessen (defined: Section 21.04.106)	X		
Doctors, dentists, optometrists, chiropractors and others practicing the healing arts for human beings, and related uses such as oculists, pharmacies (prescription only), biochemical laboratories and x-ray laboratories	X		
Dressmaking or millinery shops	X		
Drive-thru facility (not restaurants)		1	
Drugstores	X		
Dry goods or notion stores	X		
Educational facilities, other (defined: Section 21.04.137)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Engineers, architects and planners	X		
Fairgrounds		3	
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)		1	
Florist shops	X		
Fortunetellers, as defined in Section 5.50.010	X		
Gas stations (subject to Section 21.42.140(B)(65))		2	
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Grocery or fruit stores	X		
Hardware stores	X		
Hospitals (defined: Section 21.04.170)		2	
Hospitals (mental) (defined: Section 21.04.175)		2	

Use	P	CUP	Acc
Hotels and motels (subject to Section 21.42.140(B)(80))		3	
Institutions of a philanthropic or eleemosynary nature, except correctional or mental	X		
Jewelry stores	X		
Laundries or clothes cleaning agencies	X		
Laundromats	X		
Liquor store (subject to Section 21.42.140(B)(85); defined: Section 21.04.203)		2	
Meat markets	X		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		1	
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)			X
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Paint stores	X		
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	
Pawnshops (subject to Section 21.42.140(B)(105))		3	
Pet supply shops	X		
Pool halls, billiards parlors (subject to Section 21.42.140(B)(110); defined: Section 21.04.292)		2	
Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business	X		
Public meeting halls, exhibit halls, and museums		2	
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)		2	
Racetracks		3	
Radio/television/microwave/broadcast station/tower		2	
Realtors	X		
Recreation facilities		1	
Recycling collection facilities, large (subject to Chapter 21.105 of this title; defined: Section 21.105.015)		2	
Recycling collection facilities, small (subject to Chapter 21.105 of this title; defined: Section 21.105.015)		1	
Religious reading room (separate from church)		1	
Residential uses (subject to Section 21.26.015 of this title)	X		

Use	P	CUP	Acc
Restaurants (bona fide public eating establishment) (defined: Section 21.04.056)	X		
Restaurants (excluding drive-thru restaurants), tea rooms or cafes (excluding dancing or entertainment and on-sale liquor)	X		
Satellite television antennae (subject to Section 21.53.130—21.53.150; defined: Section 21.04.302)			X
Shoe stores or repair shops	X		
Signs (subject to Chapter 21.41)			X
Stadiums	3		
Tailors, clothing or wearing apparel shops	X		
Tattoo parlors (subject to Section 21.42.140(B)(140))	3		
Theaters (motion picture or live) — Indoor	2		
Theaters, stages, amphitheaters — Outdoor	3		
Thrift shops (subject to Section 21.42.140(B)(150))	1		
Transit passenger terminals (bus and train)	2		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)	1		
Welfare and charitable service (private or semi-private) with no permanent residential uses (i.e., Goodwill, Red Cross, Traveler's Aid)	1		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))	2		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Youth organizations (e.g., Boy Scouts, Girl Scouts, Boys and Girls Clubs, YMCA, YWCA, except lodgings)	1		

**Note:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9060 § 1000; Ord. 9135 § 1; Ord. 9426 § 1, 1975; Ord. 9527 § 3, 1979; Ord. 9674 § 2, 1983; Ord. 6077 § 3, 1985; Ord. 9785 § 15, 1986; Ord. 9800 § 9, 1986; Ord. 9804 § 6, 1986; Ord. NS-409 § 12, 1997; Ord. NS-439 § 2, 1998; Ord. NS-791 § 19, 2006; Ord. CS-102 §§ XLIII—XLV, 2010; Ord. CS-164 § 10, 2011; Ord. CS-172 § II, 2012; Ord. CS-189 §§ XXIII, XXIV, 2012; Ord. CS-224 § XXII, 2013; Ord. CS-225 § II, 2013; Ord. CS-384 § 21, 2020)

**§ 21.26.013. Outdoor dining (incidental).**

- A. Subject to the requirements of this section, outdoor dining (incidental) may be established as part of any business that serves food and/or beverages for onsite consumption, such as but not limited to restaurants, bona fide eating establishments and delicatessens.

- B. If the proposed outdoor dining (incidental) is located in the coastal zone and is not exempt from a coastal development permit by Chapter 21.201 of this title, approval of a coastal development permit or minor coastal development permit, processed in accordance with Chapter 21.201, shall be required.
- C. Development Standards. All areas providing outdoor dining (incidental) shall comply with the following development standards:
1. Outdoor dining areas shall comply with all applicable requirements of the State of California Disabled Access Regulations (Title 24);
  2. Outdoor dining areas shall comply with all applicable requirements of the Alcoholic Beverage Commission, if alcoholic beverages are served in the outdoor area;
  3. Outdoor dining areas shall be operated only during the hours of operation of the associated business;
  4. Outdoor dining areas shall be used exclusively for eating and drinking;
  5. Outdoor dining areas shall be located on private property only;
  6. Outdoor dining areas shall provide adequate circulation to accommodate normal pedestrian traffic and circulation for the outdoor dining area. Pedestrian clearance between tables and/or walls/fences shall be a minimum forty-two inches wide;
  7. The maximum area provided for outdoor dining (incidental) shall be limited to a maximum of four hundred square feet;
  8. Outdoor dining areas shall not be located where the incidental outdoor dining area would:
    - a. Encroach into the public right-of-way;
    - b. Eliminate any existing required parking spaces;
    - c. Remove or reduce existing landscaping (unless equivalent additional landscaping is provided elsewhere to the satisfaction of the City Planner);
    - d. Present a traffic or pedestrian hazard; or
    - e. Be located where the nearness, volume or speed of vehicular traffic would be incompatible with outdoor dining, in the opinion of the City Engineer;
  9. When calculating square footage for purposes of determining parking required per Chapter 21.44 of this code, space used for outdoor dining (incidental) pursuant to this section shall be excluded.

(Ord. NS-492 § 2, 1999; Ord. CS-102 § XLVI, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § XVIII, 2012)

#### **§ 21.26.015. Residential uses.**

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

- A. Residential uses shall be located above the ground floor of a multi-storied commercial building with one or more of the nonresidential uses permitted by Section 21.26.010 of this title located on the ground floor.

- B. Residential uses shall be subject to the requirements of the chapters of this title, which include but are not limited to, Chapter 21.26, Chapter 21.44, and in the case of airspace subdivisions, Chapter 21.47.
- C. Residential uses shall be constructed at a minimum density of 15 dwelling units per acre, per Table 2-4 of the general plan land use and community design element, subject to approval of a site development plan processed in accordance with Chapter 21.06 of this title.
1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.
  2. Residential uses shall be secondary and accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the site development plan.

- D. Residential uses shall include residential care facilities (serving six or fewer persons), supportive housing, and transitional housing.

(Ord. CS-172 § III, 2012; Ord. CS-191 § XIV, 2012; Ord. CS-249 § XII, 2014; Ord. CS-287 § 2, 2015)

#### **§ 21.26.020. Limitations on permitted uses.**

Every nonresidential use permitted shall be subject to the following conditions and limitations:

1. All uses shall be conducted wholly within a building except such uses as gasoline stations, electrical transformer substations, nurseries for sale of plants and flowers and other enterprises customarily conducted in the open;
2. Products made incident to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing, processing and treatment of products permitted herein;
3. Storage shall be limited to accessory storage of commodities sold at retail on the premises.

(Ord. 9060 § 1001; Ord. 9224 § 2, 1969; Ord. NS-439 § 3, 1998; Ord. NS-492 § 3, 1999; Ord. CS-172 § IV, 2012)

#### **§ 21.26.030. Building height.**

- A. Except as otherwise provided in this section, no building within the C-1 zone shall exceed a height of 35 feet, including the protrusions described in Section 21.46.020.
- B. Purely architectural features such as flagpoles, steeples or architectural towers may be permitted to a maximum of 45 feet through approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that the decision-making authority makes the specific findings that the protruding architectural features:
1. Do not function to provide usable floor area;
  2. Do not accommodate and/or screen building equipment;
  3. Do not adversely impact adjacent properties; and
  4. Are necessary to ensure a building's design excellence.

(Ord. 9060 § 1002; Ord. NS-180 § 16, 1991; Ord. NS-240 § 2, 1993; Ord. CS-178 § XIX, 2012)

**§ 21.26.040. Front yard.**

No front yard shall be provided except as may be required by a precise plan.  
(Ord. 9060 § 1003)

**§ 21.26.050. Side yards.**

Unless otherwise required by a precise plan, no side yard need be provided.  
(Ord. 9060 § 1004)

**§ 21.26.060. Placement of buildings.**

On any lot, the rear lot line of which abuts property in any "R" zone and no alley intervenes, no buildings shall be erected closer than 10 feet to the rear lot line; provided further, if such a lot abuts upon an alley, no building shall be erected closer than five feet to the rear lot line of such lot.  
(Ord. 9060 § 1005)

**CHAPTER 21.27  
OFFICE ZONE**

**§ 21.27.010. Intent and purpose.**

The office zone establishes regulations for the development of professional offices and closely related commercial uses. This zone is intended for exclusive office use but limited commercial may be permitted in certain circumstances. This zone may be utilized as a buffer between higher intensity commercial uses and residential development.

(Ord. 9698 § 1, 1983)

**§ 21.27.020. Permitted uses.**

- A. In an O zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this office zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 1 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accountants	X		
Administrative and executive offices	X		
Advertising agencies	X		
Alcoholic treatment centers		2	
Architects, planners and engineers	X		

Use	P	CUP	Acc
Athletic clubs, gymnasiums, health clubs, and physical conditioning businesses		1	
Attorneys	X		
Banks and other financial institutions without drive-thru facilities	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)	X		
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Commercial artists	X		
Company and corporate headquarters	X		
Delicatessen (defined: Section 21.04.106)	X		
Dentists, doctors, chiropractors and incidental related uses such as pharmacies (prescription only), biochemical, x-ray laboratories, medical offices and clinics (excluding hospitals)	X		
Drive-thru facilities (excluding restaurants)		1	
Educational facilities, other (defined: Section 21.04.137)		1	
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Electronic data processing and record keeping services	X		
Fairgrounds		3	
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)		1	
General contractor (offices only, no equipment or material storage)	X		
Government offices	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Hospitals (defined: Section 21.04.170)		2	
Hospitals (mental) (defined: Section 21.04.175)		2	
Use	P	CUP	Acc
Hotels and motels (subject to Section 21.42.140(B)(80))		3	
Insurance agencies and services	X		
Labor union offices (no hiring halls)	X		
Management consultants	X		

Use	P	CUP	Acc
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	1		
Offices, business and professional, including incidental commercial facilities such as blueprint and photocopy shops and duplicating services	X		
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)			X
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)	1		
Photographers	X		
Professional care facilities (defined: Section 21.04.295)	2		
Public meeting halls, exhibit halls, and museums	2		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Radio/television/microwave/broadcast station/tower	2		
Real estate and related services	X		
Recreation facilities	1		
Restaurants (bona fide public eating establishment) (defined: Section 21.04.056)	1		
Satellite television antennae (subject to Section 21.53.130—21.53.150)			X
Signs (subject to this chapter and Chapter 21.41)			X
Stadiums	3		
Stockbrokers	X		
Title and trust companies	X		
Transit passenger terminals (bus and train)	2		
Travel agencies	X		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)	1		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))	2		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		

**Note:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9698 § 1, 1983; Ord. 9785 § 16, 1986; Ord. 9804 § 6, 1986; Ord. NS-675 § 76, 2003; Ord. NS-791 § 20, 2006; Ord. CS-102 §§ XLVIII—LI, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXI, 2012; Ord. CS-189 §§ XXV, XXVI, 2012; Ord. CS-224 § XXIII, 2013; Ord. CS-225 § III, 2013; Ord. CS-287 § 8, 2015)

#### **§ 21.27.040. Minor site development plan required.**

Approval of a minor site development plan processed according to the provisions of Chapter 21.06 of this title shall be required for any development in the O zone.

(Ord. 9698 § 1, 1983; Ord. NS-409 § 14, 1997; Ord. CS-178 § XXII, 2012)

#### **§ 21.27.050. Development standards.**

A. The following development standards shall apply to all new construction, development or subdivision in the O zone:

1. Lot Area. The minimum area of any newly created lot shall be 10,000 square feet except that this requirement shall not be construed to prohibit condominium or planned unit developments approved pursuant to Chapter 21.47. This zone may be applied to existing lots of less than 10,000 square feet when it can be found that the lots are suitable in size and shape to accommodate development as permitted in the O zone.
2. Lot Width. Every newly created lot shall have a width of not less than 75 feet at the rear line of the required front yard.
3. Building Height. Except as otherwise provided in this section, no building within the O zone shall exceed a height of 35 feet, and allowed height protrusions as described in Section 21.46.020 shall not exceed a height of 45 feet. Additional building height up to a maximum of 45 feet may be permitted through approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
  - a. All required setbacks shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond 35 feet. The additional setback area will be maintained as landscaped open space; and
  - b. The allowed height protrusions as described in Section 21.46.020 do not exceed a height of 45 feet; with the exception of architectural features such as flagpoles, steeples or architectural towers which may be permitted up to 55 feet if the decision-making authority makes the specific findings that the protruding architectural features:
    - i. Do not function to provide usable floor area;
    - ii. Do not accommodate and/or screen building equipment;
    - iii. Do not adversely impact adjacent properties; and
    - iv. Are necessary to ensure a building's design excellence.
4. Setbacks. Every lot shall provide required yards, measured from the property line as follows:

	<b>Driveways/ Parking</b>	<b>1 Story Building</b>	<b>2 or more stories up to 35 feet<sup>1</sup></b>
Front yard	10'	15'	20'
Front yard on an arterial	15'	20'	30'
Front yard on a prime arterial	30'	40'	50'
Street side yard	10'	15'	20'
Side yard on an arterial	15'	20'	30'
Side yard on a prime arterial	30'	40'	50'
Interior side yard	5'	10'	10'
Rear yard	5'	10'	10'

**Notes:**

- 1 Buildings above thirty-five feet shall be set back an additional distance pursuant to subsection A.3 of this section.
  - a. Setbacks for parking may be reduced with construction of a six-foot solid masonry wall and appropriate landscape buffer on a rear or interior side yard only.
  - b. Through lots shall be considered to have two front yards and shall observe setbacks accordingly.
5. Permitted Intrusions. The following intrusions only may be permitted within the required setbacks:
  - a. Pedestrian walkways;
  - b. Landscaping;
  - c. Planters;
  - d. Fences or walls;
  - e. Approved areas of ingress and egress;
  - f. Approved monument signs;
  - g. Public and employee recreational facilities as approved by the City Planner;
  - h. Architectural projections such as eaves, sunscreens, columns and buttresses may extend six feet into any setback thirty feet and greater and three feet into any setback less than thirty feet.
6. Landscaping.
  - a. All landscaping shall comply with the city landscape guidelines manual. All landscaped areas shall be planted with a combination of trees, shrubs and groundcover. All landscaped areas shall be served by a permanent irrigation system including bubblers or sprinklers. Prior to approval of a building permit, each applicant shall submit a landscape and irrigation plan for the approval of the City Planner. All approved improvements shall be

installed prior to occupancy of the building.

- b. All setback areas shall be planted with plant species consistent with the landscape guidelines manual. Variations in ground plane by use of undulating mounding is encouraged to screen parking areas and to enhance the landscaping and building architecture. Landscaping along arterials should comply with the city's streetscaping program.
  - c. The use of decorative impervious surfaces for up to forty percent of the required yard areas for visual enhancement, pedestrian or employee recreational use may be permitted through a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title.
  - d. A minimum of ten percent of that portion of the site devoted to uncovered parking shall be landscaped. Landscaping shall be designed so as to offer relief from the monotony of rows of parked cars, and to create an overhead canopy. A minimum of one fifteen-gallon tree per four parking stalls shall be required in the parking area. All exposed parking areas shall be screened with landscaping, contouring and mounding.
7. Building Coverage.
    - a. For developments which utilize surface parking, all structures shall not cover more than fifty percent of the lot on which they are located.
    - b. For developments which include a parking structure or parking is located within or under the building it serves, the total coverage of all structures shall not exceed seventy-five percent of the lot. This provision shall apply only if seventy-five percent of the required parking is located in the parking structure or within or under the building it serves.
  8. Signs. All signs proposed in the O zone shall comply with Chapter 21.41 of this title.
  9. Walls and Fences. A solid masonry wall, six feet in height, shall be constructed along the common lot line with any residentially zoned property, except in the front yard where the wall shall be reduced to forty-two inches in height. Walls and fences up to a height of six feet are permitted except that no wall or fence shall be erected in any front yard setback in excess of forty-two inches and that all walls and fences shall observe a minimum setback of ten feet from the property line for side yard on a street. Chain link, barbed wire razor ribbon or other similar fences are specifically not permitted.
  10. Lighting. Exterior lighting is required for all employee and visitor parking areas, walkways, and building entrances and exits. Light sources shall be designed to avoid direct or indirect glare to any off-site properties or public rights-of-way.
  11. Roof Appurtenances. All roof appurtenances, including air conditioners, shall be architecturally integrated and shielded from view and the sound buffered from adjacent properties and streets, to the satisfaction of the City Planner.
  12. Trash Enclosures. Trash receptacle areas shall be enclosed by a six-foot-high masonry wall with gates pursuant to city standards.
  13. Loading Areas. All loading areas shall be oriented and/or screened so as to be unobtrusive from the adjacent streets or properties.

14. **Parking Requirements.** Off-street parking shall be provided pursuant to Chapter 21.44 of this title.
15. **Employee Eating Areas.** Outdoor eating facilities for employees shall be provided outside all industrial/office buildings containing more than five thousand square feet, as follows, except as noted below:
  - a. A minimum of three hundred square feet of outdoor eating facilities shall be provided for each five thousand square feet of building area. Credit towards the required amount of square footage will be given for indoor eating facilities on a 1:1 basis, as determined by the City Planner.
  - b. The area shall be easily accessible to the employees of the building.
  - c. The area shall be located such that a sense of privacy is apparent.
  - d. The area shall be landscaped and provided with attractive outdoor furniture, i.e., metal, wood, or concrete picnic tables, benches/chairs and trash receptacles.
  - e. The site size, location, landscaping and furniture required above shall be approved as part of the required discretionary action (tentative map, site development plan, planned unit development, etc.) required under Title 21 of this code. If no discretionary permit is required, a site plan showing the location, landscaping and facilities required above shall be submitted to the City Planner for approval prior to the issuance of any building permits.
  - f. This section shall not apply to industrial/office buildings which are located within one thousand feet of an approved mini-park or a city park which is accessible by walking as determined by the City Planner.

(Ord. 9698 § 1, 1983; Ord. 9786 § 1, 1986; Ord. NS-180 §§ 17, 23, 1991; Ord. NS-204 § 9, 1992; Ord. NS-240 § 3, 1993; Ord. NS-675 § 76, 2003; Ord. CS-102 §§ LIV, LV, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXII, 2012)

**CHAPTER 21.28  
C-2 GENERAL COMMERCIAL ZONE**

**§ 21.28.010. Permitted uses.**

- A. In a C-2 zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this C-2 general commercial zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 1 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Adult and/or senior day care and/or recreation facility (private or non-private)		1	
Alcoholic treatment centers		2	
Amusement parks		3	
Any use permitted in the C-1 zone	X		
Aquaculture (defined: Section 21.04.036)		1	
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))		1	
Arcades—coin-operated (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)		1	

Use	P	CUP	Acc
Athletic clubs, gyms, health clubs, and physical conditioning businesses	X		
Auto repair	X		
Bars, cocktail lounges (subject to Section 21.42.140(B)(20); defined: Section 21.04.041) (see note 1 below)		2	
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Blueprinting, photocopying and duplicating services	X		
Bowling alley (subject to Section 21.42.140(B)(35); defined: Section 21.04.057)		1	
Breweries with retail accessory use, including tasting rooms		3	
Car wash (subject to Section 21.42.140(B)(45))		1	
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Columbariums and mausoleums (not within a cemetery)		2	
Commercial printing and photoengraving	X		
Delicatessen (defined: Section 21.04.106)	X		
Drive-thru facilities (excluding restaurants)		1	
Educational facilities, other (defined: Section 21.04.137)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Fairgrounds		3	
Farmworker housing complex, small (subject to Section 21.10.125) (defined: Section 21.04.148.4)		1	
Gas stations (subject to Section 21.42.140(B)(65))		2	
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Hospitals (defined: Section 21.04.170)		2	
Hospitals (mental) (defined: Section 21.04.175)		2	
Hotels and motels (subject to Section 21.42.140(B)(80))		3	
Liquor store (subject to Section 21.42.140(B)(85); defined: Section 21.04.203)		1	
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		1	
Mortuaries		2	

Use	P	CUP	Acc
Nightclubs, dance clubs, and other establishments that play live or recorded music or make regular use of amplified sound (see note 1 below)	3		
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)		X	
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Parking facilities (primary use; i.e., day uses, short-term, non-storage)	1		
Pawnshops (subject to Section 21.42.140(B)(105))	3		
Pet shops	X		
Pool halls, billiard parlors (subject to Section 21.42.140(B)(110); defined: Section 21.04.292)	1		
Public meeting halls, exhibit halls, and museums	2		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Racetracks	3		
Radio/television/microwave/broadcast station/tower	2		
Recreation facilities	1		
Recycling collection facilities, large (subject to Chapter 21.105 of this title) (defined: Section 21.105.015)	2		
Recycling collection facilities, small (subject to Chapter 21.105 of this title) (defined: Section 21.105.015)	1		
Religious reading room	1		
Residential uses (subject to Section 21.28.015 of this title)	X		
Retail, wholesale or service businesses catering directly to the consumer	X		
Satellite television antennae (subject to Sections 21.53.130 through 21.53.140) (defined: Section 21.04.302)		X	
Signs (subject to Chapter 21.41)		X	
Stadiums	3		
Tattoo parlors (subject to Section 21.42.140(B)(140))	3		
Theaters (motion picture or live) — Indoor	2		
Theaters, stages, amphitheaters — Outdoor	3		
Thrift shops (subject to Section 21.42.140(B)(150))	1		
Transit passenger terminals (bus and train)	2		
Upholstering shops	X		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)	1		

Use	P	CUP	Acc
Welfare and charitable services (private or semi-private) with no permanent residential uses (e.g., Goodwill, Red Cross, Traveler's Aid)	1		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))	2		
Wireless communication facilities (subject to Section 21.42.140(B)(165))	1 / 2		
Youth organizations (e.g., Boy Scouts, Girl Scouts, Boys and Girls Clubs, YMCA, YWCA, except lodgings)	1		

**Note:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9060 § 1100; Ord. 9356 § 1, 1973; Ord. 9426 § 3, 1975; Ord. 9480 § 1, 1977; Ord. 9527 § 5, 1979; Ord. 9674 § 2, 1983; Ord. 9785 § 17, 1986; Ord. 9804 § 6, 1986; Ord. NS-791 § 21, 2006; Ord. CS-102 §§ LVII—LIX, 2010; Ord. CS-164 § 10, 2011; Ord. CS-172 § VI, 2012; Ord. CS-189 §§ XXVII, XXVIII, 2012; Ord. CS-224 § XXIV, 2013; Ord. CS-225 § IV, 2013; Ord. CS-384 § 21, 2020)

**§ 21.28.015. Residential uses in the C-2 zone.**

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

- A. Residential uses shall be located above the ground floor of a multi-storied commercial building with one or more of the nonresidential uses permitted by Section 21.28.010 of this title located on the ground floor.
- B. Residential uses shall be subject to the requirements of the chapters of this title, which include but are not limited to, Chapter 21.28, Chapter 21.44, and in the case of airspace subdivisions, Chapter 21.47.
- C. Residential uses shall be constructed at a minimum density of 15 dwelling units per acre, per Table 2-4 of the general plan land use and community design element, subject to approval of a site development plan processed in accordance with Chapter 21.06 of this title.
  1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.
  2. Residential uses shall be secondary and accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the site development plan.
- D. Residential uses shall include residential care facilities (serving six or fewer persons), supportive housing, and transitional housing.

(Ord. CS-172 § VII, 2012; Ord. CS-191 § XV, 2012; Ord. CS-249 § XIII, 2014; Ord. CS-287 § 3, 2015)

**§ 21.28.020. Limitations on permitted uses.**

Every nonresidential use permitted in the C-2 zone shall be subject to the following conditions and limitations:

1. All uses shall be conducted wholly within a building except such uses as gasoline stations, electrical transformer substations, horticultural nurseries and other enterprises customarily conducted in the open.
2. Products made incident to a permitted use and manufactured or processed on the premises shall be sold only at retail on the premises, and not more than five persons may be employed in such manufacturing, processing and treatment of products.
3. Storage shall be limited to accessory storage of commodities sold at retail on the premises.

(Ord. 9060 § 1101; Ord. 9224 § 2, 1969; Ord. NS-439 § 6, 1998; Ord. NS-492 § 6, 1999; Ord. CS-172 § VIII, 2012)

**§ 21.28.030. Building height.**

- A. Except as otherwise provided in this section, no building in the C-2 zone shall exceed a height of thirty-five feet, and allowed height protrusions as described in Section 21.46.020 shall not exceed a height of forty-five feet.
- B. Building height above thirty-five feet may be permitted, subject to the following:
  1. Building height up to a maximum of forty-five feet may be permitted through approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
    - a. The project complies with the provisions of subsection B.3 of this section.
    - b. The allowed height protrusions as described in Section 21.46.020 do not exceed a height of forty-five feet; with the exception of architectural features such as flagpoles, steeples or architectural towers, which may be permitted up to fifty-five feet if the decision-making authority makes the specific findings that the protruding architectural features:
      - i. Do not function to provide usable floor area;
      - ii. Do not accommodate and/or screen building equipment;
      - iii. Do not adversely impact adjacent properties; and
      - iv. Are necessary to ensure a building's design excellence.
  2. Building height above forty-five feet up to a maximum of fifty-five feet may be permitted through approval of a site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
    - a. The project complies with the provisions of subsection B.3 of this section.
    - b. The allowed height protrusions as described in Section 21.46.020 do not exceed the height authorized by the decision-making authority.
    - c. The decision-making authority finds that:

- i. The height of the building(s) will not adversely affect surrounding properties; and
  - ii. The building(s) will not be unduly disproportional to other buildings in the area.
3. All required setbacks shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet. The additional setback area shall be maintained as landscaped open space.

(Ord. 9060 § 1102; Ord. 9489 § 1, 1977; Ord. NS-180 § 18, 1991; Ord. NS-240 § 4, 1993; Ord. CS-178 § XXIII, 2012)

**§ 21.28.040. Front yard.**

No front yard shall be provided except as may be required by a precise plan.

(Ord. 9060 § 1103)

**§ 21.28.050. Placement of buildings.**

On any lot, the rear lot line of which abuts property in any R zone and no alley intervenes, no building shall be erected closer than ten feet to the rear lot line; provided further, if such a lot abuts upon an alley, no building shall be erected closer than five feet to the rear lot line of such lot.

(Ord. 9060 § 1104)

**CHAPTER 21.29  
C-T COMMERCIAL TOURIST ZONE**

**Note: Prior ordinance history: Ord. Nos. 9478, 9674, 9785, 9800, NS-18, NS-180, NS-240, NS-439, and NS-492.**

**§ 21.29.010. Intent and purpose.**

- A. The intent and purpose of the C-T commercial tourist zone is to:
1. Implement the travel/recreation commercial (TR) land use designation of the Carlsbad general plan;
  2. Provide for the development of tourist-oriented attractions and commercial uses that serve the travel and recreational needs of tourists, residents, as well as employees of business and industrial centers; and
  3. Provide regulations and development standards to ensure such uses are compatible with and designed to protect surrounding properties, ensure safe traffic circulation, and promote economically viable tourist-oriented areas of the city.

(Ord. NS-769 § 2, 2005)

**§ 21.29.020. Location.**

It is intended that the C-T commercial tourist zone be placed on properties located near major transportation corridors or recreation areas as designated by the general plan and any applicable specific plans.

(Ord. NS-769 § 2, 2005)

**§ 21.29.030. Permitted uses.**

- A. In the C-T zone, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "offices" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this C-T zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A**  
**Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates use is permitted.

"CUP" indicates use is permitted with approval of a conditional use permit.

1 = Administrative hearing process

2 = Planning Commission hearing process

3 = City Council hearing process

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory uses/structures, which are customarily appurtenant to a permitted use (e.g., incidental storage facilities) (see note 1, below) (defined: Section 21.04.020)			X
Airports	3		
Amusement parks	3		
Aquaculture (defined: Section 21.04.036)	2		
Aquariums	2		
Arcades (coin-operated) (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)	1		
Art galleries	X		
Athletic clubs, gyms, health clubs	X		
ATM kiosks (see note 1, below)			X
Automobile rental (no auto repair)	X		
Bait shops (accessory to a recreation facility)	1		
Bars, cocktail lounges (subject to Section 21.42.140(B)(20); defined: Section 21.04.041)	2		
Bed and breakfasts (subject to Section 21.42.140(B)(25); defined: Section 21.04.046)	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Boat launching/docking facilities	2		
Botanical gardens	X		
Bowling alley, subject to Section 21.42.140(B)(35); defined: Section 21.04.057)	2		
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Car wash (accessory to an automobile service station), subject to Section 21.42.140(B)(45)	2		

Use	P	CUP	Acc
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Commercial artisan studios/retail (e.g., jewelry arts, painting, pottery, glass blowing, etc.)	X		
Cultural activities and facilities	2		
Delicatessen (defined: Section 21.04.106)	X		
Drive-thru facilities (not restaurant)	2		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Entertainment activities and facilities	2		
Fairgrounds	3		
Farmers markets	2		
Farmworker housing complex, small (subject to Section 21.10.125) (defined: Section 21.04.148.4)	1		
Florists	X		
Food stores (specialty) (e.g., ice cream, candy, deli, bakery, pastry shop, fish market)	X		
Gas stations (subject to Section 21.42.140(B)(65))	2		
Golf courses (see note 2, below)	2		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Grocery/produce/convenience stores (not to exceed 2,500 sq. ft.)	X		
Hotels/motels	X		
Mobile buildings (temporary) (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
News/magazine stands (see note 1, below)		X	
Nightclubs, dance clubs, and other establishments that play live or recorded music or make regular use of amplified sound	2		
Outdoor dining (incidental), subject to Section 21.26.013	X		
Packing/sorting sheds > 600 square feet, subject to Section 21.42.140(B)(70)	1		
Parking facilities (primary use) (i.e. day use, short-term, nonstorage)	2		
Photography equipment sales/services (cameras, supplies, film development)	X		
Pool halls/billiard parlors (subject to Section 21.42.140(B)(110); defined: Section 21.04.292)	2		
Produce stands	1		
Public meeting halls, exhibit halls, and museums	2		

Use	P	CUP	Acc
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Racetracks	2		
Radio/television/microwave/broadcast station/tower	2		
Recreation facilities	2		
Recycling collection facilities (small) (subject to Chapter 21.105; defined: Section 21.05.015)	1		
Recycling collection facilities (large) (subject to Chapter 21.105; defined: Section 21.05.015)	2		
Restaurants, cafes, coffee shops, including take-out only (no drive-thru)	X		
Restaurants (located adjacent to residentially developed or designated property, no drive-thru)	2		
Retail (specialty - catering to tourists) (e.g., antique stores, bookstores, souvenir/gift/novelty shops, specialty apparel shops)	X		
Satellite TV antennas (subject to Sections 21.53.130 through 21.53.150 [see note 1, below]; defined: Section 21.04.302)			X
Services (personal), limited to drycleaners, laundromats, and personal grooming (e.g., barbershops, beauty salons, day spas)	X		
Signs, subject to Chapter 21.41 (see note 1, below) (defined: Section 21.04.305)			X
Sporting equipment/apparel sales/rental	X		
Stadiums	3		
Theaters (motion picture or live) - Indoor	2		
Theaters, stages, amphitheaters - Outdoor	2		
Time-share projects (subject to Section 21.42.140(B)(155); defined: Section 21.04.357)	3		
Tourist information centers	X		
Transit passenger terminals (bus and train)	2		
Travel agencies	X		
Vacation rental office	X		
Video rental/sales	X		
Windmills (exceeding height limit) (subject to Section 21.42.140(B)(160))	2		
Wireless communication facilities (subject to Section 21.42.140(B)(165))	1 / 2		
Zoos (private) (subject to Section 21.42.140(B)(170))	2		

**Notes:**

1. Accessory uses shall be developed as an integral part of a permitted use within or on the same structure or parcel of land.
2. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.

(Ord. NS-769 § 2, 2005; Ord. NS-791 § 22, 2006; Ord. CS-164 § 10, 2011; Ord. CS-189 §§ XXIX, XXX, 2012)

**§ 21.29.040. Building height.**

- A. No building in the C-T zone shall exceed a height of thirty-five feet or three levels, and allowed height protrusions as described in Section 21.46.020 shall not exceed forty-five feet. Additional building height may be permitted to a maximum of forty-five feet through a site development plan approved by the City Council provided that:
  1. The building does not contain more than three levels;
  2. All required setbacks shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet. The additional setback area will be maintained as landscaped open space;
  3. The building conforms to the requirements of Section 18.04.170 of this code; and
  4. The allowed height protrusions as described in Section 21.46.020 do not exceed forty-five feet; with the exception of architectural features such as flagpoles, steeples or architectural towers which may be permitted up to fifty-five feet if the council makes the specific findings that the protruding architectural features:
    - a. Do not function to provide usable floor area;
    - b. Do not accommodate and/or screen building equipment;
    - c. Do not adversely impact adjacent properties; and
    - d. Are necessary to ensure a building's design excellence.

(Ord. NS-769 § 2, 2005)

**§ 21.29.050. Placement of buildings.**

On any lot where the side or rear lot line abuts property in any R zone and no alley intervenes, no building shall be erected closer than ten feet to such lot line; provided, further, if such a lot abuts upon an alley, no building shall be erected closer than five feet to the rear lot line of such lot.

(Ord. NS-769 § 2, 2005)

**CHAPTER 21.30  
C-M HEAVY COMMERCIAL—LIMITED INDUSTRIAL ZONE**

**§ 21.30.010. Permitted uses.**

- A. In a C-M zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this C-M heavy commercial—limited industrial zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code. "P" indicates use is permitted. (See notes 2 and 3 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See notes 2 and 3 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Adult businesses (subject to Chapters 8.60 and 21.43)	X		
Airports		3	
Alcoholic treatment centers		2	
Amusement parks		3	
Any use permitted in other commercial zones is permitted in the C-M zone, with exceptions as set out in note 1, below	X		
Aquaculture (defined: Section 21.04.036)	1		
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))	1		
Arcades—coin-operated (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)		1	

Use	P	CUP	Acc
Assembly of electrical appliances such as: (A) electronic instruments and devices, (B) radios and phonographs, including manufacture of small parts, such as coils	X		
Auction houses or stores	X		
Auto storage/impound yards (i.e., overnight product storage) (subject to Section 21.42.140(B)(18))		1	
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Boat building (limited to those craft which may be transported over a state highway without permit)	X		
Body and fender works, including painting	X		
Book printing and publishing	X		
Bookbinding	X		
Bowling alley (subject to Section 21.42.140(B)(35); defined: Section 21.04.057)		1	
Breweries	X		
Breweries with retail accessory use, including tasting rooms, up to 20% of the gross floor area of the building or suite (as applicable) or 2,000 square feet, whichever is less (see Note 4 below)		3	
Building material storage yards	X		
Cabinet shops	X		
Carpet cleaning plants	X		
Ceramic products, manufacture of, using only previously pulverized clay and kilns fired only by electricity or low pressure gas	X		
Child day care center (subject to Chapter 21.83; defined: Section 21.04.086)		2	
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Cleaning and dyeing plants	X		
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Columbariums and mausoleums (not within a cemetery)		2	
Delicatessen (defined: Section 21.04.106)	X		
Drive-thru facilities (excluding restaurants)		1	
Dwelling on the same lot on which a factory is located when such dwelling is used exclusively by a caretaker or superintendent of such factory and his or her family.	X		
When such dwelling is established, all required yards in the R-3 zone shall be maintained			

Use	P	CUP	Acc
Educational facilities, other (defined: Section 21.04.137)	1		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Fairgrounds	3		
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	1		
Feed and fuel yards	X		
Frozen food lockers	X		
Gas stations (subject to Section 21.42.140(B)(65))	2		
Glass studios, staining, edging, beveling and silvering in connection with sale of mirrors and glass for decorating purposes	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Hazardous waste facility (subject to Section 21.42.140(B)(75); defined: Section 21.04.167)	3		
Hospital, industrial emergency (not full hospital or mental hospital)	X		
Kennels (defined: Section 21.04.195)	1		
Laboratories, experimental, motion picture, testing	X		
Laundries	X		
Lumber yards (no planing mills and burners)	X		
Machine shops	X		
Mini-warehouses/self storage	2		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	1		
Mortuaries	2		
Musical instruments, manufacture of	X		
Newspaper/periodical printing and publishing	X		
Oil and gas facilities (on-shore) (subject to Section 21.42.140(B)(95))	3		
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)			X
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Parcel service delivery	X		
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)	1		
Pawnshops (subject to Section 21.42.140(B)(105))	3		
Plumbing shops and plumbing shop supply yards	X		
Pool halls, billiard parlors (subject to Section 21.42.140(B)(110); defined: Section 21.04.292)	2		

Use	P	CUP	Acc
Public scales	X		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)		2	
Racetracks		3	
Radio/television/microwave/broadcast station/tower		2	
Recreation facilities		1	
Recreational vehicle storage (subject to Section 21.42.140(B)(120); defined: Section 21.04.299)		1	
Recycling collection facilities, large (subject to Chapter 21.105; defined: Section 21.105.015)		2	
Recycling collection facilities, small (subject to Chapter 21.105; defined: Section 21.105.015)		1	
Recycling process/transfer facility		2	
Restaurants (bona fide public eating establishment) (defined: Section 21.04.056)		1	
Satellite antennae (>1 per use) (defined: Section 21.04.302)		1	
Satellite television antennae (subject to Sections 21.53.130 through 21.53.140; defined: Section 21.04.302)			X
Sheet metal shops	X		
Signs (subject to Chapter 21.41)			X
Stadiums		3	
Tattoo parlors (subject to Section 21.42.140(B)(140))		3	
Theaters (motion picture or live)—Indoor		2	
Thrift shops (subject to Section 21.42.140(B)(150))		1	
Tire rebuilding, recapping and retreading	X		
Transit passenger terminals (bus and train)		2	
Transit storage (ex. rolling stock)		2	
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)		1	
Wholesale businesses, storage buildings and warehouses	X		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))		2	
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	

**Notes:**

1. Any use permitted in the commercial zones is allowed in the C-M zone, except: (A) Hotels and motels, (B) Hospitals (however, industrial emergency hospitals are permitted), (C) Residential care facilities, (D) Professional care facilities, (E) Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business, (F) Institutions of a philanthropic or eleemosynary nature, including correctional and mental.
2. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.
3. For properties which are located within the boundaries of the Carlsbad Research Center (CRC) Specific Plan, please refer to the CRC Specific Plan for a list of allowable uses, setback requirements, etc.
4. The retail use shall be accessory to the permitted use and wholly contained within the building. All products for retail sale shall be produced, distributed, and/or warehoused on the premises. No outdoor display of merchandise or retail sales shall be permitted unless customarily conducted in the open. Parking for the accessory retail use shall be determined based on the parking requirement for the primary use pursuant to CMC Chapter 21.44.

(Ord. 9060 § 1200; Ord. 9252 § 2, 1970; Ord. 9455 § 7, 1976; Ord. 9502 § 7, 1978; Ord. 9674 § 2, 1983; Ord. 9785 § 19, 1986; Ord. 9804 § 6, 1986; Ord. NS-87 § 3, 1989; Ord. NS-208 § 3, 1992; Ord. NS-791 § 23, 2006; Ord. CS-063 § III, 2009; Ord. CS-102 §§ LXII—LXIV, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 §§ XXXI, XXXII, 2012; Ord. CS-224 § XXV, 2013; Ord. CS-225 §§ V, VI, 2013; Ord. CS-326 § 5, 2017)

**§ 21.30.020. Limitations on permitted uses.**

Every use permitted shall be subject to the following conditions and limitations:

- (1) When an industrial area fronts or sides upon a thoroughfare, the opposite side of which is classified for "R" purposes, there shall be maintained a building line setback of ten percent of the average depth of the lots in each block of such industrial area, provided such setback shall not be less than ten feet nor exceed fifty feet in depth. A minimum strip of landscaping approved by the Planning Commission shall be maintained along all frontage of the setback area. In addition thereto, the following uses may be permitted in such setback area:
  - (A) Landscaping,
  - (B) Motor vehicle parking (only if surfaced in such manner as to eliminate dust or mud),
  - (C) Employees recreational area without structures,
  - (D) Driveways (only if surfaced in such manner as to eliminate dust or mud),
  - (E) Railroad spur tracks, excluding storage of railroad motive power equipment or rolling stock,
  - (F) An ornamental open type fence not over eight feet in height, made of material such as woven wire, wood, welded wire, chain link or wrought iron;
- (2) All uses shall be conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall or uniformly painted fence not less than five feet in height, except such

uses as gasoline stations, electrical transformer substations, horticultural nurseries and other enterprises customarily conducted in the open, provided such exclusion shall not include storage yards, contractor's yards and like uses;

- (3) All operations conducted on the premises shall not be objectionable by reason of noise, odor, dust, mud, smoke, vibration or other similar causes.

(Ord. 9060 § 1201; Ord. NS-439 § 9, 1998; Ord. NS-492 § 9, 1999)

#### **§ 21.30.030. Building height.**

- A. Except as otherwise provided in this section, no building in the C-M zone shall exceed a height of thirty-five feet, and allowed height protrusions as described in Section 21.46.020 shall not exceed a height of forty-five feet.
- B. Building height above thirty-five feet may be permitted subject to the following:
1. Building height up to a maximum of forty-five feet may be permitted through the approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
    - a. The project complies with the provisions of subsection B.3 of this section.
    - b. The allowed height protrusions as described in Section 21.46.020 do not exceed a height of forty-five feet; with the exception of architectural features such as flagpoles, steeples or architectural towers, which may be permitted up to fifty-five feet if the decision-making authority makes the specific findings that the protruding architectural features:
      - i. Do not function to provide usable floor area;
      - ii. Do not accommodate and/or screen building equipment;
      - iii. Do not adversely impact adjacent properties; and
      - iv. Are necessary to ensure a building's design excellence.
  2. Building height above forty-five feet may be permitted through approval of a site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
    - a. The project complies with the provisions of subsection B.3 of this section.
    - b. The allowed height protrusions as described in Section 21.46.020 do not exceed the height authorized by the decision-making authority.
    - c. The decision-making authority finds that:
      - i. The height of the building(s) will not adversely affect surrounding properties; and
      - ii. The building(s) will not be unduly disproportional to other buildings in the area.
  3. All required setbacks shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet. The additional setback area shall be maintained as landscaped open space.

(Ord. 9060 § 1202; Ord. 9645 § 1, 1982; Ord. NS-180 § 20, 1991; Ord. NS-240 § 6, 1993; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXIV, 2012)

**§ 21.30.040. Front yard.**

No front yard shall be provided except as may be required by a precise plan.  
(Ord. 9060 § 1203)

**§ 21.30.050. Side yards.**

No side yards shall be provided except as may be required by a precise plan.  
(Ord. 9060 § 1204)

**§ 21.30.060. Placement of buildings.**

On any lot, the rear lot line of which abuts property in any "R" zone and no alley intervenes, no building shall be erected closer than ten feet to the rear lot line; provided further, if such a lot abuts upon an alley, no building shall be erected closer than five feet to the rear lot line of such lot.  
(Ord. 9060 § 1205)

**§ 21.30.070. Employee eating areas.**

Outdoor eating facilities for employees shall be provided outside all industrial/office buildings containing more than five thousand square feet, as follows, except as noted below:

- (1) A minimum of three hundred square feet of outdoor eating facilities shall be provided for each five thousand square feet of building area. Credit towards the required amount of square footage will be given for indoor eating facilities on a 1:1 basis, as determined by the City Planner.
- (2) The area shall be easily accessible to the employees of the building.
- (3) The area shall be located such that a sense of privacy is apparent.
- (4) The area shall be landscaped and provided with attractive outdoor furniture, i.e., metal, wood, or concrete picnic tables, benches/chairs and trash receptacles.
- (5) The site size, location, landscaping and furniture required above shall be approved as part of the required discretionary action (tentative map, site development plan, planned unit development, etc.) required under this title. If no discretionary permit is required, a site plan showing the location, landscaping and facilities required above shall be submitted to the City Planner for approval prior to the issuance of any building permits.
- (6) This section shall not apply to industrial/office buildings which are located within one thousand feet of an approved mini-park or a city park which is accessible by walking as determined by the City Planner.

(Ord. 9786 § 1, 1986; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXV, 2012)

**CHAPTER 21.31  
C-L LOCAL SHOPPING CENTER ZONE**

**§ 21.31.010. Intent and purpose.**

The intent and purpose of the C-L local shopping center zone is to:

- A. Implement the local shopping center (L) land use designation of the Carlsbad general plan;
- B. Assure that any site zoned C-L will be developed so as to provide a range of goods and services to meet the daily necessities and convenience of the residents of the neighborhoods in which the site is located;
- C. Assure that local shopping centers are developed consistent with adopted specific plans, master plans, and local facilities management plans;
- D. Assure that local shopping centers will be compatible with surrounding development and the local neighborhoods in which they are located;
- E. Provide opportunities for local shopping centers to supplement their principal function of providing local neighborhoods with daily goods and services through the inclusion of community-serving uses, residential uses, general offices, medical offices, public and semi-public facilities, and entertainment uses when such other uses are found by the city to be desirable and can be integrated into the form and function of the local shopping center; and
- F. Create a permit process through which proposals for new, expanded or redeveloped local shopping centers will be reviewed to assure that shopping centers comply with the intents and purposes stated herein, include superior and creative design and architecture, and conform with the city's objectives for the community's environment, health, safety, and welfare.

(Ord. NS-765 § 3, 2005; Ord. CS-178 § XXVII, 2012)

**§ 21.31.020. Definition: local shopping center.**

"Local shopping center" means a group of architecturally unified commercial establishments providing primarily neighborhood-serving goods and services, numbering at least three such establishments, built upon a site that is planned, developed, owned and managed as an operating unit related in its location, size, and type of shops to the trade area that it serves and with on-site parking in definite relationship to the types and total size of the stores. A local shopping center provides daily necessities and convenience goods and services needed by the neighborhood in which it is located. Therefore, it normally will have as major anchor tenants a grocery store and/or drug store or such combination of other establishments that function to provide equivalent goods and services, plus other secondary tenants. Other uses and tenants may supplement, but not replace, the local-serving nature of the center.

(Ord. NS-765 § 3, 2005)

**§ 21.31.030. Permitted uses.**

- A. In the C-L zone, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapters 21.42 and 21.50 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar

use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.

- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "offices" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this C-L zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A**  
**Uses Permitted in the C-L Zone**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates the use is permitted. (See note 5 below)

"CUP" indicates that the use is permitted with approval of a conditional use permit. (See note 5 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory buildings/structures, which are customarily appurtenant to a permitted use (ex. incidental storage facilities (see note 1, below) (defined: Section 21.04.020)			X
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X
Adult and/or senior day care and/or recreation facility (private or nonprivate)	1		
Alcoholic treatment center	2		
Arcades—coin-operated (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)	1		
Athletic clubs, gymnasiums, and health clubs	X		
Banks and other financial institutions without drive-thru facilities	X		
Bars, cocktail lounges (subject to Section 21.42.140(B)(20); defined: Section 21.04.041)	2		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Bowling alley (subject to Section 21.42.140(B)(35); defined: Section 21.04.057)	1		
Breweries with retail accessory use, including tasting rooms	3		
Car wash (subject to Section 21.42.140(B)(45))	1		
Child day care centers (subject to Chapter 21.83) (defined: Section 21.04.086)	X		

Use	P	CUP	Acc
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)	1		
Delicatessen (defined: Section 21.04.106)	X		
Drive-thru facilities (excluding restaurant)		1	
Drug paraphernalia store (subject to Section 21.42.140(B)(55))		3	
Educational facilities, other (defined: Section 21.04.137) (see note 2, below)	X		
Escort service (subject to Section 21.42.140(B)(60); defined: Section 21.04.141)		3	
Farmworker housing complex, small (subject to Section 21.10.125) (defined: Section 21.04.148.4)		1	
Gas stations (subject to Section 21.42.140(B)(65))		2	
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Kiosks, vending carts, and push carts			X
Liquor store (subject to Section 21.42.140(B)(85); defined: Section 21.04.203)		1	
Manufacturing/fabrication of goods (ancillary) (subject to Section 21.31.070) (see note 1, below)			X
Medical uses (excluding hospitals), including offices for medical practitioners, clinics, incidental laboratories, and pharmacies (prescription only)	X		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		1	
News/magazine stands (see note 1, below)			X
Nightclubs, dance clubs, and other establishments that play live or recorded music or make regular use of amplified sound		3	
Office uses, that provide services directly to consumers, including, but not limited to, banking, financial, insurance, and real estate services (see note 3, below)	X		
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)			X
Outdoor sales of seasonal agricultural goods (Christmas trees, pumpkins, and similar products) (subject to Section 21.31.060(B)) (see note 1, below)			X
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Pet shops/pet supplies	X		
Plant nurseries and nursery supply		1	
Pool halls, billiard parlors (subject to Section 21.42.140(B)(110); defined: Section 21.04.292)		2	

Use	P	CUP	Acc
Public meeting halls, exhibit halls, and museums	2		
Public/quasi-public buildings and facilities and accessory utility buildings/ facilities (defined: Section 21.04.297)	2		
Radio/television/microwave/broadcast station/tower	2		
Recreation facilities	1		
Recycling collection facilities, large (subject to Chapter 21.105; defined: Section 21.105.015)	2		
Recycling facilities, small (collection, temporary storage) (subject to Chapter 21.105; see also Section 21.31.080; defined: Section 21.105.015)	1		
Recycling, reverse vending machine (subject to Chapter 21.105; defined: Section 21.105.025) (see note 1, below)			X
Religious reading room (separate from church)	1		
Residential uses (subject to Section 21.31.065)	X		
Restaurants, cafes, and coffee shops, including take-out only service (excluding drivethru)	X		
Retail uses that provide goods sold directly to consumers, and focusing on the needs of the local neighborhood, including sales of liquor (see note 4, below)	X		
Satellite television antennas (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Services, provided directly to consumers, and focusing on the needs of the local neighborhood, including, but not limited to, personal grooming, dry cleaning, and tailoring services	X		
Signs (subject to Chapter 21.41)			X
Temporary building/trailer (construction) (subject to Section 21.53.110)	X		
Theaters (motion picture or live)—Indoor	2		
Theaters, stages, amphitheaters—Outdoor	3		
Thrift shops (subject to Section 21.42.140(B)(150))	1		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)	1		
Welfare and charitable services (private or semi-private) with no permanent residential uses (e.g., Goodwill, Red Cross, Traveler's Aid)	1		
Wireless communications facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Youth organizations (e.g., Boy Scouts, Girl Scouts, Boys and Girls Clubs, YMCA, YWCA, except lodgings)	1		

**Notes:**

1. Accessory buildings and structures and ancillary uses shall be developed as an integral part of a permitted use within or on the same structure or parcel of land.
2. Educational facilities, other. No individual educational facility shall occupy more than ten thousand square feet of gross leasable floor area within any local shopping center.
3. Offices. The total floor area of an office uses shall not exceed forty percent of the gross leasable floor area within any local shopping center.
4. Retail sales may also include those types of goods and services that are typically offered by "community" retail establishments. When "community" retail establishments are included in a local shopping center, they shall be subject to the following: the definition of a local shopping center, Section 21.31.020, and the function of the local shopping center land use class as described in the Carlsbad general plan.
5. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. NS-791 § 29, 2006; Ord. CS-102 §§ LXVI—LXVIII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-172 §§ X, XI, 2012; Ord. CS-178 § XXVIII, 2012; Ord. CS-189 §§ XXXIII, XXXIV, 2012; Ord. CS-224 § XXVI, 2013; Ord. CS-225 § VII, 2013; Ord. CS-384 § 21, 2020)

**§ 21.31.040. Site development plan for new local shopping centers.**

- A. A site development plan shall be required for the development of a new local shopping center. The site development plan shall be processed subject to Chapter 21.06 (Q qualified development overlay zone) of this title, as modified by this section.
- B. Mandatory Findings of Fact. In addition to the findings set out in Section 21.06.020(b) (Q qualified development overlay zone—findings), no site development plan for a local shopping center shall be approved unless the decision-making authority finds that the site, either by itself or in combination with another adjoining center, will provide the normal range of goods and services to meet the everyday needs of the local neighborhood, in keeping with the intent and purpose of both this zone and the local shopping center general plan designation. For the purpose of this section, "adjoining center" means that the second shopping center either abuts the subject center or is located on property immediately across a common street.

(Ord. NS-765 § 3, 2005; Ord. CS-178 § XXIX, 2012)

**§ 21.31.050. Redeveloping, remodeling, and expanding existing shopping centers.**

- A. Except as otherwise provided in this section, a proposal to redevelop, remodel or expand an existing local shopping center shall be processed through a site development plan or a site development plan amendment.
- B. Where a site development plan does not exist for an existing center, a site development plan shall first be obtained pursuant to Section 21.31.040.
- C. Where a site development plan exists, the proposal shall be processed through an amendment to the site development plan, pursuant to Section 21.54.125.
- D. Exceptions. The following are excepted from the need to obtain an amendment to an existing site development plan or for a new site development plan for an existing center that does not have one:

1. Tenant improvements;
2. Any one addition of new floor area with a cumulative total of less than one thousand square feet;
3. Any non-floor-area changes to the site design that collectively result in less than a ten percent change to the site, as determined by the City Planner.

(Ord. NS-765 § 3, 2005; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXIX, 2012)

#### **§ 21.31.060. Special requirements to be addressed in the site development plan.**

A site development plan for a local shopping center shall show how each of the following, if applicable, will be developed:

- A. Employee eating and outdoor eating areas:
  1. Required eating areas for employees (subject to Section 21.31.080(L));
  2. Food courts or outdoor seating areas, operated in common with or available to the patrons of more than one restaurant, if any;
  3. Restaurants with eating areas located outdoors or within common areas otherwise designated for pedestrian or other traffic, if any;
- B. Areas for temporary outdoor display and sales of seasonal items (pumpkins, Christmas trees, etc.);
- C. Areas designated for outdoor cooking or barbequing, if any;
- D. Kiosks and vending carts, if any;
- E. Signs;
- F. Recycling facilities;
- G. Special events area or public gathering area, if any;
- H. Bicycle parking;
- I. Shopping cart collection and storage areas; and
- J. Access points to the site for pedestrians and internal pedestrian circulation.

(Ord. NS-765 § 3, 2005)

#### **§ 21.31.065. Residential uses.**

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

- A. Residential uses shall be located above the ground floor of a multi-storied commercial building with one or more of the nonresidential uses permitted by Section 21.31.030 of this title located on the ground floor.
- B. Residential uses shall be subject to the requirements of the chapters of this title, which include but are not limited to, Chapter 21.31, Chapter 21.44, and in the case of airspace subdivisions, Chapter 21.47.

C. Residential uses shall be constructed at a minimum density of 15 dwelling units per acre, per Table 2-4 of the general plan land use and community design element, subject to approval of a site development plan processed in accordance with Chapter 21.06 of this title.

1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.
2. Residential uses shall be secondary and accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the site development plan.

D. Residential uses shall include residential care facilities (serving six or fewer persons), supportive housing, and transitional housing.

(Ord. CS-172 § XII, 2012; Ord. CS-191 § XVI, 2012; Ord. CS-249 § XIV, 2014; Ord. CS-287 § 6, 2015)

#### **§ 21.31.070. Limitations on permitted uses.**

Every nonresidential use permitted shall be subject to the following conditions and limitations:

- A. Conduct Uses in Buildings. All uses shall be conducted wholly within a building, except such uses as gasoline stations, nurseries for sale of plants and flowers, uses set out in Section 21.31.060, and other enterprises customarily conducted in the open or otherwise as identified and permitted in a site development plan. The City Planner is authorized to make any necessary interpretations of this subsection;
- B. On-Site Manufacture of Goods. Products made incident to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing of products permitted herein;
- C. Storage shall be limited to:
  1. Accessory storage of commodities to be sold at retail on the premises; and
  2. Materials to be recycled.

(Ord. NS-765 § 3, 2005; Ord. CS-164 § 10, 2011; Ord. CS-172 § XIII, 2012)

#### **§ 21.31.080. Development standards.**

- A. Property Size. No site shall be included in the local shopping center zone unless all constituent properties are contiguous, planned as an integrated whole, and aggregate to a minimum of four net acres, if already developed with retail uses, or seven gross acres, if undeveloped or developed with uses other than retail.
- B. Building Height.
  1. Except as otherwise provided in this section, no building in the C-L zone shall exceed a height of thirty-five feet, and allowed height protrusions as described in Section 21.46.020 shall not exceed a height of forty-five feet.
  2. Additional building height may be permitted to a maximum of forty-five feet through approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06

of this title, provided that:

- a. All required yards shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet. The additional yard area will be maintained as landscaped open space; and
- b. The allowed height protrusions as described in Section 21.46.020 do not exceed a height of forty-five feet; with the exception of architectural features such as flagpoles, steeples, or architectural towers, which may be permitted up to fifty-five feet if the decision-making authority finds that the protruding architectural features:
  - i. Do not function to provide usable floor area; and
  - ii. Do not adversely impact adjacent properties; and
  - iii. Are necessary to ensure a building's design excellence.

C. Yards.

1. The following yards shall apply to the periphery of a local shopping center unless otherwise established through a prior site development plan approval:

**Table B: Yards**

<b>Site Property Line is Adjacent to</b>	<b>Yard Depth</b>
Primary Arterial Road	20 feet
Secondary Arterial Road	15 feet
Non-Arterial Road	10 feet
Not On A Street Frontage	10 feet

2. Protrusions into Yards. The following intrusions only may be permitted within required yards:
  - a. Pedestrian walkways;
  - b. Landscaping;
  - c. Fences or walls;
  - d. Approved areas of ingress and egress;
  - e. Directional signs and approved monument signs;
  - f. Public recreational facilities or outdoor eating areas as authorized in the site development plan;
  - g. Architectural projections such as eaves, trellises, sun shades, columns, and buttresses may extend up to three feet into any yard.

D. Landscaping. Landscaping shall be provided pursuant to the City of Carlsbad Landscape Manual and Chapter 21.44 (Parking).

E. Walls and Fences.

1. A solid masonry wall, six feet in height, shall be constructed along the common lot line with

any residentially zoned property, except that the wall shall be forty-two inches in height along that part of the common lot line that bounds the front yard of the residential property.

2. Other walls and fences up to a height of six feet are permitted except that no wall or fence shall be erected in excess of forty-two inches in height within a yard adjacent to streets. Chain link, barbed wire, razor ribbon or other similar fences are specifically not permitted.
- F. Lighting. Exterior lighting is required for all employee and visitor parking areas, walkways, and building entrances and exits. Light sources shall be designed to avoid direct or indirect glare to any off-site properties or public rights-of-way.
- G. Roof Appurtenances. All roof appurtenances, including air conditioners, shall be architecturally integrated and shielded from view and the sound buffered from adjacent properties and streets, to the satisfaction of the City Planner.
- H. Trash Enclosures. Trash receptacle areas shall be enclosed by a six-foot-high masonry wall with gates subject to city standards.
- I. Loading Areas and Docks. All loading areas shall be oriented and/or screened so as to be unobtrusive from the adjacent streets or properties. Appropriate mitigating measures shall be incorporated to assure that noise from a loading area or dock does not exceed sixty-five dB CNEL at the shopping center's property line.
- J. Parking Requirements. Parking shall be provided subject to the provisions of Chapter 21.44 of this title.
- K. Employee Eating Areas. Outdoor eating facilities for employees of the center shall be provided, as follows, except as noted below:
  1. A minimum of three hundred square feet of outdoor eating facilities shall be provided for each fifty thousand square feet of floor area, or portion thereof. Credit towards the required amount of floor area will be given for centers in which two or more restaurants share a common, public eating area in a food court or for other public eating area available to all patrons, comprising at least six hundred square feet.
  2. The area shall be easily accessible to the employees of the local shopping center.
  3. The area shall be landscaped and provided with attractive outdoor furniture, i.e., metal, wood, or concrete picnic tables, benches/chairs and trash receptacles.
  4. The site size, location, landscaping and furniture required above shall be approved as part of the required site development plan, or if no site development plan is required, a plan of the eating area shall be provided to and approved by the City Planner.
- L. Signs. Signage for sites in the C-L zone that are subject to a site development plan shall be implemented according to a sign program, as established by Section 21.41.060 (sign ordinance) of this title. Signs for sites not subject to a site development plan shall be subject to all other provisions of Chapter 21.41 (sign ordinance).
- M. Recycling Areas. Where state law requires a recycling area for beverage containers to be located within the center, said recycling area shall be subject to the provisions of Chapter 21.105 of this title. The location of all recycling areas shall be set out in the site development plan and the parameters of operation shall be called out.

(Ord. NS-765 § 3, 2005; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXXI, 2012)

**§ 21.31.090. Severability.**

If any section, subsection, sentence, clause, phrase or part of this chapter is for any reason found by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter, which shall be in full force and effect. The City Council hereby declares that it would have adopted this chapter with each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or parts be declared invalid or unconstitutional.

(Ord. NS-765 § 3, 2005)

**CHAPTER 21.32  
M INDUSTRIAL ZONE**

**§ 21.32.010. Permitted uses.**

- A. In an M zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "offices" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this M Industrial Zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 1 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Adult businesses (subject to Chapters 8.60 and 21.43)	X		
Airports		3	
Alcoholic treatment centers		2	
Any industrial use not specifically permitted herein may be considered by the City Planner	X		
Any use permitted in the C-M zone is permitted in the M zone, except child day care centers	X		
Aquaculture (defined: Section 21.04.036)		1	
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))		1	
Auto storage/impound yards (i.e., overnight product storage) (subject to Section 21.42.140(B)(18))		1	
Auto wrecking yards (defined: Section 21.04.040)		2	

Use	P	CUP	Acc
Automobile painting. All painting, sanding and baking shall be conducted wholly within a building	X		
Bakeries	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Body and fender works, including painting	X		
Book printing and publishing	X		
Bookbinding	X		
Bottling plants	X		
Breweries	X		
Breweries with retail accessory use, including tasting rooms, up to 20% of the gross floor area of the building or suite (as applicable) or 2,000 square feet, whichever is less (see note 2 below)		3	
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs—nonprofit, business, civic, professional, etc.) (defined: Section 21.04.090)		1	
Columbariums, crematories, and mausoleums (not within a cemetery)		2	
Creameries	X		
Dairy products manufacture	X		
Delicatessen (defined: Section 21.04.106)	X		
Draying, freighting or trucking yards or terminals	X		
Drive-thru facilities (excluding restaurants)		1	
Dumps (public) (defined: Section 21.04.110)		3	
Educational facilities, other (defined: Section 21.04.137)		1	
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Electric or neon sign manufacture	X		
Emergency shelter, more than 30 beds or persons (subject to Section 21.32.070; defined Section 21.04.140.5)		3	
Emergency shelter, no more than 30 beds or persons (subject to Section 21.32.070; defined Section 21.04.140.5)	X		
Fairgrounds		3	
Farmworker housing complex, large (subject to Section 21.10.125; defined: Section 21.04.148.3)		3	
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		

Use	P	CUP	Acc
Feed and fuel yards	X		
Food products manufacture, storage and process of, except lard, pickles, sauerkraut, sausage or vinegar	X		
Fruit and vegetable canning, preserving and freezing	X		
Fruit packing houses	X		
Furniture manufacture	X		
Garment manufacturers	X		
Gas stations (subject to Section 21.42.140(B)(65))		2	
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Hazardous waste facility (subject to Section 21.42.140(B)(75); defined: Section 21.04.167)		3	
Hospitals (defined: Section 21.04.170)		2	
Hospitals (mental) (defined: Section 21.04.175)		2	
Ice and cold storage plants	X		
Kennels (defined: Section 21.04.195)		1	
Lumber yards	X		
Machine shops	X		
Manufacture of prefabricated buildings	X		
Mills, planing		2	
Mini-warehouses/self storage		2	
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		1	
Mortuaries		2	
Newspaper/periodical printing and publishing		2	
Oil and gas facilities (on-shore) (subject to Section 21.42.140(B)(95))		3	
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)			X
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	
Pawnshops (subject to Section 21.42.140(B)(105))		3	
Plastics, fabrication from	X		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)		2	
Racetracks		3	
Radio/television/microwave/broadcast station/tower		2	

<b>Use</b>	<b>P</b>	<b>CUP</b>	<b>Acc</b>
Recreation facilities	1		
Recreational vehicle storage (subject to Section 21.42.140(B)(120); defined: Section 21.04.299)	1		
Recycling collection facilities, large (subject to Chapter 21.105; defined: Section 21.105.015)	2		
Recycling collection facilities, small (subject to Chapter 21.105; defined: Section 21.105.015)	1		
Recycling process/transfer facility	2		
Rubber, fabrication of products made from finished rubber	X		
Satellite antennae (>1 per use) (defined: Section 21.04.302)	1		
Satellite television antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Sheet metal shops	X		
Shoe manufacturing	X		
Signs (subject to Chapter 21.41)			X
Soap manufacture, cold mix only	X		
Stadiums			3
Stone monument works	X		
Tattoo parlors (subject to Section 21.42.140(B)(140))			3
Textile manufacture	X		
Thrift shops (subject to Section 21.42.140(B)(150))			1
Tire rebuilding, recapping and retreading	X		
Transit passenger terminals (bus and train)			2
Transit storage (ex. rolling stock)			2
Truck steam cleaning equipment	X		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)			1
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))			2
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	

**Notes:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.
2. The retail use shall be accessory to the permitted use and wholly contained within the building. All products for retail sale shall be produced, distributed, and/or warehoused on the premises. No outdoor display of merchandise or retail sales shall be permitted unless customarily conducted in the open. Parking for the accessory retail use shall be determined based on the parking requirement for the primary use pursuant to CMC Chapter 21.44.

(Ord. 9060 § 1300; Ord. 9252 § 2, 1970; Ord. 9507 § 2, 1978; Ord. 9785 § 20, 1986; Ord. 9804 § 6, 1986; Ord. NS-87 § 4, 1989; Ord. NS-208 § 4, 1992; Ord. NS-409 § 16, 1997; Ord. NS-791 § 24, 2006; Ord. CS-063 § IV, 2009; Ord. CS-102 §§ LXX—LXXIII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 §§ XXXV, XXXVI, 2012; Ord. CS-190 § IV, 2012; Ord. CS-224 § XXVII, 2013; Ord. CS-225 §§ VIII, IX, 2013; Ord. CS-326 § 6, 2017)

**§ 21.32.020. Front yard.**

Any building structure, or any part thereof in an M zone shall have a front yard only when any one or more of the following conditions apply:

- (1) If the premises is devoted to an "R" use in the M zone, the depth of the front yard shall conform to the front yard requirements in the R-3 zone;
- (2) When property classified for "M" purposes comprises part of the frontage in a block on one side of a street between intersecting streets and the remainder of the frontage in the same block is classified for "R" purposes, the front yard in such M zone shall conform to the front yard required in the R-3 zone;
- (3) A front yard shall be provided as may be required by a precise plan, variance or conditional use permit.

(Ord. 9060 § 1301)

**§ 21.32.030. Side yards.**

Every lot in an M zone, when used for "C" or "M" purposes, need provide no side yards except such as may be incorporated in a precise plan or in a conditional use permit or variance.

(Ord. 9060 § 1302)

**§ 21.32.040. Placement of buildings.**

No building shall be erected closer than ten feet to the rear lot line of any lot zoned for "C" or "M" purposes when such lot abuts upon property classified for "R" purposes and no alley intervenes.

Any building located on an alley and having an opening used as a means of access from such alley shall maintain a distance of not less than five feet from such alley.

(Ord. 9060 § 1303)

**§ 21.32.050. Building height.**

- A. Except as otherwise provided in this section, no building in the M zone shall exceed a height of thirty-five feet, and allowed height protrusions as described in Section 21.46.020 shall not exceed a height

of forty-five feet.

B. Building height above thirty-five feet may be permitted, subject to the following:

1. Building height up to a maximum of forty-five feet may be permitted through approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
  - a. The project complies with the provisions of subsection B.3 of this section.
  - b. The allowed height protrusions as described in Section 21.46.020 do not exceed a height of forty-five feet; with the exception of architectural features such as flagpoles, steeples or architectural towers, which may be permitted up to fifty-five feet if the decision-making authority makes the specific findings that the protruding architectural features:
    - i. Do not function to provide usable floor area;
    - ii. Do not accommodate and/or screen building equipment;
    - iii. Do not adversely impact adjacent properties; and
    - iv. Are necessary to ensure a building's design excellence.
2. Building height above forty-five feet may be permitted through approval of a site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
  - a. The project complies with the provisions of subsection B.3 of this section.
  - b. The allowed height protrusions, as described in Section 21.46.020, do not exceed the height authorized by the decision-making authority.
  - c. The decision-making authority finds that:
    - i. The height of the building(s) will not adversely affect surrounding properties; and
    - ii. The building(s) will not be unduly disproportional to other buildings in the area.
3. All required setbacks shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet. The additional setback area will be maintained as landscaped open space.

(Ord. 9060 § 1304; Ord. 9753 § 1, 1985; Ord. NS-180 § 21, 1991; Ord. NS-240 § 7, 1993; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXXII, 2012)

### **§ 21.32.060. Employee eating areas.**

Outdoor eating facilities for employees shall be provided outside all industrial/office buildings containing more than five thousand square feet, as follows, except as noted below:

- (1) A minimum of three hundred square feet of outdoor eating facilities shall be provided for each five thousand square feet of building area. Credit towards the required amount of square footage will be given for indoor eating facilities on a 1:1 basis, as determined by the City Planner.
- (2) The area shall be easily accessible to the employees of the building.
- (3) The area shall be located such that a sense of privacy is apparent.

(4) The area shall be landscaped and provided with attractive outdoor furniture, i.e., metal, wood, or concrete picnic tables, benches/chairs and trash receptacles.

(5) The site size, location, landscaping and furniture required above shall be approved as part of the required discretionary action (tentative map, site development plan, planned unit development, etc.) required under this title.

If no discretionary permit is required, a site plan showing the location, landscaping and facilities required above shall be submitted to the City Planner for approval prior to the issuance of any building permits.

(6) This section shall not apply to industrial/office buildings which are located within one thousand feet of an approved mini-park or a city park which is accessible by walking as determined by the City Planner.

(Ord. 9786 § 1, 1986; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXXIII, 2012)

#### **§ 21.32.070. Emergency shelter.**

A. The purpose of this section is to establish standards to ensure that the development of emergency shelters does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses and the character of the City of Carlsbad.

B. No individual shall be denied emergency shelter because of an inability to pay.

C. Emergency shelters shall be operated under the authority of a governing agency or private, nonprofit organization that provides, or that contracts with recognized community organizations to provide, emergency shelters and which, when required by law, are properly registered and licensed.

D. State laws and regulations. Emergency shelters shall comply with the latest California Health and Safety Codes.

E. Emergency shelters shall comply with all property development standards of the zone in which they are located in addition to the following development standards.

1. Location. No emergency shelter shall be located:

a. Immediately adjacent to any residentially zoned property;

b. Within three hundred feet of another emergency or similar shelter.

2. Maximum Number of Beds or Persons. No more than thirty beds shall be provided and no more than thirty persons shall be served in any single emergency shelter, except as authorized by a conditional use permit approved by the City Council pursuant to Chapter 21.42.

3. Parking. Parking shall be as required by Chapter 21.44.

4. Building and premises. Each emergency shelter shall include, at a minimum, the following:

a. Adequate interior and exterior lighting;

b. Adequate indoor client intake/waiting area if client intake is to occur on-site. If an exterior waiting area is also provided, it shall be enclosed or screened from public view and adequate to prevent queuing into the public right-of-way and required parking and access;

- c. Clean sanitary beds and sanitation facilities, including showers and toiletries;
  - d. Segregated sleeping, lavatory and bathing areas if the emergency shelter accommodates both men and women in the same building. Reasonable accommodation shall be made to provide segregated sleeping, lavatory and bathing areas for families;
  - e. Individual lockers to allow shelter clients to secure their private possessions while using the shelter.
- F. Management. At least one facility manager shall be on-site at all hours the facility is open. Additional support staff shall be provided, as necessary, to ensure that at least one staff member is provided in all segregated sleeping areas, as appropriate.
- G. No person shall be allowed to camp on the premises or sleep on the premises outside of the shelter building.
- H. Emergency shelters may provide one or more of the following types of supportive facilities or services for the exclusive use or benefit of the shelter clients:
- 1. Central cooking and dining room(s);
  - 2. Recreation areas, indoor and/or outdoors;
  - 3. Laundry facilities for clients to wash their clothes;
  - 4. Intake and administrative offices;
  - 5. Counseling and other supportive services.

(Ord. CS-190 § V, 2012)

## CHAPTER 21.33 O-S OPEN SPACE ZONE

### **§ 21.33.010. Intent and purpose.**

The intent and purpose of the O-S zone is to:

- (1) Provide for open space and recreational uses which have been deemed necessary for the aesthetically attractive and orderly growth of the community;
- (2) Protect and encourage said uses wherever feasible;
- (3) Be used in conjunction with publicly owned property utilized as parks, open space, recreation areas, civic centers and other public facilities of a similar nature;
- (4) Designate high priority resource areas at time of development that, when combined would create a logical and comprehensive open space system for the community;
- (5) Implement the goals and objectives of the general plan;
- (6) Protect areas set-aside and preserved as natural habitat and the biological resources located in the areas in conformance with the city's habitat management plan.

(Ord. 9385 § 2, 1974; Ord. NS-783 § 2, 2006)

### **§ 21.33.015. Carlsbad State Beach.**

Developments on Carlsbad State Beach will require permits subject to the requirements of the certified local coastal program. The local coastal program certified a coastal shoreline development overlay zone applicable to Carlsbad State Beach. It also established policies for the overall master plan for the area.  
(Ord. NS-365 § 2, 1996)

### **§ 21.33.020. Permitted uses.**

- A. In an O-S zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (e.g., in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this O-S open space zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A**  
**Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 1 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Aquaculture (defined: Section 21.04.036)		1	
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))		1	
Athletic fields		2	
Barbecue and fire pits			X
Beaches and shoreline recreation, public	X		
Bicycle paths	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Campsites (overnight) (subject to Section 21.42.140(B)(40))		2	
Cemeteries (may include accessory mausoleums and columbariums)		3	
Changing rooms			X
City picnic areas	X		
City playgrounds	X		
Clubhouses			X
Cultural activities and facilities		1	
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	
Entertainment activities and facilities		1	
Fairgrounds		3	
Fallow lands	X		
Farmworker housing complex, small (subject to Section 21.10.125) (defined: Section 21.04.148.4)	X		
Fencing			X
Field and seed crops	X		
Golf courses		3	
Greenhouses (2,000 square feet maximum)	X		

Use	P	CUP	Acc
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B))	1		
Horse trails	X		
Horticultural crops	X		
Marinas	2		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	1		
Open space and conservation easements	X		
Orchards and vineyards	X		
Other similar accessory uses and structures required for the conduct of the permitted uses			X
Packing/sorting sheds (600 square feet maximum)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Park, public (subject to Section 21.42.140(B)(100))	2		
Parking areas			X
Pasture and rangeland	X		
Patios			X
Picnic areas (private)	1		
Playground equipment			X
Playgrounds (private) (see note 2 below)	1		
Pool filtering equipment			X
Public access easement, nonvehicular	X		
Public lands	X		
Public restrooms			X
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Radio/television/microwave/broadcast station/tower	2		
Recreation facilities	1		
Recycling collection facilities, large (subject to Chapter 21.105; defined: Section 21.105.015)	2		
Recycling collection facilities, small (subject to Chapter 21.105 of this title; defined: Section 21.105.015)	1		
Scenic easements	X		
Signs			X
Slope easements	X		
Stables/riding academies	2		

Use	P	CUP	Acc
Stadiums	3		
Stairways		X	
Swimming pools (see note 2 below)	1		
Tennis courts	1		
Theaters, stages, amphitheaters—outdoor	3		
Transportation rights-of-way	X		
Tree farms	X		
Truck crops	X		
Vista points	X		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))	2		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		
Zoos (private) (subject to Section 21.42.140(B)(170))	2		

**Notes:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.
2. A conditional use permit is required unless the use is permitted in conjunction with another permit such as a Master Plan, Specific Plan, or Planned Development.

(Ord. 9385 § 2, 1974; Ord. 9461 § 1, 1976; Ord. NS-791 § 25, 2006; Ord. CS-102 §§ LXXV, LXXVI, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 §§ XXXVII, XXXVIII, 2012; Ord. CS-224 § XXIX, 2013)

**§ 21.33.045. Open space preserved in conformance with the habitat management plan.**

- A. Notwithstanding Section 21.33.020 of this chapter, no development, uses, structures or activities shall be permitted in areas zoned for open space which have been set-aside and preserved for natural habitat in conformance with the city's habitat management plan except as provided below:
1. Activities related to the management, maintenance and biological monitoring of the habitat by the managing entity as required by the habitat management plan and city and other regulatory agency permits and approved by the wildlife agencies in the habitat management plan and/or MHCP in order to preserve and protect the property for natural habitat purposes. Fuel modification activities are not allowed within the preserve areas;
  2. Planting and maintaining of locally native trees, shrubs and other native landscaping elements in order to restore or enhance the habitat area as required by the habitat management plan and city and other regulatory agency permits and approved by the wildlife agencies in the habitat management plan and/or MHCP including the appurtenances necessary to maintain the native landscaping placed thereon;
  3. Trails which are approved as part of the citywide trail program and which are located in

conformance with city and other regulatory agency permits and are consistent with the habitat management plan and MHCP Volume I, Section 6.3.8 for public access, and approved by the wildlife agencies;

4. Passive recreation uses such as hiking, picnicking and bird-watching if allowed by the city and other regulatory agency permits and approved by the wildlife agencies;
  5. Existing utility easements;
  6. Additional easements, subject to approval of the wildlife agencies, that are consistent with the preservation of the natural condition of the property, do not impair or interfere with the conservation values of the property and do not compromise the overall levels of conservation in the preserve or adversely affect preserve and species goals;
  7. Fencing as required by the managing entity and which does not adversely affect wildlife movement and approved by the wildlife agencies;
  8. Signing which identifies the property as a habitat preserve and informs persons of the nature and restrictions on the property and approved by the wildlife agencies; and
  9. Other, minor ancillary uses or structures which have been specifically approved as part of the habitat management plan or as allowed by city or other regulatory agency permits and approved by the wildlife agencies. Ancillary structures that are specific to a project development, such as storm drains or detention basins, shall be allowed outside the preserve (any exceptions shall follow the appropriate process for a boundary adjustment).
- B. A conservation easement shall be placed on all open space areas set-aside and preserved as natural habitat in conformance with the habitat management plan. The conservation easement shall ensure that the property will be preserved in perpetuity and will be managed and maintained for its natural habitat value. The easement shall specifically list all allowable and prohibited open space uses.

(Ord. NS-783 § 3, 2006)

#### **§ 21.33.050. Lot area, minimum.**

There shall be no minimum lot area established for the O-S zone district. The size of the lot shall be dependent upon the existing or proposed use.

(Ord. 9385 § 2, 1974)

#### **§ 21.33.060. Building height.**

No building or structure in the O-S zone district shall exceed twenty-five feet in height unless a higher elevation is approved by a minor conditional use permit issued by the City Planner.

(Ord. 9385 § 2, 1974; Ord. NS-180 § 22, 1991; Ord. CS-224 § XXX, 2013)

**CHAPTER 21.34  
P-M PLANNED INDUSTRIAL ZONE**

**Note: Prior ordinance history: Ord. Nos. 1256, 1261, 9060, 9216, and 9674.**

**§ 21.34.010. Intent and purpose.**

The intent and purpose of this chapter is to accomplish the following:

- (1) Allow the location of business and light industries engaged primarily in research and/or testing, compatible light manufacturing, and business and professional offices; allow certain commercial/retail uses which cater to, support, or are accessory to the uses allowed in this zone; and allow flexibility for other select uses (i.e., athletic clubs/gyms, churches, daycare centers, recreation facilities, etc.) when found to be compatible with the P-M zone through the issuance of a conditional use permit;
- (2) Promote an attractive and high-quality design in developments which upgrades the city's natural environment and identity;
- (3) Provide for the phasing of development which is coordinated with the development of public improvements and services;
- (4) Encourage reduced energy consumption by building design and by allowing, in certain cases, compatible residential development which provides housing for employees of this zone;
- (5) Provide for alternative transportation modes for employees of this zone by a combination of bus facilities, ride-share programs, and pedestrian and bicycle circulation systems.

(Ord. 9693 § 1, 1983; Ord. CS-224 § XXXI, 2013; Ord. CS-225 § X, 2013)

**§ 21.34.020. Permitted uses.**

- A. In a P-M zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "offices" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this P-M zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A**  
**Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 2 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 2 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory uses and structures where related and incidental to a permitted use			X
Accountants (see note 1 below)	X		
Administrative offices associated with and accessory to a permitted use	X		
Administrative offices (see note 1 below)	X		
Adult businesses (subject to Chapters 8.60 and 21.43)	X		
Advertising agencies (see note 1 below)	X		
Advertising—direct mail (see note 1 below)	X		
Agricultural consultants (see note 1 below)	X		
Air courier service (see note 1 below)	X		
Airlines offices, general offices (see note 1 below)	X		
Airports			3
Alcoholic treatment centers			2
Answering bureaus (see note 1 below)	X		
Appraisers (see note 1 below)	X		
Aquaculture (defined: Section 21.04.036)			1
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))			1
Arbitrators (see note 1 below)	X		
Architect design and planners (see note 1 below)	X		
Athletic clubs, gymnasiums, health clubs, and physical conditioning businesses			1
Attorney (no legal clinics) (see note 1 below)	X		
Attorney services (see note 1 below)	X		
Audio-visual services (see note 1 below)	X		
Auto repair (subject to Section 21.42.140(B)(17))			1

Use	P	CUP	Acc
Auto storage/impound yards (i.e., overnight product storage) (subject to Section 21.42.140(B)(18))		1	
Auto wrecking yards (defined: Section 21.04.040)		2	
Banks and other financial institutions without drive-thru facilities	X		
Billing service (see note 1 below)	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Blueprinters (see note 1 below)	X		
Book printing and publishing	X		
Bookbinding	X		
Bookkeeping service (see note 1 below)	X		
Breweries	X		
Breweries with retail accessory use, including tasting rooms, up to 20% of the gross floor area of the building or suite (as applicable) or 2,000 square feet, whichever is less (see note 3 below)		3	
Building designers (see note 1 below)	X		
Building inspection service (see note 1 below)	X		
Burglar alarm systems (see note 1 below)	X		
Business consultants (see note 1 below)	X		
Business offices for professional and labor organizations (see note 1 below)	X		
Child day care center (subject to Chapter 21.83) (defined: Section 21.04.086) (see note 5 below)		2	
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Civil engineers (see note 1 below)	X		
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Collection agencies (see note 1 below)	X		
Columbariums, crematories, and mausoleums (not within a cemetery)		2	
Commercial artists (see note 1 below)	X		
Commodity brokers (see note 1 below)	X		
Communications consultants (see note 1 below)	X		
Computer programmers (see note 1 below)	X		
Computer service (time-sharing)	X		
Computer systems (see note 1 below)	X		

Use	P	CUP	Acc
Construction manager (see note 1 below)	X		
Corporate headquarters office (see note 1 below)	X		
Corporate travel agencies and bureaus (see note 1 below)	X		
Credit rating service (see note 1 below)	X		
Data communication service (see note 1 below)	X		
Data processing service (see note 1 below)	X		
Data systems consultants (see note 1 below)	X		
Delicatessen (defined: Section 21.04.106)	X		
Diamond and gold brokers (see note 1 below)	X		
Display designers (see note 1 below)	X		
Display services (see note 1 below)	X		
Drafting services (see note 1 below)	X		
Drive-thru facilities (excluding restaurants)		1	
Economics research (see note 1 below)	X		
Educational consultants (see note 1 below)	X		
Educational facilities, other (defined: Section 21.04.137)		1	
Educational institutions or schools, public/private (defined: Section 21.04.140) (see note 5 below)		2	
Educational research (see note 1 below)	X		
Electric contractors (sales and administrative offices only) (see note 1 below)	X		
Electronics consultants (see note 1 below)	X		
Emergency shelter, more than 30 beds or persons (subject to Section 21.32.070) (defined Section 21.04.140.5)		3	
Emergency shelter, no more than 30 beds or persons (subject to Section 21.32.070) (defined Section 21.04.140.5)	X		
Energy management consultants (see note 1 below)	X		
Engineering offices (see note 1 below)	X		
Environmental services (see note 1 below)	X		
Escrow service (see note 1 below)	X		
Estimators (see note 1 below)	X		
Executive recruiting consultants (see note 1 below)	X		
Executive search office (see note 1 below)	X		
Executive training consultants (see note 1 below)	X		
Export consultants (see note 1 below)	X		

Use	P	CUP	Acc
Fairgrounds		3	
Farmworker housing complex, small (subject to Section 21.10.125) (defined: Section 21.04.148.4)		1	
Financial planners and consultants (see note 1 below)	X		
Fire protection consultants (see note 1 below)	X		
Foreclosure assistance (see note 1 below)	X		
Foundation-educational research (see note 1 below)	X		
Franchise services (see note 1 below)	X		
Fund-raising counselors (see note 1 below)	X		
Gas stations (subject to Section 21.42.140(B)(65))		2	
Gemologists (see note 1 below)	X		
General contractors (no equipment storage permitted) (see note 1 below)	X		
Geophysicists (see note 1 below)	X		
Government contract consultants (see note 1 below)	X		
Government facilities and offices	X		
Governmental agencies (general and administrative offices only) (see note 1 below)	X		
Graphics designers (see note 1 below)	X		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))		1	
Hazardous waste facility (subject to Section 21.42.140(B)(75); defined: Section 21.04.167)		3	
Hospitals (defined: Section 21.04.170)		2	
Hospitals (mental) (defined: Section 21.04.175)		2	
Hotels and motels (subject to Section 21.42.140(B)(80))		3	
Human factors research and development (see note 1 below)	X		
Human services organization (administrative offices only) (see note 1 below)	X		
Importers (see note 1 below)	X		
Incorporating agency (see note 1 below)	X		
Industrial medical (workers comp.) (see note 1 below)	X		
Information bureaus (see note 1 below)	X		
Insurance companies (administrative offices only) (see note 1 below)	X		
Interior decorators and designers (no merchandise storage permitted) (see note 1 below)	X		
Investigators (see note 1 below)	X		

Use	P	CUP	Acc
Investment advisory (see note 1 below)	X		
Investment securities	X		
Kennels (defined: Section 21.04.195)		1	
Labor relations consultants (see note 1 below)	X		
Leasing services (see note 1 below)	X		
Lecture bureaus (see note 1 below)	X		
Literary agents (see note 1 below)	X		
Magazine subscription agents (see note 1 below)	X		
Mailing list service (see note 1 below)	X		
Management consultants (see note 1 below)	X		
Manufacturers agents (see note 1 below)	X		
Manufacturing and processing facilities	X		
Marketing research and analysis (see note 1 below)	X		
Message receiving service (see note 1 below)	X		
Mini-warehouses/self storage		2	
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)		1	
Mutual funds (see note 1 below)	X		
Newspaper/periodical printing and publishing	X		
Oil and gas facilities (on-shore) (subject to Section 21.42.140(B)(95))		3	
On-site recreational facilities intended for the use of employees of the planned industrial zone	X		
Outdoor dining (incidental) (subject to Section 21.26.013; defined: Section 21.04.290.1)			X
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))		1	
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	
Patent searchers (see note 1 below)	X		
Pension and profit sharing plans (see note 1 below)	X		
Personal service bureau (see note 1 below)	X		
Photographic (industrial and commercial only) (see note 1 below)	X		
Printing services (see note 1 below)	X		
Product development and marketing (see note 1 below)	X		
Public meeting halls, exhibit halls, and museums		2	
Public relations services (see note 1 below)	X		

Use	P	CUP	Acc
Public utility companies (see note 1 below)	X		
Public/quasi-public buildings and facilities and accessory utility buildings/ facilities (defined: Section 21.04.297)		2	
Publicity services (see note 1 below)	X		
Publishers representatives (see note 1 below)	X		
Racetracks		3	
Radio communications (see note 1 below)	X		
Radio/television/microwave/broadcast tower		2	
Real estate brokers (commercial and industrial only) (see note 1 below)	X		
Real estate developers (see note 1 below)	X		
Recording service (see note 1 below)	X		
Recreation facilities		1	
Recreational vehicle storage (subject to Section 21.42.140(B)(120); defined: Section 21.04.299)		1	
Recycling collection facilities, large (subject to Chapter 21.105 of this title) (defined: Section 21.105.015)		2	
Recycling collection facilities, small (subject to Chapter 21.105 of this title) (defined: Section 21.105.015)		1	
Recycling process/transfer facility		2	
Relocation service (see note 1 below)	X		
Repossessing service (see note 1 below)	X		
Research and testing facilities	X		
Research labs (see note 1 below)	X		
Residential uses in P-M Zone (subject to Section 21.42.140(B)(135)) (see note 5 below)		3	
Restaurants (bona fide public eating establishment; defined: Section 21.04.056)		1	
Retail, accessory use, including tasting/sampling rooms, showrooms, miscellaneous retail, up to 20% of the gross floor area of the building or suite (as applicable) or 2,000 square feet, whichever is less (see note 3 below)		1	
Retail, primary use (see note 4 below)		2	
Retirement planning consultants (see note 1 below)	X		
Safety consultants (see note 1 below)	X		
Sales training and counseling (see note 1 below)	X		
Satellite antennae (>1 per use) (defined: Section 21.04.302)		1	

Use	P	CUP	Acc
Satellite television antennae (subject to Section 21.53.130—21.53.150; defined: Section 21.04.302)			X
Searchers of records (see note 1 below)	X		
Securities systems (see note 1 below)	X		
Security firms (see note 1 below)	X		
Shooting ranges (indoor), subject to Section 21.42.140(B)(137)		3	
Signs (subject to Chapter 21.41)			X
Sound system consultants (see note 1 below)	X		
Space planning consultants (see note 1 below)	X		
Space research and developments (see note 1 below)	X		
Stadiums		3	
Stock and bond brokers (see note 1 below)	X		
Storage, wholesale, and distribution facilities	X		
Surveyors (see note 1 below)	X		
Tax service and consultants (see note 1 below)	X		
Telephone cable companies (see note 1 below)	X		
Telephone systems (see note 1 below)	X		
Title companies (see note 1 below)	X		
Tour operators (see note 1 below)	X		
Trademark consultants (see note 1 below)	X		
Transit passenger terminals (bus and train)		2	
Translators and interpreters (see note 1 below)	X		
Trust companies (see note 1 below)	X		
Veterinary clinic/animal hospital (small animals) (defined: Section 21.04.378)		1	
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))		2	
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)		1 / 2	

**Notes:**

- Business and professional offices which are primarily not retail in nature and are compatible with the industrial uses in the vicinity.
- Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of this code, shall be subject to the requirements of CMC Chapter 8.09.

**Notes:**

3. The retail use shall be accessory to the permitted use and wholly contained within the building. All products for retail sale shall be produced, distributed, and/or warehoused on the premises. No outdoor display of merchandise or retail sales shall be permitted unless customarily conducted in the open. Parking for the accessory retail use shall be determined based on the parking requirement for the primary use pursuant to CMC Chapter 21.44.
4. A primary retail use shall cater to or support the industrial and office uses in the P-M zone.
5. Subject uses shall comply with the distance requirements in Section 21.42.140(B)(137).

(Ord. 9693 § 1, 1983; Ord. 9785 § 21, 1986; Ord. 9804 § 6, 1986; Ord. NS-87 § 5, 1989; Ord. NS-675 § 76, 2003; Ord. NS-791 § 26, 2006; Ord. CS-063 § V, 2009; Ord. CS-102 § LXXVIII, LXXIX, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 §§ XXXIX, XL, 2012; Ord. CS-190 § VI, 2012; Ord. CS-224 § XXXII, 2013; Ord. CS-225 §§ XI, XII, 2013; Ord. CS-290 §§ 4, 5, 2015; Ord. CS-326 §§ 7, 8, 2017)

**§ 21.34.050. Minor site development plan required.**

- A. No development in the P-M zone shall be done without first obtaining approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title; except that notice of the application for a minor site development plan, required pursuant to Section 21.06.060 of this title, shall not be required for development in the P-M zone, unless the application includes a request to exceed the permitted building height pursuant to Section 21.34.070.A of this chapter.
- B. If the applicant contemplates the construction of the project in phases, the minor site development plan application shall so state and shall include a proposed phasing schedule.

(Ord. 9693 § 1, 1983; Ord. 9758 § 6, 1985; Ord. NS-675 §§ 31, 32, 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXXV, 2012)

**§ 21.34.070. Development standards.**

All industrial projects shall comply with the following development standards:

- A. Building Height.
  1. Except as otherwise provided in this section, no building in the P-M zone shall exceed a height of thirty-five feet, and allowed height protrusions as described in Section 21.46.020 shall not exceed a height of forty-five feet.
  2. Building height above thirty-five feet may be permitted subject to the following:
    - a. Building height up to a maximum of forty-five feet may be permitted through approval of a minor site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
      - i. The project complies with the provisions of subsection A.2.c of this section; and
      - ii. The allowed height protrusions as described in Section 21.46.020 do not exceed a height of forty-five feet; with the exception of architectural features such as flagpoles, steeples or architectural towers, which may be permitted up to fifty-five feet if the decision-making authority makes the specific findings that the protruding architectural features:

- (A) Do not function to provide usable floor area;
  - (B) Do not accommodate and/or screen building equipment;
  - (C) Do not adversely impact adjacent properties; and
  - (D) Are necessary to ensure a building's design excellence.
- b. Building height above forty-five feet may be permitted through approval of a site development plan processed in accordance with the provisions of Chapter 21.06 of this title, provided that:
- i. The project complies with the provisions of subsection A.2.c of this section.
  - ii. The allowed height protrusions as described in Section 21.46.020 do not exceed the height authorized by the decision-making authority.
  - iii. The decision-making authority finds that:
    - (A) The height of the building(s) will not adversely affect surrounding properties; and
    - (B) The building(s) will not be unduly disproportional to other buildings in the area.
- c. All required setbacks shall be increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet. The additional setback area shall be maintained as landscaped open space.

B. Setbacks.

1. Front Yard and Side Street Yard on Prime, Major and Secondary Streets. Every lot in the P-M zone that has a front yard or side street yard facing on a prime, major or secondary street shall have a minimum setback of fifty feet. This setback shall be measured from the right-of-way line. This setback shall be entirely landscaped and irrigated; however, upon approval of the City Planner, the landscaped portion of the setback may be reduced to thirty-five feet to accommodate a driveway along the portion of the setback farthest from the right-of-way or private street. Any driveway within the front yard setback shall be screened from the public or private street by a mixture of mounding and landscaping to the satisfaction of the City Planner.
2. Front Yard and Street Side Yard on Collector, Local and Private Streets. Every lot in the P-M zone that has a front yard or side street yard facing on a collector, local or private street shall have an average setback of thirty-five feet; however, the setback shall not be less than twenty-five feet. This setback shall be entirely landscaped and irrigated and shall be measured from the right-of-way line or, in the case of a private street, from the curb line.
3. Side Yard—Interior. All interior side yards shall have a minimum setback of ten feet which shall be entirely landscaped and irrigated.
4. Rear Yard. The rear yard setback shall be a minimum of twenty feet of which at least ten feet adjacent to the rear property line shall be entirely landscaped and irrigated.
5. Walls and Fences. A wall or fence located in any part of a required setback area shall not exceed six feet in height. A wall or fence located in any required front setback or side street area shall not exceed thirty-six inches in height.

6. Landscaping in Parking Areas. A minimum of ten percent of the required parking area, inclusive of driveways, shall be landscaped subject to the approval of the City Planner. Landscaping in the building setback areas shall not count towards meeting this requirement.
7. Minimum Lot Area. Except for developments proposed as condominiums or planned unit developments, each lot shall have a minimum lot area of one acre. However, the decision-making authority for the subdivision map may permit a reduction in the minimum lot area requirement if it is found that the reduced lot area is necessary for the development of a comprehensively planned project requiring a minor site development plan pursuant to this chapter and that the reduction of the lot area does not create adverse impacts to surrounding properties.
8. Lot Coverage. All buildings, including accessory building structures, shall cover not more than fifty percent of the area of a lot. Open parking areas shall not be counted in determining lot coverage.
9. Private Streets. Private streets may be permitted within a project requiring a minor site development plan pursuant to this chapter provided their width and geometric design are related to the function, topography and needs of the development, and their structural design, pavement and construction comply with the requirement of the city's street improvement standards and further provided that the permit is processed concurrently with a subdivision map. The width of private streets shall not be less than the minimum standards of this subsection. Pavement between curbs of private streets shall not be less than the following:

Type of Street	Minimum Width Curb to Curb
2 lanes, no parking	32 feet
2 lanes, parking one side	42 feet
2 lanes, parking on both sides	52 feet

- C. Employee Eating Areas. Outdoor eating facilities for employees shall be provided outside all industrial/office buildings containing more than five thousand square feet, as follows, except as noted below:

1. A minimum of three hundred square feet of outdoor eating facilities shall be provided for each five thousand square feet of building area. Credit towards the required amount of square footage will be given for indoor eating facilities on a 1:1 basis, as determined by the City Planner.
2. The area shall be easily accessible to the employees of the building.
3. The area shall be located such that a sense of privacy is apparent.
4. The area shall be landscaped and provided with attractive outdoor furniture, i.e., metal, wood, or concrete picnic tables, benches/chairs and trash receptacles.
5. The site size, location, landscaping and furniture required above shall be approved as part of the required minor site development plan required under this title. If no discretionary permit is required, a site plan showing the location, landscaping and facilities required above shall be submitted to the City Planner for approval prior to the issuance of any building permits.
6. This section shall not apply to industrial/office buildings which are located within one thousand feet of an approved mini-park or a city park which is accessible by walking as determined by

the City Planner.

(Ord. 9693 § 1, 1983; Ord. 9786 § 1, 1986; Ord. NS-180 § 23, 1991; Ord. NS-240 § 8, 1993; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXXVII, 2012)

#### **§ 21.34.080. Design criteria.**

All industrial projects shall comply with the following design criteria:

1. The overall plan shall be comprehensive, imaginative and innovative, embracing land, buildings, landscaping and their relationships, and shall conform to adopted plans of all governmental agencies for the area in which the proposed development is located.
2. The plan shall provide for adequate open space, circulation, off-street parking and other pertinent amenities. Buildings, structures and facilities in the parcel shall be well integrated, oriented and related to the topographic and natural landscape features of the site.
3. The proposed development shall be compatible with existing and planned surrounding land uses and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the community.
4. The internal street system shall not be a dominant feature in the overall design; rather, it should be designed for the efficient and safe flow of vehicles without creating a disruptive influence on the activity and function of the development.
5. The design of buildings and surrounding environment shall be architecturally integrated and compatible with each other.
6. Screening walls for storage spaces, loading areas and equipment shall be architecturally integrated with the surrounding building design.
7. Building placement shall be designed to create opportunities for plazas or other landscaped open spaces within the project.

(Ord. 9693 § 1, 1983)

#### **§ 21.34.090. Performance standards.**

All industrial uses shall comply with the following performance standards:

1. The maximum allowable exterior noise level of any use shall not exceed 65 Ldn as measured at the property line. For properties that are approved nonresidential planned developments, the exterior noise level shall be measured from the parcel owned in common by the owner's association, which constitutes the perimeter property lines. Where a property is occupied by more than one use (whether within the same building or in separate buildings), the noise level shall not be in excess of 45 Ldn as measured within the interior space of the neighboring establishment. Noise caused by motor vehicles traveling to and from the site are exempt from this standard.
2. All uses shall be operated so as not to emit matter causing unpleasant odors which are perceptible to the average person while within or beyond the lot containing such uses.
3. All uses shall be so operated as not to generate vibration discernible without instruments by the average person while on or beyond the lot upon which the source is located or within an adjoining enclosed space if more than one establishment occupies a structure. Vibration caused by motor vehicles, trains and temporary construction is exempted from this standard.

4. All uses shall be operated so as not to produce humidity, heat, glare or high-intensity illumination which is perceptible without instruments by the average person while on or beyond the lot containing the use.
5. All uses shall meet the air quality standards of the San Diego County Air Quality Control Board (AQCB). In addition, all uses shall be operated so as not to emit particulate matter or air contaminants which are readily detectable without instruments by the average person while on the lot containing such uses.
6. All manufacturing, assembling, compounding, fabrication, packaging, processing and treating operations shall be conducted entirely within an enclosed building.
7. All outdoor storage, including equipment, shall be completely enclosed by a solid decorative concrete or masonry wall not less than six feet in height. Any such wall shall be architecturally compatible with the main buildings on the site and shall screen the stored materials from the view of industrially zoned adjoining properties and public streets. If complete visual screening of stored materials is not possible, trees and other plant materials shall be used. Any walls or landscaping used for screening purposes shall be subject to the approval of the City Planner.

Outdoor storage shall not be allowed adjacent to non-industrially zoned properties.

8. All discharge of industrial waste shall be in conformity with the provisions of Chapter 13.16 of this code, as amended.

(Ord. 9693 § 1, 1983; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-290 § 6, 2015)

#### **§ 21.34.120. Final map.**

Building permits for construction within any planned industrial development shall not be issued until a final subdivision map or parcel map has been recorded for the property. A final map which deviates from the conditions imposed by the permit shall not be approved.

(Ord. 9693 § 1, 1983)

#### **§ 21.34.130. Final planned industrial development plan.**

- A. For applications that have filed a parcel map or tentative map concurrent with a minor site development plan required pursuant to this chapter, a final planned industrial development plan shall be submitted to and approved by the City Planner prior to the recordation of the final map.
- B. For applications that have not filed a parcel map or tentative map concurrent with a minor site development plan required pursuant to this chapter, a final planned industrial development plan shall be submitted to and approved by the City Planner prior to the issuance of any building permits.
- C. The final planned industrial development plan shall reflect all required revisions and refinements. The final planned industrial development plan shall include:
  1. Improvement plans for private streets, water, sewerage and drainage systems, walkways, fire hydrants, parking areas and storage areas. The plan shall include any off-site work necessary for proper access, or for the proper operation of water, sewerage or drainage system;
  2. A final grading plan;
  3. Final elevation plans;

4. A final landscaping plan including methods of soil preparation, plant types, sizes and location, and irrigation system plans showing location, dimensions and types; and
  5. A plan for lighting of streets, driveways and parking areas.
- D. Where a development requiring a minor site development plan pursuant to this chapter contains any land or improvements proposed to be held in common ownership, the applicant shall submit a declaration of covenants, conditions and restrictions with the final planned industrial development plan. Such declaration shall set forth provisions for maintenance of all common areas, payment of taxes and all other privileges and responsibilities of the common ownership and shall be reviewed by and subject to approval by the City Planner and City Attorney.
- E. A final planned industrial development plan may be submitted for a portion of the development, provided the City Planner approves the construction phases as part of the permit and provided that the phases are consistent with any subdivision map filed on the property. The plan for the first portion must be submitted within the time limits of this section. Subsequent units may be submitted at later dates in accord with the approved phasing schedule.
- F. The City Planner shall review the plan for conformity to the requirements of this chapter and the minor site development plan. If the City Planner finds the plan to be in substantial conformance with all such requirements, the City Planner shall approve the plan.

(Ord. 9693 § 1, 1983; Ord. NS-675 §§ 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § XXXIX, 2012)

#### **§ 21.34.140. Certification of occupancy.**

A certification of occupancy shall not be issued for any structure requiring a minor site development plan pursuant to this chapter until all improvements required by the minor site development plan have been completed to the satisfaction of the City Engineer, City Planner and the Community and Economic Development Director.

(Ord. 9693 § 1, 1983; Ord. NS-675 §§ 76, 79, 2003; Ord. CS-164 §§ 10, 14, 2011; Ord. CS-178 § XL, 2012)

#### **§ 21.34.150. Maintenance.**

All private streets, walkways, parking areas, landscaped areas, storage areas, screening, sewers, drainage facilities, utilities, open space and other improvements not dedicated to public use shall be maintained by the property owners or as otherwise approved by the City Council. Provisions acceptable to the city shall be made for the preservation and maintenance of all such improvements prior to the issuance of building permits.

(Ord. 9693 § 1, 1983)

#### **§ 21.34.160. Failure to maintain.**

- A. All commonly owned land, improvements and facilities shall be preserved and maintained in a safe condition and in a state of good repair. Any failure to so maintain is unlawful and a public nuisance endangering the health, safety and general welfare of the public and a detriment to the surrounding community.
- B. In addition to any other remedy provided by law for the abatement, removal and enjoinderment of such public nuisance, the City Engineer may, after giving notice, cause the necessary work of maintenance or repair to be done. The costs thereof shall be assessed against the owner or owners of the project.

- C. The notice shall be in writing and mailed to all persons whose names appear on the last equalized assessment roll as owners of real property within the project at the address shown on the assessment roll. Notice shall also be sent to any person known to the City Engineer to be responsible for the maintenance or repair of the common areas and facilities of the project under an indenture or agreement. The City Engineer shall also cause at least one copy of such notice to be posted in a conspicuous place on the premises. No assessment shall be held invalid for failure to post or mail or correctly address any notice.
- D. The notice shall particularly specify the work required to be done and shall state that if the work is not commenced within five days after receipt of such notice and diligently and without interruption prosecuted to completion, the city shall cause such work to be done, in which case the cost and expense of such work, including incidental expenses incurred by the city, will be assessed against the property or against each separate lot and become a lien upon such property.
- E. If upon the expiration of the five-day period provided for in subsection D of this section the work has not been done or, having been commenced, is not being performed with diligence, the City Engineer shall proceed to do such work or cause such work to be done. Upon completion of such work, the City Engineer shall file a written report with the City Council setting forth the fact that the work has been completed and the cost thereof, together with a legal description of the property, against which cost is to be assessed. The City Council shall thereupon fix a time and place for hearing protests against which the cost is to be assessed and against the assessment of the cost of such work. The City Engineer or the City Clerk, if so directed by the council, shall thereafter give notice in writing to the owners of the project in the manner provided in subsection C of this section of the hour and place that the City Council will pass upon the City Engineer's report and will hear protests against the assessments. 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 City Council shall hear and consider the City Engineer's report and all protests, if there be any, and then proceed to confirm, modify or reject the assessments.
- G. A list of assessments as finally confirmed by the City Council shall be sent to the City Treasurer for collection. If any assessment is not paid within 10 days after its confirmation by the City Council, the City Clerk shall cause to be filed in the office of the County Recorder a notice of lien, substantially in the following form:

**NOTICE OF LIEN**

Pursuant to Chapter 21.34, Title 21, of the Carlsbad Municipal Code (Ordinance No. 9693), the City of Carlsbad did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, cause maintenance and repair work to be done in the Planned Industrial Development project known as \_\_\_\_\_ which was constructed under the Minor Site Development Plan No. \_\_\_\_\_ for the purpose of abating a public nuisance and enforcing compliance with the terms of said minor site development plan, and the Council of the City of Carlsbad did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by its Resolution No. \_\_\_\_\_ assess the cost or portion of the cost thereof upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the City of Carlsbad does hereby claim a lien upon said real property until the same sum with interest thereon at the maximum rate allowed by law from the date of the recordation of this instrument has been paid in full and discharged of record. The real property hereinbefore mentioned and upon which a lien is hereby claimed is that certain parcel of land in the City of Carlsbad, County of San Diego, State of California, particularly described as follows:

(Description of Property)

**NOTICE OF LIEN**

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_,  
\_\_\_\_\_, City Clerk, City of Carlsbad

- H. From and after the date of recordation of such notice of lien, the amount of the unpaid assessment shall be a lien on the property against which the assessment is made, and such assessment shall bear interest at the maximum rate allowed by law until paid in full. The lien shall continue until the amount of the assessment and all interest thereon has been paid. The lien shall be subordinate to tax liens and all fixed special assessment items previously imposed upon the same property, but shall have priority over all contractual liens and all fixed special assessment liens which may thereafter be created against the property. From and after the date of recordation of such notice of lien, all persons shall be deemed to have notice of contents thereof.

(Ord. 9693 § 1, 1983; Ord. CS-178 § XLI, 2012)

**CHAPTER 21.35  
V-B VILLAGE-BARRIO ZONE**

**Note: Prior ordinance history: Ord. Nos. NS-330, NS-340, NS-371, NS-439, NS-506, NS-675 NS-703, CS-178, CS-164, CS-052 and CS-037**

**§ 21.35.010. Intent and purpose.**

The Village-Barrio zone is intended to establish land use classifications, development standards, procedures and guidelines for that unique area of the city described in the Village and Barrio master plan and designated "V-B, Village-Barrio" on the zoning map.

(Ord. CS-334 § 6, 2018)

**§ 21.35.020. Incorporation of the Village and Barrio master plan by reference.**

The Village and Barrio master plan, as adopted by City Council Ordinance CS-357 on August 27, 2019, and as approved and certified by the California Coastal Commission on October 16, 2019, is hereby adopted by reference and incorporated into this chapter.

(Ord. CS-334 § 6, 2018)

**§ 21.35.030. Land affected by this chapter.**

This chapter shall apply only to lands located within the boundaries of the Village and Barrio master plan and zoned "V-B, Village-Barrio" on the zoning map.

(Ord. CS-334 § 6, 2018)

**§ 21.35.040. Compliance with the Village and Barrio master plan and the Carlsbad Municipal Code.**

Projects developed pursuant to this chapter shall be subject to the provisions of the Village and Barrio master plan, and all applicable provisions of the Carlsbad Municipal Code, including, but not limited to, those provisions of Titles 18, 19, 20 and 21.

(Ord. CS-334 § 6, 2018)

**§ 21.35.050. General regulations.**

Except as otherwise provided by the Village and Barrio master plan, the regulations of this title which apply to uses generally or generally to all zoning classifications shall apply to property and uses in this zone.

(Ord. CS-334 § 6, 2018)

**§ 21.35.060. Permitted uses.**

The development standards of the Village and Barrio master plan, including the permitted uses table, shall identify the permitted, conditionally permitted, and prohibited uses in the V-B zone. Any use not identified in the permitted uses table is not permitted unless the City Planner determines that such use falls within the vision and intent of the master plan district in which it is proposed and is substantially similar to an allowed use in the district. Further, the City Planner shall not find that a use substantially similar to an expressly prohibited use is permitted in any district.

(Ord. CS-334 § 6, 2018)

**§ 21.35.070. Permit required.**

Unless specifically exempt from a discretionary permit pursuant to the Village and Barrio master plan and Section 21.201.060, no building permit or other entitlement shall be issued for any development or use in the V-B zone unless there is a valid site development plan, conditional use permit, coastal development permit or other discretionary permit as required by the Village and Barrio master plan and as approved for the property.

(Ord. CS-334 § 6, 2018)

**§ 21.35.080. Findings of fact.**

No determination or decision shall be made pursuant to this chapter unless the decision-making authority finds, in addition to any other findings otherwise required for the project, that the project is consistent with the general plan, this code, as applicable, the Village and Barrio master plan, and the local coastal program, as applicable.

(Ord. CS-334 § 6, 2018)

**§ 21.35.090. Amendments to the Village and Barrio master plan.**

Amendments to the Village and Barrio master plan shall be deemed to be amendments to this chapter; provided, however, that such amendments are processed and noticed in a manner which meets the requirements of Chapter 21.52 of this code and are approved and adopted by City Council ordinance.

(Ord. CS-334 § 6, 2018)

**CHAPTER 21.36  
P-U PUBLIC UTILITY ZONE**

**§ 21.36.010. Intent and purpose.**

The intent and purpose of the P-U zone is to provide for certain public utility and related uses subject to a precise development plan procedure to:

- A. Insure compatibility of the development with the general plan and the surrounding developments;
- B. Insure that due regard is given to environmental factors;
- C. Provide for public improvements and other conditions of approval necessitated by the development.  
(Ord. 9060 § 1390; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975)

**§ 21.36.020. Permitted uses.**

- A. In a P-U zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title. Approval of a conditional use permit is required for the generation and transmission of electrical energy and shall require a finding by the City Council that the use serves an extraordinary public purpose in addition to the other findings required for a conditional use found in Chapter 21.42.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this P-U zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 1 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 1 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory uses and structures			X
Airports	3		
Aquaculture (defined: Section 21.04.036)	1		
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))	1		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Crop production	X		
Energy transmission facilities, including rights-of-way and pressure control or booster stations for gasoline, electricity, natural gas, synthetic natural gas, oil or other forms of energy sources	X		
Fairgrounds	3		
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Floriculture	X		
Generation and transmission of electrical energy	X		
Governmental maintenance and service facilities	X		
Greenhouses (2,000 square feet maximum)	X		
Greenhouses >2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Hazardous waste facility (subject to Section 21.42.140(B)(75); defined: Section 21.04.167)	3		
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	1		
Nursery crop production	X		
Packing/sorting sheds >600 square feet (subject to Section 21.42.140(B)(70))	1		
Pasture and range land	X		
Petroleum products pipeline booster stations	X		
Processing, using and storage of: (a) natural gas, (b) liquid natural gas, (c) domestic and agricultural water supplies	X		
Public utility district maintenance, storage and operating facilities	X		
Radio/television/microwave/broadcast station/tower	2		
Recreational facilities (public or private, passive or active)	X		
Recycling collection facilities, large (subject to Chapter 21.105; defined: Section 21.105.015)	2		
Recycling collection facilities, small (subject to Chapter 21.105; defined: Section 21.105.015)	1		
Recycling process/transfer facility	2		

Use	P	CUP	Acc
Satellite television antennae (subject to Sections 21.53.130—21.53.150; defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41)			X
Stadiums	3		
Transit passenger terminals (bus and train)	2		
Tree farms	X		
Truck farms	X		
Using and storage of fuel oils	X		
Wastewater treatment, disposal or reclamation facilities	X		
Windmills (exceeding height limit of zone) (subject to Section 21.42.140(B)(160))	2		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		

**Note:**

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9060 § 1391; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975; Ord. 9507 § 4, 1978; Ord. 9674 § 2, 1983; Ord. 9785 § 22, 1986; Ord. 9804 § 6, 1986; Ord. NS-791 § 26, 2006; Ord. CS-102 § LXXXI, 2010; Ord. CS-158 § I, 2011; Ord. CS-170 §§ 4, 5, 2012; Ord. CS-189 §§ XLI, XLII, 2012; Ord. CS-224 § XXXIII, 2013; Ord. CS-250 § 3, 2014; Ord. CS-253 § I, 2014)

**§ 21.36.030. Precise development plan.**

No building permit or other entitlement for any use in the P-U zone shall be issued until a precise development plan has been approved for the property. The precise development plan may include provisions for any accessory use necessary to conduct any permitted use.

(Ord. 9060 § 1392; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975)

**§ 21.36.040. Procedure.**

An application for a precise development plan shall be made and processed in accord with the procedures for a zone change pursuant to Chapter 21.52 of this code, except that any council decision shall be final and need not be referred back to the Planning Commission.

(Ord. 9060 § 1393; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975; Ord. 9530 § 1, 1979)

**§ 21.36.050. Conditions.**

The City Council may impose such conditions on the applicant and the plan as are determined necessary and consistent with the provisions of this chapter, the general plan and any specific plans that include provisions for, but are not limited to, the following:

- (1) Setbacks, yards and open space;

- (2) Special height and bulk of building regulations;
- (3) Fences and walls;
- (4) Regulation of signs;
- (5) Landscaping;
- (6) Special grading restrictions;
- (7) Requiring street dedication and improvements (or posting of bonds);
- (8) Requiring public improvements either on or off the subject site that are needed to service the proposed development;
- (9) Time period within which the project or any phases of the project shall be completed;
- (10) Regulation of points of ingress and egress;
- (11) Parking;
- (12) Regulation of the type, quality, distribution and use of reclaimed water, or reclaimed wastewater.  
(Ord. 9060 § 1394; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975; Ord. 9551 § 1, 1980)

**§ 21.36.060. Minimum lot area.**

The minimum required area of a lot in the P-U zone shall be not less than seven thousand five hundred square feet.

(Ord. 9060 § 1395; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975)

**§ 21.36.070. Lot coverage.**

All buildings and structures, including accessory buildings and structures, shall cover no more than fifty percent of the area of the lot.

(Ord. 9060 § 1396; Ord. 9268 § 1, 1971; Ord. 9441 § 1, 1975)

**§ 21.36.080. Parking and loading areas.**

No parking or loading area shall be located:

- (1) In a front, side or rear yard adjoining a street;
- (2) Within ten feet of an interior side or rear property line.  
(Ord. 9441 § 1, 1975)

**§ 21.36.090. Landscaping required.**

Except for approved ways of ingress and egress and parking and loading areas, all required yards shall be:

- (1) Permanently landscaped with one or a combination of more than one of the following: lawn, shrubs, trees and flowers;
- (2) Served by a water irrigation system and supplied with bubblers and sprinklers.

No walls or fences over four feet in height may be constructed in any area where landscaping is required.

(Ord. 9441 § 1, 1975)

**§ 21.36.100. Final precise development plan.**

After approval, the applicant shall submit a reproducible copy of the precise development plan which incorporates all requirements of the approval to the City Manager for signature. Prior to signing the final precise development plan, the City Manager shall determine that all applicable requirements have been incorporated into the plan and that all conditions of approval have been satisfactorily met or otherwise guaranteed.

The final signed precise development plan shall be the official site layout plan for the property and shall be attached to any application for a building permit on the subject property.

(Ord. 9441 § 1, 1975)

**CHAPTER 21.37  
RMHP RESIDENTIAL MOBILE HOME PARK ZONE**

**§ 21.37.010. Intent and purpose.**

- A. The intent and purpose of the mobile home park zone is to:
1. Provide locations where mobile homes and mobile home parks may be established, maintained and protected;
  2. Provide a means to regulate and control the conversion of existing mobile home parks to another use;
  3. Promote and encourage an orderly residential environment with appropriate physical amenities; and
  4. Implement the goals and objectives of the general plan, including all residential land use designations and the housing element.

(Ord. 9564 § 2, 1980; Ord. NS-718 § 15, 2004)

**§ 21.37.020. Permitted uses.**

- A. In an RMHP zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted. (See note 4 below)

"CUP" indicates use is permitted with approval of a conditional use permit. (See note 4 below)

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Aquaculture (defined: Section 21.04.036)		2	
Animal keeping (household pets) (subject to Section 21.53.084)			X
Animal keeping (wild animals) (subject to Section 21.53.085)			X

<b>Use</b>	<b>P</b>	<b>CUP</b>	<b>Acc</b>
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)	2		
Buildings incidental to a mobile home park (ex. recreational buildings, laundry facilities, etc.)			X
Campsites (overnight) (subject to Section 21.42.140(B)(40))	2		
Cemeteries	3		
Churches, synagogues, temples, convents, monasteries, and other places of worship	2		
Educational institutions or schools, public/private (defined: Section 21.04.140)	2		
Family day care home (large) (subject to Chapter 21.83) (defined: Section 21.04.147)			X
Family day care home (small) (subject to Chapter 21.83) (defined: Section 21.04.148)			X
Farmworker housing complex, small (subject to Section 21.10.125) (defined: Section 21.04.148.4)	1		
Golf courses	3		
Greenhouses > 2,000 square feet (subject to Section 21.42.140(B)(70))	1		
Home occupation (subject to Section 21.10.040)			X
Mobile buildings (subject to Section 21.42.140(B)(90); defined: Section 21.04.265)	2		
Mobile home accessory structures (defined: Section 21.04.267)			X
Mobile home parks (see note 2, below)	X		
Packing/sorting sheds > 600 square feet (subject to Section 21.42.140(B)(70))	1		
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section 21.04.297)	2		
Residential care facilities serving six or fewer persons (defined: Section 21.04.300)	X		
Satellite TV antennae (subject to Sections 21.53.130 through 21.53.150; defined: Section 21.04.302)			X
Signs, subject to Chapter 21.41 (defined: Section 21.04.305)			X
Supportive housing (defined: Section 21.04.355.1)	X		
Temporary building/trailer (real estate or construction) (subject to Sections 21.53.090 and 21.53.110)	X		
Transitional housing (defined: Section 21.04.362)	X		
Wireless communication facilities (subject to Section 21.42.140(B)(165); defined: Section 21.04.379)	1 / 2		

Use	P	CUP	Acc
Zoos (private) (subject to Section 21.42.140(B)(170); defined: Section 21.04.400)	2		

**Notes:**

1. A conditional use permit is not required for a golf course if it is approved as part of a master plan for a planned community development.
2. A mobile home park may be a condominium, planned unit development, or rental park consisting of mobile homes. Subject to the provisions of Section 18551 of the California Health and Safety Code, mobile homes may be placed on permanent foundation systems in condominium or planned-unit development parks. Subject to the provisions of Sections 18551.1 and 18611 of the California Health and Safety Code mobile homes and factory-built houses may be placed on permanent foundation systems in any mobile home park for which a permit was issued after January 1, 1982 and designated to accommodate homes on permanent foundation systems.
3. Public/quasi-public accessory utility buildings/facilities include, but are not limited to, water wells, water storage, pump stations, booster stations, transmission/distribution electrical substations, operating centers, gas metering/regulating stations or telephone exchanges, with the necessary accessory equipment incidental thereto.
4. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

(Ord. 9564 § 2, 1980; Ord. 9615 § 1, 1983; Ord. 9674 § 2, 1983; Ord. 9785 § 23, 1986; Ord. 9804 § 6, 1986; Ord. NS-409 § 18, 1997; Ord. NS-718 § 15, 2004; Ord. NS-746 § 12, 2005; Ord. NS-791 § 27, 2006; Ord. CS-102 §§ LXXXII, LXXXIII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § XLIII, 2012; Ord. CS-191 § XVII, 2012; Ord. CS-224 §§ XXXIV, XXXV, 2013; Ord. CS-249 § XV, 2014)

**§ 21.37.030. Permit required.**

- A. No person shall develop a mobile home park and no mobile home park shall be established unless a mobile home park permit has been issued according to this chapter.
- B. The requirement for a mobile home park permit and the design criteria and development standards identified in this chapter, are not applicable to the filing of a tentative map or a parcel map for a subdivision to be created from the conversion of a rental mobile home park to a resident ownership provided that the Planning Commission and City Council find that the mobile home park shall remain substantially in conformance with the existing facility allowing conversion. Such conversion of existing mobile home parks shall still be subject to Sections 21.37.110 and 21.37.120.

(Ord. 9564 § 2, 1980; Ord. 9836 § 1, 1987; Ord. NS-718 § 15, 2004; Ord. CS-061 § 4, 2009)

**§ 21.37.040. Application and fees.**

- A. An application for a mobile home park permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  1. Be made in writing on a form provided by the City Planner;
  2. State fully the circumstances and conditions relied upon as grounds for the application; and

3. Be accompanied by:
    - a. A legal description of the property involved.
    - b. Adequate plans, which include a development plan showing the location of all mobile home lots and accessory buildings, a landscape plan and a grading plan including cross-sections of any proposed grading.
    - c. All other materials as specified by the City Planner.
  4. If the applicant contemplates the construction of a mobile home park in phases, the application shall so state and shall include a proposed construction schedule;
  5. If the project is to provide open areas and recreational facilities to be used by the occupants of two or more dwelling units, it shall be stated in the application and the application shall include a plan, acceptable to the city, for the preservation and maintenance of the common elements of the property; and
  6. If the proposed park will be a condominium or planned unit development, a tentative map prepared according to the requirements of Chapter 20.12 of this code shall be filed at the time of the application for the mobile home park. No tentative map for a mobile home condominium or planned unit development shall be approved unless a mobile home park permit has first been approved. A tentative map for a mobile home condominium or planned unit development shall not be deemed submitted for approval until the date of the first Planning Commission hearing on the permits.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

(Ord. 9564 § 2, 1980; Ord. 1256 §§ 7, 13, 1982; Ord. NS-675 §§ 76, 81, 2003; Ord. NS-718 § 15, 2004; Ord. CS-164 §§ 10, 11, 2011; Ord. CS-178 § LII, 2012)

#### **§ 21.37.050. Decision-making authority.**

- A. An application for a mobile home park permit may be approved, conditionally approved or denied by the City Council based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- B. Before the City Council decision, the Planning Commission shall hear and consider the application for a mobile home park permit and shall prepare a recommendation and findings for the City Council. The action of the Planning Commission shall be filed with the City Clerk, and a copy shall be mailed to the applicant.
- C. The City Council shall hear the matter, and may approve or conditionally approve the mobile home park permit if it finds that the design and improvement of the project are consistent with the development standards and design criteria established by this chapter.

(Ord. 9564 § 2, 1980; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. NS-718 § 15, 2004; CS-164 § 10, 2011; Ord. CS-178 § LII, 2012)

#### **§ 21.37.060. Announcement of decision and findings of fact.**

When a decision on a mobile home park permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this code.

(Ord. 9564 § 2, 1980; Ord. 9758 § 8, 1985; Ord. NS-718 § 15, 2004; Ord. CS-178 § LII, 2012)

**§ 21.37.070. Effective date.**

The decision of the City Council on a mobile home park permit is final, conclusive and shall be effective upon the date specified in the announcement of decision.

(Ord. 9564 § 2, 1980; Ord. NS-718 § 15, 2004; Ord. CS-178 § LII, 2012)

**§ 21.37.075. Expiration, extensions and amendments.**

- A. The expiration period for an approved mobile home park permit shall be as specified in Section 21.58.030 of this title.
- B. The expiration period for an approved mobile home park permit may be extended pursuant to Section 21.58.040 of this title.
- C. An approved mobile home park permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. CS-178 § LIII, 2012)

**§ 21.37.080. Final mobile home park plan.**

- A. After approval of the mobile home park permit, the applicant shall prepare a reproducible copy of the approved mobile home park site plan known hereafter as the final mobile home park plan, which shall incorporate all requirements of the mobile home park permit approval.
- B. The final mobile home park plan shall be submitted to the City Planner for signature. Prior to signing the final mobile home park plan, the City Planner shall determine that all applicable requirements have been incorporated into the plan and that all conditions of approval have been satisfactorily met or otherwise guaranteed.

(Ord. 9564 § 2, 1980; Ord. 1256 § 10, 1982; Ord. NS-675 §§ 76, 77, 2003; Ord. NS-718 § 15, 2004; Ord. CS-164 § 10, 2011)

**§ 21.37.090. Design criteria.**

- A. The following design criteria shall apply to all mobile home parks:
  - 1. The overall plan shall be comprehensive, embracing land, mobile homes, buildings, landscaping and their interrelationships, and shall conform to adopted plans for all governmental agencies for the area in which the proposed development is located;
  - 2. The plan shall provide for adequate circulation, off-street parking, open recreational areas and other pertinent amenities. Mobile homes, buildings, structures and facilities in the park shall be well integrated, oriented and related to the topographic and natural landscape features of the site;
  - 3. The proposed development shall be compatible with existing and planned land use and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the neighborhood or community; and
  - 4. Common areas and recreational facilities shall be located so as to be readily accessible to the occupants of the dwelling units and shall be well related to any common open spaces provided.

(Ord. 9564 § 2, 1980; Ord. NS-718 § 15, 2004)

**§ 21.37.100. Development standards.**

- A. A mobile home park shall comply with the following development standards:
1. A mobile home park shall be not less than five acres for a condominium or planned unit development park and fifteen acres for a rental park;
  2. Fifteen percent of the mobile home sites may be three thousand square feet in area to accommodate a twenty foot wide mobile home. The remaining sites shall have a minimum of three thousand five hundred square feet in area;
  3. Each mobile home lot shall have a width of not less than fifty feet;
  4. Not more than one single-family mobile home or factory-built home may be placed on a mobile home lot. Each mobile home or factory-built house shall contain one dwelling unit only. No mobile home or factory-built house shall be less than twenty-four feet wide, except for the fifteen percent affordable housing units which may be twenty feet wide;
  5. Each mobile home site shall have a front yard of not less than five feet. The front yard so required shall not be used for vehicle parking, except such portion thereof as is devoted to driveway use;
  6. On corner mobile home sites, the side yard adjoining the mobile home park street shall not be less than five feet;
  7. Except for corner lots, each mobile home lot shall have a side yard of not less than three feet and a rear yard of not less than three feet;
  8. The minimum separation between mobile homes or between a mobile home and a building shall be as follows: from side to side, ten feet; from side to rear, eight feet; from rear to rear, six feet;
  9. Notwithstanding the separation requirement, a private garage may be located immediately adjacent to a mobile home if the interior of the garage wall adjacent to the mobile home is constructed of materials approved for one-hour fire resistive construction. If there are openings in the mobile home wall adjacent to the garage wall, a minimum of three feet separation shall be maintained between the mobile home and a private garage which does not meet the requirements for one-hour fire resistive construction;
  10. Private garages shall maintain a minimum side yard and rear yard of not less than three feet;
  11. Carports/awnings must be constructed of noncombustible materials and may be constructed to the lot line provided there is a minimum of three feet clearance from a mobile home or any other structures on the adjacent lots;
  12. A maximum of two storage cabinets shall be permitted on each mobile home lot. The aggregate floor area of the cabinets shall not exceed one hundred square feet nor shall the height of the cabinets exceed ten feet. Storage cabinets may be located on a lot line or adjacent to a mobile home or mobile home accessory building or structure or beneath an awning or carport; provided, that it does not obstruct the required exiting or openings for light and ventilation of a mobile home or a cabana, or prevent service or inspection of mobile home equipment and utility connections or encroach within a designated open space area;
  13. Expansion or alteration of buildings which are nonconforming by reason of inadequate yards shall comply with Section 21.48.090. Miscellaneous accessory structures such as lath houses,

green-houses, storage buildings (greater than one hundred square feet in floor area), etc., may be erected on a mobile home lot, provided they are located a minimum of six feet from any mobile home, outside any required yard and the occupied area of a lot does not exceed seventy-five percent of the lot;

14. When used for access to a parking facility, a side yard shall be wide enough for a ten foot wide unobstructed driveway. All such side yard driveways shall be paved with cement or asphaltic concrete;
15. Window awnings, not including structures, may project not more than four feet into any front yard and the following features may be erected or project into any required yard:
  - a. Vegetation, including trees, shrubs and other plants,
  - b. Necessary appurtenances for utility service,
  - c. Mailboxes;
16. The area of the mobile home and all mobile home accessory structures shall not cover more than seventy-five percent of the mobile home site;
17. Parking shall be provided subject to the provisions of Chapter 21.44 of this title;
18. Mobile home park streets shall be provided in such a pattern as to provide convenient traffic circulation within the mobile home park. Such streets shall be built to the following standards:
  - a. No roadway shall be less than thirty four feet in width,
  - b. There shall be concrete curbs on each side of the streets,
  - c. The mobile home park streets shall be paved according to standards established by the City Engineer,
  - d. Mobile home park streets shall be lighted in accordance with the standards established by the City Engineer;
19. (Reserved)
20. The City Council may permit decentralization of the recreational facilities in accordance with principles of good planning;
21. Utilities.
  - a. All utilities shall be underground, and
  - b. Television reception shall be by means of cable television or one antenna or several common antennae if the size or configuration of the mobile home park requires more than one. Individual TV antennas on a coach shall be prohibited;
22. Common trash-bin enclosures shall be provided. They shall be of masonry construction and compatible with the mobile home park;
23. Service buildings and facilities shall be strategically located throughout the park for convenient access from mobile homes. No service building shall be closer than twenty feet to any property adjacent to the mobile home park;

24. Mobile home parks shall be enclosed by solid masonry fences, six feet in height, subject to City Planner approval, along dedicated street frontages and interior property lines; and
25. All new mobile homes shall bear a valid insignia of approval issued by the State Department of Housing and Community Development.

(Ord. 9564 § 2, 1980; Ord. 1256 § 7, 1982; Ord. 9782 § 1, 1985; Ord. 9804 § 4, 1986; Ord. NS-24 § 1, 1988; Ord. NS-602 § 4, 2001; Ord. NS-675 § 76, 2003; Ord. NS-718 § 15, 2004; Ord. CS-102 §§ LXXXIV, LXXXV, 2010; Ord. CS-164 § 10, 2011)

#### **§ 21.37.110. Removal of mobile home park zone.**

- A. The removal of the mobile home park zone shall be accomplished according to the procedure for change of zone established by Chapter 21.52 of this code.
- B. No change of zone shall be approved unless the City Council, after recommendation of the Planning Commission, finds:
  1. That the change of zone is consistent with the housing element;
  2. That for the property used for a mobile home park, the applicant has provided notice of termination of tenancy required by the California Civil Code Section 798.56(f) and that all requirements of the Civil Code regarding termination of tenancy will be met;
  3. That for property used for a mobile home park, a plan satisfactory to the City Council to mitigate the impact on residents of the park has been prepared. Such plan shall include a phase-out schedule which establishes a timetable for the change of use and shall include an assistance plan, including programs to aid residents who will be displaced by the change of use in locating and securing new residences. Such aid may include financial assistance. The following factors shall guide the council in approving or disapproving the plan:
    - a. The age of the mobile home park,
    - b. The number of low income individuals or households needing assistance for relocation, and
    - c. The availability of relocation housing, sites for mobile home relocation, or both, having reasonably equivalent amenities, within the North County area within fifteen miles of the Pacific Ocean.
- C. In making decisions pursuant to this section, the council shall consider the effect of the decision on the housing needs of the community and balance those needs against the public service needs of the residents and available fiscal and environmental resources.

(Ord. 9564 § 2, 1980; Ord. NS-718 § 15, 2004)

#### **§ 21.37.120. Conversion.**

- A. "Conversion" means a use of the mobile home park for a purpose other than the rental, or the holding out for rent, of two or more mobile home sites to accommodate mobile homes used for human habitation. A conversion may affect an entire park or any portion thereof. "Conversion" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, planned unit development or any form of ownership wherein spaces within the park are to be sold. "Conversion" does not include a change in the use of the property requiring a change of zone.

B. With the exception of mobile home parks converting from a rental mobile home park to resident ownership, no conversion shall be allowed unless a mobile home park permit has been approved by the City Council pursuant to Chapter 21.37.

At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of an existing rental mobile home park to residential ownership, the subdivider shall comply with the requirements of Government Code Section 66427.5.

C. No conversion permit shall be issued unless the City Council finds:

1. That the notice required by California Civil Code Section 798.56(f) has been or will be given;
2. Each of the tenants of the proposed condominium, stock cooperative project, planned unit development or other form of ownership has been or will be given notice of an exclusive right to contract for the purchase of their respective site or mobile home lot upon the same terms and conditions that such site will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than one hundred eighty days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right; and
3. That the conversion is consistent with the general plan; a specific finding of consistency with the housing element shall be made.

D. Following recordation of a certificate of compliance or conditional certificate of compliance, owners/tenants of mobile homes on any unpurchased remaining interest shall not be economically displaced for a period of one year from the date of recordation. A rent increase may be levied during this year provided the increase is equal to or less than the average annual rent increase levied during the previous three years.

E. As a condition of the waiver of tentative map pursuant to Section 21.37.130, the owner of the unpurchased remaining interest shall have a relocation plan approved by the City Council for those tenants who choose to relocate their mobile homes. The relocation plan shall also provide assistance for residents who are renting a coach in the park who will be displaced by the purchase of their space. The following factors shall guide the council in approving or disapproving the plan:

1. The age and condition of the mobile home units;
2. The number of low-income individuals or households needing assistance for relocation;
3. The availability of relocation housing, sites for mobile home relocation, or both, having reasonably equivalent amenities, within the North County area within fifteen miles of the Pacific Ocean; and
4. The necessity for financial assistance for relocation.

F. Conditions, covenants and restrictions (CC&Rs) for any conversion shall be submitted to the City Planner for approval prior to final map, or final action and the CC&Rs shall provide for the periodic maintenance of the exteriors of the mobile homes. The conditions, covenants and restrictions cannot be altered or dissolved without written city approval.

(Ord. 9564 § 2, 1980; Ord. 9684, 1983; Ord. 9836 §§ 2—5, 1987; Ord. NS-718 § 15, 2004; Ord. CS-061 § 4, 2009; Ord. CS-164 § 10, 2011)

**§ 21.37.130. Waiver of tentative and final map for mobile home park conversions.**

- A. Other provisions of this chapter notwithstanding, the City Council may, by resolution, waive the requirement for a tentative and final map for a single parcel subdivision for the conversion of an existing mobile home park to condominiums. Prior to granting such a waiver, the City Council shall make the following findings:
1. This waiver shall be granted only to conversion of existing mobile home parks on a single parcel;
  2. A petition requesting the conversion shall be signed by the property owner and at least two-thirds of the residents of the mobile home park and shall be submitted to the City Planner;
  3. The proposed subdivision shall not result in the economic displacement from the subject mobile home park of tenants/owners on remaining unpurchased interests located within the subject mobile home park unless the owner complies with Section 21.37.120(E);
  4. A mobile home park permit shall be concurrently approved by the City Council with the granting of this waiver. Even though a project may be deemed exempt, the permit application shall include an analysis of conformance with present development; and
  5. The subdivision shall comply with such requirements then in effect as may have been established by the Subdivision Map Act or this chapter pertaining to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of the Subdivision Map Act or this chapter.
- B. The subdivider requesting a waiver as provided for in this section shall make application therefor on such forms as may be provided for by the City Planner.
- C. Upon the grant of a waiver as provided for under this section, the City Engineer shall prepare a certificate of compliance or conditional certificate of compliance, as appropriate, for recordation in the office of the County Recorder for the purpose of documenting the approval of the subdivision. The City Engineer shall not record or release for recordation a conditional certificate of compliance prepared pursuant to this section unless and until the owner or owners of the property to be subdivided have entered into an agreement with the city to provide for the satisfactory completion of all conditions of the certificate of compliance and shall have provided improvement security, as appropriate, as provided for in Chapter 5 of the Subdivision Map Act.

(Ord. 9836 § 6, 1987; Ord. NS-718 § 15, 2004; Ord. CS-164 § 10, 2011)

**§ 21.37.140. Severability.**

In any section, subsection, paragraph, sentence, clause or phrase of this chapter and the ordinance to which it is a part, or any part thereof, is held for any reason to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The City Council hereby declares that it would have adopted this chapter and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective. Furthermore, if the entire ordinance or application is deemed invalid by a court of competent jurisdiction, any repeal of Chapter 21.37 will be rendered void and cause such Carlsbad Municipal Code provision to remain in full force and effect for all purposes.

(Ord. CS-061 § 5, 2009)

## CHAPTER 21.38 P-C PLANNED COMMUNITY ZONE

**Note: Prior ordinance history: Ord. Nos. 9060, 9218, 9262, and 9338.**

### **§ 21.38.010. Intent and purpose.**

The intent and purpose of the P-C, planned community zone, is to:

- A. Provide a method for and to encourage the orderly implementation of the general plan and any applicable specific plans by the comprehensive planning and development of large tracts of land under unified ownership or developmental control so that the entire tract will be developed in accord with an adopted master plan to provide an environment of stable and desirable character;
- B. Provide a flexible regulatory procedure to encourage creative and imaginative planning of coordinated communities involving a mixture of residential densities and housing types, open space, community facilities, both public and private and, where appropriate, commercial and industrial areas;
- C. Allow for the coordination of planning efforts between developer and city to provide for the orderly development of all necessary public facilities to insure their availability concurrent with need;
- D. Provide a framework for the phased development of an approved master planned area to provide some assurance to the developer that later development will be acceptable to the city; provided such plans are in accordance with the approved planned community master plan; and
- E. Ensure that all new and, as appropriate, existing master plans reserve a site or sites for community facilities uses which benefit the community as a whole by satisfying social/religious/human service needs pursuant to Chapter 21.25 of this code.

(Ord. 9458 § 1, 1976; Ord. NS-579 § 2, 2001)

### **§ 21.38.020. Permitted uses and structures.**

In the P-C, planned community, zone the permitted uses and structures shall be established by a master plan of development approved in accordance with this chapter which may include any use found to be necessary and desirable for a community planned in accordance with the purposes of this chapter, provided that such permitted uses and structures shall be consistent with the general plan and applicable specific plans. Prior to approval of a master plan, the property may be used as permitted by Chapter 21.07 for the E-A exclusive agriculture zone. After approval of a master plan, such agricultural uses may be continued if the master plan so provides.

(Ord. 9458 § 1, 1976; Ord. NS-409 § 19, 1997; Ord. NS-579 § 3, 2001)

### **§ 21.38.021. Community facilities sites required.**

All new master plans shall include graphic plans and text to reserve a site within the master plan area for community facilities uses pursuant to Chapter 21.25 of this code.

(Ord. NS-579 § 4, 2001)

### **§ 21.38.025. Accessory dwelling units.**

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of

Section 21.10.030.

(Ord. NS-283 § 6, 1994; Ord. NS-663 § 11, 2003; Ord. NS-718 § 16, 2004; Ord. CS-324 § 2, 2017; Ord. CS-384 § 22, 2020)

**§ 21.38.030. General provisions.**

- A. The P-C zone may be established on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this chapter. No P-C zone shall include less than one hundred acres of contiguous land.
- B. A planned community shall be subject to all other applicable provisions of Title 20, Subdivisions, and Title 21, Zoning, of this code. Where a conflict in regulation occurs, the regulations specified in this chapter or the approved master plan shall control.

(Ord. 9458 § 1, 1976; Ord. CS-102 § LXXXVI, 2010)

**§ 21.38.040. Master plan required.**

Prior to the approval for any permits for development on property zoned P-C, planned community, a master plan of development must be approved by the City Council in accord with the provisions of this chapter. A master plan when approved by ordinance shall establish the regulations for the development of the planned community within the P-C zone, and the regulations shall become a part thereof.

(Ord. 9458 § 1, 1976)

**§ 21.38.050. Application and fees.**

- A. Prefiling Procedure.
  - 1. Prior to filing an application for a master plan, an applicant may prefile the proposal with the City Planner for review.
  - 2. The City Planner shall contact interested departments and agency personnel and arrange any necessary meetings with the applicant. This procedure may involve a review of the general outline of the proposal.
  - 3. After review, the City Planner shall provide the applicant with written comments, including recommendations as appropriate to inform and assist the applicant prior to the applicant's formal application.
- B. Master Plan Application.
  - 1. An application for a master plan and all related amendments may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
    - a. Be made in writing on a form provided by the City Planner;
    - b. State fully the circumstances and conditions relied upon as grounds for the application; and
    - c. Be accompanied by a preliminary master plan graphic and text, open area plan and sign program, a legal description of the property involved and all other materials as specified by the City Planner.
- C. At the time of filing a preliminary application or a master plan application, the applicant shall pay the

application fee contained in the most recent fee schedule adopted by the City Council.  
(Ord. 9458 § 1, 1976; Ord. 9568 § 3, 1980; Ord. 1256 § 13, 1982; Ord. 1261 § 44, 1983; Ord. NS-675  
§§ 76, 81, 2003; Ord. CS-164 §§ 10, 11, 2011; Ord. CS-178 § LV, 2012)

### **§ 21.38.060. Contents of master plan.**

A master plan for the development of a planned community shall consist of the following:

A. Graphic plans of the proposed development that include the following:

1. A map and legal description of the property with a north point scale not less than one inch equals two hundred feet, showing the date of preparation and the name and address of the plan's preparer, be it company or person, is required.
2. Location of the various land uses shall be indicated by the use of zone designations of development zones and overlay zones as provided in this title. Development of property within the area of each such zone shall be subject to the regulations of the indicated zone unless specifically modified as a part of the master plan approval. All master plans shall allow a maximum building height of thirty feet and two stories if a minimum roof pitch of 3/12 is provided or twenty-four feet and two stories if less than a 3/12 roof pitch is provided for single-family and duplex projects on lots with a lot area less than twenty thousand square feet in size. Lots with a lot area of twenty thousand square feet or greater and zoned R-1 and specifying a -20 or greater area zoning symbol by the master plan may have a building height limit of thirty-five feet and three stories with a minimum roof pitch of 3/12 provided. A master plan may impose a lower building height limit than those stated in this section in its development standards. Neighborhood commercial uses within a master plan shall conform to Section 21.26.030 of the C-1 zone. Tourist-oriented commercial uses within a master plan shall conform to Section 21.29.060 of the C-T zone. All other commercial uses within a master plan shall conform to the building height regulations contained in Section 21.28.030 of the C-2 zone. All industrial uses within a master plan shall conform to the building height regulations as contained in Section 21.34.070.A of the P-M zone. Office uses shall conform to Section 21.27.050.A.3 of the O zone.
3. An integrated open space program that is at least fifteen percent of the total master planned area is required, except that the City Council may reduce this amount if the proposed open space is found to be adequate and is integrated with a proportional amount of off-site open space. This open space program shall address four separate categories of open space including:
  - a. Open space for the preservation of natural resources;
  - b. Open space for the managed production of resources;
  - c. Open space for outdoor recreation; and
  - d. Open space for public health and safety.

Land uses considered as open space for purposes of this chapter are properties that are publicly or commonly owned for the benefit and use of the public or residents of the community such as parks, recreation facilities, greenbelts that are at least twenty feet wide, natural areas that are at least ten thousand square feet in area, bikeways and pedestrian paths. These areas are to be indicated in the master plan and not used for any other purpose.

4. Specific development provisions to be applied such as a planned unit development permit or a conditional use permit shall be indicated. Development of property within areas so indicated shall be in accord with the terms of the permit and the provisions of this title applicable to such permits.
  5. The location of public and quasi-public facilities such as schools, fire stations, transmission lines and booster stations shall be indicated.
  6. The locations of major circulation systems and collector streets and their relationship to the circulation element shall be indicated. Bikeways, pedestrian paths, interconnecting open space areas and other special access means shall also be shown.
  7. Facilities for water supply and sewerage disposal, including sewer and water trunk lines, fire station sites, storm drainage and flood control structures and any other public facility needed to properly service the proposed community shall be indicated.
  8. Phasing of development shall be indicated. Adequate public facilities, open space, recreation areas and street systems shall be provided for each phase.
  9. A map showing topographical contours at no less than 25-foot intervals. Existing trees and other natural features shall be indicated on such map.
  10. Proposed development shall be consistent with the topography to reduce the amount of grading. The graphic is to indicate where significant grading is anticipated and for what reasons it is necessary.
- B. A text shall accompany the graphic and shall include in the order as listed below:
1. A description of each type of land use by acre and area indicating the number and type of anticipated dwelling units in each of the residential areas, anticipated uses in the commercial, industrial zones and the land area for parks, schools, common open area and other public facilities and community services. For each of the open space categories identified in subsection A.3, the master plan text shall also include a description of the resource type/environmental constraint being preserved or avoided or the types of recreational facilities proposed within recreational open space areas, and a program for preserving and/or maintaining the open space areas,
  2. Land use and public facility economic impact report that contains the following:
    - a. Justification for the proportions of the various land uses based on the projected population and acceptable marketing or planning techniques,
    - b. Projected fiscal impacts the development will have on the ability of the city and other governmental or quasi-public agencies to provide necessary services. This report shall include the approximate cost of dwelling units, anticipated land and sales taxes to the city and costs of necessary public services. The report shall be prepared by an economic

consultant independent of the applicant but at the applicant's expense,

3. Special development regulations, including any modifications of zone designation regulations,
  4. A program to meet the needs for parks, schools and other public facilities based on the anticipated population of the community and the timing of its development,
  5. Method to be employed for the maintenance of commonly held private land such as open space, recreation areas, street and parking areas. Some possible methods, depending on the circumstances, are maintenance by developer, homeowners' association, maintenance district, or city,
  6. Phasing schedule indicating the timing for each section of the development, what public facilities, open space, recreation facilities or amenities will be provided with each phase,
  7. Special requirements as requested by the applicant or required by the City Council which may include, but are not limited to, any of the matters which may be regulated by specific plan pursuant to Section 65451 of the Government Code,
  8. Measures to be used to mitigate any adverse environmental impact as noted in the adopted environmental impact report for the project;
- C. A landscape open area plan that includes all open spaces as required by this chapter and all other such areas proposed for the development. This plan shall include a graphic indicating areas to be landscaped, left natural, used as recreation, open space and bike or pedestrian ways. In addition, the plan shall include the proposed ownership, and indicate who shall have the responsibility for the maintenance of the various types of open areas;
- D. A community identification sign program that, in addition to signs otherwise permitted, the master plan area will show community entrance signs, directional signs and temporary informational signs. The program may include the following:
1. Graphic representation of design motif,
  2. Location of permanent community entrance, directional and informational signs,
  3. Type, number and dimensions of temporary informational and directional signs that will be used during development only,
  4. Special sign program for the commercial and industrial portion of the community including standards for development based on sign area footage per lineal foot, face of building and sign height maximums. A community identification sign program is in addition to those signs permitted in Chapter 21.41, but in no case may the sign program exceed that allowed for community identity signs in Chapter 21.41. If no community identification sign program is desired, the master plan text shall so indicate;
- E. Park land dedications may be required as a condition of all master plans. All park land required shall be dedicated up front, concurrent with the approval of the first final map within the master plan area. Prior to dedicating park land over to the city, the master plan applicant shall be required to submit the following information to the city:
1. The master plan shall identify the location and acreage of the park site on the land use map and shall also include a discussion of the park in the master plan text. Prior to final adoption of the master plan the applicant shall enter into a recordable agreement with the city, and agreeable to

the city, which generally depicts the location of the park site on a map and also contains provision whereby the developer agrees to dedicate the described park area when required under this section,

2. This park area shall be dedicated to the city prior to the adoption of the first final map within the master plan area,
3. The master plan shall include the location of the park, biological and soils analysis of the site along with a cultural resources inventory and any other environmental reports as may be required by the City Planner, and a conceptual development plan of the park to the satisfaction of the Community Services Director,
4. The applicant shall also provide, in writing, a statement as to whether or not the park site has ever been used for the disposal or storage of toxic wastes pursuant to Section 25300 et seq., of the Health and Safety Code.

(Ord. 9458 § 1, 1976; Ord. 9838 §§ 1—3, 1987; Ord. NS-180 § 24, 1991; Ord. NS-204 § 10, 1992; Ord. NS-286 § 6, 1994; Ord. CS-164 § 10, 2011; Ord. CS-178 § LVI, 2012)

#### **§ 21.38.070. Notices and hearings.**

Notice of an application for a master plan shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. 9458 § 1, 1976; Ord. CS-178 § LVII, 2012)

#### **§ 21.38.080. Decision-making authority.**

An application for a master plan may, by ordinance, be approved, conditionally approved or denied by the City Council.

- A. Before the City Council decision, the Planning Commission shall hear and consider the application for a master plan and shall prepare a recommendation and findings for the City Council, including all matters set out in Section 21.38.090 of this chapter. The action of the Planning Commission shall be filed with the City Clerk, and a copy shall be mailed to the applicant.
- B. The City Council shall hear the matter, and after considering the findings and recommendations of the Planning Commission, may by ordinance approve or conditionally approve the master plan if, from the evidence presented at the hearing, all of the findings of fact in Section 21.38.090 of this chapter are found to exist.
- C. The City Council may make substantial modifications to the Planning Commission's recommendation on a proposed master plan, including modifications not previously considered by the Planning Commission. The City Council, in its discretion, may refer said modifications back to the Planning Commission for recommendation.

(Ord. 9458 § 1, 1976; Ord. 1256 § 7, 1982; Ord. NS-675 §§ 76, 77, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § LVII, 2012)

#### **§ 21.38.090. Findings of fact.**

The City Council shall not approve or conditionally approve a master plan unless all of the following facts exist:

- A. The proposed development as described by the master plan is consistent with the provisions of the

general plan and any applicable specific plans.

- B. All necessary public facilities can be provided concurrent with need and adequate provisions have been provided to implement those portions of the capital improvement program applicable to the subject property.
- C. The residential and open space portions of the community will constitute an environment of sustained desirability and stability, and that it will be in harmony with or provide compatible variety to the character of the surrounding area, and that the sites proposed for public facilities, such as schools, playgrounds and parks, are adequate to serve the anticipated population and appear acceptable to the public authorities having jurisdiction thereof.
- D. The proposed commercial and industrial uses will be appropriate in area, location and overall design to the purpose intended. The design and development standards are such as to create an environment of sustained desirability and stability. Such development will meet performance standards established by this title.
- E. In the case of institutional, recreational, and other similar nonresidential uses, such development will be proposed, and surrounding areas are protected from any adverse effects from such development.
- F. The streets and thoroughfares proposed are suitable and adequate to carry the anticipated traffic thereon.
- G. Any proposed commercial development can be justified economically at the location proposed and will provide adequate commercial facilities of the types needed at such location proposed.
- H. The area surrounding the development is or can be planned and zoned in coordination and substantial compatibility with the development.
- I. Appropriate measures are proposed to mitigate any adverse environmental impact as noted in the adopted environmental impact report for the project.

(Ord. 9458 § 1, 1976; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § LVII, 2012)

#### **§ 21.38.100. Effective date and appeals.**

The decision of the City Council is final, conclusive and shall be effective upon the date specified in the announcement of decision.

(Ord. 9458 § 1, 1976; Ord. CS-178 § LVII, 2012)

#### **§ 21.38.120. Amendment of master plan.**

An approved master plan may be amended pursuant to the following:

- A. An application to amend a master plan shall be submitted in accordance with Section 21.38.050 of this chapter, or may be initiated by City Council motion.
- B. Minor Master Plan Amendments. Master plan amendments, which are determined by the City Planner to be minor in nature, may be approved, conditionally approved or denied by the Planning Commission at a public hearing noticed in accordance with Chapter 21.54 of this title. A minor amendment shall not change the densities or boundaries of the subject property, or involve an addition of a new use or group of uses not shown on the original master plan, or the rearrangement of uses within the master plan.

C. Master Plan Amendments. Master plan amendments that are not minor in nature shall be processed in accordance with Section 21.54.125 of this title.

(Ord. 9458 § 1, 1976; Ord. 9568 § 3, 1980; Ord. 1261 § 44, 1983; Ord. NS-675 § 76, 2003; Ord. CS-178 § LVII, 2012)

#### **§ 21.38.130. Implementation of master plan.**

- (a) To insure that the provisions and requirements of the approved master plan are fulfilled, the following procedures shall be used:
- (1) Upon final approval of a master plan, the City Planner shall affix the master plan designation number on the official zone map.
  - (2) Subdivision of land in the master plan area shall meet all requirements of Titles 20 and 21 of this code and the approved master plan.
  - (3) Development of property within a master plan pursuant to a special process such as site development plan, planned unit development permit or conditional use permit shall meet all requirements of the permit, the approved master plan, and the provisions of this title applicable to such permit.
  - (4) Ministerial permits such as building permits, business licenses, and home occupations shall meet all requirements of this code and the approved master plan.
- (b) The planned community master plan process is part of the ongoing city planning effort. It is anticipated that amendments to the master plan may be necessary prior to completion of the planned community. Approval and construction of a sectional part of a master plan shall not vest rights in the remainder of the plan. The plan is intended rather as a planning framework to insure that the parts of the plan as constituted are properly integrated into the city's planning process.

(Ord. 9458 § 1, 1976; Ord. 1261 § 44, 1983; Ord. NS-675 § 76, 2003)

#### **§ 21.38.140. Additional standards.**

The City Council may by resolution adopt additional standards of development for master plans. Master plans approved or amended after the effective date of such regulations shall comply therewith. For amended master plans that are partially constructed, the new standards shall apply to the undeveloped portions only.

(Ord. 945 § 1, 1976)

#### **§ 21.38.141. Additional standards—Rancho La Costa, Batiquitos Lagoon Watershed.<sup>7</sup>**

The contents of the master plan as described in Section 21.38.060 shall include the following additional information required below and be approved in accordance with the following additional development standards:

- (a) Permits—Required. Developments as defined in Section 21.04.107, (including, but not limited to, land divisions) require a coastal development permit subject to the requirement of this zone. All uses in this zone are subject to the procedural requirements of Chapter 21.201. Prior to or simultaneously with the approval of any division of land or any other development, a master plan of development for the property called Rancho La Costa shall be approved in accordance with the provisions of this

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7. Note: Applies only to Rancho La Costa, Hunt Properties, covered by the Mello I LCP Segment.

chapter.

- (b) Maximum Density of Development. The master plan shall be approved subject to a maximum density of development as follows:
- (1) Agricultural land (with soils rated at I through IV under the Land Use Capability Classification System of the Soil Conservation Service) shall result in an allowable intensity of development of one residential dwelling unit per ten acres;
  - (2) All slopes greater than twenty-five percent shall result in an allowable development intensity of one dwelling unit per ten acres;
  - (3) All slopes greater than twenty percent but less than twenty-five percent shall result in a development intensity of one dwelling unit per five acres;
  - (4) All slopes greater than fifteen percent but less than twenty percent shall result in a development intensity of one dwelling unit per acre;
  - (5) All slopes greater than ten percent but less than fifteen percent shall result in a development intensity of two dwelling units per acre;
  - (6) All areas with a slope of less than ten percent shall result in a development intensity of six units per acre.

The master plan shall include a topographic map at a scale sufficient to determine the above but no less than one inch equals one hundred feet having a contour interval of five feet with overlays delineating areas of greater than ten, fifteen, twenty and twenty-five percent slopes. A map showing the type of soil erodibility, and class based on the Land Use Capability Classification System of the Soil Conservation Service shall be submitted in the same scale as the slopes. The master plan shall show the computation of the densities and acreage of soils of the various classes and erodibility.

The plan required as a part of the master plan shall be certified as accurate by a registered engineer or other qualified professional to be true and accurate containing reasonably accurate estimates of the amount of cut and fill. The plan shall show the existing and the finished topography of the ground to be graded and filled, including a site plan of the proposed residential or commercial development in the same scale so that it can be superimposed upon the topographic map.

- (c) Drainage and Erosion Control. Any development proposal that affects steep slopes (twenty-five percent inclination or greater) shall be required to prepare a slope map and analysis for the affected slopes. Steep slopes are identified on the PRC Toups maps. The slope mapping and analysis shall be prepared during the CEQA environmental review on a project-by-project basis and shall be required as a condition of a coastal development permit.
- (1) For those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language would apply:
    - (A) Slopes of twenty-five percent grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed ten percent of the steep slope area over twenty-five percent grade may be permitted. For existing legal parcels, with all or nearly all of their area in slope area over twenty-five percent grade, encroachment shall be limited so that at no time is more than twenty percent of the entire parcel (including areas under

twenty-five percent slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the city's circulation element or the development of utility systems. Use of slopes over twenty-five percent may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

- (B) No further subdivisions of land or utilization of planned unit developments shall occur on lots that have their total area in excess of twenty-five percent slope unless a planned unit development is proposed which limits grading and development to not more than ten percent of the total site area.
  - (C) Slopes and areas remaining undisturbed as a result of the hillside review process, shall be placed in a permanent open space easement as a condition of development approval. The purpose of the open space easement shall be to reduce the potential for localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to the entire community.
- (2) For all other steep slope areas, the City Council may allow exceptions to the above grading provisions provided the following mandatory findings to allow exceptions are made:
- (A) A soils investigation conducted by a licensed soils engineer has determined the subject slope area to be stable and grading and development impacts mitigatable for at least seventy-five years, or life of structure.
  - (B) Grading of the slope is essential to the development intent and design.
  - (C) Slope disturbance will not result in substantial damage or alteration to major wildlife habitat or native vegetation areas.
  - (D) If the area proposed to be disturbed is predominated by steep slopes and is in excess of ten acres, no more than one third of the total steep slope area shall be subject to major grade changes.
  - (E) If the area proposed to be disturbed is predominated by steep slopes and is less than ten acres, complete grading may be allowed only if no interruption of significant wildlife corridors occurs.
  - (F) Because north-facing slopes are generally more prone to stability problems and in many cases contain more extensive natural vegetation, no grading or removal of vegetation from these areas will be permitted unless all environmental impacts have been mitigated. Overriding circumstances are not considered adequate mitigation.
- (3) Drainage and runoff shall be controlled so as not to exceed at any time the rate associated with property in its present state, and appropriate measures shall be taken onsite and/or offsite to prevent siltation of lagoons and other environmentally sensitive areas.
- (4) The appropriate measures shall be installed prior to onsite grading.
- (5) Modification of these standards and criteria may be granted to portions of properties where strict application of the standards and criteria would, even after application of clustering and other innovative development techniques, result in less than one-half of the development potential that would be attainable under the maximum density of development specified in subsection (b) of this section.

Such modification shall be limited to the standards and criteria expressed in subsection (c)(1)(A) of this section, and shall not exceed that necessary to the attainment of said one-half of the development potential.

Where such modification must involve grading or other disruption of lands of twenty percent slope or greater, such grading or disruption shall be limited to not more than one-fourth of the land area of the property which is of twenty percent slope or greater.

In selecting areas within the property of twenty percent slope or greater which will be subject to modification of standards and criteria, lands with the following characteristics shall receive preference.

- (A) Land with the lowest relative degree of environmental sensitivity.
- (B) Land with the relatively gentler slopes.
- (C) Land which will require the least amount of cut and fill, and upon which runoff and erosion can be most effectively controlled.
- (D) Land with the least amount of visual impact when viewed from a circulation element road or public vista point.
- (E) Land which, when graded and developed, would have the least environmental and visual impact on the steep-sloped land form upon which such grading or development is to take place.
- (6) A site specific technical report shall be required addressing the cumulative effects of developing each subwatershed and recommending measures to mitigate both increased runoff and sedimentation. It shall be reviewed and prepared according to the City of Carlsbad Engineering Standards and provisions of the Local Coastal Program, with the additions and changes adopted herein, such that a natural drainage system is generally preserved for the eastern undeveloped watersheds, but that storm drains are allowed for those western portions of the watershed which have already been incrementally developed.
- (7) Mitigation measures tailored to project impacts and consistent with the control of cumulative development shall be implemented prior to development in accordance with the following additional criteria:
  - (A) Submittal of a runoff control plan designed by a licensed engineer qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from the developed site over the greatest discharge expected from the existing undeveloped site as a result of a ten-year frequency storm. Runoff control shall be accomplished by a variety of measures, including, but not limited to, onsite catchment basins, detention basins, siltation traps and energy dissipators and shall not be concentrated in one area or a few locations.
  - (B) Detailed maintenance arrangements and various alternatives for providing the ongoing repair and maintenance of any approved drainage and erosion control facilities. If the offsite or onsite improvements are not to be accepted or maintained by a public agency, detailed maintenance agreements shall be secured prior to issuance of a permit.
  - (C) All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any onsite grading activities.

- (D) All grading activities shall be prohibited within the period from October 1st to March 31st of each year.
- (E) All areas disturbed by grading, but not completed during the construction period, including graded pads, shall be planted and stabilized prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control measures and native vegetation. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins and silt traps, shall be utilized in conjunction with plantings to minimize soil loss from the construction site. Said planting shall be accomplished under the supervision of a licensed landscaped architect and shall consist of seeding, mulching, fertilization and irrigation adequate to provide ninety percent coverage within ninety days. Planting shall be repeated, if the required level of coverage is not established. This requirement shall apply to all disturbed soils, including stockpiles.
- (d) Buffers/Open Space. The master plan shall include buffers and open space to separate agriculture use from residential development.

Adequate buffer areas, generally of at least one hundred feet, between agricultural operations and new development shall be established and protected through conservation easements. The buffer area shall include natural vegetation, natural grade separations, and other natural features. In addition, roads shall be designed as much as possible to function as buffers between agriculture and residences. Residential uses shall be sited and designed to provide an open space area away from use conflicts. Cut and fill shall not occur adjacent to agricultural areas in order to provide a natural buffer. The P-C zone requirement of open space can be used in conjunction with this requirement. Lands to be preserved in open space shall be dedicated to coastal conservancy through the use of open space easements in perpetuity free of prior liens prior to issuance of a permit. Land subject to open space easements may remain in private ownership with the appropriate easements, use restrictions and maintenance arrangements to be secured from the developer prior to issuance of a permit. The city shall require the developer or a homeowner's association to maintain the open space area or it can alternatively require payment of fees if the coastal conservancy certifies that the maintenance fee is adequate. If a homeowner association is to maintain the open space, appropriate provision for fees and maintenance shall be required as a condition of approval of the permit.

- (e) Siting/Parking. Due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated in the master plan to minimize the paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site.

(Ord. NS-365 § 3, 1996; Ord. CS-005 § 1, 2008)

#### **§ 21.38.150. Undeveloped areas of existing planned communities.**

Undeveloped portions of properties zoned P-C on the effective date of this chapter shall be regulated by this section as follows:

- (1) Properties of less than one hundred acres shall be considered lawfully nonconforming. The development of such property shall require a planned unit development permit or a condominium permit issued in accordance with the provisions of Chapter 21.45 or Chapter 21.47, whichever chapter is applicable to the development. If no master plan has been approved for the property, the land use shall be consistent with the general plan. If a master plan has been approved, the density and other provisions of such plan shall be consistent with the general plan. If a master plan has been approved, the density and other provisions of such plan shall constitute the underlying zone for purposes of the

planned unit development or condominium permit.

- (2) Properties of more than one hundred acres for which no master plan has been approved shall comply fully with the provisions of this chapter.
- (3) Properties of more than one hundred acres, with an approved master plan, shall require either a planned unit development or permits which shall be accomplished in accordance with the provisions of Chapter 21.45 or Chapter 21.47, whichever chapter is applicable to the development. The density and other provisions of such plan shall constitute the underlying zone for the purposes of the planned unit development or condominium permits. The City Council, by motion, or the property owner, by application, may initiate an amendment to the master plan to bring it into accord with the provisions of this chapter. If such amendment is approved, the development of such property shall be in accordance with this chapter.
- (4) Notwithstanding the provisions of this section, property with an approved specific plan adopted pursuant to P-C zone regulations in effect prior to the effective date of this chapter can be developed in accord with such specific plan without further processing as required in this chapter.

(Ord. 9458 § 1, 1976; Ord. 9535 § 1, 1979)

**CHAPTER 21.39  
L-C LIMITED CONTROL ZONE**

**§ 21.39.010. Intent and purpose.**

The intent and purpose of the L-C zone is to provide an interim zone for areas where planning for future land uses has not been completed or plans of development have not been formalized. After proper planning or plan approval has been completed, property zone L-C may be rezoned in accord with this title.  
(Ord. 9337 § 6, 1973; Ord. 9441 § 2, 1975)

**§ 21.39.020. Permitted uses.**

- A. In an L-C zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted subject to the requirements and development standards specified in this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of this zone, and is substantially similar to the specified permitted uses.
- C. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this limited control zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code: "P" indicates use is permitted.

"CUP" indicates use is permitted with approval of a conditional use permit.

1 = Minor Conditional Use Permit (Process One), pursuant to Chapter 21.42 of this title.

2 = Conditional Use Permit (Process Two), pursuant to Chapter 21.42 of this title.

3 = Conditional Use Permit (Process Three), pursuant to Chapter 21.42 of this title.

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Accessory uses and structures (see note 4 below)			X
Animals and poultry—small (less than 25) (see note 1 below)	X		
Cattle, sheep, goats, and swine production (see note 2 below)	X		
Crop production	X		
Dwelling, single-family (farm house)			X
Family day care home (large)(defined: Section 21.04.147) (subject to Chapter 21.83)			X

Use	P	CUP	Acc
Family day care home (small)(defined: Section 21.04.148) (subject to Chapter 21.83)			X
Farmworker housing complex, small (subject to Section 21.10.125; defined: Section 21.04.148.4)	X		
Floriculture	X		
Greenhouses, less than 2,000 square feet	X		
Guest house			X
Horses, private use	X		
Mobile home (see note 5 below)			X
Nursery crop production	X		
Other uses or enterprises similar to the above customarily carried on in the field of agriculture	X		
Produce/flower stands for display and sale of products produced on the same premises (see note 3 below)	X		
Satellite television antennae (subject to Sections 21.53.130 through 21.53.150)(defined: Section 21.04.302)			X
Signs (subject to Chapter 21.41)			X
Tree farms	X		
Truck farms	X		
Wildlife refuge	X		

**Notes:**

1. Small animals and poultry: Provided that not more than twenty-five of any one or combination thereof shall be kept within seventy-five feet of any habitable structure, nor shall they be located within three hundred feet of habitable structure on an adjoining parcel zoned for residential uses, nor shall they be located within one hundred feet of a parcel zoned for residential uses when a habitable structure is not involved. In any event, the distance from the parcel zoned for residential uses shall be the greater of the distances so indicated.
2. Cattle, sheep, goats, and swine production: Provided that the number of any one or combination of said animals shall not exceed one animal per half acre of lot area. Said animals shall not be located within seventy-five feet of any habitable structure, nor shall they be located within three hundred feet of a habitable structure on an adjoining parcel zoned for residential uses, nor shall they be located within one hundred feet of a parcel zoned for residential uses when a habitable structure is not involved. In any event, the distance from the parcel zoned for residential uses shall be the greater of the distances so indicated.
3. Produce/flower stands: Provided that the floor area shall not exceed two hundred square feet and is located not nearer than twenty feet to any street or highway.
4. Accessory uses/structures include, but are not limited to, private garages, children's playhouses, radio and television receiving antennas, windmills, silos, tank houses, shops, barns, offices, coops, lath houses, stables, pens, corrals, and other similar accessory uses and structures required for the conduct of the permitted uses.

**Notes:**

5. Mobile home: Certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) on a foundation system pursuant to Section 18551 of the State Health and Safety Code.

(Ord. 9337 § 6, 1973; Ord. 9441 § 2, 1975; Ord. NS-791 § 28, 2006; Ord. CS-164 § 10, 2011; Ord. CS-189 §§ XLIV, XLV, 2012; Ord. CS-224 § XXXVI, 2013)

**§ 21.39.030. Conditional uses.**

Notwithstanding any other provision of this title, no conditional uses shall be permitted in the L-C limited control zone.

(Ord. 9441 § 2, 1975)

**§ 21.39.040. Minimum area.**

Except when imposed by operation of Section 21.61.020 of this code, the L-C limited control zone shall not be applied to an area less than one acre.

(Ord. 941 § 2, 1975; Ord. 9540 § 1, 1980)

## CHAPTER 21.40 S-P SCENIC PRESERVATION OVERLAY ZONE

### **§ 21.40.010. Intent and purpose.**

- A. The intent and purpose of the S-P scenic preservation overlay zone is to:
1. Supplement the underlying zoning by providing additional regulations for development within designated areas to preserve or enhance outstanding views, flora and geology, or other unique natural attributes and historical and cultural resources;
  2. Provide regulations in areas which possess outstanding scenic qualities or would create buffers between incompatible land uses which enhance the appearance of the environment and contribute to community pride and community prestige;
  3. Preserve those areas of the city that provide unique and special open space functions consistent with the underlying permitted use;
  4. Implement the goals and objectives of the general plan;
  5. Provide guidelines for development of certain arterial streets identified as scenic corridors.

(Ord. 9386 § 2, 1974; Ord. 9725 § 1, 1984)

### **§ 21.40.020. Application.**

The S-P scenic preservation overlay zone shall be applied in a uniform manner to those areas within the city which, in the opinion of the City Council, are worthy of preservation because of their outstanding views, flora and geology, or other unique natural attributes and historical and cultural resources. The boundaries of this zone shall be established by the procedures designated in Chapter 21.52. When only a portion of a parcel of land lies within the designated scenic overlay, the provisions of this chapter shall apply only to that portion lying within the scenic overlay boundaries.

(Ord. 9386 § 2, 1974)

### **§ 21.40.030. Permitted uses and structures.**

In the S-P scenic preservation overlay zone any principal use, accessory use, transitional use or conditional use permitted in the underlying zone is permitted subject to the same conditions and restrictions applicable in such underlying zone and to all of the requirements of this chapter and to the development standards provided in Chapters 21.41 and 21.44.

(Ord. 9386 § 2, 1974)

### **§ 21.40.040. Special use permit.**

Unless specifically exempted from the requirements of this chapter, no building permit or other entitlement shall be issued for any development or use in the S-P zone unless there is a valid special use permit approved for the property.

(Ord. 9386 § 2, 1974; Ord. CS-178 § LIX, 2012)

### **§ 21.40.045. Scenic corridors.**

The S-P scenic preservation overlay zone may be applied to arterial streets within the city which the City Council determines are worthy of special treatment in order to improve or protect scenic views

and traffic safety along the arterial. The boundaries of the scenic corridor shall be established by the procedures designated in Chapter 21.52. When only a portion of a parcel of land lies within the designated scenic corridor overlay, the provisions of this chapter shall apply only to the portion within the overlay boundaries.

(Ord. 9725 § 2, 1984)

#### **§ 21.40.050. Exceptions.**

The following uses are excepted from the special use permit requirements:

- (1) Development of one single-family dwelling unit on a parcel of record as of May 2, 1974;
- (2) Minor modification or alteration of existing structures or buildings which involves new land coverage of less than two hundred square feet and does not increase the height of the existing structure;
- (3) The repair or reconstruction of an existing nonconforming structure that is destroyed by fire or other disaster to no more than fifty percent of the structure's original value.

(Ord. 9386 § 2, 1974; Ord. CS-178 § LX, 2012)

#### **§ 21.40.060. Application and fees.**

A. An application for a special use permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:

1. Be made in writing on a form provided by the City Planner;
2. State fully the circumstances and conditions relied upon as grounds for the application; and
3. Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner.

B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

(Ord. 9386 § 2, 1974; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § LX, 2012)

#### **§ 21.40.070. Notices and hearings.**

Notice of an application for a special use permit shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. 9386 § 2, 1974; Ord. CS-178 § LX, 2012)

#### **§ 21.40.080. Decision-making authority.**

Applications for a special use permit shall be acted upon in accordance with the following:

- (1) An application for a special use permit may be approved, conditionally approved or denied by the Planning Commission based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- (2) The Planning Commission shall hear the matter, and may approve, conditionally approve, or deny the special use permit if all of the findings of fact in Section 21.40.085 of this title are found to exist.

(Ord. 9386 § 2, 1974; Ord. 1261 § 45, 1983; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord.

CS-178 § LXI, 2012)

**§ 21.40.085. Findings of fact and decision considerations.**

A. Findings of Fact.

1. The decision-making authority shall not issue a special use permit unless it is found that:
  - a. The project is consistent with the purposes of this chapter and all other applicable requirements of this code;
  - b. The project is consistent with the general plan, local coastal program, and applicable master or specific plans;
  - c. The project will not adversely affect the scenic, historical or cultural qualities of the property.

B. Decision Considerations.

1. When making a decision on a special use permit, the decision-making authority may impose specific development standards in accordance with Section 21.40.110 and shall consider the following factors:
  - a. When the S-P scenic preservation overlay zone is applied to protect something worth looking at, i.e., a landmark, a civic center, a mountain or an area bounding the main entrance to the city, the development standards of the proposed use should deal with preserving the integrity of that amenity.
  - b. When the S-P scenic preservation overlay zone is applied to an area from which there is an outstanding view, i.e., a scenic corridor, the development standards of the proposed use should deal with maintaining those views as much as possible.
  - c. Special consideration should be given to preserving the following:
    - i. Hillsides, hilltops, valleys, beaches, lagoons and lakes that provide visual and physical relief in the form of natural contrast to the city;
    - ii. Open space areas which assist in defining neighborhood, district and city identity;
    - iii. Unique topographical features or natural rock outcroppings and other notable landmarks;
    - iv. Areas of significant historical value;
    - v. Prime vista sites;
    - vi. Scenic and historical corridors.

(Ord. CS-178 § LXI, 2012)

**§ 21.40.090. Announcement of decision and findings of fact.**

When a decision on a special use permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.  
(Ord. 9386 § 2, 1974; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord.

(Ord. CS-178 § LXII, 2012)

**§ 21.40.095. Effective date and appeals.**

Decisions on special use permits shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.

(Ord. CS-178 § LXIII, 2012)

**§ 21.40.100. Expiration, extensions and amendments.**

- A. The expiration period for an approved special use permit shall be as specified in Section 21.58.030 of this title.
- B. The expiration period for an approved special use permit may be extended pursuant to Section 21.58.040 of this title.
- C. An approved special use permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. 9386 § 2, 1974; Ord. CS-178 § LXIV, 2012)

**§ 21.40.110. Development standards.**

Specific development standards may be applied to areas within the S-P scenic preservation overlay zone by specific plan or as part of a special use permit. Such standards shall control notwithstanding the provisions of the underlying zone and may include but are not limited to the following:

- (1) Sign Control. Restrictions on size, content, design and location;
- (2) Underground Utilities. Requiring the undergrounding of utilities when said action is necessary to carry out the intent and purpose of this chapter;
- (3) Landscaping. Prescribing landscaping requirements and review of plans;
- (4) Architectural Treatment. Establishing acceptable architectural motifs and review of plans;
- (5) Setbacks. Establishment of deeper setbacks when necessary to maintain scenic corridor;
- (6) Side Yards. Establishment of wider side yards when providing views through the property;
- (7) Height Limitations. Reducing maximum height limits in order to maximize views from beyond;
- (8) Building Bulk. Restrictions on maximum bulk of buildings to break up solid facade;
- (9) Spacing of Buildings. Requiring off-set spacing of buildings to maximize a prime vista point;
- (10) Other Conditions. Any other regulation or condition necessary to protect the scenic resources of the community consistent with the purposes of this chapter.

(Ord. 9386 § 2, 1974)

**§ 21.40.115. Scenic corridor development guidelines.**

The City Council shall, by resolution, adopt guidelines for development of property with a scenic corridor overlay. Development within a scenic corridor shall be consistent with the scenic corridor guidelines in addition to complying with the other requirements of the chapter. If compliance with one or more specific

standards of the scenic corridor guidelines is infeasible for a particular project, the Planning Commission, or the City Council upon appeal, may grant exceptions to those specific standards; provided, however, that the scenic nature of the corridor and traffic safety are protected to the greatest extent feasible, as outlined in the adopted guidelines.

(Ord. 9725 § 3, 1984)

#### **§ 21.40.117. Contents of scenic corridor guidelines.**

The scenic corridor guidelines shall consist of the following:

- (1) A map or description of the boundaries of the corridor area;
- (2) Development guidelines which address the following items:
  - (A) Design theme;
  - (B) Median break frequency;
  - (C) Sidewalk description;
  - (D) Sign regulations;
  - (E) Building height maximums;
  - (F) Grading restrictions;
  - (G) Setbacks;
  - (H) Street furniture;
  - (I) Street light spacing;
  - (J) Roof equipment restrictions;
  - (K) Other conditions necessary to protect the public safety or scenic resources of the corridor.

The guidelines shall apply to the total length of an arterial within the city limits, however, this length may be divided into appropriate sub-areas for purposes consistent with this chapter.

(Ord. 9725 § 4, 1984)

#### **§ 21.40.120. Conditions.**

The Planning Commission or City Council on appeal may impose such conditions on the applicant and the permit as are determined necessary consistent with the provisions of this chapter.

(Ord. 9386 § 2, 1974)

#### **§ 21.40.135. Coastal zone restrictions.**

Within the coastal zone, existing public views and panorama shall be maintained. Through the individualized review process, sites considered for development shall be conditioned so as to not obstruct or otherwise damage the visual beauty of the coastal zone. In addition to the above, height limitations and see-through construction techniques should be employed. Shoreline development shall be built in clusters to leave open areas around them to permit more frequent views of the shoreline. Vista points shall be incorporated as a part of larger projects. The unique characteristics of older communities such as the

Carlsbad Village Drive corridor shall be preserved through design requirements which are in accordance with the flavor of the existing neighborhood.

(Ord. NS-365 § 5, 1996)

## CHAPTER 21.41 SIGN ORDINANCE

**Note: Prior ordinance history: Ord. Nos. NS-606, CS-038, CS-164, and CS-178.**

### **§ 21.41.005. Purpose.**

- A. The purposes of the sign ordinance codified in this chapter include to:
1. Implement the city's community design and safety standards as set forth in the general plan;
  2. Maintain and enhance the city's appearance by regulating the design, character, location, number, type, quality of materials, size, illumination and maintenance of signs;
  3. Respect and protect the right of free speech by sign display, while reasonably regulating the structural, locational and other noncommunicative aspects of signs, generally for the public health, safety, welfare and specifically to serve the public interests in traffic and pedestrian safety and community aesthetics;
  4. Eliminate the traffic safety hazards to pedestrians and motorists posed by off-site signs bearing commercial messages;
  5. Generally limit commercial signage to on-site locations in order to protect the aesthetic environment from the visual clutter associated with the unrestricted proliferation of signs, while providing channels of communication to the public;
  6. Allow the communication of information for commercial and noncommercial purposes without regulating the content of noncommercial messages;
  7. Allow the expression of political, religious and other noncommercial speech at all times and allow for an increase in the quantity of such speech in the period preceding elections;
  8. Protect and improve pedestrian and vehicular traffic safety by balancing the need for signs which facilitate the safe and smooth flow of traffic (i.e., traffic directional signs) without an excess of signage which may distract motorists, overload their capacity to quickly receive information, visually obstruct traffic signs or otherwise create congestion and safety hazards;
  9. Minimize the possible adverse effects of signs on nearby city and private property;
  10. Serve the city's interests in maintaining and enhancing its visual appeal for tourists and other visitors, by preventing the degradation of visual quality which can result from excess signage;
  11. Protect the investments in property and lifestyle quality made by persons who choose to live, work or do business in the city;
  12. Defend the peace and tranquility of residential zones and neighborhoods by generally forbidding commercial signs on private residences, while allowing residents the opportunity, within reasonable limits, to express political, religious and other noncommercial messages from their homes; and
  13. Enable the fair, consistent and efficient enforcement of the sign regulations of the city.

(Ord. CS-226 § I, 2013)

**§ 21.41.010. Applicability.**

- A. The provisions of this chapter shall apply generally to all zones established by this title.
- B. Properties and uses in the Village-Barrio (V-B) zone are regulated first by the sign standards of the Village and Barrio master plan, and then, to the extent not covered by said master plan, by the provisions of this chapter.
- C. Signs on city property, both within the V-B zone and other zones, are controlled by other provisions of the Carlsbad Municipal Code, not by this chapter.
- D. In those areas of the city where master plan or specific plan sign standards or sign programs are adopted by ordinance as special zoning regulations, those sign standards or sign programs shall apply; however, the "message substitution" provisions of this chapter, Section 21.41.025(A)(2), shall apply to such programs and plans.
- E. All other sign programs that were approved prior to the effective date of this chapter, but not by ordinance, are subject only to the "message substitution" provisions of this chapter (Section 21.41.025(A)(2)).
- F. Except as noted in the preceding paragraph, a sign, as defined in this chapter, may be affixed, erected, constructed, placed, established, mounted, created or maintained only in conformance with the standards, procedures and other requirements of this chapter. The standards regarding number and size of signs regulated by this chapter are maximum standards, unless otherwise stated.

(Ord. CS-226 § I, 2013; Ord. CS-334 § 7, 2018)

**§ 21.41.020. Definitions.**

- A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

"Abandoned sign" means any sign that meets any of the following criteria:

- a. Sign is located on property that becomes vacant or unoccupied for a period of at least ninety days,
- b. Sign which pertains to any occupant or business unrelated to the premises' present occupant or business, or
- c. Sign which pertains to a time, event or purpose which no longer applies.

"Abate" means to put an end to and physically remove. Discontinuance of a sign without removal of the entire sign structure shall not constitute abatement.

"Advertising for hire." See "General advertising."

"Address sign" means the identification of the location of a building or use on a street by a number(s).

"A-frame sign" means a freestanding sign designed to be easily movable and to rest on the ground without being affixed to any object or structure. Such signs are commonly in the shape of the letter "A," but may also be in the shape of an inverted letter "T" or a letter "H," functionally similar signs are also within this definition.

"Animated sign" means any sign with action or motion or color changes, whether or not requiring electrical energy or set in motion by wind. This definition excludes flags and does not apply to electronic message boards or digital displays.

"Attraction board" means a sign capable of supporting copy which is readily changeable, such as theater marquee, and which refers to products, services or coming events on the premises.

"Average grade" means the average level of the finished surface of the ground directly beneath a monument or pole sign.

"Awning sign" means a sign that is a part of, or attached to, an awning, canopy or other fabric, metal, plastic or structural protective cover over a door, entrance, window, architectural feature or outdoor service area. A marquee is not an awning or canopy.

"Balloon" means a small inflatable device used for purposes of commercial signage, advertising or attention getting. See also "inflatable signs."

"Banner" means any sign made of cloth, lightweight fabric, bunting, plastic, vinyl, paper or similar material that is permanently or temporarily placed on, or affixed to, real property in a location where it is visible to the public from outside of the building or structure. A flag, as defined, shall not be considered a banner.

"Beacon" means a stationary or revolving light (including laser lights, klieg lights, spot lights, search lights, projected image signs and similar devices) with one or more beams projected into the atmosphere or directed at one or more points away from the light source and used for purposes other than police, fire, public safety or news gathering operations.

"Bench sign" means a sign painted on or affixed to any portion of a bench or seating area at bus stops or other such pedestrian areas.

"Billboard" means a permanent structure sign in a fixed location which meets any one or more of the following criteria:

- a. The sign is used for the display of off-site commercial messages;
- b. The sign is used for general advertising for hire;
- c. The sign is not an accessory or auxiliary use serving a principal use on the same parcel, but rather is a separate or second principal use of the parcel;
- d. The sign is a profit center on its own, and in the case of multiple principal uses on the same parcel, the sign is distinct from the main operations of the principal use on the parcel;
- e. The sign is a non-accessory use.

"Building elevation" means the front, rear or side of the external face of a building.

"Building frontage" means the total width of the elevation of a building which fronts on a public or private street or the building elevation along which the main entrance exists. For the purposes of calculating permitted sign area, every building has only one building frontage. If more than one business is located in a single building, then such area shall be limited to that portion which is occupied by each individual business or establishment.

"Building marker" means a sign cut into a masonry surface or made of bronze or similar material permanently affixed to a public building or building of designated historic significance.

"Bus stop signs" means a sign mounted on a shelter which serves as a bus stop or passenger waiting area for public transportation; this definition does not include devices giving the schedule and/or prices for the transportation service.

"Canopy sign." See "awning sign."

"Changeable copy sign" means a sign or portion thereof with characters, letters or illustrations that can be physically or mechanically changed or rearranged without altering the face or the surface of the sign. This does not include a digital display.

"Channel lettered sign" means a sign with individually cut, three dimensional letters or figures affixed to a building or sign structure.

"City property" means all land located within the corporate limits of the city to which the city holds the present right of possession and control, or is part of the public right-of-way located within the city. The definition also includes facilities and properties owned or operated by the city.

"Commercial center" means a commercial development that includes predominantly retail businesses with access driveways or parking spaces shared by one or more of the businesses.

"Commercial mascot" means a live person or animal attired or decorated with commercial insignia, images or symbols, and/or holding signs displaying commercial messages. Includes sign twirlers and sign clowns, but does not include hand-held signs displaying noncommercial messages.

"Commercial signage" or "commercial message" means any sign or sign copy with wording, logo or other representation that directly or indirectly names, advertises or calls attention to a business, product, service or other commercial activity or which proposes a commercial transaction or relates primarily to commercial or economic interests.

"Construction sign" means a temporary sign displayed on real property on which construction of new improvements is occurring during the time period which begins with the issuance of the first necessary permit for the construction and ends with the latest of any of the following, or their functional equivalents: notice of completion or certificate of occupancy.

"Cornerstone" means stone or other wall portion laid at or near the foundation of a building and which indicates in permanent markings the year of construction. Also called "foundation stone."

"Digital display" means a physical method of image presentation using LCD (liquid crystal display), LED (light emitting diode), plasma displays, projected images, or other functionally equivalent display technologies. Signs using such display methods are called by various names, including, CEVMS (commercial electronic variable message signs or changeable electronic variable message signs), electronic message boards, electronic reader boards, dynamic signs, digital signs, electronic signs, message centers and similar terms.

"Directional sign" means an on-site sign designed to guide or direct pedestrian or vehicular traffic to uses on the same site.

"Directory sign" means a sign listing the persons, activities or tenants located on-site.

"Eaveline" means the bottom of the roof eave or parapet.

"Establishment" means any organization or activity which uses land for purposes other than residential use. It includes all business and commercial uses, as well as institutional, public, semipublic and other noncommercial uses but does not include private residential uses; however hotels, motels, inns, bed and breakfast places, etc. are within this definition. Automated facilities, which have live persons in attendance only during limited or maintenance hours (i.e., power transformer stations, broadcasting towers, water tanks, weather data collection stations, vending machines, etc.) are not within this definition.

"Externally illuminated" means illuminated by a light source that is located externally to the sign surface. This method of lighting may include, but is not limited to, spotlighting or backlighting.

"Façade sign" means a sign fastened to the exterior walls of a building exposed to public view. See

also "wall sign."

"Fascia sign" means a sign fastened to or engraved in the band or board at the edge of a roof overhang.

"Flag" means a device, generally made of flexible materials such as cloth, fabric, paper or plastic, usually used as a symbol of a government, political subdivision, public agency, company logo, belief system or concept.

"Freestanding commercial building" means a building occupied by a single user retail business, or a noncommercial use located in a zoning district where commercial activities are allowed, that has direct vehicular access to an adjacent street.

"Freestanding sign" means a sign supported upon the ground and not attached to any building. This definition includes monument signs and pole signs.

"Freeway service station" means a gas/service station located on a property that is contiguous to a freeway interchange.

"General advertising" means the enterprise of offering sign display space for a fee or other consideration to a variety of advertisers, commercial or noncommercial.

"Hand held" means those signs or visual communication devices which are held by or otherwise mounted on human beings or animals.

"Inflatable signs" or "inflatable attention-getting devices" means any device filled with air or gas, that is, attached or tethered to the ground, site, merchandise, building or roof and used for the purposes of commercial signage, advertising or attention getting. Commercial advertising blimps, when tethered, are within this definition.

"Internally illuminated" means the illumination of the sign face from behind so that the light shines through translucent sign copy or lighting via neon or other gases within translucent tubing incorporated onto or into the sign face.

"Logo" means a trademark or symbol of an organization, belief system or concept.

"Marker board" means a board designed for displaying images made by chalk, markers or similar devices; includes devices commonly known as blackboards, whiteboards and chalkboards. Also includes devices sold under commercial names such as Promethean Boards, Activeboards, and functionally similar devices.

"Marquee" means a permanent canopy structure attached to and supported by a building and projecting near or over private sidewalks or public rights-of-way, generally located near the entrance to a hotel, theater or entertainment use, and used as a display surface for a sign message.

"Master plan" means a plan prepared and adopted pursuant to Chapter 21.38 of this code.

"Mobile billboard" means a vehicle for which the primary use is the display of general advertising message(s).

"Monument sign" means a freestanding sign, which is supported by a base that rests upon the ground and of which the display or copy is an integral part of the design. A monument sign does not include poles or pylons. Contrast; pole sign.

"Multi-face sign" means a sign displaying information on at least two surfaces, each having a different orientation, or on a curved surface so that the copy or image is different when viewed from different angles.

"Multi-tenant building" means a nonresidential building in which there exists two or more separate nonresidential tenant spaces, businesses or establishments.

"Neon sign" means a sign that utilizes neon or other fluorescing, inert or rarified gases within translucent tubing in or on any part of the sign structure.

"Noncommercial message" means any image on a sign which conveys or expresses commentary on topics of public concern and debate, including, by way of example and not limitation, social, political, educational, religious, scientific, artistic, philosophical and charitable subjects. This definition also includes signs regarding fund raising or membership drive activities for noncommercial or nonprofit concerns.

"Nonconforming sign" means any sign which was legally established in conformance with all applicable laws in effect at the time of original installation but which does not conform to the requirements of this chapter or other later enactments.

"On-site sign" means a sign displaying a commercial message which relates or pertains to the business conducted, services available or rendered or goods available for sale, rent or use, upon the same premises where the sign is located. On-site can mean more than the exact same parcel or premises, upon which the sign is located if that site is part of a larger commercial center, as to any store, business, or establishment that is within the commercial center. A sign program may define "on-site" in a manner which applies only to that program. The on-site/off-site distinction applies only to commercial messages.

"Off-site sign" means any sign that gives directions to or identifies a commercial use, product or activity not located or available on the same premises as the sign. The on-site/off-site distinction applies only to commercial messages. There is no location criterion for noncommercial messages.

"Pennant" means an individual or a series of lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, designed to move in the wind.

"Permanent sign" means any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear and tear) and position and in a permanent manner affixed to the ground, wall or building. The message display of a sign may be changed without affecting its character as a permanent sign.

"Person" means any natural person, marital estate, sole proprietorship, partnership, limited partnership, corporation (of any type or form, regardless of where incorporated), trust, association, limited liability company, unincorporated association or any other juridical person capable of legally owning, occupying or using land.

"Pole sign" means a freestanding sign that is greater than six feet in height and is supported by one or more vertical supports. The definition applies even if the support poles or pylons are covered with cladding or skirting.

"Portable sign" means a sign made of any material which, by its design, is readily movable including, but not limited to, signs on wheels, casters and rollers, "A-frame" signs and signs attached to vehicles or trailers or water vessels.

"Premises" means the place where a business or other establishment is located. If there is only one business or establishment on the legal parcel, then the entire parcel is the premises. If there is more than one business or other establishment on a single parcel, then the premises is the portion of the parcel actually occupied or exclusively used by the business or other establishment, except that signs relating to the owner or manager of the entire parcel may be considered on-site when placed anywhere on the parcel.

"Prohibited sign" means any sign that is specifically not permitted by this chapter or was erected

without complying with the regulations of this chapter in effect at the time of construction, display or use.

"Projecting sign" means a sign which projects more than ten inches from a wall or other vertical surface, generally at about ninety degrees.

"Property owner" means the owner of the property on which the sign is displayed or proposed to be displayed. When the property is land, "owner" includes the legal owner according to the official land records of the San Diego County Recorder, all beneficial owners thereof and all persons presently holding a legal right to possession of the subject property.

"Regional commercial center" means a commercial development located upon a property with a regional commercial general plan land use designation and having the following characteristics: project site area between thirty and one hundred acres; gross lease area between three hundred thousand and one million five hundred thousand square feet; major tenants may include full-line department stores (two or more), factory outlet centers, power centers of several high volume specialty stores, warehouse club stores or automobile dealerships; secondary tenants may include a full range of specialty retail, restaurants and entertainment. A center is still within this definition even if it includes one or more noncommercial uses.

"Right-of-way" means an area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

"Roof sign" means a sign erected and constructed wholly or in part upon, against or above the roof of a building. For purposes of this chapter, any portion of a building above or behind the fascia or parapet of a building shall be considered part of the roof.

"Shopping complex" means the same as "commercial center."

"Sign" means any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol, image or writing to advertise, announce the purpose of, identify a person, product, service or entity or to communicate information of any kind to the public. However, the following are not within the definition of "sign" for the regulatory purposes of this chapter:

- a. Any public or legal notice required by a court or public agency;
- b. Decorative or architectural features of buildings (not including letters, trademarks or moving parts);
- c. Holiday decorations and lights, in season, clearly incidental to and associated with holidays or cultural observances and which are on display on a given parcel for not more than forty-five calendar days in a calendar year;
- d. Building markers, as defined herein;
- e. Cornerstones, as defined herein;
- f. Symbols or insignia which are an integral part of a doormat or welcome mat, or embedded directly into the sidewalk or entrance surface, so long as such device is otherwise legal and is located entirely on private property and on the ground or sidewalk;
- g. Items or devices of personal apparel or decoration but not including hand held signs or commercial mascots;
- h. Marks on tangible goods, which identify the maker, seller, provider or product, as such are customarily used in the normal course of the trade or profession;

- i. Symbols of noncommercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a permanent building which is otherwise legal; by way of example and not limitation: stained glass windows, carved doors or friezes, church bells and decorative fountains;
- j. Property entry and security protection notices and signs warning of dangers or health and safety policies, such as, by way of example and not limited to, "Beware of Dog," "Danger High Voltage," "No Shirt No Service," etc., when such are not over one square foot on residential uses or two square feet on other uses and firmly affixed to their mounting surface or device;
- k. The legal use of fireworks, candles and artificial lighting not otherwise regulated by this chapter;
- l. Devices which are located entirely within an enclosed structure and are not visible from the exterior thereof;
- m. Advertisements or banners mounted on or towed behind free-flying airborne vessels or craft, such as airplanes, dirigibles, untethered blimps and the like;
- n. Advertisements or banners mounted on trains or other mass transit vehicles which legally pass through the city;
- o. License plates, license plate frames, registration insignia and noncommercial messages on street legal vehicles and properly licensed watercraft and messages relating to the business of which the vehicle or vessel is an instrument or tool (not including general advertising) and messages on the vehicle or watercraft relating to the proposed sale, lease or exchange of the vehicle or vessel;
- p. Messages on golf carts, wheelchairs, personal scooters, human powered taxis, shopping carts or other small wheeled vehicles. Signs on any motorized device which may legally travel upon public roads or highways is not within this definition;
- q. Vending machines which do not display general advertising;
- r. Automated teller machines at banks and facilities for walk up and drive up service at banks, credit unions and similar establishments;
- s. Murals, paintings and similar pictorial displays that are painted directly onto a building and are not intended to draw attention to any use, product, service or event.

"Sign area" means the display or message area of the sign. The methods of computing sign area are detailed in Section 21.41.070.A.

"Sign height" means the height of the highest point on the sign structure above grade or ground beneath. The methods of calculating sign height are stated in Section 21.41.070.B.

"Sign permit" means an entitlement from the city to place or erect a sign.

"Sign program" means a plan that integrates signs for a project with buildings, circulation and landscaping to form a coordinated architectural statement.

"Site development plan" means a plan required pursuant to Chapter 21.06 of this code.

"Specific plan" means a plan prepared and adopted pursuant to Section 65451 of the California Government Code.

"Street frontage" means the distance along which a lot line adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street. Corner lots have at least two street frontages.

"Suspended sign" means a sign hung from the underside of a marquee, pedestrian arcade or covered walkway, usually at approximately ninety degrees to the building wall or storefront.

"Tall freestanding sign" means a monument or pole sign that is greater than fifteen feet in height.

"Temporary seasonal sales permit" means a permit to allow outdoor seasonal and holiday sales, including, but not limited to, Christmas trees, pumpkins and flowers, on private property.

"Temporary sign" means a sign, including paper, cardboard wood, plastic, synthetic, fabric or similar materials, which by virtue of its physical nature is not suitable for long term display or permanent mounting.

"Traffic directional sign" means a sign which indicates place, location or direction for the information of drivers or pedestrians.

"Unsafe sign" means a sign posing an immediate peril or reasonably foreseeable threat of injury or damage to persons or property on account of the condition of the physical structure of the sign or its mounting mechanism. A sign may not be considered "unsafe" within this definition by virtue of the message displayed thereon.

"Vehicle sign" means a sign mounted upon a vehicle which may legally be parked on or move on public roads, as well as a sign mounted upon a water vessel which may legally move upon the waters.

"Vessel sign" means a sign mounted upon a water vessel which may legally move upon the waters.

"Wall sign" means a sign attached to a wall surface that does not project or extend more than ten inches from the wall, which is confined within the limits of an outside wall and which displays only one display surface.

"Window sign" means any sign painted or affixed to the inside or outside of a window surface or otherwise located within a building so as to be visible from the exterior of the building. This definition does not include window displays of merchandise offered for sale.

(Ord. CS-226 § I, 2013; Ord. CS-261 § I, 2014)

### **§ 21.41.025. General provisions.**

A. The provisions stated in this section apply to all signs within the regulatory scope of this chapter, and override more specific provisions to the contrary elsewhere in this chapter.

1. Owner's Consent Required.

- a. The consent of the property owner is required before any sign may be displayed on any real or personal property within the city;
- b. In the case of city property, the owner's consent shall be pursuant to other provisions of the Carlsbad Municipal Code.

2. Message Substitution.

- a. Subject to the owner's consent, a noncommercial message of any type may be substituted for all or part of the commercial or noncommercial message on any sign allowed pursuant to this chapter.

- b. Design criteria which may apply to commercial signs, such as color, lettering style or height, and compatibility with other signs on the same parcel or other signs subject to a sign program, do not apply to noncommercial message signs even when they are in an area subject to a sign program, master plan or specific plan.
  - c. Message substitution is a continuing right and may be exercised any number of times, in whole or in part.
  - d. No special or additional permit is required to substitute a noncommercial message for any other message on an allowable sign, provided the sign is already permitted or exempt from the permit requirement and the sign structure satisfies all applicable laws, rules, regulations and policies.
  - e. When a noncommercial message is substituted for any other message, the sign is still subject to the same location and structure regulations, such as size, height, illumination, duration of display, building and electrical code requirements, as would apply if the sign were used to display a commercial message or some other noncommercial message.
  - f. This substitution provision shall prevail over any other provision to the contrary, whether more specific or not, in this chapter and applies retroactively to sign programs, master plans and specific plans which were adopted or approved before this chapter was enacted.
  - g. This provision does not:
    - i. Create a right to increase the total amount of signage on a parcel, lot or land use;
    - ii. Authorize the physical expansion of an existing sign;
    - iii. Affect the requirement that a sign structure or mounting device be properly permitted;
    - iv. Allow a change in the physical structure of a sign or its mounting device; or
    - v. Allow the substitution of an off-site commercial message in place of an on-site commercial message or a noncommercial message.
  - h. In addition to the noncommercial message display allowable under this provision, on any legal parcel, any unutilized sign display area which is available as a matter of right (i.e., not including display area available under some discretionary approval process), may be used to display noncommercial messages; a permit for such signage is required only when the physical structure or mounting device is subject to a building permit under the building code and/or an electrical permit under the electric code.
3. Noncommercial Speech.
    - a. In addition to the sign display area available under the message substitution provision, signs displaying noncommercial messages only are allowable at all times and on all parcels, subject to the following regulations:
      - i. A sign permit is required only if the sign qualifies as a structure requiring a building permit or an electrical permit;
      - ii. On parcels where the principal use is residential, the allowable display area is eight square feet per residential unit at all times;

- iii. On parcels where the principal use is anything other than residential, the allowable display area is eight square feet per nonresidential establishment at all times; and
- iv. The allowable display space for noncommercial speech is increased by twenty-five percent during the time period which begins thirty days before a primary, general, or special election and ends within five days following the closing of the polls.

4. Legal Nature of Sign Rights and Duties.

- a. All rights, duties and responsibilities related to permanent signs attach to the land on which the sign is mounted, affixed or displayed and run with the land.
- b. The city may demand compliance with this chapter and with the terms of any sign permit from the permit holder, the owner of the sign, the property owner or the person mounting the sign.

5. Transfer of Signage Rights.

- a. Rights and duties relating to permanent signs may not be transferred between different parcels of real property.
- b. All duly issued and valid sign permits for permanent signs affixed to land shall automatically transfer with the right to possession of the real property on which the sign is located.
- c. This provision does not affect the ownership of signs, and does not prevent a given sign from being moved from one location to another, so long as the sign is properly permitted in the new location.

6. Compliance.

- a. Responsibility for compliance with this chapter is joint and severable as to all persons erecting, mounting, displaying or modifying any sign, all persons in control and custody of the property on which a sign is displayed, and the persons who are legal owners of record of the property on which a sign is displayed.

7. Discretionary Approvals.

- a. Whenever any sign permit, variance, CUP, sign program or special planning area approval, or other sign-related decision, is made by any exercise of official discretion, such discretion shall be exercised only as to the noncommunicative aspects of the sign, such as size, height, orientation, location, setback, illumination, spacing, scale and mass of the structure, etc.
- b. Graphic design may be evaluated only for a sign program, and then only as applicable to commercial message signs.

8. Mixed Use Zones or Overlay Districts.

- a. In any zone where both residential and nonresidential uses are allowed, the sign related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows:
  - i. Residential uses shall be treated as if they were located in a zone where a use of that

type would be allowed as a matter of right, and

- ii. Nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary permit.

(Ord. CS-226 § I, 2013; Ord. CS-261 § I, 2014)

#### **§ 21.41.030. Prohibited signs.**

- A. The following signs, as defined in this chapter, are prohibited in all zones of the city, unless a more specific provision or city policy allows them at certain times and places:
  1. Abandoned signs, including their structures and supports;
  2. A-frame signs, as defined herein;
  3. Animated signs including, but not limited to signs that move, blink, flash, change color, reflect, revolve or make noise;
  4. Balloons or other inflatable signs or devices, as defined herein;
  5. Beacons, as defined herein;
  6. Billboards, as defined herein;
  7. Bus stop bench/shelter signs, as defined herein;
  8. Digital display signs;
  9. Exposed neon lighted signs on any building elevation that faces and is within five hundred feet of any property line that adjoins residentially zoned property;
  10. Commercial mascots and hand held or sandwich board signs carried by a person on city property or in the public right-of-way and displaying a commercial message;
  11. Marker boards, as defined herein;
  12. Mobile billboards or any other type of vehicle that is moving or parked on city streets whose primary purpose is displaying general advertising;
  13. Off-site commercial signs excluding real estate for sale signs per Civil Code 713;
  14. Portable signs with commercial messages; except for temporary signs as indicated in Sections 21.41.040 and 21.41.100;
  15. Roof signs;
  16. Signs attached to trees, plants, rocks, fences, utility poles/cabinets or other objects, the primary function of which is not to support a sign;
  17. Signs physically blocking or impeding the free passage of persons through doors, fire escapes or public rights-of-way;
  18. Signs erected on or over city property including public easements and public rights-of-way, except those needed for traffic and public safety regulation and those erected pursuant to other

provisions of the Carlsbad Municipal Code;

19. Signs simulating in color or design a traffic sign or signal or using words, symbols or characters in such a manner as to be reasonably likely to interfere with, mislead or confuse pedestrian or vehicular traffic;
20. Signs that do not conform with applicable Uniform Building Code as adopted by Carlsbad and National Electric Code as adopted by Carlsbad;
21. Temporary signs, including, but not limited to, banners (i.e.; feather banners) and pennants, except as provided for in Sections 21.41.040 and 21.41.100; and
22. Unsafe signs, as defined in this chapter.

(Ord. CS-226 § I, 2013; Ord. CS-261 § II, 2014)

### § 21.41.040. Signs on private property not requiring a sign permit.

The signs listed in Table A do not require a sign permit, and their area and number shall not be included in the aggregate area or number of signs subject to a permit requirement, for any given property.

**Table A**  
**Signs on Private Property not Requiring a Sign Permit**

Description of Sign	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/ Letter Height	Additional Sign Standards - See Sections 21.41.070—21.41.090 and those listed below
Traffic control, traffic directional or warning signs erected or required by government agencies	Freestanding, wall, banner				
Address sign	Wall	1 per building	6 square feet per sign	The minimum height shall be: residential - 4 inches and nonresidential - 12 inches, unless the Fire Marshal requires a greater height	
Noncommercial message signs on residential and nonresidential property	Wall, freestanding, or window		8 square feet per residential unit; 8 square feet per nonresidential establishment	6 feet above average grade or 3.5 feet above average grade if in the front yard	May not be illuminated
Additional political and other noncommercial message signs on private property during campaign periods	Freestanding		2 square feet per residential unit; 2 square feet per nonresidential establishment	6 feet above average grade or 3.5 feet above average grade if in the front yard	1. May be located on any private property, with owner's consent 2. Display time limited to 30 days preceding any federal, state or local (primary, general or special) election and shall be removed, by the person placing or erecting such sign within 5 days following such election. 3. This is in addition to the noncommercial messages allowed under the substitution provision and the noncommercial messages allowed at all times on residential and nonresidential properties.

**Table A**  
**Signs on Private Property not Requiring a Sign Permit**

Description of Sign	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/ Letter Height	Additional Sign Standards - See Sections 21.41.070—21.41.090 and those listed below
Window signs located in commercial centers and freestanding commercial buildings	Window		Total copy area shall not exceed 25% of the window area	7 feet above average grade/6 inches	
Freestanding sign on single dwelling unit or condominium unit - property which is for rent, sale or lease (displayed on the owner's real property or real property owned by others with their consent [pursuant to California Civil Code Section 713])	Freestanding	1 per dwelling unit	4 square feet per sign	6 feet above average grade/6 inches	Shall be removed from the building or property within 15 days after the sale, rental or lease
Flags in nonresidential zones	Pole: freestanding or mounted on the side of a building	Maximum of 3 flags per nonresidential establishment	24 square feet per flag	Flag pole height: The lesser of 35 feet or the height of the tallest legally permitted structure existing on the premises	
Flags in residential zones	Pole: freestanding or mounted on the side of a building	Maximum of 2 flags per occupied dwelling unit	24 square feet per flag	Flag pole height: the lesser of 35 feet or the height of the tallest legally permitted structure existing on the premises	Flags with commercial images are not allowed in residential zones
Temporary signs attached to parked or stationary vehicles visible from the public right-of-way	Window (inside)	2 per vehicle	10 inches by 12 inches per sign		No limitation if sign is not visible from public right-of-way
Signs permanently attached to or painted on vehicles, with non-changeable copy, used in the day-to-day operations of a business					Does not apply to "general advertising" or "mobile billboards"

(Ord. CS-226 § I, 2013)

**§ 21.41.050. Application and permit procedures.****A. Sign Permit Required.**

1. It shall be unlawful for any person to affix, place, erect, suspend, attach, construct, structurally or electrically alter (not including a change in sign copy or sign face), move or display any temporary or permanent sign within the city without first obtaining a sign permit in accordance with the provisions of this section, unless the sign is exempt from the permit requirement under Section 21.41.040.
2. The regulations contained in this section apply to sign permits which are not associated with a sign program. Permit applications for sign programs are regulated by Section 21.41.060.
3. A sign permit shall not be required for cleaning or other normal maintenance of an existing sign, unless a structural or electrical change is made.
4. No sign permit is required when a political, religious or other noncommercial message is substituted for another commercial message on a pre-existing sign or when a noncommercial message is substituted for a noncommercial message on a properly permitted sign.
5. In the coastal zone, unless otherwise exempt under applicable policies of the city's certified LCP, any person proposing signage governed by this chapter shall also obtain a coastal development permit with the exception of a new wall sign or the change of copy of an existing wall sign both of which shall be exempt from this requirement.

**B. Application for Permit.**

1. The application for a sign permit shall be made in writing on the form provided by the City Planner and shall be accompanied by the required fee. Such application shall set forth and contain the following information:
  - a. A drawing to scale showing the design of the sign, including dimensions, sign size, colors (applies to commercial message signs only), materials, method of attachment, source of illumination and showing the relationship to any building or structure to which it is proposed to be installed or affixed or to which it relates;
  - b. A site plan, including all dimensions, drawn to scale indicating the location of the sign relative to the property line, rights-of-way, streets, sidewalks, vehicular access points and existing buildings or structures and off-street parking areas located on the premises;
  - c. The number, size, type and location of all existing signs on the same building, lot or premises; and
  - d. Any structural information and plans necessary to ensure compliance with the latest adopted building code and electrical code.

**C. Fees.** All signs require a sign permit fee and plan checking fee (if applicable) that shall be paid in accordance with the schedule established by resolution of the City Council.**D. Method of Review.**

1. The purpose of a sign permit is to ensure compliance with the provisions of this chapter and the relevant building and electrical codes.

2. After receiving a complete sign application, the City Planner shall render a decision to approve, approve with modifications or deny such sign application within fifteen days; however, an approval with modifications shall be limited to requiring compliance with this chapter.
3. The application shall be approved and the permit issued whenever the proposed sign meets the following requirements:
  - a. The proposed sign conforms to all size, height and other standards for signs subject to a permit requirement as such requirements are set forth in this chapter;
  - b. The proposed sign is consistent with any applicable sign program; and
  - c. The sign conforms to the construction standards of the latest adopted building and electrical codes.

E. Revocation or Cancellation of Permit.

1. The City Planner shall revoke any issued permit upon refusal of the holder thereof to comply with the terms of the permit and/or the provisions of this chapter after written notice of noncompliance and fifteen days opportunity to cure.
2. If the work authorized under a sign permit has not been completed within six months after the date of issuance, such permit shall become null and void.

(Ord. CS-226 § I, 2013; Ord. CS-261 § III, 2014)

**§ 21.41.060. Sign programs and modified sign programs.**

- A. Purpose. The purpose of a sign program is to integrate signs with a project's building, site and landscaping design to form a unified architectural statement.
- B. Applicability.
1. A sign program shall be required for:
    - a. Master plans,
    - b. Specific plans,
    - c. Nonresidential projects requiring a site development plan processed pursuant to Chapter 21.06 of this code, and
    - d. Industrial or office developments of greater than ten acres in area.
  2. A sign program may be proposed for all other types of development projects or discretionary permits not listed in paragraph 1 of this subsection B.
  3. For those projects requiring or proposing a sign program, no sign permit shall be issued for an individual sign, unless, and until, a sign program for the project, lot or building on which the sign is proposed to be erected has been approved by the city in conformance with this chapter.
- C. Sign Programs and Sign Standards Modifications. Sign programs may establish standards for sign area, number, location, and/or dimension that vary from the standards of this chapter as follows:
1. A sign program that complies with the standards of this chapter shall require the approval of a ministerial sign program application by the City Planner provided that all of the findings of fact

listed in subsection G of this section can be made.

2. A sign program proposal that exceeds the standards of this chapter by up to fifteen percent shall require the approval of a modified minor sign program discretionary application by the City Planner provided that all of the findings of fact listed in subsection H of this section can be made.
3. A sign program proposal that exceeds the standards of this chapter by greater than fifteen percent up to thirty percent requires the approval of a modified sign program discretionary application by the Planning Commission provided that all of the findings of fact listed in subsection H of this section can be made.
4. When calculating the permitted number of signs allowed by a sign program, if the calculation results in a fractional sign of one-half or greater, then the fraction may be rounded up to the next whole number. If the calculation results in a fractional sign of less than one-half, then the fraction shall be rounded down to the next whole number.
5. When calculating the permitted number of signs allowed by a modified sign program, if the calculation results in a fractional sign, then the fractional sign may be rounded up to the next whole number.
6. Sign program design standards shall not apply to noncommercial messages.
7. All sign programs must incorporate the provisions for substitution of noncommercial messages as specified in Section 21.41.025.A.2. Message substitution applies but may not override contrary provisions in leases.
8. In the absence of a master or specific plan, the sign program application may not be used to permit a sign type which is otherwise prohibited.

D. Application and Fees.

1. An application for a sign program, modified minor sign program or modified sign program may be made by the owner of the property affected or the authorized agent of the owner.
2. The application for a sign program, modified minor sign program or modified sign program shall be made in writing on the form provided by the City Planner.
3. The application shall be accompanied by the required fee contained in the most recent fee schedule adopted by the City Council.
4. The application shall state fully the circumstances and conditions relied upon as grounds for the application.
5. The application shall contain the following information:
  - a. A copy of an approved development plan (master plan, specific plan, planned industrial permit, site development plan or other approved development project or discretionary permit) drawn to scale showing the location of property lines, rights-of-way, adjacent streets, sidewalks and on-site buildings, landscaped areas, off-street parking areas and vehicular access points;
  - b. A drawing to scale showing the design of each sign, including dimensions (height and width), sign size (area), colors, materials, method of attachment, source of illumination

and location of each sign on any building, structure or property;

- c. Computation of the total number of signs, sign area for individual signs, total sign area and height of signs for each existing and proposed sign type;
- d. A materials board or sign sample that is an accurate representation of proposed colors, material and style of copy; and
- e. The number, size, type and location of all existing signs on the same building, lot or premises.

E. Notices and Hearings.

1. Notice of an application for a modified minor sign program shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
2. Notice of an application for a modified sign program shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

F. Decision-Making Authority. Applications for a modified minor sign program or a modified sign program shall be acted upon in accordance with the following:

1. Modified Minor Sign Program.

- a. An application for a modified minor sign program may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
- b. The City Planner may approve or conditionally approve the modified minor sign program if all of the findings of fact in subsection H of this section are found to exist.

2. Modified Sign Program.

- a. An application for a modified sign program may be approved, conditionally approved or denied by the Planning Commission or City Council, as specified in Section 21.54.040 of this title.
- b. The decision on the modified sign program shall be based on the decision-making authority's review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- c. The decision-making authority shall hear the matter, and may approve or conditionally approve the sign program if all of the findings of fact in subsection H of this section are found to exist.

G. Findings of Fact for Sign Programs that Comply with Standards of this Chapter. A proposed sign program will be approved only upon the following findings:

1. All signs comply with the sign area, number, height, location and other sign standards as set forth in this chapter.
2. The signs have been integrated with the project's building, site and landscaping design to form a unified architectural statement.

H. Findings of Fact for Modified Minor Sign Programs or Modified Sign Programs that Vary from the Standards of this Chapter. A modified minor sign program or modified sign program that varies from the standards of this chapter shall be approved only upon the following findings:

1. The standards established by the modified minor sign program or modified sign program do not exceed any applicable rules or limits in the general plan or local coastal program;
2. The modified minor sign program or modified sign program is necessary to ensure that signs are proportionate to and compatible with the number, size, height, scale and/or orientation of project buildings;
3. The modified minor sign program or modified sign program is necessary to ensure the visibility of the overall development to pedestrians and motorists; and
4. The modified minor sign program or modified sign program is necessary to enhance the overall project design, and the aesthetics and/or directional function of all proposed signs.

I. Announcement of Decision and Findings of Fact. When a decision on a modified minor sign program or modified sign program is made pursuant to this chapter, the decision-making body shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

J. Effective Date and Appeals. Decisions on modified minor sign programs and modified sign programs shall become effective and may be appealed in accordance with the applicable provisions of Sections 21.54.140 and 21.54.150 of this title.

K. Expiration, Extensions and Amendments.

1. The expiration period for an approved modified minor sign program or modified sign program shall be as specified in Section 21.58.030 of this title.
2. The expiration period for an approved modified minor sign program or modified sign program may be extended pursuant to Section 21.58.040 of this title.
3. An approved modified minor sign program or modified sign program may be amended pursuant to the provisions of Section 21.54.125 of this title.

L. Existing Sign Programs. Existing sign programs approved prior to the effective date of this chapter are subject only to the message substitution provision of this chapter; all other terms of the existing sign program shall continue in force.

M. Binding Effect. After approval of a sign program, modified minor sign program or modified sign program all signs subsequent thereto shall be erected, constructed, installed, displayed, altered, placed or maintained only in conformance with such program unless and until modified by the procedures outlined herein.

(Ord. CS-226 § I, 2013)

#### **§ 21.41.070. General sign standards.**

The following sign standards shall apply to all signage within the city.

A. Sign Area. Sign area is computed as follows:

1. Wall, Retaining Wall, Fascia, Awning, Window and Landscape/Hardscape Feature Signs.

- a. Sign area shall be computed by measuring the smallest square, rectangle, triangle, circle or combination thereof, that will encompass the extreme limits of the graphic image, writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the message or display or otherwise used to differentiate the sign from the backdrop or structure against which it is placed.
  - b. Sign area does not include any supporting framework or bracing unless such is designed in a way as to function as a communicative element of the sign.
2. Pole Signs. Sign area shall be computed as the area of the surface(s) upon which the sign message is placed including the supporting column(s) if decorated or displayed with advertising.
  3. Multi-Faced Signs.
    - a. The sign area for a two-sided or multi-faced sign shall be computed by adding together the area of all sign faces visible from any one point.
    - b. When two sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same structure, the sign area shall be computed by the measurement of one of the faces.
    - c. In the case of a sign of spherical or cylindrical shape, the area of the sign shall be one-half of the surface area.
  4. Flags, Banners, Pennants, etc. Sign area is the entire surface area, one side only.
  5. Monument, Freestanding and Suspended Signs. Sign area shall be computed by measuring the entire area contained within the frame, cabinet, monument, monument base or fixture.
- B. Sign Height—Monument, Pole and Freestanding Signs. Sign height is measured as follows: Sign height is specified as the greatest vertical measurement from the top of the sign or sign cabinet, including all ornamentation and supports, to the average grade beneath the sign.
  - C. Placement of Commercial Signs. Commercial signs shall be placed on the property of the use for which the sign is intended to identify or relate, unless placement on another property is specifically allowed by this chapter or other relevant law.
  - D. Placement of Noncommercial Messages on Signs.
    1. Noncommercial messages are allowed wherever commercial signage is permitted within Chapter 21.41 and is subject to the same standards and total maximum allowances per lot or building of each sign type specified in this chapter.
    2. A permit is required for a noncommercial message only when the sign structure has not been previously permitted.

(Ord. CS-226 § I, 2013; Ord. CS-261 § IV, 2014)

#### **§ 21.41.080. Sign design standards.**

Each permanent approved sign shall meet the following design standards.

- A. Colors. For commercial messages on signs, fluorescent, "Day-Glo" and similar colors shall not be used.

B. Materials.

1. All permanent signs shall be constructed of durable materials, which are compatible in kind and/or appearance to the building supporting or identified by the sign.
2. Such materials may include, but are not limited to:
  - a. Ceramic tile,
  - b. Sandblasted, hand carved or routed wood,
  - c. Channel lettering,
  - d. Concrete, stucco or stone monument signs with recessed or raised lettering.

C. Sign Location.

1. Wall signs must be located below the roofline on structures with pitched roofs. However, wall signs can be located on the parapet of a flat roofed building. Wall signs are not allowed on any equipment enclosure located above the roofline.
  2. Directional signs shall be located to facilitate traffic internal to the site.
- D. Relationship to Buildings. Each permanent commercial message sign located upon a premises with more than one main building, such as a commercial, office or industrial project, shall be designed to incorporate the materials common or similar to all buildings.
- E. Relationship to Other Signs. Where there is more than one sign on a lot, building or project site, all permanent signs displaying a commercial message shall have designs which similarly treat or incorporate the following design elements:
1. Type of construction materials;
  2. Sign/letter color and style of copy;
  3. Method used for supporting sign (i.e., wall or ground base);
  4. Sign cabinet or other configuration of sign area;
  5. Illumination; and
  6. Location.
- F. Relationship to Streets. Signs shall be designed and located so as not to interfere with the unobstructed clear view of the public right-of-way and nearby traffic regulatory signs of any pedestrian, bicyclist or motor vehicle driver.
- G. Sight Distance. No sign or sign structure shall be placed or constructed so that it impairs the city's sight distance requirements, per City Engineering standards, at any public or private street intersection or driveway.
- H. Sign Illumination.
1. Illuminated wall signs are prohibited on any building elevation that faces and is located within three hundred feet of any property line that adjoins residentially zoned property.

2. Illumination from or upon any sign shall be shaded, shielded, directed or reduced so as to minimize light spillage onto the public right-of-way or adjacent properties.
  3. Externally illuminated signs shall be lighted by screened or hidden light sources.
  4. Free-standing and building-mounted signs shall either be non-illuminated or externally illuminated, except for signs with opaque backgrounds which give the appearance of individual channel letters and/or changeable copy signs.
- I. Logos and Graphics. Corporate logos and graphics may be used in conjunction with allowed signage. Logos, graphics and trademarks are included in total sign area, and are subject to sign height standards, but are not subject to sign letter height standards.
- J. Landscaping. Each monument and pole sign shall include landscaping around the base of the sign, at a minimum ratio of two square feet for every one square foot of sign area, so as to protect the sign from vehicles, improve the appearance of the installation and screen light fixtures and other appurtenances.

(Ord. CS-226 § I, 2013)

**§ 21.41.090. Coastal zone sign standards.**

- A. The following sign restrictions apply to properties in the coastal zone except the Agua Hedionda Lagoon and Village-Barrio segments. If there is a conflict between the coastal zone sign standards of this section and any regulations of this chapter, the standards of this section shall prevail. Otherwise, within the coastal zone, the sign regulations of this chapter shall apply.
1. Each business or establishment shall be entitled to one façade sign.
  2. Each shopping complex shall have only one directory sign which shall not exceed fifteen feet in height, including mounding.
  3. Monument sign height including mounding shall not exceed eight feet and shall apply where three or fewer commercial establishments exist on a parcel.
  4. Tall freestanding and roof signs shall not be allowed.
  5. Off-premises signs shall not be allowed.

(Ord. CS-226 § I, 2013; Ord. CS-261 § V, 2014; Ord. CS-334 § 8, 2018)

### § 21.41.095. Permitted permanent signs.

Table B states the criteria for a permit for permanent signs for each type of development and/or corresponding zones. In addition to the type of sign permitted, Table B provides the maximum number, maximum sign area, maximum sign height and letter height, permitted location and other standards.

Table B

#### Permanent Signs Permitted by Type of Development and Zone With a Sign Permit

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards— See Sections 21.41.070—21.41.090 and those listed below
Single Family Residential Lots	See Section 21.41.100, Permitted Temporary Signs					
	See Section 21.41.040, Signs on Private Property Not Requiring a Sign Permit					
Residential Subdivisions, Condominiums, Apartment Projects and Mobile Home Parks	Monument	1 per project entrance	60 square feet per sign	6 feet above average grade/24 inches	Driveway entrance or at other strategic location	(See Note 1 below)
	Directory Signs - Wall Mounted or Freestanding	1 per building entrance	6 square feet per sign	6 feet above average grade	Signs are to be located and oriented to direct visitors upon entry into the project or building	

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards— See Sections <b>21.41.070—21.41.090 and those listed below</b>
Commercial Centers and Freestanding Commercial Buildings (located within the C-1, C-2, C-L or C-T zones)	Monument	1 per driveway entrance	60 square feet per sign	6 feet above average grade/24 inches	Driveway entrance or at other strategic location	(See Note 1 below)
	Wall, Fascia or Awning	No maximum number	Total sign area for all wall, fascia or awning signs shall not exceed 1 sq. ft. per each lineal foot of building frontage	Varies/Tenant Leased Space: < 2,500 square feet: 24 inches; 2,500—10,000 square feet: 30 inches; 10,001—50,000 square feet: 36 inches; > 50,000—100,000 square feet: 48 inches; >100,000 square feet: 60 inches	1. Fascia Sign: Centered on Fascia; 2. Awning sign: over doors or windows	The length of any sign shall not exceed 75% of the length of the building frontage or lease space to which the sign pertains (See Notes 2, 3 and 6 below).
	Suspended or Projecting	1 per establishment	6 square feet per sign	Minimum 8-foot clearance from finished grade to bottom of sign	Suspended - Underside of walkway overhang at 90 degrees to the business establishment	Suspended may not be internally illuminated
	Directional Sign	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards—See Sections <b>21.41.070—21.41.090 and those listed below</b>
Drive-Thru Facilities	Reader Board Wall or Monument	Restaurants: 2 per existing establishment; other non-restaurant drive-thru facilities: 1 per establishment	24 square feet per sign	6 feet above average grade		Reader boards are allowed in addition to other signs permitted for commercial centers and freestanding commercial buildings.
Regional Commercial Center	Pole	1 per center	150 square feet per sign	35 feet above average grade	Primary project entrance or in a location approved by the City Planner	Pole sign is allowed in addition to other signs permitted for commercial centers.
Office, Industrial and Commercial Uses in the R-P, O, C-M, P-M, and M Zones	Monument	1 per lot	60 square feet per sign	6 feet above average grade/24 inches	Primary driveway entrance or at other strategic location	(See Notes 1 and 5 below)
	Directional Signs	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	
	Wall	Buildings less than 50,000 square feet in area: 2 signs per building (1 sign per building elevation)	50 square feet per sign	24 inches		(See Notes 3 through 6 below)
		Buildings 50,000—100,000 square feet in area: 4 signs per building (2 signs per building elevation)	60 square feet per sign	36 inches		

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards—See Sections <b>21.41.070—21.41.090 and those listed below</b>
		Buildings greater than 100,000 square feet in area: 6 signs per building (2 signs per building elevation)	70 square feet per sign	48 inches		
Office or Industrial Establishment with a Separate Building Entrance in a Multitenant Building	Wall or Fascia	1 per establishment	8 square feet per sign	12 inches	Directly above entrance	Allowed in addition to wall signs permitted for buildings in the R-P, O, C-M, P-M and M zones
Ground Floor Commercial Establishment with a Separate Building Entrance in a Multitenant Building Located in the R-P, O, C-M, P-M and M Zones	Wall or Fascia	1 per establishment	20 square feet per sign	18 inches	1. Wall Sign: not permitted above the plate height elevation of the ground floor; 2. Fascia Sign: centered on fascia, directly above establishment entrance	
Commercial Establishment with a Separate Building Entrance in a Multitenant Building Located in the R-P, O, C-M, P-M and M Zones	Suspended	1 per establishment	5 square feet per sign	Minimum 8-foot clearance from finished grade to bottom of sign	Underside of walkway overhang at 90 degrees to the commercial business establishment	May not be internally illuminated
Office/Industrial Parks	Park Identification Sign	1 per each park entrance that is located along an arterial road	75 square feet per sign	6 feet above average grade/24 inches	Near primary park entrances	(See Note 1 below)

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards—See Sections <b>21.41.070—21.41.090 and those listed below</b>
Hotels/Motels	Monument	1 per driveway entrance	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Note 1 below)
	Wall or Fascia or Awning	2 Wall or Fascia or Awning Signs per street frontage	Total sign area for all wall, fascia or awning signs (per building) shall not exceed 1 square foot per each lineal foot of building frontage	24 inches	1. Fascia Sign: Centered on Fascia; 2. Awning Sign: Over doors or windows	(See Notes 2, 3, and 6 below)
	Directional	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	
Professional Care Facility	Monument	1 per driveway entrance	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Note 1 below)
	Wall	1 per street frontage	Total wall sign area shall not exceed 1 square foot per each lineal foot of building frontage	24 inches		(See Notes 3 and 6 below)
	Directional	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	
Resort Hotels	Monument	1 per driveway entrance	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Note 1 below)

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards—See Sections <b>21.41.070—21.41.090 and those listed below</b>
	Wall	1 per street frontage	60 square feet per sign; total wall sign area shall not exceed 1 square foot per each lineal foot of building frontage	36 inches		(See Notes 2, 3 and 6 below)
	Directional	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	
Gas/Service Stations	Monument	1 per street frontage	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Note 1 below) Sign may include motor fuel prices as required by state law
	Wall	1 per street frontage	30 square feet per sign	24 inches		(See Notes 3 and 6 below)
	Canopy	4 per site	10 square feet per sign	18 inches	Attached to canopy, not to extend beyond or above the canopy	Must be designed as an integral part of the canopy structure
	Fuel Pump	1 per fuel pump	2.5 square feet per sign		Must be attached to the fuel pump	
	Pole (freeway service stations only)	1 per site	50 square feet per sign	35 feet above average grade/36 inches		Only permitted at freeway service stations
Stand-alone Theater or Cinema	Wall	1 per street frontage	Total sign area for all wall signs shall not exceed 1 square feet per each lineal foot of building frontage	60 inches		(See Notes 3 and 6 below) See Commercial centers for permitted signage for a theater that is not a stand-alone establishment

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards—See Sections <b>21.41.070—21.41.090 and those listed below</b>
	Suspended or Projecting	1 per site	6 square feet per sign	Minimum 8-foot clearance from finished grade to bottom of sign	Suspended - Underside of walkway overhang at 90 degrees to the building	Suspended may not be internally illuminated
	Attraction Board (Pole or Marquee)	1 per site	100 square feet plus 10 square feet per screen or stage over 1, up to a maximum of 160 square feet per sign	Maximum pole sign height: 35 feet above average grade/24 inches; Marquee: 24 inches	Marquee signs must be building mounted	
	Program Poster	1 per screen or stage	6 square feet per sign		Must be building mounted	
Government, Church, or Private School	Wall	1 per street frontage	40 square feet per sign; total wall sign area shall not exceed 1 square foot per each lineal foot of building frontage	24 inches		(See Note 6 below)
	Monument	1 per street frontage	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Note 1 below)
	Directional	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards— See Sections <b>21.41.070—21.41.090 and those listed below</b>
Public Parks, Playgrounds, Recreational Facilities, Nature/ Interpretive Centers and Similar Uses	Monument	1 per street frontage	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Notes 1, 3 and 6 below)
	Wall	1 per street frontage	30 square feet per sign	24 inches		
	Directional	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	
Produce/Flower Stand in the E-A, R-A and L-C Zones	Wall or Freestanding	1 per produce/flower stand	32 square feet per sign	Freestanding: 8 feet above average grade/24 inches	Freestanding: Primary project entrance	Shall be displayed only during the time period the produce/flowers are available for sale on the property
Nursery, Greenhouse, Packing Shed, Stable, Riding Academy and Similar Uses	Freestanding	1 per site	32 square feet per sign	8 feet above average grade/24 inches	Primary project entrance or at other strategic location	May not be illuminated
P-U zone	Monument	1 per street frontage (2 signs maximum)	60 square feet per sign	6 feet above average grade/24 inches	Primary project entrance or at other strategic location	(See Note 1 below)
	Wall	1 per street frontage (2 signs maximum)	40 square feet per sign	24 inches		(See Note 6 below)
	Directional	3 per driveway entrance	6 square feet per sign	6 feet above average grade	Should be located to facilitate traffic internal to the site	

**Table B**  
**Permanent Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and/or Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Additional Sign Standards—See Sections <b>21.41.070—21.41.090 and those listed below</b>
OS zone, except for uses listed elsewhere in this table	See Section 21.41.100, Permitted Temporary Signs					

**Notes:**

1. Monument signs on entry walls (e.g., curved, angled or similar walls integrated into a project entry or perimeter) are permitted. In cases where entry walls are located on both sides of an entry drive, one sign on each wall (each at the maximum square footage) is permitted.
2. Building elevations on restaurants, hotels or motels which front along or are within three hundred feet of the right-of-way of and visible from Interstate 5, State Route 78, Palomar Airport Road or El Camino Real shall not have more than one wall sign along those elevations.
3. Illuminated wall signs are prohibited on any building elevation that faces and is within three hundred feet of any property line that adjoins residentially zoned property.
4. Building elevations which front along or are within three hundred feet of the right-of-way and visible from Interstate 5, State Route 78, Palomar Airport Road or El Camino Real shall not have more than one wall sign along those elevations.  
Notwithstanding the above, two wall signs along a building elevation that fronts the above-noted corridors may be permitted under the following circumstances:
  - (a) A building elevation must have a minimum of one hundred fifty lineal feet in order to have more than one wall sign along that elevation.
  - (b) The minimum spacing between wall signs along an elevation shall not be less than seventy-five feet.
  - (c) The cumulative length of all wall sign(s) along any building elevation shall not exceed one-third of the length of that same elevation.
5. These sign standards supersede the sign standards for the C-M, M and P-M zoned properties that are located within Area 4 of the El Camino Real corridor development standards.
6. Wall signs must be located below the roof line on structures with pitched roofs. However, wall signs can be located on the parapet of a flat roofed building. Wall signs are not allowed on any equipment enclosure located above the roof line.

(Ord. CS-226 § I, 2013; Ord. CS-261 § VI, 2014)

### § 21.41.100. Permitted temporary signs.

Table C provides a listing of all temporary signs permitted for each type of development and corresponding zones with a sign permit. In addition to the type of sign permitted, Table C provides the maximum number, maximum sign area per sign, maximum sign height and letter height, permitted location and other provisions.

**Table C**  
**Temporary Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Remarks
Projects Which Are Under Construction in All Zones	Wall or Freestanding	1 per project	32 square feet per sign	Freestanding: 8 feet above average grade	Must be located on the project site; may not project into the public right-of-way	1. May not be illuminated; 2. shall be removed prior to the granting of the last certificate of occupancy by the city
Real Property or Project Which is for Rent, Sale or Lease - in All Zones (Owner's Real Property or Owned by Others With Owner's Consent, per California Civil Code 713)	Freestanding	1 per property	Residential projects of 2 to 10 units: 12 square feet; residential projects of more than 10 units, commercial, office and industrial properties: 32 square feet per sign	8 feet above average grade	Must be located on the property; may not project into the public right-of-way	1. May not be illuminated; 2. residential projects: shall be removed from the property within 15 days from the date that all the properties are sold or no longer for sale, whichever occurs first; 3. commercial and office/ industrial properties: shall be removed from the building or property within 15 days after the sale, rental or lease
All Commercial, Office and Industrial Zones	Interim Temporary Sign	1 per establishment	30 square feet per sign	Attached to monument or wall at the establishment location		1. Permitted only for establishments waiting for permanent sign construction and installation; 2. approval limited to 45 days maximum or when the permanent sign is installed whichever occurs first; 3. a city sign permit for the permanent sign must first be issued

**Table C**  
**Temporary Signs Permitted by Type of Development and Zone With a Sign Permit**

Type of Development and Zone	Type of Sign	Maximum Number of Signs	Maximum Sign Area	Maximum Sign/Letter Height	Location	Remarks
All Commercial, Office, and Industrial Zones	Banner or Freestanding Signs with a temporary seasonal sales location permit	1 per street frontage	30 square feet per banner or freestanding sign		Must be located on the site of the seasonal sales event	Limited to the period of time specified in the temporary seasonal sales location permit
Any Public or Private Property with a Special Events Permit (See C.M.C. Chapter 8.17)						
Community Event at Public Parks Recreational Facilities					Pursuant to other provisions of the Carlsbad Municipal Code	

(Ord. CS-226 § I, 2013)

**§ 21.41.110. Construction and maintenance.**

- A. Construction. Every sign, and all parts, portions and materials thereof, shall be manufactured, assembled and erected in compliance with all applicable state, federal and city regulations and the latest adopted versions of the Building Code and the National Electric Code.
- B. Maintenance.
  - 1. Every sign and all parts, portions and materials shall be maintained and kept in good repair.
  - 2. The display surface of all signs shall be kept clean, neatly painted and free from rust, cracking, peeling, corrosion or other states of disrepair.

(Ord. CS-226 § I, 2013)

**§ 21.41.120. Removal of signs.**

- A. Any sign which is unsafe, as defined herein, or which does not conform to Uniform Building Code and National Electric Code standards, or installed or placed in the public right-of-way or on city property contrary to other provisions of the Carlsbad Municipal Code, may be removed by any officer or employee of the city designated to do so without prior notice. Alternatively, the city may issue a notice of nonconformance and give the sign owner and/or the property owner fifteen days in which to cure the nonconformance.
- B. Any other sign that is in violation of the provisions of this chapter must be removed by the permittee, owner or person in charge of the sign upon written notice by the city. Such written notice shall specify the nature of the violation, order the cessation thereof and require either the removal of the sign or the execution of remedial work in the time and in the manner specified by the notice.
- C. The time for removal or repair shall not be less than thirty calendar days from the date of mailing the notice for permanent signs and not less than fifteen calendar days for temporary signs.
- D. Within ten days of the mailing of the notice, the permittee, owner or person in charge of the sign may request a hearing before the City Planner to determine whether the sign was erected or maintained in violation of this chapter. Such request must be made in writing and received by the city within the ten days after mailing of notice.
- E. Upon receipt of a written request for a hearing, the City Planner shall schedule a hearing and send a written notice by first class mail of the time, place and date for the hearing, which shall be no later than thirty days after the date of receipt of the written request, unless the party responsible for the sign requests a later hearing date. The time for compliance with the original order shall be stayed during the pendency of the hearing. The City Planner will notify the appellant of the decision to affirm, modify or revoke the order to remove or repair within ten days of the conclusion of the hearing; failure to give such notice of decision shall result in the withdrawal of the notice of violation, but shall not prevent a new notice of violation being issued for a different time period from that specified in the original notice.
- F. Whenever the permittee, owner or person in charge of the sign fails to comply with an order of the City Planner requiring compliance with this chapter, any expense of such inaction shall be charged to the permittee, owner or person in charge of the sign. Such amount shall constitute a debt owed to the city. No permit shall thereafter be issued to any permittee, owner or person in charge of the sign who fails to pay such costs. Any costs, including attorney's fees, incurred by the city in collection of the costs shall be added to the amount of the debt.

- G. Every person billed may request a hearing regarding the accuracy of the amount billed. Following the hearing, the City Planner shall, within ten days of the conclusion of the hearing, notify the person billed of any adjustment to the bill or any determination not to make an adjustment. This notification shall specify the date by which such bill shall be paid. Nonpayment becomes a lien on the property.  
(Ord. CS-226 § I, 2013)

**§ 21.41.125. Appeal of denial or revocation.**

- A. Any person seeking to appeal a decision of the City Planner granting or denying an application for issuance of, or renewal of, a sign permit, revoking a permit or ordering the removal of a sign, must file a written notice of appeal with the City Planner no later than ten days after the date of the notice of the decision. The notice shall state, with specificity, the factual and legal basis of the appeal. The City Planner shall expeditiously schedule a hearing before the Planning Commission and notify the appellant, in writing, of the day, time and location of the hearing, which shall be held not later than thirty days after the notice of appeal is received by the city, unless time is waived by the appellant. The time for compliance of any original order shall be stayed during the pendency of the hearing before the Planning Commission.
- B. The Planning Commission shall hold a hearing and provide the appellant with a written decision within ten days of the conclusion of the hearing. If the approval, denial, revocation or removal order is affirmed on review, the appellant may file a written notice of appeal to the City Council with the City Clerk no later than ten days after the date of the notice of the decision. The City Clerk shall then schedule a hearing before the City Council, which shall be held within thirty days of the receipt of the notice of appeal, and notify the appellant, in writing, of the day, time, and location of the hearing; however, the hearing may be held later than thirty days upon the request or concurrence of the appellant. The time for compliance of any original order shall be stayed during the pendency of the hearing before the City Council.

The City Council shall provide the appellant with a written decision within ten days of the conclusion of the hearing. Any person dissatisfied with the City Council's decision may seek prompt judicial review pursuant to California law.

(Ord. CS-226 § I, 2013)

**§ 21.41.130. Nonconforming signs.**

- A. Except for normal repair and maintenance and any modification required for NEC compliance, no non-conforming sign shall be expanded, structurally or electrically altered (not including a change in sign face or sign copy), moved or relocated, unless it is brought into conformance with all current provisions of this chapter.
- B. When a sign, which was in compliance with all applicable laws in effect at the time it was originally erected, is physically damaged, whether by vandalism, forces of nature or other causes, the sign may be repaired or restored to its original size, shape, height, orientation and message; however, the repair or restoration must be done in a manner which complies with current building and electrical codes and/or the requirements of any applicable sign program.

(Ord. CS-226 § I, 2013)

**§ 21.41.140. Remedies and penalties.**

Any sign, which has been properly removed under this chapter, may be returned to the owner upon payment to the city of the costs of removal. If no timely request is made for hearing or if no demand is

made for the return of the sign removed, the city is authorized to destroy or dispose of the removed sign not earlier than thirty days after the removal of such sign.

(Ord. CS-226 § I, 2013)

#### **§ 21.41.150. Violations.**

A. It is unlawful for any person to:

1. Install, mount, affix, create, erect, display or maintain any sign in a manner that is inconsistent with this chapter or any permit for such sign;
2. Install, mount, affix, create, erect, display or maintain any sign requiring a permit without such a permit; or
3. Fail to remove any sign which the city has ordered to be removed for being in violation of this chapter.

B. Violations of any provisions of this chapter shall be subject to the enforcement remedies and penalties provided for herein and in Chapter 1.08 of this code. The city may also pursue any civil remedies provided by law, including injunctive relief, as to signs not in conformance with this chapter:

1. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this chapter.
2. Each sign installed, created, erected or maintained in violation of this chapter shall be considered a separate violation when applying the penalty portions of this chapter.

(Ord. CS-226 § I, 2013)

#### **§ 21.41.160. Severability.**

If any section, subsection, sentence, clause phrase or part of this chapter is for any reason found by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter, which shall be in full force and effect. The City Council hereby declares that it would have adopted this chapter with each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or parts be declared invalid or unconstitutional.

(Ord. CS-226 § I, 2013)

## CHAPTER 21.42 MINOR CONDITIONAL USE PERMITS AND CONDITIONAL USE PERMITS

### **§ 21.42.010. Purpose.**

The purpose of the minor conditional use permit or conditional use permit is to allow special consideration for certain uses to be located in zones other than those in which they are classified as permitted because of their particular characteristics.

Such uses may only be suitable in specific locations in a zoning classification or only if such uses are designed or laid out in a particular manner on the site or are subjected to specific conditions to assure compatibility within the zone and its surroundings. Since it would be impractical and detrimental to the peace, health, safety and general welfare to permit such uses in all areas of the city in any one or more zones, the peace, health, safety and general welfare will be promoted if such uses are authorized only by minor conditional use permit or conditional use permit in accordance with the standards hereinafter set forth.

The privileges and conditions of a minor conditional use permit or conditional use permit are a covenant that runs with the land, and, in addition to binding the permittee, bind each successor in interest.

(Ord. NS-791 § 1, 2006)

### **§ 21.42.030. Findings of fact.**

- A. A minor conditional use permit or conditional use permit may be granted only if the following facts are found to exist in regard thereto:
  1. That the requested use is necessary or desirable for the development of the community, and is in harmony with the various elements and objectives of the general plan, including, if applicable, the certified local coastal program, specific plan or master plan;
  2. That the requested use is not detrimental to existing uses or to uses specifically permitted in the zone in which the proposed use is to be located;
  3. That the site for the proposed conditional use is adequate in size and shape to accommodate the yards, setbacks, walls, fences, parking, loading facilities, buffer areas, landscaping and other development features prescribed in this code and required by the City Planner, Planning Commission or City Council, in order to integrate the use with other uses in the neighborhood;
  4. That the street system serving the proposed use is adequate to properly handle all traffic generated by the proposed use.
- B. When the subject of the application for minor conditional use permit or conditional use permit is protected by the First Amendment to the United States Constitution, or Article I, Section 2 of the California Constitution, then only the definite objective guidelines and standards of this chapter and of any other chapter of this code applicable to the property shall apply. The general health, safety and welfare requirements of this subsection shall not apply and any requirements of this code which may not be constitutionally applied shall be severed from the requirements which may be constitutionally applied and those applicable shall remain in full force and effect.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXII, 2012)

### **§ 21.42.040. Conditions which may be added prior to granting permit.**

- A. In granting a minor conditional use permit or conditional use permit, any and all conditions necessary to protect the public health, safety and welfare, may be added thereto, including, but not limited to, the following:
1. Regulation of use;
  2. Special yards, open space, and buffers;
  3. Fences and walls;
  4. Dedicating and improving public improvements;
  5. Regulation of points of vehicular ingress and egress;
  6. Requiring placement and maintenance of landscaping;
  7. Regulation of signage, noise, vibration, odors, etc.;
  8. Regulation of time for certain uses on the subject property;
  9. Time schedule for developing the proposed use;
  10. Time period during which the proposed use may be continued;
  11. Any other conditions necessary for the development of the city in an orderly and efficient manner and in conformity with the intent and purpose set forth in this chapter.

(Ord. NS-791 § 1, 2006)

#### **§ 21.42.050. Application and fees.**

- A. Application for a minor conditional use permit or conditional use permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
1. Be made in writing on a form provided by the City Planner.
  2. State fully the circumstances and conditions relied upon as grounds for the application; and
  3. Shall be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 11, 2011; Ord. CS-178 § LXXIII, 2012)

#### **§ 21.42.060. Notices and hearings.**

- A. Notice of an application for a minor conditional use permit shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
- B. Notice of an application for a conditional use permit shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXIII, 2012)

#### **§ 21.42.070. Decision-making authority.**

A. Applications for minor conditional use permits or conditional use permits shall be acted upon in accordance with the following. Please refer to the use regulation table in each zone to determine whether the conditional use permit is decided by process one, two or three.

1. Process One—Minor Conditional Use Permit.

- a. An application for a minor conditional use permit may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
- b. The City Planner may approve or conditionally approve the minor conditional use permit if all of the findings of fact in Section 21.42.030 of this title are found to exist.

2. Process Two.

- a. An application for a conditional use permit subject to process two may be approved, conditionally approved or denied by the Planning Commission based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- b. The Planning Commission shall hear the matter, and may approve or conditionally approve the conditional use permit if all of the findings of fact in Section 21.42.030 of this title are found to exist.

3. Process Three.

- a. An application for a conditional use permit subject to process three may be approved, conditionally approved or denied by the City Council based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- b. Before the City Council decision, the Planning Commission shall hear and consider the application for the conditional use permit and shall prepare a recommendation and findings for the City Council. The action of the Planning Commission shall be filed with the City Clerk, and a copy shall be mailed to the applicant.
- c. The City Council shall hear the matter, and may approve or conditionally approve the conditional use permit if all of the findings of fact in Section 21.42.030 of this title are found to exist.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXIII, 2012)

**§ 21.42.080. Announcement of decision and findings of fact.**

When a decision on a minor conditional use permit or conditional use permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXIII, 2012)

**§ 21.42.100. Effective date and appeals.**

A. Decisions of the City Planner on minor conditional use permits shall become effective unless

appealed in accordance with the provisions of Section 21.54.140 of this title.

- B. Decisions of the Planning Commission on conditional use permits shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.

- C. Decisions of the City Council on conditional use permits are final, conclusive and shall be effective upon the date specified in the announcement of decision.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXIII, 2012)

**§ 21.42.110. Expiration, extensions and amendments.**

- A. Expiration of Permit if Not Exercised. The expiration period for an approved minor conditional use permit or conditional use permit shall be as specified in Section 21.58.030 of this title.
- B. Extension of Permit if Not Exercised. The expiration period for an approved minor conditional use permit or conditional use permit may be extended pursuant to Section 21.58.040 of this title.
- C. Expiration of Permit. Such rights and privileges granted under a minor conditional use permit or conditional use permit shall also expire at such time as the City Planner/Planning Commission/City Council may designate in the approval of the minor conditional use permit or conditional use permit.
- D. All existing conditional use permits approved prior to February 21, 2006, which include an expiration date and a requirement to extend the permit, may be hereby approved administratively by the City Planner in perpetuity without the requirement to extend the conditional use permit.
- E. An approved minor conditional use permit or conditional use permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXIII, 2012)

**§ 21.42.120. Revocation.**

- A. The City Planner/Planning Commission/City Council shall have continuing jurisdiction over any minor conditional use permit or conditional use permit.
- B. To consider the revocation of a minor conditional use permit, the City Planner shall hold an administrative hearing after giving notice pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
- C. To consider the revocation of a conditional use permit, the Planning Commission/City Council shall hold a public hearing after giving notice pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.
- D. The City Planner/Planning Commission/City Council may revoke and terminate the minor conditional use permit or conditional use permit in whole or in part, reaffirm the minor conditional use permit or conditional use permit, modify the conditions or impose new conditions.
- E. Revocation actions of the City Planner/Planning Commission are appealable pursuant to Sections 21.54.140 and 21.54.150 of this title.
- F. A minor conditional use permit or conditional use permit may be revoked or conditions modified or added on any one or more of the following grounds:
1. That the minor conditional use permit or conditional use permit was obtained by fraud or misrepresentation;

2. That the use for which such approval is granted is not being exercised;
3. That the minor conditional use permit or conditional use permit is being or recently has been exercised contrary to any of the terms or conditions of approval;
4. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
5. That the use is in violation of any statute, ordinance, law or regulation;
6. That the use permitted by the minor conditional use permit or conditional use permit is being or has been so exercised as to be detrimental to the public health, safety or welfare or so as to constitute a nuisance.

(Ord. NS-791 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXIII, 2012)

#### **§ 21.42.140. Development standards and special regulations.**

- A. The following development standards applicable to the particular zone in which any minor conditional use or conditional use is proposed to be located shall prevail, unless in the findings and conditions recited in the letter or resolution dealing with each such matter, specific exemptions are made with respect thereto:
  1. Front and side yard setbacks;
  2. Building height;
  3. Lot area; and
  4. Off-street parking.
- B. The minor conditional uses and conditional uses identified in this section shall be subject to the following special regulations:
  5. Apiary. All hives or boxes housing bees shall be placed at least four hundred feet from any street, school, park, residential zone, or dwelling or place of human habitation other than that occupied by the owner or caretaker of the apiary.
  10. Aquaculture Stands. In considering the appropriateness of such facility, the minimum following criteria shall be considered:
    - a. Safe access;
    - b. Adequate parking;
    - c. Location and appearance of structure or facility;
    - d. Appearance and location of signs;
    - e. Compatibility with adjacent uses;
    - f. Scale of operation.
  15. Arcades (Coin-Operated).
    - a. No alcoholic beverages shall be permitted on premises.

- b. All activities shall be conducted within the confines of a structure designed to contain the noise created by such operation.
  - c. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.
17. Auto Repair. Service bays shall be screened from adjacent properties and public view by a wall, fence, hedge or other appropriate plant or landscape material between the service bay and the property line.
18. Auto Storage/Impound Yards. On-site auto storage areas shall be screened to reduce the view of the auto storage area from surrounding properties and streets. Screening may be accomplished by a combination of walls, fencing, landscaping or berms.
20. Bars and Cocktail Lounges.
- a. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.
  - b. Parking shall be provided at the rate of not less than one space per fifty square feet of gross floor area.
  - c. Surrounding grounds, including parking areas, shall be maintained in a neat and orderly condition at all times.
  - d. Any structure housing such operation shall meet all applicable code provisions prior to occupancy.
  - e. Licensee or agent shall not permit open containers of alcoholic liquor to be taken from the premise.
  - f. No bar or cocktail lounge shall be located within five hundred feet of any other bar or cocktail lounge.
25. Bed and Breakfast Uses.
- a. All proposed bed and breakfast uses shall be located within a historically or architecturally interesting structure which is located in a scenic or other area of the city with a unique character.
  - b. A resident manager or owner must live at and be involved in the daily operation of the facility. Documents pertaining to the operation and maintenance of such facility shall be submitted for staff approval prior to building permit issuance.
  - c. All bed and breakfast uses shall contain no less than three and no more than eight individually decorated guest rooms. A common room shall be available for social interaction.
  - d. If meals are served other than for guests staying at the facility, then the use shall be subject to the requirements of this code for the establishment of a restaurant.
  - e. Parking spaces shall be provided at a ratio of two spaces for the owner/manager, plus one space for each guest room. Guest parking spaces may be covered or uncovered. One covered parking space shall be provided for the owner/manager unit. No parking is

permitted within the front yard setback.

- f. Exterior lighting shall be designed to limit direct light glare outside of the project site.
- g. No kitchens or other cooking facilities in the guest rooms.
- h. Occupancy of guest units shall be limited to seven days.
- i. The application for a conditional use permit shall include the submittal of an architectural theme, colored elevations and site plan for review.

30. Biological Habitat Preserve.

- a. The biological habitat preserve shall not adversely impact the city's ability to provide public facilities and improvements such as, but not limited to, circulation element roadways, sewer or water infrastructure improvements and drainage improvements, as provided for in the citywide facilities and improvements plan, and the certified local coastal program.
- b. The biological habitat preserve shall be consistent with the city's habitat management plan or agency-approved habitat management plan.
- c. The biological habitat preserve shall be consistent with the city's local coastal program.
- d. A conditional use permit shall not be required when a biological habitat preserve is associated with a development proposal otherwise requiring environmental review and discretionary approval by the city, or a coastal development permit.
- e. Nothing in this section shall be construed as permitting encroachment or impacts to environmentally sensitive habitat areas and wetlands not permitted elsewhere in the certified local coastal program.

35. Bowling Alleys.

- a. No noise shall be audible outside of the structure.
- b. If alcoholic beverages are offered for consumption on site, no open container shall be permitted to be removed from the premises.
- c. Parking requirements for any bar area not meeting the definition of bona fide eating establishment shall be computed at one space per fifty square feet of gross floor area.

40. Campsites (Overnight).

- a. Any campsite shall be located in, adjacent to, or shall be directly associated with existing or planned parks and open space system and shall augment the city's general plan.
- b. An overnight campsite shall comply with all federal, state and local laws.
- c. The site plan for an overnight campsite shall be prepared by a licensed architect or landscape architect.
- d. No person shall occupy any part of an overnight campsite for more than ninety days, in the aggregate, during any given year.
- e. The design of an overnight campsite shall be subject to the following conditions:

- i. Upon site review, a perimeter six-foot fence or wall may be required. Interior six-foot fencing shall be required to isolate major trash collection and storage areas. Such fences or walls shall be of materials compatible with an approved architectural scheme for the total development.
- ii. Primary road surfaces, i.e., two-way throughways, shall be blacktop, asphalt or equivalent road surfaces. One-way throughways with sufficient natural drainage may be surfaced with decomposed granite or equivalent, otherwise hard surface equal to two-way requirements will be required. The remaining travel surfaces (camp pads, footpaths, maintenance roads) will be covered with decomposed granite or equivalent material.
- iii. Associated signs, freestanding or attached to buildings shall be designed and constructed in accordance with city ordinances.
- iv. Unit site densities shall be computed from a slope analysis of the project area: zero to five percent slope = maximum seven units/acre; six to fifteen percent slope = maximum three units/acre; sixteen plus percent slope = permanent open space.
- v. Sites within the campground shall be clearly marked and shall be not less than two thousand five hundred square feet in area.
- vi. Sites utilized by auto-truck campers, trailers, mobile coaches, shall front on a roadway not less than fifteen feet wide and which affords access to a public road.
- vii. Said campground facility shall total not less than ten acres, of which not less than sixty percent of the site shall be utilized for recreation activities, other than buildings, roadways, parking pads, trash or storage areas.
- viii. Camping spaces shall be placed at random throughout the project, so as not to reflect uniformity in appearance or design.
- ix. Exterior lighting shall be a type so as not to make visible a direct light source or cause glare outside the campground facility. Proposed light fixtures shall be subject to review to assure compatibility with the architectural scheme of the total development.
- x. Landscaping and sprinkler system shall be constructed in conformance with a plan prepared by a registered landscape architect and approved by the City Planner prior to building permit issuance. The sprinkler system shall be applied only to those areas that are not in extensive recreational use. Such landscaping shall be in conformance with but not limited to the following minimum standards:
  - (A) The campground site shall be planted with combinations of flowers, turf, groundcovers, shrubs, and trees; said plantings shall be distributed throughout the site to create a park-like effect.
  - (B) Trees shall be planted at a ratio of one for each one thousand square feet of gross land area. Ten percent of all trees shall be of specimen size. The remaining ninety percent shall be equally divided among fifteen, five and one-gallon sizes. Existing on-site trees may be utilized to fulfill tree requirements.
- xi. An architectural concept plan including plans for all structures and fences shall be

adopted for the total development to assure harmony and compatibility of all facilities within the campground.

- xii. Documents pertaining to the maintenance of all facilities including landscaping, and designating those persons responsible for same, shall be submitted for staff approval prior to building permit issuance.
- xiii. Other conditions may be imposed in connection with any conditional use permit issued for a campsite, pursuant to conditional use permit ordinance regulations then in effect.

45. Car Wash.

- a. The site shall be designed to reduce the visual impacts of buildings and waiting cars on surrounding development and from public streets.
- b. All structures shall be architecturally designed to ensure compatibility with surrounding development.
- c. A noise analysis addressing noise impacts on surrounding development may be required.
- d. A traffic study which analyzes the impact of the proposed carwash on adjacent and nearby intersections may be required. The limits of this study shall be established by the City Planner.
- e. Adequate parking and circulation shall be provided on-site to accommodate the proposed use.
- f. Waiting areas for cars shall be screened by a combination of landscaping, fencing and berthing.
- g. All signs shall comply with an approved sign program.
- h. Adequate means of eliminating grease and oils from drainage systems shall be provided.

50. Drive-Thru Restaurants. Drive-thru restaurants are prohibited within all zones in the city, including coastal zone properties. The drive-thru restaurant prohibition applies citywide to all existing and proposed specific plans, master plans, and related amendments. Drive-thru restaurants that are either existing or have received final approvals on January 5, 1998 are allowed to continue in existence subject to the terms and conditions of this code and the conditional use permit or other discretionary permit permitting them and may apply for and may be granted CUP extensions under this code.

55. Drug Paraphernalia Stores.

- a. No drug paraphernalia store shall be located within five hundred feet of any school, church, residence, residential area, children's camp or club, child care facility, community center, library, park, public beach or playground.
- b. No drug paraphernalia store shall have a sign or advertisement which displays, shows or represents drug paraphernalia or any illegal drug including, but not limited to, marijuana, hashish, cocaine, or any controlled substance as defined in the Health and Safety Code of the State of California.

- c. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.

60. Escort Services.

- a. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.
- b. No such business shall be located within five hundred feet of any residential zone.
- c. An application for a conditional use permit shall be referred to the Chief of Police, which application shall be under oath, and shall include, among other things, the true names and addresses of all persons financially interested in the business. The past criminal record, if any, of all persons financially interested in the business shall be shown on such application. The term "persons financially interested" shall include the applicant and all persons who share in the profits of the business on the basis of gross or net revenue, including landlords, lessors, lessees, and the owner of the building, fixtures or equipment. The application shall also be accompanied by fingerprints of persons financially interested.

The Chief of Police shall make such investigation as is necessary to determine the background of the applicant and other persons financially interested. The Chief of Police shall report to the Planning Commission his or her findings and recommendations as to whether to approve, deny, or conditionally approve or deny the conditional use permit in writing within one hundred eighty days after the application is submitted. The recommendations of the Police Chief shall be based on the findings and may also be based on his or her judgment of potential enforcement problems and reasons therefor from the proposed establishment. Failure to so report shall be deemed approval of the application. The Planning Commission may deny an application based on the findings and recommendations of the Chief of Police.

65. Gas Stations.

- a. Permits for gas stations shall be granted only in the event one or more of the following factual situations is found to exist:
  - i. The use is to be developed as part of a master-planned recreation area, industrial park, regional or community shopping center.
  - ii. The use is to be developed as part of a freeway-service facility, containing a minimum of two freeway-oriented uses.
  - iii. The use is to be developed as part of a commercial facility that is an integral part of a planned community development.
- b. Development Standards.
  - i. All structures shall be architecturally designed to be compatible with surrounding neighborhood uses.
  - ii. Landscape plans shall consist of the following:
    - (A) Perimeter planter areas of a minimum of six feet in width and planter areas adjacent to the structure;

- (B) Six-inch concrete curb bounding all planter areas;
  - (C) Landscaping including a combination of flowers, shrubs and trees;
  - (D) A sprinkler system providing total and effective coverage to all landscaped areas;
  - (E) A statement delineating a maintenance schedule and responsibility for maintenance of landscaped areas.
- iii. A six-foot-high masonry wall shall be constructed on all sides of the property that adjoin residential or residential-professional zoned property.
  - iv. All exterior lighting shall be shielded or oriented in such way so as not to glare on adjacent properties.
  - v. All displays and storage shall be contained within the main structure.
  - vi. Trash containers shall be contained within a six-foot high enclosure.
  - vii. All signs shall be in conformance with the city's sign ordinance.
  - viii. Full public improvements shall be provided as may be required for public convenience and necessity.
- c. The development standards (see subparagraph b above) shall apply to existing gas stations when renovated structurally, and any newly developed service stations. Provisions regarding location shall not apply to gas stations in existence as of September 15, 1970.
70. Greenhouses (Greater Than Two Thousand Square Feet in Area) and Packing/Sorting Sheds (Greater Than Six Hundred Square Feet in Area).
- a. Lighting shall be directed away from nearby residences and shall not create undue illumination.
  - b. Fans shall not create a noise nuisance to nearby residences.
  - c. Driveways shall be improved with dust control material and be maintained.
  - d. Structure, including panels or coverings, shall be maintained and not become a safety hazard or nuisance to the neighborhood.
  - e. The approving conditional use permit resolution shall contain the time limits of the permit and the provisions for periodic review.
75. Hazardous Waste Facilities. Applications for specified hazardous waste facilities shall be processed in accordance with the requirements of this code and of Chapter 6.5 of Division 20 of the Health and Safety Code commencing with Section 25100. A conditional use permit for a specified hazardous waste facility shall not be approved unless all of the following findings can be made:
- a. That all of the findings required by this chapter for approval of a conditional use permit can be made;
  - b. That the project is consistent with Chapter IX Section C (General Areas) and Appendix

IX-B (General Areas) of the San Diego County hazardous waste management plan; and

- c. That the project is consistent with Chapter IX Section B (Siting Requirements) and Appendix IX-A (Siting Criteria) of the San Diego County hazardous waste management plan.

80. Hotel and Motel Uses.

- a. The application shall include the submittal of an architectural theme, colored elevations and site plan.
- b. When adjoining residentially zoned property, hotels and motels under this section must comply with the following provisions:
  - i. Front yard setbacks, buildings — twenty-five feet or the same distance as existing buildings on adjoining lots; driveway or parking area — ten feet; outdoor recreational amenities — ten feet;
  - ii. A six-foot-high masonry wall shall be constructed along all property lines that are adjacent to residentially zoned properties (except where prohibited by approved driveways).

85. Liquor Stores.

- a. There are specifically designated parking spaces that are sufficient for the use.
- b. Traffic flow on public streets or in parking areas will not cause congestion or be detrimental to other nearby neighborhood commercial uses.
- c. That all measures have been taken to insure compatibility of the use with the surrounding neighborhood.
- d. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.
- e. Such establishment shall not be located within five hundred feet of any other licensed liquor store.

90. Mobile Buildings.

- a. The mobile building shall be occupied by a permitted or conditional use allowed in the zone in which it is placed.
- b. The occupancy shall be limited to a five-year term, unless extended by the appropriate decision-maker.
- c. Newly placed mobile buildings shall not be installed on permanent foundations.
- d. All mobile buildings shall have wood or stucco siding and must be installed with skirting to screen the chassis, wheels, and temporary foundation system.
- e. All mobile buildings must meet all applicable local, state, and federal codes including, but not limited to, manufacturer's certificate of origin, current and valid registration tags, adequate accessibility for disabled persons, temporary foundation system design and installation, utility connections, and zoning requirements such as building height and

setbacks.

95. Oil and gas facilities (on-shore) including, but not limited to, processing plants, refineries, storage facilities, transfer stations, pipelines, warehouses, offices, tanker terminals, helicopter pads and the like. Such facilities are prohibited except upon findings by the City Council that:
  - a. Approval of the proposed project and facilities will pose no danger to life and property to residents of the neighborhood, community or city;
  - b. Approval of the proposed project will not pose a potential threat of damage or injuries to nearby residents;
  - c. The benefits of the proposed project clearly outweigh the possible adverse environmental effects;
  - d. There are no feasible alternatives to the proposed project; and
  - e. The location and approval of the on-shore facilities at the particular location clearly outweigh any potential harm to public health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or community and will not be detrimental or injurious to property in the neighborhood, community or to the general welfare of the city.
  - f. Such facilities shall also require a minor site development plan pursuant to Chapter 21.34 of this title.

100. Parks, Public.

- a. All applications for a public park shall include a master park site plan exhibit. The master park site plan exhibit shall include the general location of and maximum anticipated site area and building area of proposed major and accessory park uses (i.e., picnic areas, playfields, playgrounds, athletic fields, swimming pools, tennis/volleyball courts, gymnasiums, clubhouses, restrooms, trails, driveways, parking areas and fences).
- b. The development of the specific uses that are identified on the master park site plan shall not require an additional conditional use permit or an amendment to the existing master park site plan conditional use permit.
- c. Park improvements that do not add a new land use to the master park site plan or increase the maximum anticipated site area or building area for a use by more than twenty percent of what is anticipated on the master park site plan may be approved administratively by the City Planner.

105. Pawnshops.

- a. No pawnshop shall be located within five hundred feet of any establishment licensed to dispense (for on-site or off-site consumption) alcoholic beverages.
- b. No pawnshop shall be located within five hundred feet of any residentially zoned property.
- c. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.

110. Pool Halls or Billiard Parlors.

- a. No such establishment shall be located within five hundred feet of any establishment licensed to dispense alcoholic beverages for consumption on-site or off-site.
  - b. No establishment shall be permitted to dispense alcoholic beverages for consumption on-site or off-site.
  - c. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.
  - d. Each structure housing such operation shall be constructed so as to contain within the structure all noise and other objectionable byproducts of such operation.
115. Processing Plants For Farm Crops, Similar To Those Being Grown On The Premises. No processing plant shall be located within fifty feet of any lot line.
120. Recreational Vehicle (RV) Storage.
- a. Only recreational vehicles as defined in Section 21.04.298 of this code may be stored within any recreational vehicle storage area; all stored vehicles must be in an operable condition and, if required, currently licensed.
  - b. Permitted recreational vehicle storage shall not be utilized as a sales yard, or as storage for a sales yard. An occasional sale by an individual may be permitted.
  - c. The maintenance, restoration and/or repair of any vehicle shall not be permitted within any recreational vehicle storage area, unless otherwise specifically permitted by the conditional use permit.
  - d. The utilization of a stored vehicle as a living unit shall not be permitted.
  - e. An accessory building, for administrative and security purposes, may be permitted by the conditional use permit.
  - f. All approved recreational vehicle storage areas shall be subject to the following development standards:
    - i. All recreational vehicle storage areas shall be surfaced with two inches of asphalt on four inches of base, or with an alternative acceptable to the City Engineer. In addition, the interior circulation and parking and layout design shall be subject to the approval of the City Engineer.
    - ii. All setbacks shall be landscaped with trees, shrubs and other plant material to the satisfaction of the City Planner. However, in no case shall less than a ten-foot-wide planter along all street frontages and a five-foot-wide planter along all interior lot lines be landscaped as specified above. In addition, three percent of the remainder of the site shall be landscaped with a variety of plant material and in locations throughout the storage area. These areas shall be a minimum dimension in all directions of four feet and bounded by a minimum six-inch concrete or masonry curb. All landscaped areas shall be served by a water irrigation system providing total and effective coverage to all landscaping.
    - iii. The storage area shall be screened from all views by a minimum eight-foot-high wall or fence. Said wall or fence shall entirely surround the site and shall observe a minimum setback equal to the required planting areas specified by the previous

development standard set out in subparagraph (f)(ii). The decision-making body may impose any additional conditions necessary to mitigate adverse visual affects of the wall or fence.

- iv. On-site visitor and employee parking shall be provided within the storage area at a ratio of one space per every ten thousand square feet of lot area, or as required by the conditional use permit. However, in no case shall less than three on-site visitor/employee parking spaces be provided.
- v. Signing for a recreational vehicle storage area shall be limited to a wall sign with a maximum total area of twenty square feet in all zones. No freestanding signs shall be permitted.

125. Residential Care Facilities (Serving More Than Six Persons).

- a. Facilities shall comply with all the rules, regulations and standards required by the State Department of Social Services.
- b. Facilities shall meet current California Code of Regulations (Title 24) for occupancy, as defined.
- c. Facilities shall provide off-street parking as required in Chapter 21.44 of this title.
- d. Additional requirements and restrictions may be imposed as determined necessary by the decision-making authority to ensure facilities meet the findings stated in Section 21.42.030. These requirements and restrictions may include provisions regarding but not limited to the following items:
  - i. Hours of operation, such as for deliveries and other services;
  - ii. Noise;
  - iii. Lighting;
  - iv. Location and screening of parking, service, and other outdoor areas;
  - v. Security;
  - vi. Loitering.

130. (Reserved)

135. Residential Uses in the P-M Zone. One-family dwellings, two-family dwellings and multiple-family dwellings or a combination thereof, which serve to house the employees of businesses located in the P-M zone, may be conditionally permitted subject to the following findings:

- a. A planned development permit for the project has been approved, or is approved concurrently with the conditional use permit, by the City Council.
- b. The residential development is an integral part of an industrial park or large industrial use.
- c. The residential development is designed to be compatible with the industrial use it serves by means of landscaping, open space separations, etc.
- d. The industrial development served by the residential development shall provide for

convenient and efficient vehicular, bicycle or pedestrian transportation to and from the residential development.

- e. The maximum allowable density for the residential development shall be established by the City Council but in no event shall the density exceed 40 dwelling units per acre.

137. Shooting Ranges (Indoor).

- a. Applicability. This subsection applies only to privately owned and/or operated indoor shooting ranges that are commercial enterprises open to the public or private groups on a membership basis. It does not apply to governmental facilities which provide training for police and other law enforcement entities.
- b. Location.
  - i. Indoor shooting ranges are conditionally permitted within the planned industrial (P-M) zone subject to approval of a conditional use permit.
  - ii. Distance Requirements. The establishment of an indoor shooting range shall not be permitted within 600 feet of a school (public or private), public park, day care facility, residential use, residential land use designation, or residential zoning district.
  - iii. For the purpose of measuring the distance requirements set forth in subsection (B)(137)(b)(ii) of this section, all distances shall be measured (without regard to intervening structures) in a straight line extended between the nearest property lines of:
    - (A) The property on which the indoor shooting range is or will be located;
    - (B) The property on which one of the uses/zones/designations specified in subsection (B)(137)(b)(ii) of this section is located; and
    - (C) For properties that are approved nonresidential planned developments, distances shall be measured from the parcel owned in common by the owner's association, which constitutes the perimeter property lines.
  - iv. The distance requirements in subsection (B)(137)(b)(ii) of this section shall apply to those uses/designations/zones specified in subsection (B)(137)(b)(ii) of this section that:
    - (A) Are existing; or
    - (B) Have received approval by the city for the use/zone/designation and said approval has not expired or become invalid; or
    - (C) Have submitted an application to establish those uses/designations/zones specified in subsection (B)(137)(b)(ii) of this section after the approval of a conditional use permit to establish an indoor shooting range.
  - v. Other Location Requirements. Indoor shooting ranges are not permitted within multitenant buildings, and shall only be constructed within a stand-alone building.
- c. General Requirements.
  - i. Every indoor shooting range shall be in compliance with the applicable building,

zoning, and fire code requirements of the Carlsbad Municipal Code in addition to all other applicable federal, state and local laws.

- ii. The applicant, owner and/or operator shall submit to a criminal background check as part of the conditional use permit application. The criminal background check shall be filed with the Carlsbad Chief of Police or designee in a form approved by the Chief of Police. Clearance from the Carlsbad police department shall be required as part of a complete conditional use permit application for an indoor shooting range. "Owner" means any of the following: (1) the sole proprietor of an indoor shooting range; (2) any general partner of a partnership that owns and operates an indoor shooting range; (3) the owner of a controlling interest in a corporation or L.L.C. that owns and operates an indoor shooting range; or (4) the person designated by the officers of a corporation or the members of an L.L.C. to be the business license holder for an indoor shooting range owned and operated by the corporation. This is an on-going requirement that also applies to all employees of the range and stays in effect after approval of the conditional use permit through the business license requirement.
  - (A) The applicant, owner and/or operator shall never have been convicted of any felony.
  - (B) The applicant, owner and/or operator shall never have been convicted of a misdemeanor involving a firearm and/or violence.
  - (C) The applicant, owner and/or operator shall never have been convicted of a violation of law concerning the manufacture, use, possession, or sale of firearms.
- iii. The applicant shall provide sufficient and substantial evidence that the proposed indoor shooting range is properly designed, constructed and equipped for the discharge of firearms within the facility, to the satisfaction of the building official. The indoor shooting range shall be designed to safely contain bullets within the range portion of the building. Tactical shooting is permitted provided the range design addresses this type of use.
- iv. A minimum of one range safety officer shall be on duty during all operating hours. Range safety officers shall be certified by the National Rifle Association Range Safety Officer Program or equivalent training program (such as law enforcement programs), and shall be responsible for:
  - (A) The operation and maintenance of the shooting range.
  - (B) Inspection of all firearms and ammunition for proper function and operation.
  - (C) Enforcement of safety protocols and the regulations of the indoor shooting range.
  - (D) Ensuring that all firearms and ammunition at the indoor shooting range remain securely stored at all times, and in compliance with all applicable laws and regulations.
- v. No other weapons, other than legal firearms, shall be discharged in an indoor shooting range.

- vi. Firearms classified as illegal under state or federal statute, shall not be allowed.
- vii. Firearms or ammunition deemed not safe by the range safety officer shall not be discharged within the indoor shooting range.
- viii. Firearms safety rules and regulations shall be prominently posted in a general area of the facility, and available to all customers of the establishment. Compliance with those regulations shall be monitored and enforced by a range safety officer, employed by the indoor shooting range.
- ix. Indoor shooting ranges shall be permitted to operate during the hours of 8:00 a.m. to 10:00 p.m., unless amended by the conditional use permit.
- x. No person, employee, member, or customer of an indoor shooting range shall be allowed to enter or leave the premises with a loaded firearm, unless permitted by or exempted by state or federal law.
- xi. All firearms shall only be loaded on the firing line under the supervision of the range safety officer, unless permitted by or exempted by state or federal law.
- xii. Illegal drugs or alcohol may not be consumed on the property, nor shall the sale of alcohol be permitted on the property.
- xiii. Individuals deemed by the range safety officer, or other employees of the indoor shooting range, to be under the influence of drugs and/or alcohol and as such present a safety concern, shall be prohibited from utilizing the indoor shooting range.
- xiv. Individuals who the range safety officer, or other employees of the indoor shooting range, believes to pose a threat to themselves or others, shall be prohibited from utilizing the indoor shooting range. The Carlsbad police department shall be contacted immediately if the range safety officer, or an employee, reasonably believes that a person on the premises may be a threat to themselves or others.
- xv. Individuals under 18 years of age will be allowed to utilize the facility, provided:
  - (A) They are at least eight years of age; and
  - (B) They are accompanied by a parent or legal guardian, or are under adult supervision and a signed release and waiver of liability by the parent or guardian is provided.
- xvi. All persons at the firing line shall wear approved eye and ear protection under the supervision of the range safety officer. All employees of an indoor shooting range shall receive eye and ear protection and shall receive proper training regarding the use of suitable eye and ear protection.
- xvii. The sale and rental of firearms, the proper storage of ammunition, and the sale of accessories onsite are permitted, subject to applicable state and federal laws. All such uses shall be clearly documented and considered as part of the conditional use permit application.
- xviii. The manufacture of ammunition shall not be allowed, except for bullet reloading, unless permitted through the conditional use permit.

xix. All doors, gates, and entrances between the shooting points and backstop shall be securely locked at all times when a person is engaged in practice shooting.

- d. Safety and Management Plan. A plan with detailed standard operating procedures for safety and conformance with environmental laws shall be submitted with the conditional use permit application and reviewed and approved by the Carlsbad Chief of Police or designee, Public Works Director or designee and City Planner or designee. The plan must be in full compliance with the National Shooting Sports Foundation 5-Star Assessment, or equivalent rating system (if applicable), and/or the NRA Range Source Book: A Guide to Planning and Construction, published by the National Rifle Association, or by an equivalent guidebook (if applicable) deemed comparable by the Carlsbad Chief of Police or designee, Public Works Director or designee and City Planner or designee. Such plan shall include, but not be limited to, the following information:
- i. Plans for the installation and maintenance of interior and exterior surveillance cameras. Cameras shall observe the parking lot, lobby, store, firing lanes, and all general areas within an indoor shooting range and its perimeter. Recordings from the surveillance cameras must be maintained for not less than 30 days and shall be made available to members of the Carlsbad police department upon request.
  - ii. Plans for the installation and maintenance of adequate exterior and interior lighting.
  - iii. Protocols for the safe display and storage of firearms and ammunition.
  - iv. Protocols to ensure open lines of communication exists between an indoor shooting range and Carlsbad police and fire departments. These protocols shall be developed, with cooperation of the Carlsbad police and fire departments.
  - v. Protocols to ensure that firearms and ammunition deemed unsafe will not be discharged within the firing line.
  - vi. Protocols to ensure access behind the firing line is provided in a safe and controlled manner.
  - vii. Any areas of the indoor shooting range used for tactical shooting shall be clearly identified.
  - viii. Procedures to prevent suicides within the indoor shooting range.
  - ix. Procedures to prevent the theft of rented firearms.
  - x. Plans to adequately staff the range with range safety officers.
  - xi. An evacuation plan shall be provided.
  - xii. Hours of operation.
  - xiii. A plan to reduce exposure to hazardous waste, provide clean air and decrease noise for all employees and customers in accordance with the California Division of Occupational Safety and Health and the National Institute for Occupational Safety and Health's (NIOSH) Preventing Occupational Exposure to Lead and Noise at Indoor Shooting Ranges, published by the Centers for Disease Control and Prevention.

- xiv. Disclosure and education regarding lead hazards shall be provided to employees and customers.
- xv. A hazardous waste diversion and disposal plan in accordance with California Department of Toxic Substances Control regulatory standards. The removal of lead, and any waste materials and liquids that are contaminated with lead, must be addressed in this plan. This plan shall also include the recycling of spent lead bullets consistent with applicable state and federal law.
- xvi. Exhaust air ventilated from inside the shooting range out of the building shall be filtered to meet the California Environmental Protection Agency ambient air quality standards for lead.
- xvii. A plan to mitigate noise impacts on the surrounding community shall be provided. An indoor shooting range shall meet a peak event sound level of 65 dB, as measured at the property line. In addition, an indoor shooting range shall not cause the noise within buildings on the same lot or adjacent lots to exceed a peak event sound level of 45 dB. A noise study shall be prepared consistent with the requirements of the Carlsbad Noise Guidelines Manual demonstrating compliance with the noise levels of this requirement.
- xviii. Failure to submit a safety and management plan as required shall be grounds to refuse to accept or automatically deny an application for a conditional use permit. Failure to adequately implement or maintain the safety and management plan and any provision of this ordinance shall be grounds for revocation of the conditional use permit, pursuant to Section 21.42.120.
- xix. Any future revisions or modifications of the safety and management plan must be approved by the Carlsbad Chief of Police or designee, Public Works Director or designee and City Planner or designee. Failure to obtain approval or otherwise disregard, edit, modify, revise or in any way change the safety and management plan on file is grounds for revocation of the conditional use permit, pursuant to Section 21.42.120.

140. Tattoo Parlors.

- a. No tattoo parlor shall be located within 500 feet of any licensed alcoholic beverage dispensing operation offering said beverages for on-site or off-site consumption.
- b. No tattoo parlor shall be operated in conjunction with nor share any operating space with any other business.
- c. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.

150. Thrift Shops.

- a. An application for a conditional use permit shall be referred to the Chief of Police, which application shall be under oath, and shall include, among other things, the true names and addresses of all persons financially interested in the business. The past criminal record, if any, of all persons financially or otherwise interested in the business shall be shown on such application. The term "persons financially interested" shall include the applicant and all persons who share in the profits of the business on the basis of gross or net revenue,

including landlords, lessors, lessees and the owner of the building, fixtures or equipment. The application shall also be accompanied by fingerprints of persons financially interested.

The Chief of Police shall make such investigation as is necessary to determine the background of the applicant and other persons financially interested. The Chief of Police shall report to the Planning Commission his or her findings and recommendations as to whether to approve, deny or conditionally approve or deny the conditional use permit in writing within 30 days after the application is submitted. The recommendation of the Police Chief shall be based on the findings and may also be based on his or her judgment of potential enforcement problems and reasons therefor from the proposed establishment. Failure to so report shall be deemed approval of the application. The Planning Commission may deny an application based on the findings and recommendations of the Chief of Police. Charitable organizations shall be specifically exempt from the report provisions of this section. For purposes of this section, a "charitable organization" is one organized for religious, scientific, social, literary, educational, recreational, benevolent, or other purpose not that of pecuniary profit.

- b. No goods shall be taken on a consignment basis.
155. Time-Share Projects. All projects in residential zones shall be subject to the development standards and design criteria of Chapter 21.45 of this code, while all projects in nonresidential zones shall be subject to the development and design criteria of the underlying zone, except that:
  - a. The City Council may reduce the required resident parking down to one parking space per unit, based on the results of a parking study prepared by a registered Traffic Engineer that demonstrates that adequate parking will be provided and the reduction will not adversely affect the neighborhood.
  - b. The City Council may waive the storage area requirements of Section 21.45.060 of this title. Any reduction in the storage requirements shall be supported by a finding that the reduction is necessary for the development of the project and will not adversely affect the neighborhood.
  - c. If a time-share project on a residentially zoned property is proposed with reduced standards, the applicant shall provide a conversion plan showing how the project can be altered to bring it into conformance with the development standards and design criteria of the planned development ordinance. A conversion shall be approved as and be made a part of the permit for the project.
  - d. If a time-share project is proposed in a nonresidential zone, it shall be conditioned to be converted to a hotel use if it cannot be successfully marketed as a time-share project, and shall be subject to all conditions of subsection (B)(155) of this section.
  - e. All proposals for time-share projects shall be accompanied by a detailed description of the methods proposed to be employed to guarantee the future adequacy, stability and continuity of a satisfactory level of management and maintenance. A management and maintenance plan shall be approved as and made a part of the permit for the project.
  - f. All units in a time-share project shall be time-share units except a permanent on-site management residence unit may be permitted. The maximum time increment for recurrent exclusive use of occupancy of a time-share unit shall be four months. A note indicating this requirement shall be placed on the final map for the project.

- g. In addition to the four mandatory findings required for the issuance of a conditional use permit under Section 21.42.030 of this chapter, the City Council shall find that the time-share project is located in reasonable proximity to an existing resort or public recreational area and, therefore, can financially and geographically function as a successful time-share project and that the project will not be disruptive to existing or future uses in the surrounding neighborhood.
  - h. Time-share projects may be allowed in the P-C zone if specified in the master plan for the area in which they will be located and the land use designation for the master plan area in which the proposed time-share project will be located is similar to the R-P, R-3, RD-M, R-T, C-T or C-2 zones.
  - i. All of the provisions of this section shall apply to the conversion of an existing structure to a time-share project.
  - j. All time-share projects shall be processed in accordance with this section except that subsequent to Planning Commission review, the matter shall be set for public hearing before the City Council. The City Council may approve, conditionally approve or deny the project. The decision of the City Council is final.
  - k. A subdivision map filed in accordance with Title 20 of this code shall accompany any application for a time-share project.
160. Windmills (Exceeding the Height Limit of the Zone). May be conditionally permitted provided the purpose of such windmills is to generate usable electrical or mechanical energy and provided the windmill is architecturally compatible with the other buildings on the site.
165. Wireless Communication Facilities (WCFs):
- a. Shall comply with City Council policy statement No. 64. An application for a WCF may be processed as a minor conditional use permit, pursuant to this chapter, if it is found to be consistent with the preferred location and the stealth design review and approval guidelines of City Council policy statement No. 64.
  - b. WCF conditional use permit applications that do not comply with the preferred location and the stealth design review and approval guidelines of City Council policy statement No. 64 shall be processed as a conditional use permit by process 2.
170. Zoos (Private).
- a. The property for such private zoo has a minimum of twenty thousand square feet;
  - b. No animal is kept within twenty feet of any property line;
  - c. A valid wild animal permit has been issued by the state.
- (Ord. NS-791 § 1, 2006; Ord. CS-164 §§ 10, 14, 2011; Ord. CS-172 § XV, 2012; Ord. CS-178 § LXXIV, 2012; Ord. CS-189 § XLVI, 2012; Ord. CS-191 § XVIII, 2012; Ord. CS-224 §§ XXXVII, XXXVIII, 2013; Ord. CS-249 § XVI, 2014; Ord. CS-290 § 7, 2015; Ord. CS-326 § 9, 2017)

**CHAPTER 21.43  
ADULT BUSINESSES**

**Note: Prior ordinance history: Ord. Nos. 9527, 9812, and NS-294.**

**§ 21.43.010. Intent and purpose.**

- A. The intent and purpose of this chapter is to regulate the location of adult businesses, which is necessary due to the following:
  - 1. Adult businesses tend to have judicially recognized adverse secondary effects on the community, including, but not limited to:
    - a. Increases in crime in the vicinity of adult businesses;
    - b. Decreases in property values in the vicinity of adult businesses;
    - c. Increases in vacancies in residential and commercial areas in the vicinity of adult businesses;
    - d. Interference with residential property owners' enjoyment of their properties (when such properties are located in the vicinity of adult businesses) as a result of increases in crime, litter, noise, and vandalism; and
    - e. The deterioration of neighborhoods.
- B. In addition to the operational regulations for adult businesses mandated in Chapter 8.60 of the Municipal Code, the regulations in this chapter are necessary to prevent adverse secondary effects of adult businesses, while at the same time protecting the constitutional rights of those individuals who desire to own, operate or patronize adult businesses.

(Ord. CS-063 § VI, 2009)

**§ 21.43.020. Definitions.**

- A. The definitions found in Section 8.60.020 of the Municipal Code are incorporated herein by reference.
- B. In addition to any other definitions contained in the Municipal Code, the following words and phrases shall, for the purpose of this chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with any current provisions of the Municipal Code, these definitions shall prevail.

"Child day care center" means any child day care facility as defined in Carlsbad Municipal Code Section 21.04.086 and Section 1596.750 of the California Health and Safety Code other than family day care homes.

"Park" means any public or private parks, whether for passive or active recreational uses or both. Active recreational uses may include, but are not limited to, skate parks, tot lot and play lot areas, structures and special use facilities such as swimming pools, basketball courts, tennis courts, handball and racquetball courts, horseshoes, and picnic facilities.

"Religious institution/place of worship" means any portion of a building or structure that is used primarily for religious worship and religious activities.

"Residential land use designation" means any property within the city that carries a residential general plan land use designation permitting the location of a dwelling or dwellings, including RL (Residential Low Density), RLM (Residential Low Medium Density), RM (Residential Medium Density), RMH (Residential Medium High Density) and RH (Residential High Density).

"Residential zone" means any property within the city that carries a zoning designation permitting the location of a dwelling or dwellings, including R-A (Residential Agricultural), R-E (Rural Residential Estate), R-1 (One-Family Residential), R-2 (Two-Family Residential), R-3 (Multiple-Family Residential), RMHP (Residential Mobile Home Park), RD-M (Residential Density-Multiple), R-P (Residential Professional), R-T (Residential Tourist), and R-W (Residential Waterway).

"School" means any institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and/or which is maintained pursuant to standards set by the Board of Education of the State of California. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education under the jurisdiction of the California Department of Education. For the purposes of this section, "school" does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

(Ord. CS-063 § VI, 2009)

### **§ 21.43.030. Location requirements for adult businesses.**

#### A. Zones Where Adult Businesses Are Permitted.

1. Adult businesses are permitted only on sites that are within the C-M, C-M/Q, M, M-Q, P-M, or P-M/Q zones, provided such uses are not precluded by any applicable specific plan or master plan.

#### B. Distance Requirements.

1. In addition to the zone requirements specified in subsection A of this section, an adult business shall not be established or located within 1,000 feet of any of the following:
  - a. Another adult business;
  - b. Child day care center;
  - c. Park;
  - d. Religious institution/place of worship;
  - e. Residential land use designation;
  - f. Residential zone; or
  - g. School.
2. For the purpose of measuring the distance requirements set forth in subsection B.1 of this section, all distances shall be measured (without regard to intervening structures) in a straight line extended between the nearest property lines of:
  - a. The property on which the adult business is or will be located; and
  - b. The property on which one of the uses/zones/designations specified in subsection B.1 of this section is located.

3. The distance requirements established by subsection B.1.a of this section shall apply to:
  - a. Any adult business operating as a legal conforming use with an approved adult business license from the city;
  - b. Any adult business that has an approved adult business license from the city, but has not yet begun operating the business at the approved business location.
4. The distance requirements established in subsection B.1 of this section shall apply to those uses/designations/zones specified in subsections B.1.b through B.1.g of this section that:
  - a. Are existing; or
  - b. Have received approval by the city for the use/zone/designation and said approval has not expired or become invalid.
5. The distance requirements from the uses/designations/zones specified in subsections B.1.b through B.1.g of this section shall not apply to those uses/designations/zones for which the city is reviewing but has not yet approved an application to establish the use/designation/zone.

C. Other Location Requirements.

1. An adult business that either: (a) has an approved adult business license from the city, but has not yet begun operating the business at the approved business location, or (b) is operating as a legal conforming use with an approved adult business license from the city, shall not be rendered a nonconforming or illegal use by the subsequent location of child day care centers, parks, religious institutions/places of worship, residential land use designations, residential zones, or schools that are within the locational limitations set forth in this section.
  - a. A use shall be deemed to be subsequently located if it is established within the locational limitations of this section following the date an application for an adult business license is filed pursuant to the requirements of Chapter 8.60 of the Municipal Code.

(Ord. CS-063 § VI, 2009)

**§ 21.43.040. Other requirements for adult businesses.**

- A. All adult businesses shall comply with the requirements of Chapter 8.60 of the Municipal Code.
- B. All adult business performers shall comply with the requirements of Chapter 8.70 of the Municipal Code.
- C. No building permit, adult business license, or other permit or entitlement for use shall be legally valid if issued to any adult business proposed to operate or to be established in the city unless the location requirements specified in Section 21.43.030 are satisfied.

(Ord. CS-063 § VI, 2009)

**§ 21.43.050. Violations.**

- A. Any owner, operator, manager, employee or independent contractor of an adult business violating or permitting, counseling, or assisting the violation of any of these provisions regulating adult businesses shall be subject to any and all civil remedies, including license revocation. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or

continued.

- B. In addition to the remedies set forth in subsection A of this section, any adult business that is operating in violation of these provisions regulating adult businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.
- C. The restrictions imposed pursuant to this section do not constitute a criminal offense. Notwithstanding any other provision of the Carlsbad Municipal Code, the city does not impose a criminal penalty for violations of the provisions of this ordinance related to adult businesses.

(Ord. CS-063 § VI, 2009)

## CHAPTER 21.44 PARKING

**Note: Prior ordinance history: Ord. Nos. 9804, 9792, NS-138, NS-179, NS-274, NS-283, NS-288, NS-307, NS-409, NS-662, NS-675, and NS-703.**

### **§ 21.44.010. Required off-street parking.**

- A. Off-street parking, designed in accordance with the requirements of this chapter, shall be provided for:
  1. All newly constructed buildings;
  2. Additions to existing buildings, except for:
    - a. An existing single family residence which does not meet the required parking standard (i.e. a two-car garage) may expand floor area if a minimum of two off-street parking spaces are provided on-site in a location consistent with Section 21.44.060.
  3. Any change of use within an existing building.
- B. All required parking shall be made permanently available and be permanently maintained for parking purposes.
- C. When calculating the required number of parking spaces, if the calculation results in a fractional parking space, the required number of parking spaces shall always be rounded up to the nearest whole number.

(Ord. NS-834 § I, 2007; Ord. CS-050 § III, 2009)

### § 21.44.020. Off-street parking spaces required.

- A. The number of off-street parking spaces required for the uses or structures designated in this section shall be no less than as set forth in Table A, below.
- B. In the case of multiple uses in a building or on a lot, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately, except as otherwise noted. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as specified in Section 21.44.080 for joint use.

**Table A**  
**Number of Off-Street Parking Spaces Required**

Use	Number of Off-Street Parking Spaces																						
<b>Residential Uses</b>																							
Accessory dwelling units	<p>1 space (covered or uncovered), in addition to the parking required for the primary use; unless otherwise specified in Section 21.10.030 of this code.</p> <p>The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.</p>																						
One-family dwellings	<p>Two spaces per unit, provided as either:</p> <ul style="list-style-type: none"> <li>• A two-car garage (minimum interior 20 feet × 20 feet); or</li> <li>• Two separate one-car garages (minimum interior 12 feet × 20 feet each); or</li> <li>• As otherwise permitted, pursuant to Section 21.10.030 of this title, when a garage is converted to an accessory dwelling unit.</li> </ul>																						
Two-family dwellings (apartments only), for condominium projects see "planned developments"	<p>Same as required for one-family dwellings</p> <table border="1"> <tr> <td>Visitor parking</td> <td colspan="3">Same as required for multiple-family dwelling visitor parking</td></tr> </table>			Visitor parking	Same as required for multiple-family dwelling visitor parking																		
Visitor parking	Same as required for multiple-family dwelling visitor parking																						
Multiple-family dwellings (apartments only), for condominium projects see "planned developments"	<table border="1"> <tr> <td>Studio and one-bedroom units</td> <td colspan="3">1.5 spaces/unit, one of which must be covered</td></tr> <tr> <td>Units with two or more bedrooms</td> <td colspan="3">2 spaces/unit, one of which must be covered</td></tr> <tr> <td>Visitor parking</td> <td>Projects with 10 units or fewer</td> <td>0.30 space per each unit</td> <td></td></tr> <tr> <td></td> <td>Projects with 11 units or more</td> <td>0.25 space per each unit</td> <td></td></tr> <tr> <td></td> <td colspan="3">Visitor parking may be covered or uncovered</td></tr> </table>			Studio and one-bedroom units	1.5 spaces/unit, one of which must be covered			Units with two or more bedrooms	2 spaces/unit, one of which must be covered			Visitor parking	Projects with 10 units or fewer	0.30 space per each unit			Projects with 11 units or more	0.25 space per each unit			Visitor parking may be covered or uncovered		
Studio and one-bedroom units	1.5 spaces/unit, one of which must be covered																						
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Visitor parking	Projects with 10 units or fewer	0.30 space per each unit																					
	Projects with 11 units or more	0.25 space per each unit																					
	Visitor parking may be covered or uncovered																						
Planned developments	See Chapter 21.45																						
Fraternities	1.25 spaces for each sleeping room																						
Mobile home parks	2 paved and covered spaces per unit																						

**Table A**  
**Number of Off-Street Parking Spaces Required**

Use	Number of Off-Street Parking Spaces
	1 visitor parking space for every 4 units. On-street parking may be counted towards meeting the visitor parking requirement
	Recreation and laundry areas combined shall have sufficient parking facilities to accommodate one automobile for every five mobile home sites up to fifty lots and one space for each ten lots thereafter
Residential care facilities	2 spaces, plus 1 space/three beds
Rooming house	1 space for each sleeping room
Housing for senior citizens	1.5 covered spaces per unit, plus 1 covered space for an onsite manager's unit (when provided), and 1 visitor parking space per every five units, subject to approval of a site development plan
Time-share projects	1.2 spaces per unit
Emergency shelters	The number of required parking spaces shall be determined by the City Planner and shall be based on the operating characteristics of a specific proposal, including, but not limited to, number of: (1) employees, (2) beds, and (3) service deliveries.

**Commercial, Industrial, and Other Non-Residential Uses**

Farmworker housing complex, large	The number of required parking spaces shall be determined by the City Planner and shall be based on the operating characteristics of a specific proposal, including, but not limited to, number of: (1) employees, (2) beds, and (3) service deliveries.	
Farmworker housing complex, small	One parking space for every four beds plus one space for an on-site manager	
Bed and breakfast uses	2 spaces, one of which must be covered for the owner's unit, plus 1 space for each guest room	
Bowling alleys	6 per alley	
Car rental agencies	1 space/250 square feet of gross floor area for the car rental office space and customer waiting area. Adequate rental car fleet parking shall be addressed through a fleet parking plan that shall be reviewed and approved by the City Planner	
Child day care center	1 space/employee plus 1 space for each 10 children	
Delicatessen	1 space/250 square feet of gross floor area	
Driving ranges	1 space/tee plus required parking for accessory uses	
Educational facilities, other	1 space/200 square feet of gross floor area	
Educational institution or school	Preschools/Nurseries	1 space/employee plus 1 space for each 10 students, with an adequate loading and unloading area
	Elementary Schools	1 space/employee, with an adequate loading and unloading area

**Table A**  
**Number of Off-Street Parking Spaces Required**

Use	Number of Off-Street Parking Spaces	
Financial institutions and professional offices	High Schools	1 space/employee plus 1 space for each 10 students, with an adequate loading and unloading area
	Colleges	1 space/employee plus 1 space for each 3 students, with an adequate loading and unloading area
	Medical Office	1 space/200 square feet of gross floor area
	Financial Institutions	1 space/250 square feet of gross floor area
	Other office uses	1 space/250 square feet of gross floor area
	Office uses within 300 feet of the boundary of the Village-Barrio zone	1 space/300 square feet of gross floor area
	Furniture and appliance sales	1 space/600 square feet of gross floor area
	Golf courses	6 spaces/hole plus required parking for accessory uses
	Gyms and health spas	1 space/200 square feet of gross floor area
	Hospitals	3 spaces per bed, or 1 per 200 square feet of gross floor area, whichever is greater
	Hotels and motels	1.2 spaces per unit
	Industrial building ("spec" - no specific uses identified)	1 space/250 square feet of gross floor area <sup>1</sup>
	Libraries	1 space/200 square feet of gross floor area
	Library substations	1 space/250 square feet of gross floor area
	Manufacturing	1 space/400 square feet of gross floor area, plus 1 space for each vehicle used in conjunction with the use
Motor vehicle uses	Mortuaries	1 space/50 square feet of assembly area
	Gas Stations	1 space/300 square feet of gross floor area, excluding work bays associated with vehicle repair
		Gas stations that include motor vehicle repair services shall provide additional parking as required for motor vehicle "repair" uses
	Sales	1 space/400 square feet of gross floor area

**Table A**  
**Number of Off-Street Parking Spaces Required**

Use	Number of Off-Street Parking Spaces	
	Repair	4 spaces for every work bay (up through three work bays), plus 2 spaces per bay in excess of three bays. Work bays do not count as parking spaces
Museums	1 space/500 square feet of gross floor area	
Personal and professional services <sup>3</sup>	1 space/300 square feet of gross floor area	
Professional care facilities	0.45 parking spaces per every bed	
Public assembly	1 space/5 seats, or 1 space/100 square feet of assembly area, whichever is greater	
Recreational vehicle storage areas	1 space for every 10,000 square feet of storage area, with a minimum of 3 spaces	
Recycling facilities	1 space per employee plus 1 space for each commercial vehicle of the recycling facility; and space for a minimum of 6 vehicles or the anticipated peak hourly customer load, whichever is greater, as determined by the City Planner	
Research and development (R&D)	1 space/250 square feet of gross floor area	
	Bio industrial R&D - 1 space/300 square feet of gross floor area	
Restaurants	Less than 4,000 square feet in size	1 space/100 square feet of gross floor area
	4,000 square feet or greater	40 spaces plus 1 space/50 square feet of gross floor area in excess of 4,000 square feet
Retail uses	Individual	1 space/300 square feet of gross floor area
	Shopping Center	1 space/200 square feet of gross floor area <sup>2</sup>
Shooting ranges (indoor)	1.5 spaces for each firing lane within the range, plus required parking for other associated uses based on the parking standard for each use	
Theaters	1 space/5 seats	
Visitor/information center	1 space per 400 square feet of gross floor area	
Warehouse	1 space/1,000 square feet of gross floor area, plus 1 space for each vehicle used in conjunction with the use	

**Notes:**

- |              |                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <sup>1</sup> | Projects proposing a "spec" industrial building may provide parking at manufacturing or warehouse standards, provided a deed restriction is recorded on the property indicating that these uses on the property will be retained and no other type of use creating a need for additional parking will be permitted, unless more parking area is provided to meet city parking standards. |
| <sup>2</sup> | Uses permitted in the underlying zone may be allowed in under-parked shopping centers without the need to provide additional parking, provided there is no expansion of floor area (this does not apply to conditionally permitted uses).                                                                                                                                                |
| <sup>3</sup> | Personal and professional service uses include, but are not limited to, copying/duplicating services, dry cleaners, laundromats, beauty and barber shops, cosmetic services, nail salons, shoe/garment repair, travel agent, etc.                                                                                                                                                        |

(Ord. NS-834 § I, 2007; Ord. CS-102 § LXXXVIII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-189 § XLVII, 2012; Ord. CS-190 § VII, 2012; Ord. CS-191 §§ XIX, XX, 2012; Ord. CS-249 § XVII, 2013; Ord. CS-290 § 8, 2015; Ord. CS-324 §§ 18, 19, 2017; Ord. CS-334 § 9, 2018; Ord. CS-384 § 23, 2020)

**§ 21.44.030. Parking requirements for uses not specified.**

- A. Where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the City Planner. Such determination shall be based upon the following:
1. The parking requirements for the most comparable use specified in this chapter; and/or
  2. A parking study or other evidence satisfactory to the City Planner.

(Ord. NS-834 § I, 2007; CS-102 § LXXXIX, 2010; Ord. CS-164 § 10, 2011)

**§ 21.44.040. Waiver or modification of parking standards.**

- A. The City Planner may waive or modify the provisions as set forth in this title establishing required parking areas for uses such as electrical power generating plants, electrical transformer stations, utility or corporation storage yards or other uses of a similar or like nature where there are a minimal number of employees/occupants.
- B. The City Planner may modify the required parking standards where it can be demonstrated that adequate parking will be provided and the modification will not adversely affect the neighborhood or the site design and circulation. The modification shall be based on the results of a parking study prepared by a registered Traffic Engineer or other qualified parking consultant, or other evidence satisfactory to the City Planner.

(Ord. CS-102 § XC, 2010; Ord. CS-164 § 10, 2011)

**§ 21.44.050. General requirements.**

- A. The following general requirements shall apply to all parking spaces and areas:

**Table B**  
**Parking Spaces and Areas**

<b>Subject</b>	<b>Requirement</b>															
<b>Parking space size</b>	<p>Standard parking space      Minimum area of 170 square feet Minimum width of 8.5 feet Maximum overhang of 2.5 feet, provided the overhang does not encroach into any required landscape setback</p> <p>Parallel parking space      Minimum length of 24 feet, exclusive of driveway/drive-aisle entrances and aprons Minimum length of 20 feet if located immediately adjacent to a driveway/drive-aisle apron Minimum width of 7 feet</p> <p>Compact parking space      Minimum width of 8 feet Minimum length of 15 feet No overhang permitted</p>															
<b>Compact parking</b>	<p>Nonresidential zones      Up to 25% of the total required parking spaces may be compact spaces</p> <p>Residential zones      Up to 45% of the required visitor parking spaces may be compact spaces</p> <p>All zones      Compact car spaces shall be located in separate parking aisles from standard sized spaces Aisles for compact car spaces shall be clearly marked with permanent pole signs denoting "Compact Cars Only" Compact car spaces shall be located in close proximity to the facility they are intended serve, so as to encourage their maximum usage</p>															
<b>Minimum width of aisles that provide access to parking spaces</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">30 and 45 degree parking</td> <td style="width: 40%;">One-way traffic</td> <td style="width: 30%;">14 feet wide</td> </tr> <tr> <td></td> <td>Two-way traffic</td> <td>24 feet wide</td> </tr> <tr> <td style="text-align: center;">60 degree parking</td> <td style="text-align: center;">One-way traffic</td> <td style="text-align: center;">18 feet wide</td> </tr> <tr> <td></td> <td>Two-way traffic</td> <td>24 feet wide</td> </tr> <tr> <td style="text-align: center;">90 degree parking</td> <td style="text-align: center;">24 feet wide</td> <td></td> </tr> </table> <p>20 feet - where no vehicles pull into or back-out into a drive-aisle from a parking space Additional width may be required for vehicle/emergency vehicle maneuvering area</p>	30 and 45 degree parking	One-way traffic	14 feet wide		Two-way traffic	24 feet wide	60 degree parking	One-way traffic	18 feet wide		Two-way traffic	24 feet wide	90 degree parking	24 feet wide	
30 and 45 degree parking	One-way traffic	14 feet wide														
	Two-way traffic	24 feet wide														
60 degree parking	One-way traffic	18 feet wide														
	Two-way traffic	24 feet wide														
90 degree parking	24 feet wide															
<b>Circulation</b>	Circulation within a parking area must be such that a car entering the parking area need not enter a street to reach another aisle and that a car need not enter a street backwards. This provision shall not apply to off-street parking required for one-family and two-family dwelling units.															

**Table B**  
**Parking Spaces and Areas**

<b>Subject</b>	<b>Requirement</b>
<b>Location of required parking</b>	For one-family, two-family, and multiple-family dwellings See Section 21.44.060
	For other residential uses or care facilities (e.g., housing for senior citizens, hospitals, and, when serving more than six persons, residential care facilities, etc.) Not more than 150 feet walking distance from the nearest point of the parking facility to the nearest point of the building that the parking facility is required to serve.
	For uses other than those specified above Not more than 300 feet walking distance from the nearest point of the parking facility to the nearest point of the building that the parking facility is required to serve.
<b>Required landscaping of parking areas</b>	For parking areas having a capacity of five or more vehicles (except parking provided for one-family and two-family dwellings) For purposes of required landscaping, the words "parking area" shall include all blacktop or paved areas, including access ways and areas. At least 3% of the parking area shall be planted and maintained with trees listed on the city's official street tree list, or approved shrubs. Said trees or shrubs shall be: <ul style="list-style-type: none"> <li>• Contained in planting areas with a minimum dimension of 4 feet and bounded by a concrete or masonry curb of a minimum of 6 inches in height;</li> <li>• Located throughout the off-street parking areas in order to obtain the maximum amount of dispersion.</li> </ul> All landscaped areas shall be served by a water irrigation system and be supplied with bubblers or sprinklers. All plans for such landscaped areas shall be approved by the City Planner prior to the construction and placement thereof.
<b>Development and maintenance of public or private parking areas with a capacity for 5 or more vehicles</b>	Surfacing Off-street parking areas shall be paved or otherwise surfaced and maintained so as to eliminate dust or mud, and shall be so graded and drained as to dispose of all surface water. In no case shall such drainage be allowed across sidewalks or driveways. Border barricades, screening, and landscaping Every parking area that is not separated by a fence from any street or alley property line upon which it abuts, shall be provided with a suitable concrete curb or timber barrier not less than 6 inches in height, and located not less than 2 feet from such street or alley property lines, and such curb or barrier shall be securely installed and maintained; provided no such curb or barrier shall be required across any driveway or entrance to such parking area.

**Table B**  
**Parking Spaces and Areas**

Subject	Requirement
	<p>Every parking area abutting property located in a residential zone shall be separated from such property by a solid wall, view-obscuring fence or compact evergreen hedge 6 feet in height measured from the grade of the finished surface of such parking lot closest to the contiguous residentially zoned property; provided, that along the required front yard, the fence, wall or hedge shall not exceed 42 inches in height. No such wall, fence or hedge need be provided where the elevation of that portion of the parking area immediately adjacent to a residential zone is 6 feet or more below the elevation of such residentially zoned property along the common property line.</p> <p>Any lights provided to illuminate any public parking area, semi-public parking area or used car sales area permitted by this chapter shall be so arranged as to reflect the light away from any premises upon which a dwelling unit is located.</p>
Entrances and exits	<p>The location and design of all entrances and exits shall be subject to the approval of the City Planner or other designated person, provided no entrance or exit, other than on or from an alley, shall be closer than 5 feet to any lot located in a residential zone.</p>
<b>Parking areas for commercial or office/professional uses in R-3, R-P and R-T zones</b>	<p>No parking lot to be used as an accessory to a commercial or office/professional establishment shall be established until reviewed by the City Planner and its location approved. Such approval may be conditioned upon the City Planner requiring the planting and/or maintenance of trees, shrubs or other landscaping within and along the borders of such parking area.</p> <p>The parking lot shall be no farther than fifty feet when measured from its closest boundary to the commercial or office/professional establishment to which it is accessory.</p> <p>Such parking lot shall be used solely for the parking of private passenger vehicles.</p>

(Ord. NS-834 § I, 2007; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXVI, 2012; Ord. CS-249 § XVIII, 2014)

**§ 21.44.060. Off-street parking—Residential zones.**

A. In all residential zones the following parking regulations shall apply:

1. Garages, parking stalls, carports and RV parking spaces (excluding those in approved RV parking lots) shall be for the exclusive use of the residents only and shall not be separately sold or rented to nonresidents of the property.
2. Required parking spaces for dwelling units shall be located subject to the following:

**Table C**  
**Location of Required Parking Spaces in Residential Zones**

Parking Required For:	Location Standards For Required Parking Spaces	
<b>One-family, two-family, and multiple-family dwellings</b>	All dwelling types	Required parking spaces shall be located on the same lot or building site as the buildings they are required to serve.
		Required parking shall not be located within the front yard setback.
		Required uncovered parking spaces may be located within the side and/or rear yard setback, provided that a 6-foot-high masonry wall (or some other solid material approved by the decision-making authority) is built along the property line adjacent to the setback area.
	Accessory dwelling units	Same as parking required for primary residential use, with the following exceptions: <ul style="list-style-type: none"> <li>• May be located in the front or side yard setback; and</li> <li>• May be located as a tandem space on a driveway.</li> <li>• Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.</li> </ul>
	Multiple-family dwellings	Required parking spaces shall be located no more than 150 feet as measured in a logical walking path from the entrance to the unit it could be considered to serve.
Visitor parking for two-family and multiple-family dwellings		Same as parking required for primary residential use, with the following exception: <ul style="list-style-type: none"> <li>• Required visitor parking need not be located within a garage.</li> <li>• Required visitor parking spaces shall be not more than 300 feet walking distance to the unit the parking space is required to serve.</li> <li>• For projects with 10 or fewer units (outside the Beach Area Overlay Zone), all required visitor parking may be located within driveways (located in front of a unit's garage), provided that all dwelling units in the project have driveways with a depth of 20 feet or more (measured from the front property line, back of sidewalk, or edge of drive-aisle, whichever is closest to the structure).</li> </ul>
		Tandem parking within the front yard setback shall be permitted, provided: <ul style="list-style-type: none"> <li>• There is a minimum of one parking space per dwelling unit located within the required setback lines; and</li> <li>• The front yard building setback is no less than 20 feet (in the R-W zone, the front yard setback shall be no less than 10 feet to a second or third building floor).</li> </ul>

**Table C**  
**Location of Required Parking Spaces in Residential Zones**

<b>Parking Required For:</b>	<b>Location Standards For Required Parking Spaces</b>	
	Subterranean parking	A zero foot setback for subterranean parking shall be permitted, provided that within the setback area(s) all of the "subterranean parking structure" is completely underground and the setbacks are fully landscaped, except for driveways necessary to provide access.

3. Garages in residential zones shall be constructed according to the following standards:

**Table D**  
**Residential Garage Standards**

<b>Type</b>	<b>Garage Standard</b>
One-car garage	Minimum interior dimensions of 12 feet by 20 feet.
Two-car garage (both spaces for same unit)	Minimum interior dimensions of 20 feet by 20 feet.
Multiple one-car garages in one structure	Each separate, one-car garage shall have interior dimensions of 12 feet by 20 feet, exclusive of supporting columns.  As a minimum, each space shall be separated from the adjacent garage, floor to ceiling, by a permanent stud partition with $\frac{1}{2}$ -inch gypsum board on one side, where no additional fire protection is required.
Enclosed parking garage with multiple, open parking spaces	Each parking space shall maintain a standard stall size of 8.5 feet by 20 feet, exclusive of supporting columns or posts.  A backup distance of 24 feet shall be maintained in addition to a minimum 5 feet turning bump-out located at the end of any stall series.

4. The parking of vehicles in residential zones shall be subject to the following regulations:

<b>Type of Vehicle</b>	<b>Where Vehicles Can Be Parked</b>
<b>Passenger vehicles, and light-duty commercial vehicles used as a principal means of transportation by an occupant of the dwelling</b>	One-family, two-family, and multiple-family dwellings  One-family dwellings on individual lots (in addition to parking spaces required pursuant to Table A of this chapter or as otherwise permitted pursuant to Section 21.10.030 of this code)
	Garage  Covered or uncovered parking spaces provided as required for the dwelling unit  In the required front yard on a paved driveway or parking area that: 1. Does not exceed 30% of the required front yard area; or 2. Is comprised of 24 feet of width extended from the property line to the rear of the required front yard, whichever is greater.
	A paved area between the required front yard and the actual front of the building, as long as it is an extension and does not exceed the width of the area described above.
	Any other area of the lot provided that they are screened from view from the public right-of-way.

Type of Vehicle	Where Vehicles Can Be Parked
<b>Recreational vehicles, boats, and trailers</b>	<p>For corner lots, the provisions of this subsection shall apply to the required street side yard; however, in no case, shall the provisions of this section allow parking in both the required front yard and the required street side yard.</p> <p>One-family dwellings on individual lots</p> <p>In an enclosed structure observing all required setbacks</p> <p>Open parking in the side yard or the rear yard</p> <p>Subject to City Planner approval, open parking in the required front yard is permitted if the parking area does not exceed the maximum paved area permitted for passenger vehicles, and that access to the side or rear yard cannot be provided. In making this determination, the City Planner shall give notice pursuant to Section 21.54.060.B and shall consider:</p> <ol style="list-style-type: none"> <li>1. Whether parking in, or access to, the side or rear yard would require structural alteration to the existing residence, or would require the removal of significant or unique landscaping. A fence shall not be deemed to prevent access to the side or rear yard;</li> <li>2. Whether parking in or access to the side or rear yard would require extensive grading;</li> <li>3. Whether, because of the configuration of the lot, existing landscaping, the location of the structures on the lot, and the size of the recreational vehicle, parking of the recreational vehicle in the front yard would interfere with visibility to or from any street;</li> <li>4. Whether allowing parking of the recreational vehicle in the front yard would interfere with traffic on the street or sidewalk, or would encroach into the street and utility right-of-way.</li> </ol> <p>Any person may file an objection to the decision or request an administrative hearing with the City Planner pursuant to Section 21.54.060.B. The decision of the City Planner shall become effective unless appealed in accordance with the provisions of Section 21.54.140 of this title.</p> <p>Note: A corner lot is deemed to have reasonable access to the rear yard.</p> <p>Notwithstanding the above, during the construction of a permanent one-family dwelling on a lot, the owner of the lot may live in a recreational vehicle upon said lot during construction of said dwelling for a period not to exceed six months.</p> <p>The provisions listed in this section are not intended to supersede more restrictive homeowner provisions contained in approved conditions, covenants and restrictions (CC&amp;Rs). If the provisions of any such CC&amp;Rs are less restrictive than the ordinance codified in this section, then the provisions contained herein shall apply.</p>

Type of Vehicle	Where Vehicles Can Be Parked	
<b>Inoperable vehicles</b>	One-family, two-family, and multiple-family dwellings	Storage or parking of inoperable, wrecked, dismantled or abandoned vehicles shall be regulated by Chapter 10.52 of this code, with the following exception: • For one-family dwellings on individual lots, not more than two vehicles in any inoperable, wrecked or dismantled condition may be parked in the side yard or rear yard while said vehicles are being repaired or restored by the owner of the property, provided the vehicles are visually screened from the public right-of-way.
<b>Heavy-duty commercial vehicles</b>	One-family, two-family, and multiple-family dwellings	No heavy-duty commercial vehicles as defined by Section 10.40.075 of this code, except for trailers as permitted by the provision for "recreational vehicles, boats, and trailers" above, shall be parked on any residential lot, except while loading or unloading property; or when such vehicle is parked in connection with, and in aide of, the performance of a service to the property on which the vehicle is parked.

(Ord. NS-834 § I, 2007; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXV, 2012; Ord. CS-324 §§ 20—22, 2017; Ord. CS-384 § 24, 2020)

#### **§ 21.44.070. Comprehensive planned facilities.**

- A. Areas may be exempted from the parking requirements as otherwise set up in this chapter, provided:
1. Such area shall be accurately defined by the Planning Commission after processing in the same manner required for an amendment to the zoning title;
  2. No such district may be established and exempted from the provisions of Section 21.44.020 unless sixty percent or more of all record lots comprising such proposed district are zoned to uses first permitted in a commercial (C) or industrial (M) zone;
  3. Such exemptions shall apply only to uses first permitted in the commercial (C) or industrial (M) zones;
  4. Before such defined district shall be exempt as provided in this section, active proceeding under any applicable legislative authority shall be instituted to assure that the exempted area shall be provided with comprehensive parking facilities which will reasonably serve the entire district.

(Ord. NS-834 § I, 2007)

#### **§ 21.44.080. Joint use of off-street parking facilities.**

- A. Joint use of off-street parking facilities shall be allowed for uses or activities listed in subsection A.1 of this section, subject to the requirements of subsection A.2 of this section.
1. Uses or Activities.
    - a. Up to fifty percent of the parking facilities required by this chapter for a use considered to be primarily a daytime use may be provided by the parking facilities of a use considered to be primarily a nighttime use;
    - b. Up to fifty percent of the parking facilities required by this chapter for a use considered to

- be primarily a nighttime use may be provided by the parking facilities of a use considered to be primarily a daytime use;
- c. Up to one hundred percent of the parking facilities required by this chapter for a church or for an auditorium incidental to a public or parochial school may be supplied by parking facilities of a use considered to be primarily a daytime use;
  - d. Up to fifty percent of the parking facilities required by this chapter for a church may be jointly utilized by an on-site, accessory, child day care center provided there is no substantial conflict in the principal operating hours of the church and child day care center;
  - e. The following uses are typical daytime uses: banks, business offices, retail stores, personal service shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings and similar uses;
  - f. The following uses are typical of nighttime uses: dance halls, theaters and bars.
2. Requirements for Joint Use of Off-Street Parking.
    - a. The owner or lessee of the subject property shall provide written evidence to the planning division to demonstrate compliance with the provisions and requirements of this section.
    - b. The buildings or uses associated with the joint use of a parking facility shall be located within one hundred fifty feet of such parking facility;
    - c. The application shall show that there is no substantial conflict in the principal operating hours of the buildings or uses for which the joint use of a parking facility is proposed;
    - d. Parties involved in the joint use of a parking facility shall provide evidence of agreement for such joint use by a proper legal instrument approved by the City Attorney as to form and content. Such instrument, when approved as conforming to the provisions of this title, shall be recorded in the office of the County Recorder and copies thereof filed with the City Planner.

(Ord. NS-834 § I, 2007; Ord. CS-063 § VII, 2009; Ord. CS-164 §§ 10, 11, 2011)

#### **§ 21.44.090. Common parking facilities.**

- A. Common parking facilities may be provided in lieu of the individual requirements contained herein, but such facilities shall be approved by the decision-making authority as to size, shape and relationship to business sites to be served, provided the total of such off-street parking spaces, when used together, shall not be less than the sum of the various uses computed separately.
- B. When any such common facility is to occupy a site of 5,000 square feet or more, then the parking requirements as specified herein for each of two or more participating buildings or uses may be reduced not more than 15%, subject to approval by the decision-making authority.

(Ord. NS-834 § I, 2007)

#### **§ 21.44.100. Parking area plan.**

The site plan submitted with a building permit application for the building to which a parking area is accessory shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping and other features and appurtenances of the proposed parking area.

(Ord. NS-834 § I, 2007)

**CHAPTER 21.45  
PLANNED DEVELOPMENTS**

**Note: Prior ordinance history: Ord. Nos. NS-612, NS-662, NS-633, NS-675, and NS-718.**

**§ 21.45.010. Intent and purpose.**

- A. The purpose of the planned development ordinance is to:
  1. Recognize the need for a diversity of housing and product types;
  2. Provide a method for clustered property development that recognizes that the impacts of environmentally and topographically constrained land preclude the full development of a site as a standard single-family subdivision;
  3. Establish a process to approve the following:
    - a. One-family dwellings and twin-homes on individual lots of less than seven thousand five hundred square feet in size or as otherwise allowed by the underlying zone;
    - b. Condominium projects consisting of two-family and multiple-family dwellings, as well as one-family dwellings developed as two or more detached dwellings on one lot;
    - c. Condominium conversions; and
    - d. Private streets;
  4. Encourage and allow more creative and imaginative design by including relief from compliance with standard residential zoning regulations. To offset this flexibility in development standards, planned developments are required to incorporate amenities and features not normally required of standard residential developments.

(Ord. NS-834 § II, 2007)

**§ 21.45.020. Applicability.**

- A. A planned development permit is required for the development of one-family dwellings or twin-homes on lots of less than seven thousand five hundred square feet or as otherwise allowed by the underlying zone, attached or detached condominiums, condominium conversions, and private streets.
- B. These regulations do not apply to attached residential units proposed for inclusion as part of a commercial development project.
- C. Any application for a planned development permit that was deemed complete prior to the effective date of the ordinance reenacting this chapter, shall not be subject to the amended provisions of this chapter but shall be processed and approved or disapproved pursuant to the ordinance superseded by the ordinance codified in this chapter.
- D. If there is a conflict between the regulations of this chapter and any regulations approved as part of the city's certified local coastal program, a redevelopment plan, master plan or specific plan, the regulations of the local coastal program, redevelopment plan, master plan or specific plan shall prevail.

- E. A planned development permit shall apply to residential projects only, as specified in Table A, Permitted Residential Uses, of this chapter.
- F. A planned development permit shall be required for the development of a private street within a residential development that is not otherwise subject to the requirements of this chapter. Such residential development shall not be subject to any development standard of this chapter, except the private street standards.

(Ord. NS-834 § II, 2007)

#### **§ 21.45.030. Definitions.**

- A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

"Condominium project" means a common interest development defined by Section 4100 of the California Civil Code, and which consists of two or more attached or detached dwelling units on one lot.

"Drive-aisle" means an improved surface on private property intended for shared vehicular access (serving two or more residential units, attached or detached) from a public/private street to a driveway(s) or open/enclosed parking.

"Driveway" means an improved surface on private property intended for exclusive vehicular access from a public/private street or drive-aisle to open/enclosed parking for a single residential unit (attached or detached).

"Net pad area" means the building pad of a lot excluding all natural or manufactured slopes greater than 3 feet in height except intervening manufactured slopes between split-level pads on a single lot.

"Planned development" means a form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, recreation and streets.

"Twin-home" means two dwellings attached by a common wall where each dwelling is on a separate lot that allows for separate ownership.

(Ord. NS-834 § II, 2007; Ord. CS-242 § 1, 2014)

#### **§ 21.45.040. Permitted zones and uses.**

Table A, Permitted Residential Uses, specifies the types of residential uses, and the zones where such uses are permitted, subject to the approval of a planned development permit. The uses specified in Table A are in addition to any principal use, accessory use, transitional use or conditional use permitted in the underlying zone.

**Table A**  
**Permitted Residential Uses**

Legend:

P = Permitted.

(#) Number within parentheses = Permitted only in certain circumstances.

X = Not permitted.

<b>Zone</b>	<b>Residential Use</b>	
	One-Family Dwelling or Twin-Home on Small Lots (one unit per lot)	Condominium Project
R-1	(1) or (4)	One-family dwellings - (3) or (4) Two-family dwellings - (1) or (4) Multiple-family dwellings - (4)
R-2	P	One-family or two-family dwellings - P Multiple-family dwellings - (2) or (4)
R-3	P	P
RD-M	P	P
R-W	X	P
R-P	(5)	(6)
RMHP	P	P
P-C	(7)	(7)
V-B	(8)	(8)
Accessory Uses	(9)	(9)

**Notes:**

- (1) Permitted when the project site is contiguous to a higher intensity land use designation or zone, or an existing project of comparable or higher density.
- (2) Permitted when the proposed project site is contiguous to a lot or lots zone R-3, R-T, R-P, C-1, C-2, C-M or M, but in no case shall the project site consist of more than one lot nor be more than 90 feet in width, whichever is less.
- (3) Permitted when developed as two or more detached units on one lot.
- (4) Permitted when the project site contains sensitive biological resources as identified in the Carlsbad Habitat Management Plan. In the case of a condominium project, attached or detached units may be permitted when the site contains sensitive biological resources.
- (5) Permitted when the R-P zone implements the RMH land use designation.
- (6) Permitted when the R-P zone implements the RMH or RH land use designations.
- (7) Permitted uses shall be consistent with the master plan.
- (8) Refer to the Village and Barrio master plan for permitted uses.
- (9) Refer to Table F for permitted accessory uses.

(Ord. NS-834 § II, 2007; Ord. CS-099 § II, 2010; Ord. CS-334 § 10, 2018)

### **§ 21.45.050. Application and permit.**

#### A. Application and Fee.

1. An application for a planned development permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:

- a. Be made in writing on a form provided by the City Planner;
  - b. State fully the circumstances and conditions relied upon as grounds for the application; and
  - c. Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner.
  - d. A planned development permit application for a small-lot subdivision (intended to be developed with one dwelling per lot) may be approved without architecture and plotting; in which case, approval of a major planned development permit amendment will be required at a later date to authorize the proposed structures and their placement.
  - e. A planned development permit application for a condominium project shall require approval of architecture and plotting concurrent with the approval of the condominium subdivision.
  - f. The application for a planned development permit shall state the proposed method of land division (i.e., small lots, or air-space condominiums).
2. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- B. Processing Procedures. Table B, Processing Procedures, identifies required procedures for minor (four or fewer dwelling units) and major (five or more dwelling units) planned development permits.

**Table B  
Processing Procedures**

<b>Topic</b>	<b>Minor Planned Development Permit</b>	<b>Major Planned Development Permit</b>
Decision-Making Authority	City Planner	Planning Commission (PC)
Map Required	Minor Subdivision Map (See Title 20, Chapter 20.24)	Major Subdivision Map (See Title 20, Chapter 20.12)
Required Findings	See Section 21.45.050.C	See Section 21.45.050.C
Notices and Hearings	See Chapter 21.54, Sections 21.54.060.B and 21.54.061	See Chapter 21.54, Sections 21.54.060.A and 21.54.061
Announcement of Decision and Findings of Fact	See Chapter 21.54, Section 21.54.120	See Chapter 21.54, Section 21.54.120
Effective Date and Appeals	See Chapter 21.54, Section 21.54.140	See Chapter 21.54, Section 21.54.150
Expiration and Extensions	See Chapter 21.58, Sections 21.58.030 and 21.58.040	See Chapter 21.58, Sections 21.58.030 and 21.58.040
Amendments	See Section 21.45.100	See Section 21.45.100

C. Findings of Fact.

1. The decision-making authority shall approve or conditionally approve a planned development permit only if the following findings are made:

- a. The proposed project is consistent with the general plan, and complies with all applicable provisions of this chapter, and all other applicable provisions of this code.
- b. The proposed project will not be detrimental to existing uses, or to uses specifically permitted in the area in which the proposed use is to be located, and will not adversely impact the site, surroundings, or traffic.
- c. The project will not adversely affect the public health, safety, or general welfare.
- d. The project's design, including architecture, streets, and site layout:
  - i. Contributes to the community's overall aesthetic quality;
  - ii. Includes the use of harmonious materials and colors, and the appropriate use of landscaping; and
  - iii. Achieves continuity among all elements of the project.

D. Modifications to Development Standards.

1. The decision-making authority may approve a modification to the development standards specified in this chapter if all of the following findings are made in writing:
  - a. The proposed planned development designed with the modified development standard(s) is consistent with the purpose and intent of this chapter; and
  - b. The proposed modification(s) will result in the preservation of natural habitat as required by the Carlsbad Habitat Management Plan (HMP); and
  - c. The amount of natural habitat preservation required by the HMP could not be achieved by strict adherence to the development standards of this chapter; and
  - d. The proposed modification(s) will not adversely affect the public health, safety, or general welfare; and
  - e. If the project is located within the coastal zone, the modification is consistent with all local coastal program policies and standards for the protection of coastal resources.
2. Any application for a planned development permit that involves a request for a modification to the development standards of this chapter shall include documentation that clearly demonstrates the modification is necessary to implement the natural habitat preservation requirements of the HMP.
3. The decision-making authority may modify the plan, or impose such conditions or requirements that are more restrictive than the development standards specified in this chapter, the underlying zone or elsewhere in this code, as deemed necessary to protect the public health, safety and general welfare, or to insure conformity with the general plan and other adopted policies, goals or objectives of the city.

(Ord. NS-834 § II, 2007; Ord. CS-164 §§ 10, 11, 2011; Ord. CS-178 § LXXVIII, 2012)

**§ 21.45.060. General development standards.**

- A. All planned developments shall comply with the general development standards specified in Table C below. Specific standards applicable to one-family dwellings and twin-homes on small-lots can be

found in Table D; and standards applicable to condominium projects can be found in Table E.

- B. In addition to the provisions of this chapter, a planned development project shall be subject to the development standards of the project site's underlying zone.
- C. If there is a conflict between the development standards of this chapter and the development standards applicable to the project site's underlying zone, the standards of this chapter shall prevail. Exception: the development standards specified in the city's local coastal program, a redevelopment plan, master plan or specific plan shall prevail if such standards conflict with the standards of this chapter.
- D. When approved, a planned development permit shall become a part of the zoning regulations applicable to the subject property.

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD												
C.1	Density	Per the underlying General Plan designation. When two or more general plan land use designations exist within a planned development, the density may be transferred from one general plan designation to another with a general plan amendment.												
C.2	Arterial Setbacks	<p>All dwelling units adjacent to any arterial road shown on the Circulation Element of the General Plan shall maintain the following minimum setbacks from the right-of-way:</p> <p>Prime Arterial: 50 feet;      Major Arterial: 40 feet;      Secondary Arterial: 30 feet;      Carlsbad Boulevard: 20 feet</p> <p>Half (50%) of the required arterial setback area located closest to the arterial shall be fully landscaped to enhance the streetscene and buffer homes from traffic on adjacent arterials, and</p> <ul style="list-style-type: none"> <li>• Shall contain a minimum of one 24" box tree for every 30 lineal feet of street frontage; and</li> <li>• Shall be commonly owned and maintained</li> </ul> <p>Project perimeter walls greater than 42 inches in height shall not be located in the required landscaped portion of the arterial setback, except noise attenuation walls that</p> <ul style="list-style-type: none"> <li>• Are required by a noise study, and</li> <li>• Due to topography, are necessary to be placed within the required landscaped portion of the arterial setback</li> </ul>												
C.3	Permitted Intrusions into Setbacks/Building Separation	Permitted intrusions into required building setbacks shall be the same as specified in Section 21.46.120 of this code. The same intrusions specified in Section 21.46.120 shall be permitted into required building separation.												
C.4	<p>Streets</p> <p>Private</p> <p>Public</p>	<table border="1"> <tr> <td>Minimum right-of-way width</td> <td>56 feet</td> </tr> <tr> <td>Minimum curb-to-curb width</td> <td>34 feet</td> </tr> <tr> <td>Minimum parkway width (curb adjacent)</td> <td>5.5 feet, including curb</td> </tr> <tr> <td>Minimum sidewalk width</td> <td>5 feet (setback 6 inches from property line)</td> </tr> <tr> <td>Minimum right-of-way width</td> <td>60 feet</td> </tr> <tr> <td>Minimum curb-to-curb width</td> <td>34 feet</td> </tr> </table>	Minimum right-of-way width	56 feet	Minimum curb-to-curb width	34 feet	Minimum parkway width (curb adjacent)	5.5 feet, including curb	Minimum sidewalk width	5 feet (setback 6 inches from property line)	Minimum right-of-way width	60 feet	Minimum curb-to-curb width	34 feet
Minimum right-of-way width	56 feet													
Minimum curb-to-curb width	34 feet													
Minimum parkway width (curb adjacent)	5.5 feet, including curb													
Minimum sidewalk width	5 feet (setback 6 inches from property line)													
Minimum right-of-way width	60 feet													
Minimum curb-to-curb width	34 feet													

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD
		<p>Minimum parkway width (curb adjacent)</p> <p>7.5 feet, including curb</p> <p>Minimum sidewalk width</p> <p>5 feet (setback 6 inches from property line)</p>
	Street trees within parkways	<p>One-family dwellings and twin homes on small lots</p> <p>A minimum of one street tree (24-inch box) per lot is required to be planted in the parkway along all streets</p> <p>Condominium projects</p> <p>Street trees shall be spaced no further apart than 30 feet on center within the parkway</p> <p>Tree species should be selected to create a unified image for the street, provide an effective canopy, avoid sidewalk damage and minimize water consumption</p>
C.5	Drive-aisles	<p>3 or fewer dwelling units</p> <p>Minimum 12 feet wide when the drive-aisle is not required for emergency vehicle access, as determined by the Fire Chief.</p> <p>If the drive-aisle is required for emergency vehicle access, it shall be a minimum of 20 feet wide.</p> <p>4 or more dwelling units</p> <p>Minimum 20 feet wide.</p> <p>All projects</p> <p>No parking shall be permitted within the minimum required width of a drive-aisle.</p> <p>A minimum 24-foot vehicle back-up/maneuvering area shall be provided in front of garages, carports or uncovered parking spaces (this may include driveway area, drive-aisles, and streets).</p> <p>Additional width may be required for vehicle/emergency vehicle maneuvering area.</p> <p>Parkways and/or sidewalks may be required.</p> <p>No more than 24 dwelling units shall be located along a single-entry drive-aisle.</p> <p>All drive-aisles shall be enhanced with decorative pavement.</p>
C.6	Number of Visitor Parking Spaces Required (1)	<p>Projects with 10 units or fewer</p> <p>0.30 space per each unit</p> <p>Projects 11 units or more</p> <p>0.25 space per each unit</p> <p>When calculating the required number of visitor parking spaces, if the calculation results in a fractional parking space, the required number of visitor parking spaces shall always be rounded up to the nearest whole number.</p>

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD
C.7	Location of Visitor Parking	<p>On private/public streets</p> <p>On-street visitor parking is permitted on private/public streets, subject to the following:</p> <ul style="list-style-type: none"> <li>• The private/public street is a minimum 34-feet wide (curb-to-curb)</li> <li>• There are no restrictions that would prohibit on-street parking where the visitor parking is proposed</li> <li>• The visitor parking spaces may be located:           <ul style="list-style-type: none"> <li>◊ Along one or both sides of any private/public street(s) located within the project boundary, and</li> <li>◊ Along the abutting side and portion of any existing public/private street(s) that is contiguous to the project boundary</li> </ul> </li> </ul> <p>In parking bays along public/private streets within the project boundary, provided the parking bays are outside the minimum required street right-of-way width.</p> <p>When visitor parking is provided as on-street parallel parking, not less than 24 lineal feet per space, exclusive of driveway/drive-aisle entrances and aprons, shall be provided for each parking space, except where parallel parking spaces are located immediately adjacent to driveway/drive-aisle aprons, then 20 lineal feet may be provided.</p> <p>Within the Beach Area Overlay Zone, on-street parking shall not count toward meeting the visitor parking requirement.</p>
	On drive-aisles	Visitor parking must be provided in parking bays that are located outside the required minimum drive-aisle width.
	On a driveway	<p>Outside the Beach Area Overlay Zone</p> <p>One required visitor parking space may be credited for each driveway in a project that has a depth of 40 feet or more.</p> <p>For projects with 10 or fewer units, all required visitor parking may be located within driveways (located in front of a unit's garage), provided that all dwelling units in the project have driveways with a depth of 20 feet or more.</p>

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD	
C.8	Screening of Parking Areas	Within the Beach Area Overlay Zone	<p>One required visitor parking space may be credited for each driveway in a project that has a depth of 40 feet or more.</p> <p>If the streets within and/or adjacent to the project allow for on-street parking on both sides of the street, then visitor parking may be located in a driveway, subject to the following:</p> <ul style="list-style-type: none"> <li>• All required visitor parking may be located within driveways (located in front of a unit's garage), provided that all dwelling units in the project have driveways with a depth of 20 feet or more.</li> <li>• If less than 100% of the driveways in a project have a depth of 20 feet or more, then a 0.25 visitor parking space will be credited for each driveway in a project that has a depth of 20 feet or more (calculations resulting in a fractional parking space credit shall always be rounded down to the nearest whole number).</li> </ul>
		All projects	<p>The minimum driveway depth required for visitor parking (20 feet or 40 feet) applies to driveways for front or side-loaded garages, and is measured from the property line, back of sidewalk, or from the edge of the drive-aisle, whichever is closest to the structure.</p>
		Compact parking	<p>For projects of more than 25 units, up to 25% of visitor parking may be provided as compact spaces (8 feet by 15 feet). No overhang is permitted into any required setback area or over sidewalks less than 6 feet wide.</p> <p>For all projects within the Beach Area Overlay Zone, up to 55% of the visitor parking may be provided as compact spaces (8 feet by 15 feet).</p>
		Distance from unit	Visitor parking spaces must be located no more than 300 feet as measured in a logical walking path from the entrance of the unit it could be considered to serve.
C.9	Community Recreational Space(1)	Community recreational space shall be provided for all projects of 11 or more dwelling units, as follows:	
		Minimum community recreational space required	Project is NOT within RH general plan designation      200 square feet per unit

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD
		Project IS within RH general plan designation      150 square feet per unit
	Projects with 11 to 25 dwelling units	Community recreational space shall be provided as either (or both) passive or active recreation facilities.
	Projects with 26 or more dwelling units	Community recreational space shall be provided as both passive and active recreational facilities with a minimum of 75% of the area allocated for active facilities.
	Projects with 50 or more dwelling units	Community recreational space shall be provided as both passive and active recreational facilities for a variety of age groups (a minimum of 75% of the area allocated for active facilities).
	All projects (with 11 or more dwelling units)	<p>For projects consisting of one-family dwellings or twin homes on small-lots, at least 25% of the community recreation space must be provided as pocket parks.</p> <ul style="list-style-type: none"> <li>• Pocket park lots must have a minimum width of 50 feet and be located at strategic locations such as street intersections (especially "T-intersections") and where open space vistas may be achieved.</li> </ul> <p>Community recreational space shall be located and designed so as to be functional, usable, and easily accessible from the units it is intended to serve.</p> <p>Credit for indoor recreation facilities shall not exceed 25% of the required community recreation area.</p> <p>Required community recreation areas shall not be located in any required front yard and may not include any streets, drive-aisles, driveways, parking areas, storage areas, slopes of 5% or greater, or walkways (except those walkways that are clearly integral to the design of the recreation area).</p>
	Recreation Area Parking	<p>In addition to required resident and visitor parking, recreation area parking shall be provided, as follows: 1 space for each 15 residential units, or fraction thereof, for units located more than 1,000 feet from a community recreation area.</p> <p>The location of recreation area parking shall be subject to the same location requirements as for visitor parking, except that required recreation area parking shall not be located within a driveway(s).</p>
	Examples of recreation facilities include, but are not limited to, the following:	
	Active	<p>Swimming pool area</p> <p>Children's playground equipment</p> <p>Spa</p>

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD
		Courts (tennis, racquetball, volleyball, basketball)
		Recreation rooms or buildings
		Horseshoe pits
		Pitch and putt
		Grassy play areas with a slope of less than 5% (minimum area of 5,000 square feet and a minimum dimension of 50 feet)
		Any other facility deemed by the City Planner to satisfy the intent of providing active recreational facilities.
	Passive	Benches
		Barbecues
		Community gardens
		Grassy play areas with a slope of less than 5%.
C.10	Lighting	Lighting adequate for pedestrian and vehicular safety shall be provided.
C.11	Reserved	
C.12	Recreational Vehicle (RV) Storage(1)	<p>Required for projects with 100 or more units, or a master or specific plan with 100 or more planned development units. Exception: RV storage is not required for projects located within the RMH or RH land use designations.</p> <p>20 square feet per unit, not to include area required for driveways and approaches.</p> <p>Developments located within master plans or residential specific plans may have this requirement met by the common RV storage area provided by the master plan or residential specific plan.</p> <p>RV storage areas shall be designed to accommodate recreational vehicles of various sizes (i.e. motorhomes, campers, boats, personal watercraft, etc.).</p> <p>The storage of recreational vehicles shall be prohibited in the front yard setback and on any public or private streets or any other area visible to the public. A provision containing this restriction shall be included in the covenants, conditions and restrictions for the project. All RV storage areas shall be screened from adjacent residences and public rights-of-way by a view-obscuring wall and landscaping.</p>
C.13	Storage Space	480 cubic feet of separate storage space per unit.

**Table C**  
**General Development Standards**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD
		If all storage for each unit is located in one area, the space may be reduced to 392 cubic feet.
		Required storage space shall be separately enclosed for each unit and be conveniently accessible to the outdoors.
		Required storage space may be designed as an enlargement of a covered parking structure provided it does not extend into the area of the required parking stall, and does not impede the ability to utilize the parking stall (for vehicle parking).
		A garage (12' × 20' one-car, 20' × 20' two-car, or larger) satisfies the required storage space per unit.
		This requirement is in addition to closets and other indoor storage areas.

**Note:**

- (1) This standard does not apply to housing for senior citizens (see Chapter 21.84 of this code).

(Ord. NS-834 § II, 2007; Ord. CS-026 § 1, 2009; Ord. CS-164 § 10, 2011)

**§ 21.45.070. Development standards for one-family dwellings and twin-homes on small lots.**

- A. In addition to the general development standards found in Table C, planned developments that include one-family dwellings or twin-homes on small lots shall comply with the following development standards found in Table D, One-Family Dwellings and Twin-Homes on Small Lots.

**Table D**  
**One-Family Dwellings and Twin-Homes on Small Lots**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD	
D.1	Livable Neighborhood Policy	Must comply with City Council Policy 66, Principles for the Development of Livable Neighborhoods.	
D.2	Architectural Requirements	Must comply with City Council Policy 44, Neighborhood Architectural Design Guidelines.	
D.3	Minimum Lot Area	One-family dwellings	5,000 square feet (one dwelling per lot)
		Twin-homes	3,750 square feet (one dwelling per lot)
		Exception	3,500 square feet (one-family or twin-home - one dwelling per lot) when either: 1. The project site contains sensitive biological resources as identified in the Carlsbad habitat management plan; or 2. The site has a general plan designation of RMH and unique circumstances such as one of the following exists: a. The project is for lower income or senior citizen housing; b. The site is located west of Interstate 5; c. The dwelling units are designed with alley-loaded garages; or d. The site is either located contiguous to a Circulation Element roadway or within 1,200 feet of a commuter rail/transit center, commercial center or employment center.
D.4	Maximum Lot Coverage	1 story homes	60% of the net pad area
		Homes with 2 or more stories	45% of the net pad area for all lots in a project, if the minimum lot area in the project is 5,000 square feet or greater.
			50% of the net pad area for all lots in a project, if the minimum lot area in the project is less than 5,000 square feet.
		Porches with no livable space above the porch, and porte-cochères no more than 20 feet in width and 6 feet in depth are exempt from lot coverage requirements.	

**Table D**  
**One-Family Dwellings and Twin-Homes on Small Lots**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD		
<b>D.5</b>	Minimum Lot Width(1)	One-family dwellings on lots equal to or greater than 5,000 square feet	50 feet (35 feet when a lot is located on a cul-de-sac, or the curved portion of a sharply curved street/drive-aisle)	
		One-family dwellings on lots less than 5,000 square feet	40 feet (35 feet when a lot is located on a cul-de-sac, or the curved portion of a sharply curved street/drive-aisle)	
		Twin-homes	35 feet	
<b>D.6</b>	Minimum Street/Drive-Aisle Frontage	Lots located on the curved portion of sharply curved streets/drive-aisles or cul-de-sacs: 25 feet.		
<b>D.7</b>	Minimum Setback from a Private or Public Street(2), (3)	Residential structure	10 feet	
		Direct entry garage	20 feet	
<b>D.8</b>	Minimum Setback from a Drive-Aisle(4)	Residential structure	5 feet, fully landscaped (walkways providing access to dwelling entryways may be located within required landscaped area)	
		Garage	3 feet	
			Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.	
		Projects of 25 units or less within the RMH and RH general plan designations	0 feet (residential structure and garage) Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.	
<b>D.9</b>	Minimum Interior Side Yard Setback	One-family dwellings	Option 1	Residential structure Each interior side yard setback shall be a minimum of 10% of the lot width; provided that each side yard setback is not less than 5 feet, and need not exceed 10 feet.

**Table D**  
**One-Family Dwellings and Twin-Homes on Small Lots**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD			
				Garage	Located on the front half of the lot Same as required for residence. Located on the rear half of the lot Need not exceed 5 feet Any living space above a garage shall observe the same interior side yard setback required for the residence.
				Option 2	Residential structure and garage One interior side yard setback may be reduced to 0 feet (zero lot line); provided the other side yard setback is a minimum of 20% of the lot width, and need not exceed 20 feet.
			Twin-homes		One side yard - 0 feet (the side yard where the dwellings on each lot are attached). The other side yard setback shall be a minimum of 20% of the lot width, and need not exceed 20 feet.
		Residential structure Garage (located on the rear half of the lot)			20% of lot width, provided the rear yard setback is not less than 10 feet, and need not exceed 20 feet. 5 feet from rear property line Any living space above a garage shall observe the same rear yard setback required for "residence," above.
D.10	Minimum Rear Yard Setback (where the rear property line does not front on a street or drive-aisle)				
D.11	Maximum Building Height/Number of Stories				Same as required by the underlying zone, and not to exceed three stories(5), (8)
	Private Recreational Space	Minimum total area per unit			400 square feet (may consist of more than one recreational space)
		Minimum dimension of recreational space	15 feet		
					Required private recreational space shall be located at ground level and designed so as to be functional, usable, and easily accessible from the dwelling it is intended to serve, and shall not have a slope gradient greater than 5%.
					Required private recreational space shall not be located within front yard setback areas, and may not include any driveways, parking areas, storage areas, or walkways (except those walkways that are clearly integral to the design of the recreation area).
					Open or lattice-top patio covers may be located within the required private recreation space (provided the patio cover complies with all applicable standards, including the required setbacks specified in Section 21.45.090).

**Table D**  
**One-Family Dwellings and Twin-Homes on Small Lots**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD	
		<p>Attached solid patio covers and decks/balconies may project into a required private recreational space, subject to the following:</p> <ul style="list-style-type: none"> <li>The depth of the projection shall not exceed 6 feet (measured from the wall of the dwelling that is contiguous to the patio/deck/balcony).</li> <li>The length of the projection shall not be limited, except as required by any setback or lot coverage standards.</li> <li>The patio cover/deck/balcony shall comply with all applicable standards, including the required setbacks specified in Section 21.45.090.</li> </ul>	
D.13	Resident Parking	2 spaces per unit, provided as either:(6)	a two-car garage (minimum 20 feet × 20 feet), or 2 separate one-car garages (minimum 12 feet × 20 feet each)
D.14	Garages for 3 or more cars-in-a-row	<p>No more than 20% of the total project units may include garages with doors for 3 or more cars-in-a-row that directly face the street, including garages constructed as 3 one-car garages located adjacent to each other, or constructed as a two-car garage separated from a one-car garage with all garage doors directly parallel to the street.</p> <p>Garages that are recessed 20 feet or more back from the forward-most plane of the house shall not be subject to the 20% 3-car garage limitation stated above.</p> <p>Garages with doors for 3 or more cars in-a-row shall not be permitted on lots less than 5,000 square feet in area.</p>	
D.15	Driveways	Driveways for side-loaded garages must be enhanced with decorative pavement to improve appearance.	

**Notes:**

- |     |                                                                                                                                                                                                                                                                                                                                                            |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | Lot width is measured 20' behind the front property line.                                                                                                                                                                                                                                                                                                  |
| (2) | See Table C in Section 21.45.060 for required setbacks from an arterial street.                                                                                                                                                                                                                                                                            |
| (3) | Building setbacks shall be measured from one of the following (whichever is closest to the building): a) property line; or b) the outside edge of the required street right-of-way width.                                                                                                                                                                  |
| (4) | Building setbacks shall be measured from one of the following (whichever is closest to the building): a) property line; b) the outside edge of the required drive-aisle width; c) the back of sidewalk; or d) the nearest side of a parking bay located contiguous to a drive-aisle (excluding parking located in a driveway in front of a unit's garage). |
| (5) | If a project is located within the Beach Area Overlay Zone, building height shall be subject to the requirements of Chapter 21.82 of this code.                                                                                                                                                                                                            |
| (6) | The required resident parking within the R-W zone shall be 2 spaces/unit, 1 of which must be covered. Any uncovered required parking space in the R-W zone may be located within a required front yard setback and may be tandem.                                                                                                                          |
| (7) | Garage location standards do not apply to projects where all garages are alley loaded.                                                                                                                                                                                                                                                                     |

**Notes:**

- (8) Protrusions above the height limit shall be allowed pursuant to Section 21.46.020 of this code. Such protrusions include protective barriers for balconies and roof decks.

(Ord. NS-834 § II, 2007; Ord. CS-026 § 1, 2009)

### **§ 21.45.080. Development standards for condominium projects.**

In addition to the general development standards found in Table C, condominium projects shall comply with the following development standards listed in Table E, Condominium Projects.

**Table E  
Condominium Projects**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD	
E.1	Livable Neighborhood Policy	Must comply with City Council Policy 66, Principles for the Development of Livable Neighborhoods.	
E.2	Architectural Requirements	One-family and two-family dwellings	Must comply with City Council Policy 44, Neighborhood Architectural Design Guidelines
		Multiple-family dwellings	<p>There shall be at least three separate building planes on all building elevations. The minimum offset in planes shall be 18 inches and shall include, but not be limited to, building walls, windows, and roofs.</p> <p>All building elevations shall incorporate a minimum of four complimentary design elements, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• A variety of roof planes;</li> <li>• Windows and doors recessed a minimum of 2 inches;</li> <li>• Decorative window or door frames;</li> <li>• Exposed roof rafter tails;</li> <li>• Dormers;</li> <li>• Columns;</li> <li>• Arched elements;</li> <li>• Varied window shapes;</li> <li>• Exterior wood elements;</li> <li>• Accent materials such as brick, stone, shingles, wood, or siding;</li> <li>• Knee braces; and</li> <li>• Towers.</li> </ul>

**Table E**  
**Condominium Projects**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD	
E.3	Maximum Coverage	60% of total project net developable acreage.	
E.4	Maximum Building Height	Same as required by the underlying zone, and not to exceed three stories(1), (7)	
		Projects within the RH general plan designation(1), (7)	40 feet, if roof pitch is 3:12 or greater 35 feet, if roof pitch is less than 3:12 Building height shall not exceed three stories
		From a private or public street(2), (3)	Residential structure 10 feet Direct entry garage 20 feet
E.5	Minimum Building Setbacks	From a drive-aisle(4)	Residential structure (except as specified below) 5 feet, fully landscaped (walkways providing access to dwelling entryways may be located within required landscaped area)
			Residential structure directly above a garage 0 feet when projecting over the front of a garage.
		Garage	3 feet Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.
			Projects of 25 units or less within the RMH and RH general plan designations 0 feet (residential structure and garage) Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.
		Balconies/decks (unenclosed and uncovered)	0 feet May cantilever over a drive-aisle, provided the balcony/deck does not impede access and complies with all other applicable requirements, such as:
			<ul style="list-style-type: none"> <li>• Setbacks from property lines</li> <li>• Building separation</li> <li>• Fire and Engineering Department requirements</li> </ul>

**Table E**  
**Condominium Projects**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD
	From the perimeter property lines of the project site (not adjacent to a public/private street)	The building setback from an interior side or rear perimeter property line shall be the same as required by the underlying zone for an interior side or rear yard setback.
E.6	Minimum Building Separation	10 feet
E.7	Resident Parking(6)	<p>All dwelling types</p> <p>If a project is located within the RH general plan designation, resident parking shall be provided as specified below, and may also be provided as follows:</p> <ul style="list-style-type: none"> <li>• 25% of the units in the project may include a tandem two-car garage (minimum 12 feet × 40 feet).</li> <li>• Calculations for this provision resulting in a fractional unit may be rounded up to the next whole number.</li> </ul> <p>One-family and two-family dwellings</p> <p>2 spaces per unit, provided as either:</p> <ul style="list-style-type: none"> <li>• a two-car garage (minimum 20 feet × 20 feet), or</li> <li>• 2 separate one-car garages (minimum 12 feet × 20 feet each)</li> <li>• In the R-W Zone, the 2 required parking spaces may be provided as 1 covered space and 1 uncovered space(5)</li> </ul> <p>Multiple-family dwellings</p> <p>Studio and one-bedroom units</p> <p>1.5 spaces per unit, 1 of which must be covered(5)</p> <p>When calculating the required number of parking spaces, if the calculation results in a fractional parking space, the required number of parking spaces shall always be rounded up to the nearest whole number.</p> <p>Units with two or more bedrooms</p> <p>2 spaces per unit, provided as either:</p> <ul style="list-style-type: none"> <li>• a one-car garage (12 feet × 20 feet) and 1 covered or uncovered space; or(5)</li> <li>• a two-car garage (minimum 20 feet × 20 feet), or</li> <li>• 2 separate one-car garages (minimum 12 feet × 20 feet each)</li> <li>• In the R-W Zone and the Beach Area Overlay Zone, the 2 required parking spaces may be provided as 1 covered space and 1 uncovered space(5)</li> </ul>

**Table E**  
**Condominium Projects**

REF. NO.	SUBJECT	<b>DEVELOPMENT STANDARD</b>				
		<p>Required parking may be provided within an enclosed parking garage with multiple, open parking spaces, subject to the following:</p> <ul style="list-style-type: none"> <li>• Each parking space shall maintain a standard stall size of 8.5 feet by 20 feet, exclusive of supporting columns; and</li> <li>• A backup distance of 24 feet shall be maintained in addition to a minimum 5 feet turning bump-out located at the end of any stall series.</li> </ul>				
		<p>Required resident parking spaces shall be located no more than 150 feet as measured in a logical walking path from the entrance of the units it could be considered to serve.</p>				
E.8	Private Recreational Space	<p>One-family, two-family, and multiple-family dwellings</p>				
	One-family and two-family dwellings	Minimum total area per unit	<p>Projects not within the RMH or RH general plan designations</p> <p>Projects within the RMH or RH general plan designations</p>	<p>400 square feet</p> <p>200 square feet</p>		
		<p>May consist of more than one recreational space.</p>				
		<p>May be provided at ground level and/or as a deck/balcony or roof deck.</p>				
		If provided at ground level	<p>Minimum dimension</p>	<p>Not within the RMH or RH general plan designations</p> <p>Within the RMH or RH general plan designations</p>		
			<p>15 feet</p> <p>10 feet</p>			
		<p>Shall not have a slope gradient greater than 5%.</p>				
		<p>Attached solid patio covers and decks/balconies may project into a required private recreational space, subject to the following:</p>				

**Table E**  
**Condominium Projects**

REF. NO.	SUBJECT	DEVELOPMENT STANDARD									
		<ul style="list-style-type: none"> <li>The depth of the projection shall not exceed 6 feet (measured from the wall of the dwelling that is contiguous to the patio/deck/balcony).</li> <li>The length of the projection shall not be limited, except as required by any setback or lot coverage standards.</li> </ul> <p>Open or lattice-top patio covers may be located within the required private recreation space (provided the patio cover complies with all applicable standards, including the required setbacks).</p>									
		<table border="1"> <tr> <td>If provided above ground level as a deck/balcony or roof deck</td><td>Minimum dimension Minimum area</td><td>6 feet 60 square feet</td></tr> <tr> <td>Multiple-family dwellings</td><td>Minimum total area per unit (patio, porch, or balcony)</td><td>60 square feet</td></tr> <tr> <td></td><td>Minimum dimension of patio, porch or balcony</td><td>6 feet</td></tr> </table>	If provided above ground level as a deck/balcony or roof deck	Minimum dimension Minimum area	6 feet 60 square feet	Multiple-family dwellings	Minimum total area per unit (patio, porch, or balcony)	60 square feet		Minimum dimension of patio, porch or balcony	6 feet
If provided above ground level as a deck/balcony or roof deck	Minimum dimension Minimum area	6 feet 60 square feet									
Multiple-family dwellings	Minimum total area per unit (patio, porch, or balcony)	60 square feet									
	Minimum dimension of patio, porch or balcony	6 feet									
		Projects of 11 or more units that are within the RH general plan designation may opt to provide an additional 75 square feet of community recreation space per unit (subject to the standards specified in Table C of this chapter), in lieu of providing the per unit private recreational space specified above.									

**Notes:**

- (1) If a project is located within the Beach Area Overlay Zone, building height shall be subject to the requirements of Chapter 21.82 of this code.
- (2) See Table C in Section 21.45.060 for required setbacks from an arterial street.
- (3) Building setbacks shall be measured from the outside edge of the required street right-of-way width, whichever is closest to the building.
- (4) Building setbacks shall be measured from one of the following (whichever is closest to the building): a) the outside edge of the required drive-aisle width; b) the back of sidewalk; or c) the nearest side of a parking bay located contiguous to a drive-aisle (excluding parking located in a driveway in front of a unit's garage).
- (5) Any uncovered required parking space in the R-W zone may be located within a required front yard setback and may be tandem.
- (6) This standard does not apply to housing for senior citizens (see Chapter 21.84 of this code).
- (7) Protrusions above the height limit shall be allowed pursuant to Section 21.46.020 of this code. Such protrusions include protective barriers for balconies and roof decks.

(Ord. NS-834 § II, 2007; Ord. CS-026 §§ 5—9, 2009)

**§ 21.45.090. Residential additions and accessory uses.****A. General.**

1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.
2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.

**B. One-Family Dwellings and Twin-Homes on Small Lots.**

1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.
2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers(2)	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet - pool 2 feet - spa
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height)(1),(2),(3)	20 feet	5 feet
Accessory dwelling units or junior accessory dwelling units(2), (3)	20 feet	See 21.10.030
Habitable detached accessory buildings (i.e. guest houses; not including accessory dwelling units)(1), (2), (3)	Same setbacks as required for the primary dwelling	Same setbacks as required for the dwelling
Additions to dwelling (attached)		

**Notes:**

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.

**C. Condominium Projects.** Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits).

(Ord. NS-834 § II, 2007; Ord. CS-050 § IV, 2009; Ord. CS 324 §§ 2, 23, 2017; Ord. CS-384 § 25, 2020)

**§ 21.45.100. Amendments to permits.**

- A. An approved planned development permit may be amended pursuant to the provisions of Section 21.54.125 of this title, except that project revisions specified in subsection B of this section shall not require an amendment.
- B. Amendment Exceptions.
  - 1. A project revision shall not be required to obtain an amendment to an existing planned development permit if all of the following findings are made:
    - a. The proposed revision does not increase the density (i.e., the addition of units);
    - b. The proposed revision does not decrease the density by more than ten percent and provided the density is not decreased below the minimum density of the underlying residential land use designation of the general plan;
    - c. The proposed revision does not change the boundary of the subject property;
    - d. The proposed revision does not involve the addition of a new land use not shown on the original permit (e.g., adding a commercial use to a residential project, replacing single-family units with attached residential units, vice versa for each example, etc.);
    - e. The proposed revision does not rearrange the major land uses within the development (e.g., it does not exchange the locations of single-family units with attached units);
    - f. The proposed revision does not create changes of greater than ten percent, provided that compliance will be maintained with the applicable development standards of this code as follows:
      - i. Per individual lot or structure basis: Building floor area, coverage or height (except that height reductions of more than ten percent are permitted);
      - ii. On an aggregate project basis: Parking, open space, recreation or landscaping areas;
    - g. The proposed revision is architecturally compatible with existing structures within the development.

(Ord. NS-834 § II, 2007; Ord. CS-164 §§ 10, 11, 2011; Ord. CS-178 § LXXIX, 2012)

**§ 21.45.110. Conversion of existing buildings to planned developments.**

- A. Applicability. Any application for the conversion of existing buildings to a planned development (e.g., converting apartments to condominiums) shall be subject to all provisions of this chapter.
- B. Building Plans and Gas/Electric Plan.
  - 1. An application for conversion of an existing structure to a planned development shall include building plans indicating how the building relates to present building and zoning regulations and where modifications will be required.
  - 2. Also, the application shall include a letter from San Diego Gas and Electric explaining that the plans to connect the gas and electric system to separate systems are acceptable.

C. Conversions within the Coastal Zone. The conversion of existing residential units within the Coastal Zone that are occupied by persons or families of low or moderate income shall be subject to the requirements of Section 65590 of the California Government Code.

D. Notice to Tenants and Findings.

1. Each prospective and existing tenant of the proposed condominium project shall be given written notice of the proposed conversion in accordance with Sections 66452.8 and 66452.9 of the California Government Code (Subdivision Map Act); and
2. In addition to all other required findings for a subdivision, the City Council shall make all of the findings set forth in Section 66427.1 of the California Government Code (Subdivision Map Act).

(Ord. NS-834 § II, 2007)

**§ 21.45.130. Proposed common ownership land or improvements.**

A. Where a planned development contains any land or improvement proposed to be held in common ownership, the applicant shall submit a declaration of covenants, conditions and restrictions (CC&Rs) with the final map. Such declaration shall set forth provisions for maintenance of all common areas, payment of taxes and all other privileges and responsibilities of the common ownership.

B. The CC&Rs shall include provisions:

1. For maintenance of all common areas, payment of taxes and all other privileges and responsibilities of the common ownership.
2. Prohibiting the homeowners' association from quitclaiming land in an association easement for ownership to private property owners thus allowing the homeowners to privatize a common area for their own use.

C. The CC&Rs shall be reviewed by and subject to approval of the City Planner.

(Ord. NS-834 § II, 2007; Ord. CS-164 § 10, 2011)

**§ 21.45.140. Maintenance.**

All private streets, walkways, parking areas, landscaped areas, storage areas, screening sewers, drainage facilities, utilities, open space, recreation facilities and other improvements not dedicated to public use shall be maintained by the property owners. Provisions acceptable to the City Planner shall be made for the preservation and maintenance of all such improvements prior to the issuance of building permits.

(Ord. NS-834 § II, 2007; Ord. CS-164 § 10, 2011)

**§ 21.45.150. Failure to maintain.**

A. Public Nuisance.

1. All commonly-owned lots, improvements and facilities shall be preserved and maintained in a safe condition and in a state of good repair.
2. Any failure to so maintain is unlawful and a public nuisance if it endangers the health, safety and general welfare of the public and is a detriment to the surrounding community.

B. Removal of Public Nuisance.

1. In addition to any other remedy provided by law for the abatement, removal and enjoinder of such public nuisance, the Community and Economic Development Director or Housing and Neighborhood Services Director may, after giving notice, cause the necessary work of maintenance or repair to be done.

2. The costs thereof shall be assessed against the owner or owners of the project.

C. Notice of Maintenance Required.

1. The notice shall be in writing and mailed to:

- a. All persons whose names appear on the last equalized assessment roll as owners of real property within the project at the address shown on the assessment roll; and
- b. Any person known to be responsible for the maintenance or repair of the common areas and facilities of the project under an indenture or agreement.

2. At least one copy of such notice shall be posted in a conspicuous place on the premises.

3. The notice shall particularly specify:

- a. The work required to be done; and
- b. That the work must be commenced within thirty days after receipt of such notice, and diligently and without interruption prosecuted to completion; and
- c. If upon the expiration of the thirty-day period, the work is not commenced and being performed with diligence, the city shall cause such work to be done; in which case, the cost and expense of such work, including incidental expenses incurred by the city, will be assessed against the property or against each separate lot and become a lien upon such property.

D. Upon completion of such work, the Community and Economic Development Director or Housing and Neighborhood Services Director shall file a written report with the City Council setting forth the fact that the work has been completed and the cost thereof, together with a legal description of the property against which the cost is to be assessed.

1. Written notice shall be provided to all persons specified in subsection C.1 of this section of the hour and place that the City Council will pass upon the written report and will hear any protests against the assessments shall be provided. Such notice shall also set forth the amount of the proposed assessment.

- a. Upon the date and hour set for the hearing, the City Council shall hear and consider the report and any protests before proceeding to confirm, modify or reject the assessments.

E. A list of assessment as finally confirmed by the City Council shall be sent to the City Treasurer for collection.

1. If any assessment is not paid within ten days after its confirmation by the City Council, the City Clerk shall cause to be filed in the office of the County Recorder a notice of lien, in a form approved by the City Attorney.

- a. From and after the date of recordation of such notice of lien, the amount of the unpaid assessment shall be a lien on the property against which the assessment is made, and such

assessment shall bear interest at the maximum rate allowed by law until paid in full.

- b. The lien shall continue until the amount of the assessment and all interest thereon has been paid.

- c. The lien shall have priority according to law.

(Ord. NS-834 § II, 2007; Ord. CS-164 §§ 9, 14, 2011)

**§ 21.45.160. Model homes.**

- A. Except for model homes, building permits for construction within the proposed planned development shall not be issued until a final subdivision map has been recorded for the project.
- B. A maximum of six model home units may be constructed prior to recordation of the final map, provided that adequate provision acceptable to the City Planner and City Attorney are made guaranteeing removal of such complex if the final map is not recorded.

(Ord. NS-834 § II, 2007;; Ord. CS-164 § 10, 2011)

**§ 21.45.170. Restriction on reapplication for planned development permit.**

The restrictions on the reapplication for a planned development permit are specified in Section 21.54.130 of this code.

(Ord. NS-834 § II, 2007)

## CHAPTER 21.46 YARDS

### **§ 21.46.010. Height of buildings on through lots.**

On through lots one hundred fifty feet or less in depth, the height of a building on such lot may be measured from the sidewalk level of the street on which the building fronts. On through lots more than one hundred fifty feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to a depth of not more than one hundred fifty feet from that street.

(Ord. 9060 § 1600)

### **§ 21.46.020. Allowed protrusions above height limits.**

Roof structures specifically for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, architectural features or towers, flagpoles, chimneys, smokestacks, wireless masts and similar structures may be erected above the height limits prescribed in this title but no roof structure or any other space above the height limit prescribed for the zone in which the building is located shall be allowed for the purpose of providing additional floor space, or be taller than the minimum height requirement to accommodate or enclose the intended use.

However, the exception in this section does not apply if there is a specific provision elsewhere in this title for the protrusions under consideration.

(Ord. 9060 § 1601; Ord. NS-204 § 12, 1992; Ord. NS-240 § 9, 1993; Ord. NS-675 § 41, 2003)

### **§ 21.46.030. Regulations.**

Except as provided in this chapter, every required yard shall be open and unobstructed from the ground to the sky. No yard or open space provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building, and no yard or open space on any adjoining property shall be considered as providing a yard or open space on a building site whereon a building is to be erected.

(Ord. 9060 § 1602)

### **§ 21.46.040. Modification of side yard requirement on combined lots.**

When the common boundary line separating two contiguous lots is covered by a building or permitted group of buildings, such lots shall constitute a single building site and the yard spaces as required by this ordinance shall then not apply to such common boundary line.

(Ord. 9060 § 1603)

### **§ 21.46.050. When more than one main building exists.**

Where two or more buildings are, by definition of this title, considered main buildings, then the front yard requirement shall apply only to the building closest to the front lot line.

(Ord. 9060 § 1604)

### **§ 21.46.060. Formula for yard requirements.**

The City Planner may adopt a formula or establish standard practices by which to determine appropriate and practical yards in all residential zones where geometric shape and dimensions and topography are

such as to make the literal application of required yards impractical. After the adoption of such formula or standard practices, they shall be applied as an administrative act.

(Ord. 9060 § 1605; Ord. CS-178 § LXXXII, 2012)

#### **§ 21.46.070. Modification of required front yards.**

The depth of required front yards may be modified on unimproved lots intervening between lots having nonconforming front yards or between a lot having a nonconforming front yard and a vacant corner lot. A nonconforming front yard shall be deemed to be an area between the front lot line and the closest part of the main building, and which is greater or less in depth than that defined in this title as constituting a required front yard.

- (1) The depth of a nonconforming front yard and the rear line thereof shall be deemed to be coincident with that portion of the main building lying closest to the front property line; provided, that the degree of nonconformity to be credited in adjoining front yards in either direction from the rear line of the required front yard shall in no instance exceed sixty percent of the required front yard depth;
- (2) The rear line representing the depth of a modified front yard on any lot as defined in subsection (1) of this section shall be established in the following manner:
  - (A) A point shall be established on each improved lot having a nonconforming or conforming front yard between which are located lots needing adjustment, and such point shall be located at the intersection of the rear line of such front yard with a line that constitutes the depth of the lot,
  - (B) A straight line shall be drawn from such point across any intervening unimproved lot or lots, to a point similarly established on the next lot in either direction on which a main building exists which establishes a conforming or nonconforming front yard,
  - (C) The depth of the modified front yard on any lot traversed by the straight line defined in subsection (B) above shall be established by the point where said straight line intersects the line constituting the depth of each such intervening lot.

(Ord. 9060 § 1606)

#### **§ 21.46.080. Property abutting half-streets.**

A building or structure shall not be erected or maintained on a lot which abuts a highway having only a portion of its required width dedicated and where no part of such dedication would normally revert to said lot if the highway were vacated, unless the yards provided and maintained in connection with such building or structure have a width or depth of that portion of the lot needed to complete the road width, plus the width or depth of the yards required on the lot by this ordinance, if any. This section applies to all zones and whether or not yards are required.

This section does not require a yard of such width or depth as to reduce the buildable width of a corner lot to less than forty feet.

(Ord. 9060 § 1607)

#### **§ 21.46.090. Measurement of front yards.**

Front yard requirements shall be measured from the front property line or the indicated edge of a street for which a precise plan exists.

(Ord. 9060 § 1608)

**§ 21.46.100. Vision clearance, corner and reversed corner lots.**

All corner lots and reversed corner lots subject to yard requirements shall maintain for safety vision purposes a triangular area one angle of which shall be formed by the front and side lot lines separating the lot from the streets, and the sides of such triangle forming the corner angle shall each be fifteen feet in length, measured from the aforementioned angle. The third side of the triangle shall be a straight line connecting the last two mentioned points which are distant fifteen feet from the intersection of the front and side lot lines, and within the area comprising the triangle no tree, fence, shrub or other physical obstruction higher than forty-two inches above the established grade shall be permitted.

(Ord. 9060 § 1609)

**§ 21.46.110. Dwellings and apartments above stores.**

Front and side yard requirements shall not be applicable to dwellings and apartments erected above stores. (Ord. 9060 § 1610)

**§ 21.46.120. Permitted intrusions into required yards.**

The following intrusions may project into any required yards, but in no case shall such intrusions extend more than two feet into such required yards:

- (1) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features;
- (2) Fireplace structures not wider than eight feet measured in the general direction of the wall of which it is a part;
- (3) Stairways, balconies and fire escapes;
- (4) Uncovered porches and platforms which do not extend above the floor level of the first floor; provided, that they may extend six feet into the front yard;
- (5) Planting boxes or masonry planters not exceeding forty-two inches in height;
- (6) Guard railings for safety protection around ramps.

(Ord. 9060 § 1611; Ord. 9675 § 1, 1983; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXXIII, 2012)

**§ 21.46.130. Walls, fences or hedges.**

In any "R" zone, no fence, wall or hedge over forty-two inches in height shall be permitted in any required front yard setback. In the required side yard or street side of either a corner lot or reversed corner lot, a six-foot high fence may be permitted when approved by the City Planner when the safety and welfare of the general public are not imposed upon. The issuing of a permit upon the approval of the City Planner shall be subject to special conditions which may vary due to the topography, building placement and vehicular or pedestrian traffic. On an interior lot, a wall or fence not more than six feet in height may be located anywhere to the rear of the required front yard.

(Ord. 9060 § 1612; Ord. 9180 § 1; Ord. 9291 § 1, 1972; Ord. 1256 § 14, 1982; Ord. NS-675 § 42, 2003; Ord. CS-102 § XCI, 2010; Ord. CS-164 § 10, 2011)

**§ 21.46.140. Trees, shrubs and flowers.**

Shrubs, flowers, plants and hedges not more than forty-two inches in height, and trees shall be permitted in any required yard, except as provided in Section 21.46.100.

(Ord. 9060 § 1613)

**§ 21.46.150. Multiple or row dwellings fronting upon a side yard.**

The minimum width of the side yard upon which dwellings front shall be not less than ten feet.

(Ord. 9060 § 1614)

**§ 21.46.160. Multiple or row dwellings rearing upon a side yard.**

Where two-family dwellings or multiple-family dwellings, group houses, court apartments or row dwellings are arranged so that the rear of such dwellings abut upon the side yards, and such dwellings have openings onto such side yards used as secondary means of access to the dwellings, the required side yards to the rear of such dwellings shall be increased by one foot for each dwelling unit having such an entrance or exit opening into or served by such yard, provided such increase need not exceed five feet.

(Ord. 9060 § 1615)

**§ 21.46.170. One building on a lot or building site.**

Any building which is the only building on a lot or building site is a main building unless authorized by variance.

(Ord. 9060 § 1616)

**§ 21.46.180. Through lots.**

Through lots one hundred eighty feet or more in depth may be improved as two separate lots, with the dividing line midway between the street frontages, and each resulting one-half shall be subject to the controls applying to the street upon which such one-half faces. If each resulting one-half be below the minimum lot area as determined by this ordinance, then no division may be made and only one single-family dwelling may be erected upon such lot. If the whole of any through lot is improved as one building site, the main building shall conform to the zone classification of the frontage occupied by such main building, and no accessory building shall be located closer to either street than the distance constituting the required front yard on such street.

(Ord. 9060 § 1617)

**§ 21.46.190. Lot area not to be reduced.**

No lot area shall be so reduced or diminished that the lot area, yards or other open spaces shall be smaller than prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the regulations established by this title.

(Ord. 9060 § 1618)

**§ 21.46.200. Greater lot area than prescribed.**

Greater lot areas than those prescribed in the various zones may be required when such greater areas established by the adoption of a precise plan in the manner prescribed by law, designating the location and size of such greater required areas.

(Ord. 9060 § 1619)

## CHAPTER 21.47 NONRESIDENTIAL PLANNED DEVELOPMENTS

### **§ 21.47.010. Intent and purpose.**

The intent and purpose of the nonresidential planned development regulations are to:

- (1) Ensure that nonresidential projects develop in accordance with the general plan and all applicable specific and master plans;
- (2) Provide for nonresidential projects which are compatible with surrounding developments;
- (3) Provide a method to approve separate ownership of units within multiple-unit buildings or upon a parcel of land containing more than one unit;
- (4) Provide for a method to approve separate ownership of planned unit development lots defined herein;
- (5) Provide for conversion of existing developments to condominiums provided such conversion meets the intent of this chapter and comply with the requirements of the underlying zone.

(Ord. 9685 § 1, 1983)

### **§ 21.47.020. Nonresidential planned development permit.**

The City Council, Planning Commission or City Planner, as provided in this chapter, may approve a permit for a nonresidential planned development in any industrial, commercial or office zone, or combination of zones subject to the requirements thereof except as they may be modified in accord with this chapter.

The application for a nonresidential planned development shall state whether the applicant intends to develop the project as a planned unit development, condominium project or stock cooperative project. For purposes of this chapter, a planned unit development is defined by Section 11003 of the Business and Professions Code of the state and a condominium project is defined by Section 4100 of the California Civil Code.

(Ord. 9685 § 1, 1983; Ord. NS-675 § 76, 2003; Ord. CS-102 § XCIII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXXV, 2012; Ord. CS-242 § 2, 2014)

### **§ 21.47.030. Permitted uses.**

Any principal use, accessory use, transitional use or conditional use permitted in the underlying zone is permitted in a nonresidential planned development.

(Ord. 9685 § 1, 1983)

### **§ 21.47.040. Application and fee.**

- A. An application for a nonresidential planned development permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  1. Be made in writing on a form provided by the City Planner;
  2. State fully the circumstances and conditions relied upon as grounds for the application;
  3. State whether the applicant intends to develop the project as a planned unit development, condominium project or stock cooperative project;

4. Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner;
  5. Be accompanied by a tentative map or tentative parcel map, as applicable, in accordance with Title 20 of this code;
  6. If the applicant contemplates the construction of a nonresidential planned development in phases, the application shall so state and shall include a proposed phasing schedule;
  7. If the applicant proposes to convert existing buildings to a nonresidential planned development, the plans shall reflect the existing buildings and show all proposed changes and additions.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

(Ord. 9685 § 1, 1983; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXXVI, 2012)

#### **§ 21.47.050. Notices and hearings.**

- A. Notice of an application for a nonresidential planned development permit for less than five units or lots shall be given pursuant to the provisions of Section 21.54.060.B and 21.54.061.
- B. Notice of an application for a nonresidential planned development permit for five or more units or lots shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. 9685 § 1, 1983; Ord. NS-675 § 76, 2003; Ord. CS-178 § LXXXVI, 2012)

#### **§ 21.47.060. Decision-making authority.**

- A. Applications for nonresidential planned development permits shall be acted upon in accordance with the following:
  1. Nonresidential Planned Development Permit for Less Than Five Units or Lots.
    - a. An application for a nonresidential planned development permit for less than five units or lots may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
    - b. The City Planner may approve or conditionally approve the nonresidential planned development permit if all of the findings of fact in Section 21.47.070 of this chapter are found to exist.
  2. Nonresidential Planned Development Permit for Five or More Units or Lots.
    - a. An application for a nonresidential planned development permit for five or more units or lots may be approved, conditionally approved or denied by the Planning Commission based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
    - b. The Planning Commission shall hear the matter, and may approve or conditionally approve the nonresidential planned development permit if all of the findings of fact in Section 21.47.070 of this chapter are found to exist.

(Ord. 9685 § 1, 1983; Ord. CS-178 § LXXXVI, 2012)

**§ 21.47.070. Findings of fact.**

- A. The decision-making authority shall approve or conditionally approve a nonresidential planned development permit only if it finds that all of the following facts exist:
1. The granting of this permit will not adversely affect and will be consistent with the code, the general plan, applicable specific plans, master plans, and all adopted plans of the city and other governmental agencies;
  2. The proposed use at the particular location is necessary and desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community;
  3. Such use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
  4. The proposed nonresidential planned development meets all of the minimum development standards of the underlying zone, except for lot area;
  5. In granting a nonresidential planned development permit, the decision-making authority may modify the plan or impose such conditions as it deems necessary to protect the public health, safety and general welfare.

(Ord. 9685 § 1, 1983; Ord. CS-178 § LXXXVI, 2012)

**§ 21.47.073. Announcement of decision and findings of fact.**

When a decision on a nonresidential planned development permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

(Ord. 9685 § 1, 1983; Ord. NS-176 §§ 6, 18, 1991; Ord. NS-352 § 3, 1996; Ord. NS-506 § 4, 1999; Ord. NS-675 § 43, 2003; Ord. CS-178 § LXXXVIII, 2012)

**§ 21.47.075. Effective date and appeals.**

- A. Decisions made by the City Planner pursuant to this chapter shall become effective unless appealed in accordance with the provisions of Section 21.54.140 of this title.
- B. Decisions made by the Planning Commission pursuant to this chapter shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.

(Ord. NS-675 § 44, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § LXXXVIII, 2012)

**§ 21.47.080. Development standards.**

All nonresidential planned developments shall comply with all requirements and development standards of the underlying zone and all requirements of Title 20 (Subdivision Ordinance), with the following exception: nonresidential planned unit developments as defined herein may create lots that do not meet the requirements of Title 20 of the underlying zone. There are no size nor configuration standards for such lots beyond those imposed as a part of the permit, but they shall be reasonable as to intended use and relation to the project and the surrounding area and shall meet the intent and purpose of this chapter as stated herein.

(Ord. 9685 § 1, 1983)

**§ 21.47.090. Conversion of existing buildings to nonresidential planned developments.**

- (a) Conversion of existing buildings to a nonresidential planned development which is a condominium,

planned unit development or stock cooperative shall be processed in the same manner and meet all the standards prescribed in this chapter for a nonresidential planned development. In addition, the structure to be converted must meet present city building regulations.

- (b) An application for conversion of an existing structure to a nonresidential planned development shall include building plans indicating how the building relates to present building and zoning regulations and where modifications will be required. Also, the application shall include a letter from San Diego Gas and Electric explaining that the plans to connect the gas and electric system to separate systems is acceptable.

(Ord. 9685 § 1, 1983)

#### **§ 21.47.100. Expiration, extensions, and amendments.**

- A. The expiration period for an approved nonresidential planned development permit shall be as specified in Section 21.58.030 of this title.
- B. The expiration period for an approved nonresidential planned development permit may be extended pursuant to the provisions of Section 21.58.040 of this title.
- C. An approved nonresidential planned development permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. 9685 § 1, 1983; Ord. CS-178 § LXXXIX, 2012)

#### **§ 21.47.140. Final map.**

Building permits for construction within the proposed nonresidential planned development shall not be issued until a final subdivision map has been recorded for the project. A final map which deviates from the conditions imposed by the permit shall not be approved.

(Ord. 9685 § 1, 1983)

#### **§ 21.47.150. Certification of occupancy.**

A certification of occupancy shall not be issued for any structure in a nonresidential planned development until all improvements required by the permit have been completed to the satisfaction of the City Engineer, City Planner and the Community and Economic Development Director.

(Ord. 9685 § 1, 1983; Ord. NS-675 §§ 76, 79, 2003; Ord. CS-164 §§ 10, 14, 2011)

#### **§ 21.47.160. Maintenance.**

All private streets, walkways, parking areas, landscaped areas, storage areas, screening, sewers, drainage facilities, utilities, open space, recreation facilities and other improvements not dedicated to public use shall be maintained by the property owners. Provisions acceptable to the city shall be made for the preservation and maintenance of all such improvements prior to the issuance of building permits.

(Ord. 9685 § 1, 1983)

**CHAPTER 21.48  
NONCONFORMING LOTS, STRUCTURES AND USES**

**§ 21.48.010. Purpose and intent.**

- A. The purpose and intent of this chapter is to:
1. Allow for the development of nonconforming lots that were legally created.
  2. Establish procedures for the abatement of structures and uses that do not comply with all of the requirements and development standards of this title and which may be adverse to the orderly development of the city and to the public health, safety, or welfare of persons or property.
  3. Permit the continuation of uses and continued occupancy and maintenance of structures that were legally established but do not comply with all of the requirements and development standards of this title, in a manner that is not adverse to the public health, safety or welfare of persons or property.
  4. Permit the repair, alteration, expansion or replacement of nonconforming structures subject to the requirements of this chapter.
  5. Permit the expansion or replacement of nonconforming uses subject to the requirements of this chapter.

(Ord. CS-050 § VI, 2009)

**§ 21.48.020. Applicability.**

- A. The provisions of this chapter apply to:
1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.
  2. Legally constructed structures and site development features that do not comply with the current requirements and development standards of the zone in which they are located.
  3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.
- B. The provisions of this chapter do not apply:
1. To nonconforming signs, which are addressed in Section 21.41.130.
  2. When an accessory dwelling unit or junior accessory dwelling unit is proposed on a lot with an existing nonconforming residential structure that is nonconforming with regard to geologic setback, public view encroachment, coastal access, or habitat preserve buffers, and development of the proposed accessory dwelling unit or junior accessory dwelling unit does not result in redevelopment of the nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions, except where the accessory dwelling unit or junior accessory dwelling unit is located in the coastal zone and is attached to the nonconforming residential structure that is nonconforming with regard to geologic setback, public view encroachment, coastal access, or habitat preserve buffers, and will result in redevelopment of the nonconforming structure. For

purposes of this section, redevelopment shall mean alterations to the residential structure resulting from construction of an accessory dwelling unit or junior accessory dwelling unit that consist of: (a) additions to an existing structure; or (b) exterior or interior renovations; or (c) demolition or replacement of an existing principal structure, or portions thereof, any of which results in replacement (including demolition, renovation or alteration) of fifty percent or more of major structural components including exterior walls, floor, roof structure or foundation, or a fifty percent increase in gross floor area.

(Ord. CS-050 § VI, 2009; Ord. CS-384 § 26, 2020; Ord. CS-427 § 6, 2022)

#### **§ 21.48.030. General provisions.**

- A. It shall be the responsibility of the owner of a nonconforming lot, structure or use to prove to the City Planner that such lot, structure or use was lawfully established, existed on the date of adoption or amendment of this chapter, and has existed continuously as defined herein.
- B. Nothing in this chapter shall be deemed to prevent the rehabilitation, repair, alteration, strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any city official charged with protecting the public safety, upon order of such official. Repairs and alterations may be made to restore a structure to the same condition that existed prior to damage or deterioration, provided that such repairs or structural alterations conform to the provisions of this chapter.

(Ord. CS-050 § VI, 2009)

#### **§ 21.48.040. Nonconforming lots.**

A nonconforming lot may be developed, provided that the development is consistent with the general plan and complies with all of the requirements and development standards of the zone, master plan, or specific plan in which it is located.

(Ord. CS-050 § VI, 2009)

#### **§ 21.48.050. Nonconforming residential structures and uses.**

- A. Specific Provisions.
  1. A nonconforming residential structure and/or nonconforming residential use may be continued and the structure and/or use repaired, altered, expanded or replaced in accordance with the provisions of this chapter provided that the repair, alteration, expansion or replacement does not:
    - a. Result in an additional structural nonconformity; and
    - b. Increase the degree of the existing nonconformity of all or part of such structure or use (i.e. the addition of a new dwelling unit to an existing over density residential use except as otherwise allowed by the General Plan); and
    - c. Reduce the number and size of any required existing parking spaces.
  2. Any expansion of floor area or the addition of a new dwelling unit that results in an increase in parking demand, pursuant to Chapter 21.44, shall provide additional parking to satisfy the increase in parking demand, in compliance with the parking requirements of Chapter 21.44.
  3. An existing single family residence which does not meet the required parking standard (i.e. a two-car garage) may expand floor area if a minimum of two off-street parking spaces are

provided on-site in a location consistent with Section 21.44.060(4).

- B. Repair or Alteration. A nonconforming residential structure and/or a structure which is occupied by a nonconforming residential use may be repaired or altered, provided that the repair or alteration complies with all current fire protection and building codes and regulations contained in Titles 17 and 18.
- C. Expansion.
  - 1. A nonconforming residential structure and/or a nonconforming residential use may be expanded, so as to occupy a greater area of land or more floor area subject to issuance of all required discretionary and building permits and provided that an application for a nonconforming construction permit is submitted and the City Planner approves the findings of fact pursuant to Section 21.48.080(D).
  - 2. Where a single-family residential structure is nonconforming only by reason of substandard yards, the provisions of this chapter requiring a nonconforming construction permit for an expansion shall not apply provided that:
    - a. The area of expansion is not more than forty percent of the existing floor space prior to the enlargement or a maximum of six hundred forty square feet, whichever is less; and
    - b. The area of expansion, when combined with prior expansions of the nonconforming structure, does not exceed forty percent of the floor space that existed prior to any expansions or six hundred forty square feet, whichever is less; and
    - c. The area of expansion shall comply with all current development standards including, but not limited to, setbacks, lot coverage and height limitations; and
    - d. Expansions that exceed the limits of this exception shall require a nonconforming construction permit.
- D. Replacement in the Event of a Disaster. A nonconforming residential structure and/or nonconforming residential use that is destroyed by fire, explosion, or other casualty or natural disaster, may be replaced subject to issuance of all required discretionary and building permits and provided that an application for a nonconforming construction permit is submitted within two years of the date of the disaster and the City Planner approves the findings of fact pursuant to Section 21.48.080.D. The City Planner may grant an extension to the above two-year application submittal limit upon demonstration of good cause by the applicant.
- E. Voluntary Demolition and Subsequent Replacement. A nonconforming residential structure and/or nonconforming residential use that is proposed to be voluntarily demolished may be replaced subject to issuance of all required discretionary and building permits and provided that an application for a nonconforming construction permit is submitted and the City Planner approves the findings of fact pursuant to Section 21.48.080.D prior to the date of the demolition.

(Ord. CS-050 § VI, 2009; Ord. CS-178 §§ XC—XCII, 2012)

#### **§ 21.48.060. Nonconforming nonresidential structures.**

- A. Specific Provisions.
  - 1. A nonconforming nonresidential structure may be continued and the structure repaired, altered, expanded or replaced in accordance with the provisions of this chapter provided that the repair,

- alteration, expansion or replacement does not:
- a. Result in an additional structural nonconformity; and
  - b. Increase the degree of the existing nonconformity of all or part of such structure; and
  - c. Reduce the number and size of any required existing parking spaces.
2. Any expansion of floor area that results in an increase in parking demand, pursuant to Chapter 21.44, shall provide additional parking to satisfy the increase in parking demand.
- B. Repair or Alteration. A nonconforming nonresidential structure may be repaired or altered subject to issuance of all required discretionary and building permits, provided that the repair or alteration complies with all current fire protection and building codes and regulations contained in Titles 17 and 18.
- C. Expansion. A nonconforming nonresidential structure may be expanded, so as to occupy a greater area of land or more floor area subject to issuance of all required discretionary and building permits and provided that an application for a nonconforming construction permit is submitted and the City Planner approves the findings of fact pursuant to Section 21.48.080.D.
- D. Replacement in the Event of a Disaster. A nonconforming nonresidential structure that is destroyed by fire, explosion, or other casualty or natural disaster, may be replaced subject to issuance of all required discretionary and building permits and provided that an application for a nonconforming construction permit is submitted within two years of the date of the disaster and the City Planner approves the findings of fact pursuant to Section 21.48.080.D.
- E. Voluntary Demolition and Subsequent Replacement. A nonconforming nonresidential structure that is proposed to be voluntarily demolished may be replaced subject to issuance of all required discretionary and building permits and provided that an application for a nonconforming construction permit is submitted and the City Planner approves the findings of fact pursuant to Section 21.48.080.D prior to the date of the demolition.

(Ord. CS-050 § VI, 2009; Ord. CS-178 §§ XCIII—XCV, 2012)

#### **§ 21.48.070. Nonconforming nonresidential uses.**

- A. Specific Provisions.
1. A nonconforming nonresidential use and/or structure which is occupied by a nonconforming nonresidential use may be continued and the structure and/or use repaired, altered, expanded or replaced in accordance with the provisions of this chapter provided that the repair, alteration, expansion or replacement does not:
    - a. Increase the degree of the existing nonconformity of all or part of such structure or use; and
    - b. Reduce the number and size of any required existing parking spaces.
  2. Any expansion of a nonresidential use and/or structure which is occupied by a nonconforming nonresidential use that results in an increase in parking demand, pursuant to Chapter 21.44, shall provide additional parking to satisfy the increase in parking demand.
- B. Repair or Alteration. A structure which is occupied by a nonconforming nonresidential use may be repaired or altered subject to issuance of all required discretionary and building permits, provided that

he repair or alteration complies with all current fire protection and building codes and regulations contained in Titles 17 and 18.

- C. Expansion of Use. A nonconforming nonresidential use may be expanded, so as to occupy a greater area of land or more floor area within a structure, subject to issuance of all required discretionary and building permits, provided that an application for a conditional use permit is submitted and the Planning Commission approves the findings of fact pursuant to Section 21.42.030(A).
- D. Relocation. A nonconforming nonresidential use may be moved, in whole or in part, to any other on-site structure, or to any other portion of the structure, lot or site within or upon which it is located, subject to issuance of all required discretionary and building permits and provided that an application for a conditional use permit is submitted and the Planning Commission approves the findings of fact pursuant to Section 21.42.030(A).
- E. Change of Use. A nonconforming nonresidential use may be changed to a use that is permitted in the zone in which the subject property is located, or may be changed to a use that is more conforming, subject to approval of the City Planner and the issuance of a business license.
- F. Replacement of Use. A nonconforming nonresidential use may be replaced with the same or a similar use, as determined by the City Planner, so long as the replacement use does not expand or in any other manner increase the degree of nonconformity with the use regulations of this title.
- G. Discontinuance. If a structure or parcel of land which is occupied by a nonconforming nonresidential use is, or hereafter becomes vacant and remains unoccupied for a continuous period of one year or more, the Planning Director shall determine and shall notify the owner of the property, in writing, that the nonconforming use has been discontinued and the nonconforming use may not be renewed or reestablished.
- H. Reestablishment of a Nonconforming Use in the Event of a Disaster. A nonconforming nonresidential use that is destroyed by fire, explosion, other casualty or natural disaster, may be reestablished subject to issuance of all required discretionary and building permits and provided that an application for a conditional use permit is submitted within two years of the date of the disaster, and the Planning Commission approves the findings of fact pursuant to Section 21.42.030(A).
- I. Voluntary Demolition and Subsequent Reconstruction. A nonconforming nonresidential use that is proposed to be voluntarily demolished and subsequently reconstructed, may be reestablished subject to issuance of all required discretionary and building permits and provided that an application for a conditional use permit is submitted and the Planning Commission approves the findings of fact pursuant to Section 21.42.030(A) prior to the demolition.

(Ord. CS-050 § VI, 2009)

#### **§ 21.48.080. Nonconforming construction permit.**

- A. Application and Fees.
  - 1. An application for a nonconforming construction permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
    - a. Be made in writing on a form provided by the City Planner;
    - b. State fully the circumstances and conditions relied upon as grounds for the application; and

- c. Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner.
  - 2. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- B. Notices and Hearings. Notice of an application for a nonconforming construction permit shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
- C. Decision-Making Authority.
- 1. An application for a nonconforming construction permit may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
  - 2. The City Planner may approve or conditionally approve the nonconforming construction permit if all of the findings of fact in Section 21.48.080.D of this title are found to exist.
- D. Findings of Fact.
- 1. A nonconforming construction permit shall be granted only if the following facts are found to exist in regard thereto:
    - a. The expansion/replacement of the structure and/or use would not result in an adverse impact to the health, safety and welfare of surrounding uses, persons or property.
    - b. The area of expansion shall comply with all current requirements and development standards of the zone in which it is located, except as provided in Section 21.48.050(A)(3) of this chapter.
    - c. The expansion/replacement structure shall comply with all current fire protection and building codes and regulations contained in Titles 17 and 18.
    - d. The expansion/replacement would result in a structure that would be considered an improvement to, or complementary to and/or consistent with the character of the neighborhood in which it is located.
- E. Announcement of Decision and Findings of Fact. When a decision on a nonconforming construction permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.
- F. Effective Date and Appeals. The City Planner's decision on nonconforming construction permits shall become effective unless appealed in accordance with the provisions of Section 21.54.140 of this title.
- G. Expiration, Extensions and Amendments.
- 1. Expiration of Permit if Not Exercised. The expiration period for an approved nonconforming construction permit shall be as specified in Section 21.58.030 of this title.
  - 2. Extension of Permit if Not Exercised. The expiration period for an approved nonconforming construction permit may be extended pursuant to Section 21.58.040 of this title.
  - 3. Amendment. An approved nonconforming construction permit may be amended pursuant to the

provisions of Section 21.54.125 of this title.

(Ord. CS-050 § VI, 2009; Ord. CS-164 §§ 10, 14, 2011; Ord. CS-178 § XCVI, 2012; Ord. CS-212 § 1, 2013)

**§ 21.48.090. Abatement of nonconforming structures and uses.**

- A. If a nonconforming use and/or structure is determined by the City Planner to be adverse to the orderly development of the city and/or to the public health, safety, or welfare of persons or property, the City Planner shall schedule a public hearing before the Planning Commission to establish the conditions of abatement and the abatement period. The abatement period shall start from the date of the applicable resolution and shall be:
  - 1. For All Residential Uses. Not less than one or more than five years.
  - 2. For All Nonresidential Uses. Not less than one or more than ten years.
  - 3. For All Nonconforming Structures. Not less than three years or more than twenty-five years.
  - 4. Nothing in these provisions shall preclude abatement of a nuisance pursuant to Section 6.16.150 of the Carlsbad Municipal Code.
- B. Notices and Hearings. Notice of said public hearing shall be given as required by Section 21.54.060.A and 21.54.061 of this title.
- C. Public Hearing Evidence.
  - 1. The Planning Commission shall consider at the public hearing, all pertinent data to enable it to arrive at an equitable abatement period which will protect the public health, safety or welfare of persons or property, yet will allow the owner of record, or lessee if applicable, sufficient time to amortize their investment.
  - 2. The owner or lessee shall be allowed to present any evidence related to the case.
  - 3. When setting the abatement period, the Planning Commission shall take into consideration the type of construction, age, condition, and extent of nonconformity of the structure or use in question; any structural alterations or expansions; and/or the installation of major equipment designed into the structure prior to the date of nonconformity.
- D. Hearing Decision. After the close of the public hearing, the Planning Commission shall determine and establish by resolution the abatement period, and shall set forth in said resolution all findings and facts upon which the date of such abatement period is based.
- E. Notice of Decision to Owner. The secretary of the Planning Commission shall formally notify the owner of the property of the action of the Planning Commission by mailing a copy of the resolution, via certified return receipt mail, within ten days following the date of its adoption by the Planning Commission.
- F. Effective Date and Appeals. The above action of the Planning Commission shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.
- G. Recordation. The secretary of the Planning Commission shall transmit a final signed copy of the resolution of the Planning Commission or City Council, whichever is final, to the County Recorder of San Diego for recordation.

(Ord. CS-050 § VI, 2009; Ord. CS-178 § XCVI, 2012)

**CHAPTER 21.49  
PLANNING MORATORIUM**

**§ 21.49.010. Purpose and intent.**

- (a) Based on a series of reports, the City Council has found that the city has reached its sewage treatment capacity rights in the Encina water pollution control facility. In view of the fact that sewer service was in most cases unavailable to serve potential building in the city, the City Council added Chapter 18.05 to the municipal code to impose a moratorium on the issuance of building permits subject to certain exceptions.
- (b) The public facilities element of the Carlsbad general plan provides that developments may not be approved unless the City Council can find that all the necessary public services, including sewer service, will be available when needed. Due to the lack of sewage capacity, it is impossible in most cases for the City Council in considering a development to make the necessary findings in order to support an approval. In order to implement the general plan provision, and in view of the fact that sewer service in most cases is unavailable, the City Council has determined that it is necessary to impose a moratorium on the processing of developmental approvals.
- (c) It is also the purpose and intent of this chapter to provide for the eventuality that additional amounts of sewage treatment capacity will become available and to provide authority for the adoption, by the City Council, by resolution, of a system for allocating that capacity among competing demands. Such an allocation would authorize an applicant to process a development in accordance with the usual city procedures.

(Ord. 9518 § 1, 1979)

**§ 21.49.020. Planning moratorium.**

Notwithstanding any provisions of the Carlsbad Municipal Code to the contrary, application, processing or approval of any entitlement for development pursuant to Title 20 or Title 21 of the Carlsbad Municipal Code is prohibited except as follows:

- (1) Applications for approvals located within that portion of the city within the service territory of the San Marcos or Leucadia County water districts may be accepted and processed provided the applicant submits in conjunction with his or her application a letter from such district indicating that the sewer services are available in connection with the development. The application may be approved if the appropriate decision-making body finds that sewer service remains available and will continue to remain available concurrent with need in connection with the development. Such applications may also be accepted and processed provided the applicant submits a letter from such district indicating that sewer service will be available to serve the development, and provided further, that the City Council finds that it is reasonable to expect that sewer service will be available to serve the development concurrent with need.

The approval for any project processed pursuant hereto shall be subject to a condition that final maps may not be approved nor building permits issued until the City Council finds that sewer capacity is in fact available and valid sewer connection permits have been issued.

- (2) Applications for conditional use permits, variances, reversions to acreage, certificates of compliance and adjustment plots may be accepted, processed and approved if the City Manager determines that the approval of such item will not require any new sewer connection permit. The City Manager's determination may be appealed to the City Council, whose decision shall be final.

- (3) Any necessary applications for projects undertaken by the city may be accepted, processed and approved.
  - (4) Any application for which the Carlsbad Municipal Code provides an alternative method of sewer disposal for the project site may be accepted, processed and approved.
  - (5) The City Council may grant exceptions for projects of other governmental agencies if the City Council in its sole discretion determines that the project is necessary and in the public interest.
  - (6) Applications for tentative subdivision map extensions may be accepted, processed and approved subject to the imposition of certain conditions, to insure that the tentative map cannot be finalized without the finding by the City Council that adequate sewer service is available.
  - (7) The City Council may grant exceptions for projects of certain privately owned community facilities, such as churches, schools and hospitals, if the City Council in its sole discretion determines that such project is necessary and in the public interest.
  - (8) Applications for revision of an approved tentative subdivision map may be accepted and processed; provided the City Manager determines that no additional sewer capacity will be required. Such revisions may be approved if the City Council finds that no additional sewer capacity will be required, no additional lots or dwelling units are proposed, the subdivision boundaries are retained, and it is consistent with zoning and applicable general and specific plans.
  - (9) Applications for projects located within the service territory of the city to be served by a satellite sewage treatment facility may be accepted, processed and approved. The approval of any project processed pursuant hereto shall be subject to a condition that final maps or other similar approvals may not be given until the City Council finds that sewer capacity is in fact available. Building permits shall not issue until a valid sewer connection permit has been issued which may be subject to such system for the allocation of capacity in the satellite plant or such other source of sewerage treatment capacity as the City Council may adopt.
  - (10) Applications for revisions to approved master plans in the planned community zone may be accepted and processed.
  - (11) Applications for general plan amendments may be accepted, processed and approved.
  - (12) Applications for annexations may be accepted, processed and approved, provided the City Manager finds that such annexation is necessary to accommodate a revision to an approved master plan or specific plan.
- (Ord. 9600 § 1, 1981; Ord. 9577 § 1, 1981; Ord. 9552 § 1, 1980; Ord. 9542 § 1, 1979; Ord. 9539 §§ 1, 2, 1979; Ord. 9518 § 1, 1979)

#### **§ 21.49.025. Exception for Encina sewer service territory.**

The provisions of Section 21.49.020 shall not apply to land within the Encina sewer service territory or the Palomar Airport Drainage Basin, all as shown on the map entitled sewer service areas on file with the City Clerk and incorporated by reference herein. This section shall be effective when the City Council determines that the capacity from the rerating of the Encina plant is available.

(Ord. 9556 § 1, 1980; Ord. 9600 § 2, 1981)

#### **§ 21.49.030. Sewer allocation system.**

In the event the City Council determines that additional amounts of sewage treatment capacity are

available, but which are not of sufficient quantity to justify lifting the planning moratorium imposed by this chapter, it shall have authority to adopt by resolution a system for allocating all or any part of that capacity. If an applicant receives an allocation pursuant to any such system, it shall constitute an exemption from the provisions of this chapter, and the applicant shall be permitted to apply for and process his or her project; provided that it is done in accordance with the procedures of the allocation system.

(Ord. 9518 § 1, 1979)

## CHAPTER 21.50 VARIANCES

**Note: Prior ordinance history: Ord. Nos. NS-791 and CS-102.**

### **§ 21.50.010. Intent and purpose.**

- A. When practical difficulties, unnecessary hardships, or results inconsistent with the general purpose of this title result through the strict and literal interpretation and enforcement of the provisions hereof, a minor variance or variance from the provisions of this title may be approved or conditionally approved, so that the spirit of this title shall be observed, public safety and welfare secured and substantial justice done.
- B. The purpose of any minor variance or variance shall be to prevent discrimination, and no variance shall be approved or conditionally approved which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone.

(Ord. CS-178 § XCVII, 2012)

### **§ 21.50.020. Application and fee.**

- A. An application for a minor variance or variance may be made by the record owner or owners of the property affected or the authorized agent of the owner or owners. The application shall:
  - 1. Be made in writing on a form provided by the City Planner;
  - 2. State fully the circumstances and conditions relied upon as grounds for the application; and
  - 3. Be accompanied by adequate plans, which allow for detailed review pursuant to this chapter and demonstrate compliance with the requirements of this chapter, a legal description of the property involved and all other materials as specified by the City Planner.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

(Ord. CS-178 § XCVII, 2012)

### **§ 21.50.030. Notices and hearings.**

- A. Notice of an application for a minor variance shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
- B. Notice of an application for a variance shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. CS-178 § XCVII, 2012)

### **§ 21.50.040. Decision-making authority.**

- A. Minor Variances.
  - 1. The City Planner may approve, conditionally approve or deny a minor variance for the following:
    - a. Modifications of distance or area regulations, provided such modification does not exceed

seventy-five percent of required front, side or rear yards nor exceed ten percent of maximum lot coverage regulations;

- i. Unenclosed balconies, patios and decks which extend above the existing ground level may be allowed to project to the property lines of side or rear yards immediately adjacent to permanent open space areas.
  - b. Modifications of the minimum lot width regulations, provided such modification does not result in a lot width less than fifty feet;
  - c. Walls or fences to exceed heights permitted by the zoning regulations;
  - d. Modifications to the sign area regulations, provided such modification does not exceed ten percent of the maximum allowed sign area;
  - e. Modifications to the sign height regulations provided such modification does not exceed ten percent of the maximum allowed sign height.
2. The City Planner's decision shall be based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
  3. The City Planner may approve or conditionally approve a minor variance if all the findings of fact in Section 21.50.050 of this title are found to exist.

B. Variances.

1. The Planning Commission may approve, conditionally approve or deny a variance that is not subject to subsection A of this section.
2. The Planning Commission's decision shall be based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
3. The Planning Commission shall hear the matter and may approve or conditionally approve the variance if all the findings of fact in Section 21.50.050 of this title are found to exist.

(Ord. CS-178 § XCVII, 2012)

**§ 21.50.050. Findings of fact.**

- A. No minor variance or variance shall be approved or conditionally approved unless the decision-making authority finds:
  1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;
  2. That the minor variance or variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located and is subject to any conditions necessary to assure compliance with this finding;
  3. That the minor variance or variance does not authorize a use or activity which is not otherwise

expressly authorized by the zone regulation governing the subject property;

4. That the minor variance or variance is consistent with the general purpose and intent of the general plan, this title and any applicable specific or master plans;
5. In addition, in the coastal zone, that the minor variance or variance is consistent with the general purpose and intent of the certified local coastal program and does not reduce or in any manner adversely affect the requirements for protection of coastal resources.

(Ord. CS-178 § XCVII, 2012)

**§ 21.50.060. Announcement of decision and findings of fact.**

When a decision on a minor variance or variance is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

(Ord. CS-178 § XCVII, 2012)

**§ 21.50.070. Effective date and appeals.**

- A. Decisions on minor variances shall become effective unless appealed in accordance with the provisions of Section 21.54.140 of this title.
- B. Decisions on variances shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.

(Ord. CS-178 § XCVII, 2012)

**§ 21.50.080. Expiration, extensions and amendments.**

- A. The expiration period for minor variances and variances shall be as specified in Section 21.58.030 of this title.
- B. The expiration period for an approved minor variance or variance may be extended pursuant to Section 21.58.040 of this title.
- C. An approved minor variance or variance may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. CS-178 § XCVII, 2012)

## CHAPTER 21.52 AMENDMENTS

**Note: Prior ordinance history: Ord. Nos. CS-102 and CS-164.**

### **§ 21.52.010. Purpose.**

- A. The purpose of this chapter is to establish the process and requirements to amend this title, the general plan, and the local coastal program, including amendments to the boundaries of land use designations and zones.
- B. The process and requirements established by this chapter regarding amendments to the local coastal program are intended to be consistent with and shall not supersede the requirements of the California Coastal Act.

(Ord. CS-178 § XCIX, 2012)

### **§ 21.52.020. Amendment initiation.**

- A. Amendments to this title, the general plan, or local coastal program may be initiated by:
  1. The verified application of one or more owners of property or building proposed to be changed or reclassified;
  2. Resolution of intention of the City Council;
  3. Resolution of intention of the Planning Commission;
  4. The City Planner.

(Ord. CS-178 § XCIX, 2012)

### **§ 21.52.030. Application and fees.**

- A. An application to amend this title, the general plan, or local coastal program shall:
  1. Be made in writing on a form provided by the City Planner;
  2. State fully the circumstances and conditions relied upon as grounds for the application; and
  3. Be accompanied by all other materials as specified by the City Planner.
- B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
- C. If the application is applicable to a specific parcel(s) of land, the application shall be made by the owner of the property affected or the owner's authorized agent. This paragraph shall not apply to an amendment initiated by the city. In addition to the provisions of subsection A of this section, such applications shall also include:
  1. Adequate plans and a legal description of the property involved.

(Ord. CS-178 § XCIX, 2012)

**§ 21.52.040. Notices and hearings.**

Notice of an application to amend this title, the general plan, or the local coastal program shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. CS-178 § XCIX, 2012)

**§ 21.52.050. Decision-making authority.**

A. The City Council may approve or deny amendments to this title, the general plan, or local coastal program.

1. Before the City Council decision, the Planning Commission shall hear and consider the application and shall prepare a recommendation for the City Council that includes the reasons for the recommendation and the relationship of the proposed amendment to applicable provisions of this title, the general plan and local coastal program, and any applicable master or specific plan.
2. The City Council shall hear the matter, and after considering the findings and recommendations of the Planning Commission, may approve, conditionally approve, or deny amendments to this title, the general plan or local coastal program.
3. The City Council may make substantial modifications to the Planning Commission's recommendation on a proposed amendment to this title, the general plan, or local coastal program, including modifications not previously considered by the Planning Commission. The City Council, in its discretion, may refer said modifications back to the Planning Commission for recommendation.

B. Amendments to the local coastal program are also subject to approval by the California Coastal Commission.

(Ord. CS-178 § XCIX, 2012)

**§ 21.52.060. Announcement of decision and findings of fact.**

When a decision is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

(Ord. CS-178 § XCIX, 2012)

**§ 21.52.070. Effective date.**

A. A decision of the City Council to amend the general plan or this title is final, conclusive and shall be effective thirty days after the City Council's adoption of the resolution (for amendments to the general plan) or ordinance (for amendments to this title).

B. Within the coastal zone, the City Council's approval of an amendment to the local coastal program shall not become effective until the amendment is approved by the California Coastal Commission, pursuant to Section 30514 of the Public Resources Code.

(Ord. CS-178 § XCIX, 2012)

## CHAPTER 21.53 USES GENERALLY

### **§ 21.53.010. All zones subject to this chapter.**

The foregoing regulations pertaining to the several zones shall be subject to the general provisions, conditions and exceptions contained in this chapter.

(Ord. 9060 § 1500; Ord. 9804 § 5, 1986)

### **§ 21.53.015. Voter authorization required for airport expansion.**

- (a) The City Council shall not approve any zone change, general plan amendment or any other legislative enactment necessary to authorize expansion of any airport in the city nor shall the city commence any action or spend any funds preparatory to or in anticipation of such approvals without having been first authorized to do so by a majority vote of the qualified electors of the city voting at an election for such purposes.
- (b) This section was proposed by initiative petition and adopted by the vote of the City Council without submission to the voters and it shall not be repealed or amended except by a vote of the people.

(Ord. 9558 § 1, 1980; Ord. 9804 § 5, 1986)

### **§ 21.53.020. Limitation of land use—Sewer availability.**

Except as provided in this title, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is specifically permitted in the same zone in which such building or land is located. Any rights heretofore granted for such development by Title 21 are qualified and made subject to Chapter 18.05 of this code. Notwithstanding the zoning which applies to any property within the city, that property may not be developed unless it is determined that a sewer is available to serve such development and the City Council approves issuance of permits therefor pursuant to a sewer allocation system as the city may adopt.

(Ord. 9060 § 1501; Ord. 9508 § 1, 1978; Ord. 9538 § 1, 1979; Ord. 9804 § 5, 1986)

### **§ 21.53.030. Limitation on issuance of building permit.**

No building permit shall be issued for any building or structure to be erected on a lot having less than twenty feet frontage on a dedicated public street or a public dedicated easement accepted by the city or on a lot situated at the terminus of a street that should be extended. Where the panhandle or flag-shaped portion of a lot is adjacent to the same portion of another such lot, the required minimum frontage on such street or easement shall be fifteen feet provided a joint easement ensuring common access to both such portions is agreed upon by the owners of such lots and recorded. The City Council based on a report from the City Engineer may grant an exception to the limitations of this section for lots situated at the terminus of a street that should be extended.

(Ord. 9060 § 1501(1); Ord. 9073 § 2; Ord. 9467 § 4, 1976; Ord. 9804 § 5, 1986)

### **§ 21.53.040. Clarification of ambiguity.**

If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this title, or if ambiguity exists with respect to matters of height, yard requirements, area requirements or zone boundaries, as set forth in this title and as they may pertain to unforeseen circumstances, including technological changes in processing of materials, it shall be the duty of the City Planner to make an interpretation and thereafter such interpretation shall govern.

(Ord. 9060 § 1502; Ord. 9804 § 5, 1986; Ord. CS-178 § C, 2012)

**§ 21.53.050. Use control in reclassified precise plan.**

In order to assure that the purpose and provisions of a formally adopted precise plan of record shall be conformed to, the land reclassified within any precise plan shall be limited exclusively to such uses as are permitted in the zone to which it is classified. Uses shown on such precise plan, including automobile parking, shall conform to such precise plan, even though such use, or uses, are not otherwise specifically classified by this title as permissible in any given zone.

(Ord. 9060 § 1503; Ord. 9804 § 5, 1986)

**§ 21.53.060. Indicated potential classifications.**

All potential zoning as presently delineated on the zoning map is removed.

(Ord. 9060 § 1504; Ord. 9110 § 1; Ord. 9114 § 1; Ord. 9804 § 5, 1986)

**§ 21.53.070. Translating potential classifications to permissible use.**

Types of land use indicated by circumscribed symbols within areas identified on the zoning map by a dashed line may be activated and made permissible uses by the adoption of a precise plan of design for the area. Such precise plan shall be adopted as a part of the proceedings for the reclassification of property to the indicated potential zone as provided in Chapter 21.52 and the map adopted thereby shall constitute an amendment to the zoning map. This precise plan shall by map, diagram or test, or all of them, indicate boundaries, design, arrangement and dimensions of any streets, alleys, parking areas, building sites and similar features pertinent to precise zoning. The comprehensive provisions of such precise plan shall take precedence over the individual provisions of this title covering subjects such as parking, yards, etc.

(Ord. 9060 § 1505; Ord. 9804 § 5, 1986)

**§ 21.53.080. Public utilities.**

The provisions of this title shall not be construed to limit or interfere with the installation, maintenance and operation of mutual water companies or public utility pipe lines and electric or telephone transmission lines, or railroads, when located in accordance with the applicable rules and regulations of the Public Utilities Commission of the State of California within rights-of-way, easements, franchises or ownerships of such public utilities.

(Ord. 9060 § 1506; Ord. 9804 § 5, 1986)

**§ 21.53.084. Keeping of dogs, cats and household pets.**

Ordinary household pets, including, but not limited to, dogs and cats, may be kept in any zone. Not more than three adult dogs or cats in any combination are permitted for each dwelling unit, together with offspring under four months of age. Such keeping shall conform to the requirements of Chapters 7.04 and 7.08.

(Ord. 9502 § 9, 1978; Ord. 9804 § 5, 1986)

**§ 21.53.085. Wild animals.**

In zones where the keeping of wild animals is permitted, a wild animal may be kept, provided a wild animal permit has been issued for it by the state and provided the keeping of such wild animal does not constitute the establishment or maintenance of a private zoo, as defined in Section 21.04.400 of this title. Private zoos may be established or maintained only as permitted by the underlying zone.

(Ord. 9501 § 3, 1978; Ord. 9804 § 5, 1986; Ord. 5072 § 3, 1986; Ord. CS-178 § CI, 2012)

**§ 21.53.090. Temporary real estate office.**

In any newly created subdivision, the subdivider or assignee may operate a temporary real estate office for the purpose of selling lots in the subdivision only. Such use shall cease no later than the date of the close of escrow of the final home in the subdivision.

(Ord. 9060 § 1507; Ord. 9186 § 1; Ord. 9804 § 5, 1986; Ord. CS-178 § CI, 2012)

**§ 21.53.110. Temporary construction buildings.**

Temporary structures for the housing of tools and equipment, or containing supervisory offices in connection with major construction on major construction projects may be established and maintained during the progress of such construction on such project and shall be abated within sixty days after completion, or sixty days after cessation of work.

(Ord. 9060 § 1509; Ord. 9804 § 5, 1986)

**§ 21.53.120. Affordable housing multi-family residential projects—Site development plan required.**

A. Site Development Plan Requirement.

1. Notwithstanding anything to the contrary in this code, no building permit or other entitlement shall be issued for any multi-family residential development having more than four dwelling units or an affordable housing project of any size unless a site development plan has been approved for the project. The site development plan shall be processed pursuant to the provisions of Chapter 21.06 of this title.
2. A site development plan for a multi-family residential project (not affordable) shall not be required for any project processed pursuant to the provisions of Chapter 21.45 of this title.

B. Development Standards.

1. The development (both for multi-family residential and affordable housing) shall be subject to the development standards of the zone in which the development is located and/or any applicable specific or master plan except for affordable housing projects as expressly modified by the site development plan. The site development plan for affordable housing projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the general plan and adopted policies and goals of the city, it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this chapter shall be consistent with all certified local coastal program provisions, with the exception of density. In addition, the decision-making authority in approving a site development plan may impose special conditions or requirements which are more restrictive than the development standards in the underlying zone or elsewhere that include provisions for, but are not limited to, the following:
  - a. Density of use;
  - b. Compatibility with surrounding properties and land uses;
  - c. Parking standards;
  - d. Setbacks, yards, active and passive open space required as part of the entitlement process, and on-site recreational facilities;

- e. Height and bulk of buildings;
  - f. Fences and walls;
  - g. Signs;
  - h. Additional landscaping;
  - i. Grading, slopes and drainage;
  - j. Time period within which the project or any phases of the project shall be completed;
  - k. Points of ingress and egress;
  - l. Such other conditions as deemed necessary to ensure conformity with the general plan and other adopted policies, goals or objectives of the city.
- C. In addition the decision-making authority may require that the developer provide public improvements either on or off the subject site as are needed to serve the proposed development or to mitigate public facilities needs or impacts created by the project.
- (Ord. 9767 § 1, 1985; Ord. 9804 § 5, 1986; Ord. 9826 § 1, 1987; Ord. NS-207 § 6, 1992; Ord. NS-402 § 7, 1997; Ord. NS-753 § 2, 2005; Ord. CS-178 § CII, 2012)

#### **§ 21.53.130. Satellite television antenna—Purpose.**

The purpose and intent of Sections 21.53.130 through 21.53.150 promulgating satellite television antenna regulations are to set forth clearly defined health, safety or aesthetic objectives of the city which do not operate to impose unreasonable limitations on, or prevent, reception of satellite-delivered signals by antennas or to impose costs on the users of such antennas that are excessive in light of the purchase and installation cost of the equipment, while recognizing that the following standards are necessary and important in preserving the health, safety or aesthetic qualities of the community and various zones in which satellite television antennas are to be located. The further intent and purpose of Sections 21.53.130 through 21.53.150 is to promote the orderly and aesthetically pleasing installation and use of satellite television antennas in all zones while prohibiting to the maximum extent possible unsightly antennas not screened from public view or located in areas where they present the least intrusive appearance to the neighborhood, community and the public.

(Ord. NS-100 § 2, 1990)

#### **§ 21.53.140. Satellite television antenna—Generally.**

- (a) Satellite television antennae, as defined in Section 21.04.302, are permitted in all zones subject to the provisions of this section and the provisions of the underlying zone. Satellite television antennae less than thirty inches in diameter are permitted in any zone and are not subject to the requirements of this section, provided that such antennae are attached to a permitted main or accessory structure on the lot.
- (b) Any satellite antenna erected without an approved satellite antenna permit shall be charged an investigation fee, in addition to the permit fee, which shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this chapter. The payment of such investigation fee shall not exempt the property owner or applicant from compliance with all other provisions of this chapter nor from any penalty prescribed by this code.

- (c) "Antenna Height" Defined. The height of the antenna or dish shall be measured vertically from the highest point of the structure when positioned for operation to the bottom of the base at either roof or ground level whichever is applicable.
- (d) Residential Zone Restrictions. Satellite television antennae shall be considered as accessory to the main structure and shall be permitted in all residential zones subject to the following limitations.
  - (1) The antenna shall be ground-mounted.
  - (2) The antenna shall be located within the rear or side yard only; on corner lots the antenna shall not be located on the street side yard.
  - (3) The antenna shall not exceed fifteen feet in height.
  - (4) The antenna shall not be permitted on properties which have been designated as historic sites.
  - (5) The antenna shall be screened from adjacent properties and public view by a wall, fence, hedge or appropriate plant or landscape material between the antenna and the property line so that no more than twenty-five percent of the antenna extends above the top of the screening material. The proposed antenna screening shall be subject to the review and approval of the City Planner.
  - (6) The antenna shall be located at least four feet from any property line.
  - (7) No more than one satellite television antenna shall be permitted per lot.
  - (8) The antenna shall not exceed ten feet in diameter.
- (e) Commercial and Industrial Zone Restrictions. Satellite television antennae shall be considered as accessory to the main structure and shall be permitted in all commercial and industrial zones subject to the following limitations:
  - (1) Ground-mounted antenna.
    - (A) Ground-mounted antenna shall be located in the rear fifty percent of the lot.
    - (B) The antenna shall not exceed twenty feet in height.
    - (C) The antenna shall not be used as a sign or contain any advertising copy.
    - (D) The antenna shall be screened from adjacent properties and public view by a wall, fence, hedge or other appropriate plant or landscape material between the antenna and the property line so that no more than twenty-five percent of the antenna extends above the top of the screening material.
    - (E) The antenna shall not be located in any required parking area.
  - (2) Roof-mounted antenna may be permitted subject to the following limitations.
    - (A) Roof-mounted antenna shall not exceed fifteen feet in height; provided, however, that in no event shall the antenna extend more than five feet above the permitted height of building upon which it is located.
    - (B) Roof-mounted antennae shall be screened by recessing the antenna into the roof line or by constructing a screen out of similarly textured roofing or exterior wall material as the structure upon which it is located so that the antenna is not visible at ground level.

- (3) No more than one satellite television antenna shall be permitted per lot; provided, however, that additional antennae may be permitted by the City Planner if there is more than one use on a lot which cannot feasibly be served by a single antenna.
- (A) In the PM, CM and M zones, more than one satellite antenna per use may be permitted with a minor conditional use permit. Installation of said antennae shall comply with subsections (e)(1) and (2) listed above.
- (4) The provisions of this subsection shall apply to hotels and motels located in residential zones.
- (5) The provisions of this subsection shall not apply to satellite television antenna used by and located upon the property of a commercial cable television operator franchised by the city.
- (f) Exception—Planned Unit Developments and Condominiums. Provisions of this section shall apply to residential planned developments, planned unit developments or condominiums; provided, however, that roof-mounted antennae may be allowed as part of the planned development permit for the project.
- (g) Agricultural Zone Restrictions. Satellite television antennae shall be considered as accessory to the main structure or use on the property and shall be permitted subject to the following limitations:
- (1) The antenna shall be ground-mounted.
  - (2) The antenna shall be located at least four feet from any property line.
  - (3) The antenna shall not exceed 20 feet in height.
  - (4) The antenna shall be screened from public view by a wall, fence, hedge, or other appropriate plant or landscape material between the antenna and the property line so that no more than 25% of the antenna is visible above the screening material.
- (h) Public Utility Zone Restrictions. Satellite television antennae shall be considered a permitted accessory use in the public utility zones.
- (i) Nonconforming Antennae. Any satellite television antenna erected prior to the effective date of the ordinance codified in this chapter shall be brought into compliance with the provisions of this section no later than one year after the effective date of that ordinance.
- (j) Whenever a discretionary permit is required for construction of a project, the satellite antenna permit may be consolidated with the discretionary permit.
- (k) Nothing in this section shall be construed to eliminate or change the requirement for a conditional use permit for radio or television transmitters.
- (Ord. 9785 § 24, 1986; Ord. 9804 § 5, 1986; Ord. NS-19 § 2, 1988; Ord. NS-100 §§ 3—6, 1990; Ord. CS-164 § 10, 2011; Ord. CS-224 § XXXIX, 2013; Ord. CS-334 § 11, 2018)

#### **§ 21.53.150. Satellite television antenna—Waiver or modification of standards.**

If, after application of the standards set forth in Section 21.53.140, a satellite antenna cannot be physically located on the applicant's property or would result in the imposition of unreasonable costs considering the purchase and installation of the equipment, then the City Planner shall waive or modify the standard(s), but only to the extent necessary to allow the installation of one satellite television antenna to be located on the applicant's property in such a place and manner as to present the least impact on aesthetics from the neighboring properties, neighborhood and public taking into account all the remaining health, safety or

aesthetic regulations set forth in that section.

(Ord. NS-100 § 7, 1990; Ord. CS-102 § CII, 2010; Ord. CS-164 § 10, 2011)

**§ 21.53.230. Residential density calculations, residential development restrictions on open space and environmentally sensitive lands.**

- (a) For the purposes of Titles 20 and 21 of this code, residential density shall be determined based on the number of dwelling units per developable acre of property.
- (b) The following lands are considered to be undevelopable and shall be excluded from density calculation:
  - (1) Beaches;
  - (2) Permanent bodies of water;
  - (3) Floodways;
  - (4) Natural slopes with an inclination of greater than 40% except as permitted pursuant to Section 21.95.140.B of this code;
  - (5) Significant wetlands;
  - (6) Significant riparian or woodland habitats;
  - (7) Land subject to major power transmission easements;
  - (8) Land upon which other significant environmental features as determined by the environmental review process for a project are located;
  - (9) Railroad track beds.
- (c) No residential development shall occur on any property listed in subsection (b). Subject to the provisions of Chapters 21.33 and 21.110, the City Council may permit limited development of such property if, when considering the property as a whole, the prohibition against development would constitute an unconstitutional deprivation of property. The Planning Commission or City Council, whichever is the final decision-making body for a residential development may permit accessory facilities, including, but not limited to, recreational facilities, view areas, and vehicular parking areas, to be located in floodplains (subject to Chapter 21.110) and on land subject to major power transmission easements.
- (d) No more than 50% of the portion of a site containing 25% to 40% slopes may be utilized for calculating allowable residential density. Residential development on slopes with an inclination of 25% to 40%, inclusive, shall be designed to minimize the amount of grading necessary to accommodate the project. For projects within the coastal zone, the grading provisions of the Carlsbad local coastal program and Chapters 21.38 and 21.203 of the municipal code shall apply.
- (e) The potential unit yield for a property, based on the minimum, growth management control point (GMCP), or maximum density of the applicable general plan land use designation, shall be subject to the following:
  - (1) Equation used to determine unit yield: developable lot area (in acres) × density = unit yield.
    - (A) "Density" used in this calculation is the minimum, GMCP, or maximum density of the

applicable general plan land use designation;

- (B) The resulting unit yield shall be subject to Table A, below.
- (2) For purposes of this section:
  - (A) "Rounded-up" means rounding the fractional unit yield up to the next whole unit; and
  - (B) "Rounded-down" means rounding the fractional unit yield down to the previous whole unit, but not less than one unit.
- (3) The information contained in Table A, below, shall not preclude the city from approving residential densities above the GMCP, or maximum density of the applicable land use designation, subject to adopted city policies and regulations.

**Table A Unit Yield Rounding**

Density Used for Calculation	Unit Yield Includes a	Provisions for Unit Yield Rounding
Minimum	fractional unit of 0.5 or greater	SHALL be rounded-up <sup>1</sup>
	fractional unit below 0.5	MAY be rounded-down <sup>2</sup>
GMCP	fractional unit of 0.5 or greater	MAY be rounded-up <sup>3</sup>
	fractional unit below 0.5	SHALL be rounded-down
Maximum	fractional unit	SHALL be rounded-down

**Notes:**

- 1 Unless the project density is allowed below the minimum of the density range, pursuant to the general plan.
- 2 Unit yields rounded-down pursuant to this provision that result in a density below the minimum density of the applicable land use designation shall be considered consistent with the general plan.
- 3 Subject to a fractional and/or whole unit allocation from the "excess dwelling unit bank" and provided the maximum density of the applicable land use designation is not exceeded.

(Ord. 9795 § 1, 1986; Ord. NS-446 § 2, 1998; Ord. NS-524 § 6, 2000; Ord. NS-753 §§ 3, 4, 2005; Ord. CS-171 § 1, 2012; Ord. CS-178 § CIII, 2012; Ord. CS-287 § 7, 2015)

**§ 21.53.240. Nonresidential development restrictions on open space and environmentally sensitive lands.**

Nonresidential development shall be designed to avoid development on lands identified in Section 21.53.230.

(Ord. 9795 § 2, 1986)

**§ 21.53.250. On-shore oil and gas facilities.**

In all zones except C-M, M and P-M on-shore oil and gas facilities including, but not limited to, processing plants, refineries, storage facilities, transfer stations, pipelines, warehouses, offices, tanker terminals, helicopter pads and the like are prohibited.

(Ord. NS-87 § 2, 1989)

**CHAPTER 21.54  
PROCEDURES, HEARINGS, NOTICES AND FEES**

**§ 21.54.010. Review and approval/denial of applications.**

- A. Permit Streamlining Act Compliance. The city shall comply with the requirements of the California Permit Streamlining Act (Title 7, Division 1, Chapter 4.5 of the California Government Code).
- B. Application Form.
  1. The City Planner shall prescribe the form of applications for the development permits or approvals and applications for changes in zone or general plan boundaries or classifications.
  2. The City Planner may prepare and provide application forms and shall prescribe the type of information to be provided with the application by the applicant.
  3. No application shall be accepted unless it is in the proper form and contains all required information.
- C. Signatures on Applications.
  1. All applications shall include the signatures of the owner(s) of the property affected or the authorized agent of the owner.
  2. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the city as represented by the Planning Commission and the City Council.
- D. Applications as Part of Permanent Record. Applications filed pursuant to this title shall be numbered consecutively in the order of their filing, and shall become a part of the city's permanent official records, and there shall be attached thereto and permanently filed therewith copies of all notices and actions with certificates and affidavits of posting, mailing or publications pertaining thereto.
- E. Filing Fees. A fee in an amount established by City Council resolution shall be paid at the time of filing an application for a development permit for approval, or application for a change in zone or general plan boundaries or classifications. No application shall be accepted or deemed accepted until the appropriate fee or fees have been paid.
- F. Application Completeness.
  1. In accordance with Title 7, Division 1, Chapter 4.5, Article 3 of the California Government Code, applications shall be reviewed for completeness as follows:
  2. The City Planner shall consult with appropriate departments concerning the application and shall, within thirty days after the application has been filed with the city, determine in writing whether the application is complete and shall transmit the determination to the applicant.
  3. If the application is determined to be incomplete:
    - a. The written determination shall specify those parts of the application which are incomplete and shall indicate the manner in which the application can be made complete, including a list and description of the specific information needed to complete the application.

- b. The applicant shall have six months from the date the application was initially filed to either resubmit the application or submit the information specified in the determination. Failure of the applicant to resubmit the application or to submit the materials in response to the determination within the six months shall be deemed to constitute withdrawal of the application. If an application is withdrawn or deemed withdrawn a new application must be submitted.
  - 4. Within thirty days of any resubmittal of an application or submittal of materials in response to a written determination of incompleteness, the City Planner shall determine in writing whether the application, together with the subsequently submitted materials, constitute a complete application and shall immediately transmit the determination to the applicant.
  - 5. If an application, together with the submitted materials, is determined by the City Planner to be incomplete, the applicant may appeal the decision in writing to the Planning Commission pursuant to Section 21.54.140. The applicant may also appeal the decision of the Planning Commission to the City Council pursuant to Section 21.54.150.
    - a. The city shall make a final written determination on the appeal not later than sixty calendar days after the receipt of the applicant's written appeal of the City Planner's decision.
  - 6. Failure by the city to meet the time limits specified in this section shall cause the application to be deemed complete.
  - 7. Nothing in this section precludes an applicant and the city from mutually agreeing to an extension of any time limit provided in this section.
- G. Time Limits for Approval or Denial of Development Permits. The city shall approve or disapprove a development permit application within the time limits specified in Title 7, Division 1, Chapter 4.5, Article 5 of the California Government Code, unless an extension of time is mutually agreed to by the applicant and city pursuant to Government Code Section 65957.
- H. Permit Streamlining Act not Applicable to Legislative Actions. The time limits specified in subsections F and G of this section do not apply to legislative actions and likewise do not apply to development permit applications that include legislative changes in applicable general plans, zoning ordinances or other controlling land use legislation.
- (Ord. 9060 § 2000; Ord. 9760 § 15, 1985; Ord. NS-675 §§ 56—58, 76, 2003; Ord. CS-164 § 10, 2011; Ord. CS-178 § CV, 2012)

#### **§ 21.54.040. Decision-making authority for multiple development permits.**

- A. For purposes of this section, "development permit" means any permit, entitlement or approval required pursuant to Title 20 or 21 of this code, or pursuant to any applicable master, specific, or redevelopment plan.
- B. For purposes of this section, "City Planner" shall be interchangeable with "City Engineer" and "Housing and Neighborhood Services Director," and "City Council" shall be interchangeable with "Housing and Redevelopment Commission."
- C. When multiple development permits are processed concurrently for a proposed project, the decision-making authority for all such development permits shall be as follows:
  - 1. The City Planner shall have the authority to approve, conditionally approve or deny, on all concurrently processed development permits, provided that such permits do not include a

development permit that requires a decision from the Planning Commission or City Council.

2. The Planning Commission shall have the authority to approve, conditionally approve or deny, on all concurrently processed development permits that:
    - a. Include a development permit that has been appealed to the Planning Commission in accordance with Section 21.54.140; or
    - b. Include a development permit that requires a decision from the Planning Commission; and that
    - c. Does not include a development permit that requires a decision from the City Council.
  3. The City Council shall have the authority to make a decision on all concurrently processed development permits that:
    - a. Include a development permit that has been appealed to the City Council in accordance with Section 21.54.150 of this title; or
    - b. Include a development permit that requires a decision from the City Council.
- D. Except for appeals, the City Council shall first receive a recommendation from the Planning Commission prior to making a decision on all concurrently processed development permits.  
(Ord. 9060 § 2003; Ord. 9220 § 1, 1968; Ord. 9568 § 5, 1980; Ord. 9760 § 16, 1985; Ord. CS-178 § CV, 2012)

#### **§ 21.54.050. Setting of hearing.**

- A. All proposals for amending zone or general plan boundaries or classifications, or for the granting of any development permit or approval requiring a hearing as provided in this title shall be set for hearing by the City Planner when such hearings are to be held before the Planning Commission and by the City Clerk for hearings to be held before the City Council. Conditional uses in the coastal zone shall be subject to the requirements of this chapter and the additional requirements of Chapter 21.201 as applicable.
- B. The city shall approve or disapprove a project within the time limits specified in California Government Code Sections 65950, 65950.1, 65951, or 65952, unless an extension of time is mutually agreed to by the applicant and city as provided in Government Code Section 65957.
- C. The time limits specified in this section and in Section 21.54.010 above do not apply to legislative actions and likewise does not require that permit applications be deemed approved if not acted on within the statutory period when such permit applications would require legislative changes in applicable general plans, zoning ordinances or other controlling land use legislation.

(Ord. 9060 § 2004; Ord. 1256 § 10, 1982; Ord. 9760 § 17, 1985; Ord. NS-365 § 12, 1996; Ord. CS-079 § VI, 2010; Ord. CS-178 § CV, 2012)

#### **§ 21.54.060. Notices of applications and hearings.**

- A. Noticing of Public Hearings.
  1. When a provision of this code requires notice of a public hearing to be given pursuant to this subsection, at least ten calendar days prior to the public hearing, notice of the hearing shall be given in all of the following ways:

- a. Notice by Mail. Mailed or delivered to:
  - i. The owner of the subject real property or the owner's duly authorized agent;
  - ii. The project applicant and/or the applicant's representative;
  - iii. Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected by the project;
  - iv. All owners of real property as shown on the latest equalized assessment roll within six hundred feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, records of the county assessor or tax collector that contain more recent information than the assessment roll may be used. If the number of owners to whom notice would be mailed or delivered pursuant to this subparagraph is greater than one thousand, in lieu of mailed or delivered notice, notice may be given by placing a display advertisement of at least one-eighth page in at least two newspapers of general circulation within the city.
  - v. All occupants within one hundred feet of the subject property and the area office of the California Coastal Commission (applicable to coastal development permits only).
  - vi. Any person who has filed a written request for notice with the City Clerk. The City Clerk shall charge a fee established by City Council resolution which is reasonably related to the costs of providing this service. Each request shall be annually renewed.
- b. Published or Posted Notice. Unless newspaper advertisement is provided pursuant to Section 21.54.060.A.iv, the public hearing notice shall either be:
  - i. Published pursuant to California Government Code Section 6061 in at least one newspaper of general circulation within the city at least ten calendar days prior to the hearing; or
  - ii. Posted at least ten calendar days prior to the hearing in at least three public places in the city, including one public place in the area directly affected by the proceeding.
2. When a provision of this code requires notice of a public hearing to be given pursuant to this subsection, notice shall be published pursuant to California Government Code Section 6061 in at least one newspaper of general circulation within the city at least ten calendar days prior to the hearing.

B. Noticing of Administrative Permits.

1. When a provision of this code requires notice of an application pursuant to this subsection, at least ten calendar days prior to a decision on the application, written notice shall be given as follows:
  - a. Notice by Mail. Mailed or delivered to:
    - i. The owner of the subject real property or the owner's duly authorized agent;
    - ii. The project applicant and/or the applicant's representative;
    - iii. All owners of real property as shown on the latest equalized assessment roll within

three hundred feet of the real property that is the subject of the administrative permit; or all owners within one hundred feet for minor coastal development permits only. In lieu of utilizing the assessment roll, records of the county assessor or tax collector that contain more recent information than the assessment roll may be used. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection is greater than one thousand, in lieu of mailed or delivered notice, notice may be given by placing a display advertisement of at least one-eighth page in at least two newspapers of general circulation within the city.

- iv. All occupants within one hundred feet of the subject property, and to the area office of the California Coastal Commission. This requirement applies to minor coastal development permits only.
  - v. Any person who has filed a written request for notice with the City Clerk. The City Clerk shall charge a fee established by City Council resolution which is reasonably related to the costs of providing this service. Each request shall be annually renewed.
2. Once notice has been given in accordance with Section 21.54.060.B.1, any person may file written comments or a written request to be heard within ten calendar days of the date of the notice. If a written request to be heard is filed, the City Planner shall:
    - a. Schedule an administrative hearing; and
    - b. Provide written notice at least five calendar days prior to the date of the administrative hearing to the owner of the subject real property or the owner's duly authorized agent, the project applicant and/or applicant's representative, and any person who filed written comments or a written request to be heard.
  3. The noticing requirements specified in Section 21.54.060.A shall apply if an administrative permit is processed concurrently with a permit, entitlement, or action that requires a public hearing.

(Ord. 9060 § 2005; Ord. 9428 § 1, 1975; Ord. 9536 § 1, 1979; Ord. 9758 § 15, 1985; Ord. NS-44 § 1, 1988; Ord. NS-365 § 13, 1996; Ord. CS-178 § CV, 2012)

#### **§ 21.54.061. Content of notice.**

- A. The notice given pursuant to Section 21.54.060 shall include the date, time and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or diagram, of the location of the real property if any, that is the subject of the hearing.
- B. However, within the coastal zone such notice shall contain the following additional information:
  1. A statement that the development is within the coastal zone;
  2. The date of filing of the application and the name of the applicant;
  3. The number assigned to the application;
  4. A brief description of the general procedure of local government concerning the conduct of hearing and local actions;
  5. The system for local and Coastal Commission appeals, including any local fees required,

expressly stating whether the matter is appealable to the Coastal Commission.

C. Notice given pursuant to Section 21.54.060.B shall include a statement that an administrative hearing shall be held upon written request.

(Ord. 9758 § 16, 1985; Ord. NS-365 § 14, 1996; Ord. CS-178 § CV, 2012)

#### **§ 21.54.063. Failure to receive notice.**

The failure of any person or entity to receive notice given pursuant to this chapter shall not constitute grounds for any court to invalidate the action for which the notice is given. If a decision-making body receives substantial evidence that notice has not been given as required by this chapter, then the decision-making body may continue the matter for hearing after proper notice has been given.

(Ord. 9758 § 18, 1985)

#### **§ 21.54.064. Applicant's responsibilities.**

The applicant for any action requiring a notice of public hearing or notice of administrative permit pursuant to the provisions of Section 21.54.060 of this title shall provide the city with public notification materials (i.e. radius map, mailing list and labels as specified by the City Planner) and notice mailing fee equal to the current postage rate to cover the cost of mailing the notice.

(Ord. 9758 § 19, 1985; Ord. CS-102 § CIII, 2010; Ord. CS-164 § 10, 2011; Ord. CS-178 § CVII, 2012)

#### **§ 21.54.080. Investigations.**

The Planning Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon an application set for hearing that will assure action on each case consistent with the purpose of this title, previous amendments or variances.

(Ord. 9060 § 2007)

#### **§ 21.54.090. Rule establishment for conduct of hearings.**

The Planning Commission may establish rules governing the conduct of public hearings conducted by it.

(Ord. 9060 § 2008)

#### **§ 21.54.100. Hearing continuance without public notice.**

If, for any reason, testimony on any case set for public hearing cannot be completed on the date set for such hearing, the person presiding at such public hearing may, before adjournment or recess thereof, publicly announce the time and place to, and at which, said hearing will be continued, and no further notice is required. However, if a decision on a matter set for public hearing is continued by the decision-making body to a time which is not announced at the hearing to be continued to a time certain, the city shall provide notice of the further hearings or action on the proposed development in the same manner and within the same time limits as established in Sections 21.54.060 and 21.54.061.

(Ord. 9060 § 2009; Ord. NS-365 § 15, 1996; Ord. NS-675 § 59, 2003)

#### **§ 21.54.110. Permanent files shall include summary of testimony.**

A summary of all pertinent testimony offered at public hearings held in connection with an application filed pursuant to this ordinance, and the names of persons testifying shall be recorded and made a part of the permanent files of the case.

(Ord. 9060 § 2010)

**§ 21.54.120. Announcement of decision and findings of fact.**

- A. When a decision is made pursuant to this title an announcement of the decision and findings of fact shall be provided when:
  - 1. Pursuant to Section 21.54.060 of this chapter, a public notice was provided for the associated application; or
  - 2. Notice of such decision is required to be provided pursuant to this section.
- B. The decision-making body shall announce its decision in writing as follows:
  - 1. The City Planner shall announce his/her decision and findings by letter.
  - 2. The Planning Commission shall announce its decision and findings by formal resolution.
  - 3. The City Council shall announce its decision and findings (if applicable) by formal resolution or ordinance.
- C. The announcement of decision and findings shall include:
  - 1. A statement that the permit is approved, conditionally approved, or denied;
  - 2. The facts and reasons which, in the opinion of the decision-making body, make the approval or denial of the permit necessary to carry out the provisions and general purpose of this title;
  - 3. Such conditions and limitations that the decision-making body may impose in the approval of the permit.
- D. The announcement of decision and findings shall be mailed to:
  - 1. The owner of the subject real property or the owner's duly authorized agent, the project applicant and/or the applicant's representative at the address or addresses shown on the application filed with the planning division;
  - 2. Any person who has filed a written request for a notice of decision;
  - 3. Any person who filed a written request for an administrative hearing or to be heard at an administrative hearing.

(Ord. 9379 § 2, 1974; Ord. NS-44 § 2, 1988; Ord. NS-365 § 16, 1996; Ord. CS-178 § CVIII, 2012)

**§ 21.54.125. Amendments to development permits.**

- A. For purposes of this section, "development permit" means any permit, entitlement or approval required pursuant to Title 21 of this code, or pursuant to any applicable master, specific, or redevelopment plan.
- B. Any approved development permit may be amended by following the same procedure required for the approval of said development permit (except that if the City Council approved the original permit, the Planning Commission shall have the authority to act upon the amendment), and upon payment of the application fee contained in the most recent fee schedule adopted by the City Council.
- C. If an approved development permit was issued pursuant to the provisions of Section 21.54.042 of this title, any amendment to said permit shall be acted on by the decision-making authority that approved the original permit, except that if the City Council approved the original permit, the Planning

Commission shall have the authority to act upon the amendment.

- D. In granting an amendment, the decision-making authority may impose new conditions and may revise existing conditions.

(Ord. CS-178 § CIX, 2012)

**§ 21.54.130. Restriction on reapplication after denial.**

No application for a zone change, general plan amendment, planned development, variance, conditional use permit, site development plan, specific plan, master plan or other permit, or any amendment to a previously issued permit or plan shall be accepted if a substantially similar application has been finally denied within one year prior to the application date. The City Planner shall determine if the subsequent application is substantially similar to the previously denied application. The effective date of the City Planner's decision and method for appeal of such decision shall be governed by Section 21.54.140 of this code.

(Ord. 9744 § 1, 1984; Ord. NS-675 §§ 60, 76, 2003; Ord. CS-164 § 10, 2011)

**§ 21.54.140. Effective date of order—Appeal of City Planner or Housing and Neighborhood Services Director decisions.**

- A. This section shall apply to those decisions or determinations of the City Planner or Housing and Neighborhood Services Director made pursuant to this title or City Planner determinations pursuant to Title 19 or Title 20. Accordingly, in this section, "Housing and Neighborhood Services Director" shall be interchangeable with "City Planner"; "housing and neighborhood services department" shall be interchangeable with "planning division"; and "Community Development Commission" shall be interchangeable with "City Council."
- B. Whenever the City Planner is authorized, pursuant to this title, Title 19, or Title 20 to make a decision or determination, such decision or determination is final and effective when the City Planner's written determination is mailed or otherwise delivered to the person(s) affected by the determination, whichever time is least restrictive. Within ten calendar days of the date that a decision or determination becomes final, a written appeal may be filed with the City Planner by an interested person. An individual member of the City Council can be an interested person for purposes of the appeal. Filing of such an appeal within such time limits shall stay the effect of the decision or determination of the City Planner until such time as the Planning Commission has acted on the appeal. The appeal shall specifically state the reason or reasons for the appeal. The burden of proof is on the appellant to establish by substantial evidence that the grounds for the requested action exist. Grounds for appeal shall be limited to the following: that there was an error or abuse of discretion on the part of the City Planner in that the decision was not supported by the facts presented to the City Planner prior to the decision being appealed; or that there was not a fair and impartial hearing. Fees for filing an appeal under this section shall be established by resolution of the City Council.
- C. Upon the filing of an appeal, the City Planner shall schedule the appeal for hearing before the Planning Commission as soon as practicable. An appeal shall be heard and noticed in the same manner as was required of the determination or decision being appealed. The appeal hearing before the Planning Commission is de novo; however the Planning Commission shall consider only the evidence presented to the City Planner for consideration in the determination or decision being appealed. The Planning Commission shall determine all matters not specified in the appeal have been found by the City Planner and are supported by substantial evidence. The Planning Commission may affirm, modify, or reverse the decision of the City Planner, and make such order supported by substantial evidence as it deems appropriate, including remand to the City Planner with directions for

further proceedings. The Planning Commission action on an appeal shall be final unless appealed to the City Council, pursuant to the provisions of Section 21.54.150.

(Ord. 9807 § 2, 1986; Ord. NS-176 § 7, 1991; Ord. NS-352 § 5, 1996; Ord. NS-506 § 6, 1999; Ord. NS-675 § 61, 2003; Ord. CS-099 § IV, 2010; Ord. CS-102 § CIV, 2010; Ord. CS-164 §§ 10—12, 2011; Ord. CS-178 § CX, 2012; Ord. CS-199 § 4, 2013)

**§ 21.54.150. Effective date of order—Appeal of Planning Commission decisions.**

- (a) This section shall apply to those decisions or determinations of the Planning Commission made pursuant to this title or Title 19. Accordingly, in this section, "Housing and Neighborhood Services Director" shall be interchangeable with "City Planner"; "housing and neighborhood services department" shall be interchangeable with "planning division"; and "Community Development Commission" shall be interchangeable with "City Council."
- (b) Whenever the Planning Commission is authorized pursuant to this title or Title 19 to make a decision or determination, such decision or determination is final and effective upon the adoption of the resolution or decision. Within ten calendar days of the date that a decision or determination becomes final, a written appeal may be filed with the City Clerk. An individual member of the City Council can be an interested person for purposes of the appeal. Filing of such an appeal within such time limits shall stay the effect of the decision or determination of the Planning Commission until such time as the City Council has acted on the appeal as set forth in this title. The appeal shall specifically state the reason or reasons for the appeal. The burden of proof is on the appellant to establish by substantial evidence that the grounds for the decision or determination exist. Grounds for appeal shall be limited to the following: that there was an error or abuse of discretion on the part of the Planning Commission in that the decision was not supported by the facts presented to the Planning Commission prior to the decision being appealed; or that there was not a fair and impartial hearing. Fees for filing an appeal under this section shall be established by resolution of the City Council.
- (c) Upon the filing of an appeal, the City Clerk shall schedule the appeal for hearing before the City Council as soon as practicable. An appeal shall be heard and noticed in the same manner as was required of the determination or decision being appealed. The appeal hearing before the City Council is de novo; however the City Council shall consider only the evidence presented to the Planning Commission for consideration in the determination or decision being appealed. The City Council shall determine all matters not specified in the appeal have been found by the Planning Commission and are supported by substantial evidence. The City Council may affirm, modify, or reverse the action of the Planning Commission, and make such order supported by substantial evidence as it deems appropriate, including remand to the Planning Commission with directions for further proceedings. Any action by the City Council shall be final and conclusive; provided, however, that any action reversing the decision of the Planning Commission shall be by the affirmative vote of at least three members of the City Council.
- (d) Upon receipt of a written appeal to the City Council filed with the City Clerk, the City Clerk shall advise the City Planner who shall transmit to said clerk the Planning Commission's complete record of the case.

(Ord. NS-675 § 62, 2003; Ord. CS-099 § V, 2010; Ord. CS-102 § CV, 2010; Ord. CS-164 §§ 10—12, 2011; Ord. CS-199 § 5, 2013)

## CHAPTER 21.55 DEDICATION OF LAND AND FEES FOR SCHOOL FACILITIES

### **§ 21.55.010. Title.**

This chapter shall be known as the school facilities dedication and fee ordinance.

(Ord. 9505 § 1, 1978)

### **§ 21.55.020. Authority—Conflict.**

This chapter is adopted pursuant to the provisions of Section 66478 of the California Government Code. In the case of any conflict between the provisions of this chapter, and those of the California Government Code, the latter shall prevail.

(Ord. 9505 § 1, 1978; Ord. NS-365 § 17, 1996; Ord. CS-102 § CVI, 2010)

### **§ 21.55.030. Purpose and intent.**

This chapter is intended to implement the school facilities dedication and fees legislation in the city and to provide authority whereby the city, affected school districts, and applicants for land development approvals may undertake such reasonable steps as the City Council determines to be necessary to alleviate overcrowding of school facilities.

(Ord. 9505 § 1, 1978)

### **§ 21.55.040. Regulations.**

The City Council may from time to time, by resolution, issue regulations to establish procedures, interpretations and policy directions for the administration of this chapter.

(Ord. 9505 § 1, 1978)

### **§ 21.55.050. Findings.**

The City Council of the city finds and declares as follows:

- (a) Adequate school facilities should be available for children residing in new residential developments.
- (b) Public and private residential developments may require the expansion of existing public schools or the construction of new school facilities.
- (c) In many areas of the city, the funds for the construction of new classroom facilities are not available when new development occurs, resulting in the overcrowding of existing schools.
- (d) New housing developments frequently cause conditions of overcrowding in existing school facilities which cannot be alleviated under existing law within a reasonable period of time.
- (e) That, for these reasons, new and improved methods of financing for interim school facilities necessitated by new development are needed in the city.

(Ord. 9505 § 1, 1978)

### **§ 21.55.060. General plan.**

The general plan of the city provides for the location of public schools. Those interim school facilities to be constructed from fees paid or those lands to be dedicated for school facilities as required by this chapter

shall be consistent with the general plan of the city.

(Ord. 9505 § 1, 1978)

**§ 21.55.070. Definitions.**

Whenever the following words are used in this chapter, unless otherwise defined, they shall have the meaning ascribed to them in this section:

"Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of such school as determined by the governing body of the district.

"Decision making body" means the City Council, Planning Commission, City Engineer, City Planner and Community and Economic Development Director.

"Dwelling unit" means a building or a portion thereof, or a mobile home, designed for residential occupancy by one person or a group of two or more persons living together as a domestic unit.

"Interim facilities" or "interim school facilities" means temporary classrooms, including their utilities, furnishings and toilet facilities not constructed with permanent foundations.

"Reasonable methods for mitigating conditions of over-crowding" shall include, but not be limited to, the following:

- (1) Agreements between a subdivider and the affected school district whereby temporary-use buildings will be leased to the school district;
- (2) The use of temporary-use buildings owned by the school district;
- (3) The use of temporary portable classrooms, student busing, classroom double sessions, year-round use of school facilities, school boundary realignments, and elimination of low priority school facility uses;
- (4) The use of available annual tax rate bond revenues or state loan revenues, to the extent authorized by law;
- (5) The use of funds which could be available from the sales of surplus school district real property and funds available from any other sources.

"Residential development" means a project containing residential dwellings, including mobile homes, of one or more units, or a subdivision of land for the purpose of constructing one or more residential dwelling units. Residential development includes but is not limited to:

- (1) A tentative or final subdivision map or parcel map or a time extension or amendment to such a map;
- (2) A conditional use permit;
- (3) A site development plan;
- (4) A variance;
- (5) A privately proposed specific plan or amendment thereto which would allow an increase in authorized residential density;
- (6) A privately proposed amendment to the city general plan which would allow an increase in

authorized residential density;

- (7) An ordinance rezoning property to a residential use or to a more intense residential use;
- (8) A grading permit;
- (9) A building permit;
- (10) Any other discretionary permit for residential use.

(Ord. CS-164 §§ 10, 14, 2011; Ord. NS-675 §§ 76, 79, 2003; Ord. 1261 § 52, 1983; Ord. 1256 § 7, 1982; Ord. 9533 § 2, 1979; Ord. 9505 § 1, 1978)

#### **§ 21.55.080. Exemptions.**

A residential development shall be exempt from the requirements of this chapter when it consists only of the following:

- (a) Any modification or remodel of an existing legally established dwelling unit where no additional dwelling units are created;
- (b) Any rebuilding of a legally established dwelling unit destroyed or damaged by accident, act of God or other catastrophe;
- (c) A condominium conversion where fees have been paid pursuant to this chapter in connection with the issuance of approvals for the construction of the building being converted.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.090. Notice to school districts.**

The city shall notify all potentially affected school districts of an application for any residential developments proposed for location within their boundaries. Such notice shall not be required if said district has already made the findings listed in Section 21.55.100 or for developments for which a grading permit or building permit are the only required city approvals.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.100. School district findings.**

If the governing body of the school district which operates an elementary or high school in the city makes a finding supported by clear and convincing evidence that (a) conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing; and (b) that all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible methods for reducing such conditions exist, the governing body of the school district shall notify the City Council. The notice of findings sent to the city shall specify the mitigation measures considered by the school district. After the receipt of any notice of findings complying with this section, the City Council shall determine whether it concurs in such school district findings. The City Council may schedule and hold a public hearing on the matter of its proposed concurrence prior to making its determination. If the City Council concurs in such findings, the provisions of Section 21.55.120 shall be applicable to actions taken on residential development by a decision-making body.

(Ord. 9505 § 1, 1978)

**§ 21.55.110. Requirements of notice of findings.**

Any notice of findings sent by a school district to the City Council shall specify:

- (a) The findings listed in Section 21.55.100.
- (b) The mitigation measures and methods, including those listed in subsection (a) of Section 21.55.070 considered by the school district and any determination made concerning them by the district;
- (c) The precise geographic boundaries of the overcrowded attendance area or areas;
- (d) Whether the school district has received an apportionment pursuant to the Leroy F. Green State School Building Lease Purchase Law of 1976 (Chapter 22, commencing with Section 17700, of Part 10 of the California Education Code);
- (e) Such other information as may be required by the City Council.

(Ord. 9505 § 1, 1978; Ord. 9533 § 3, 1979)

**§ 21.55.120. Restriction on approval of residential developments—City Council findings.**

Within the attendance area where it has been determined pursuant to Section 21.55.100 that conditions of overcrowding exist, no decision-making body shall approve an application for a residential development within such area, unless such decision-making body makes one of the following findings:

- (a) That action will be taken pursuant to this chapter to provide dedications of land and/or fees to mitigate conditions of overcrowding; or
- (b) That there are specific overriding fiscal, economic, social or environmental factors which in the judgment of the decision-making body would benefit the city, thereby justifying the approval of a residential development otherwise subject to the provisions of this chapter. An agreement between the applicant for a residential development and the school district to mitigate conditions of overcrowding within that attendance area may be considered by a decision-making body as such an overriding factor.

(Ord. 9505 § 1, 1978)

**§ 21.55.130. Requirement of fees and/or dedications.**

For the purpose of establishing an interim method of providing classroom facilities where overcrowding conditions exist as determined pursuant to Section 21.55.100, the city may require, as a condition to the approval of a residential development, the dedication of land, the payment of fees in lieu thereof, or a combination of both, as determined by a decision-making body during the hearings and other proceedings on specific residential development applications falling within its jurisdiction. Prior to imposition of the fees and/or dedications of land, it shall be necessary for a decision-making body acting on the application to make the following findings:

- (a) The city general plan provides for the location of public schools.
- (b) The land or fees, or both, transferred to a school district shall be used only for the purpose of providing interim elementary, junior high or high school classroom and related facilities.
- (c) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary, junior high or high school facilities and shall be reasonably related and limited to the need for schools

caused by the development; provided, however, the fee shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of the fees, the builder of a residential development may, at the developer's option and at the developer's expense, provide interim facilities, owned or controlled by such developer, at the place designated by the school district, and at the conclusion of the fifth school year the developer shall, at developer's expense, remove the interim facilities from such place.

- (d) The facilities to be constructed, purchased, leased, or rented from such fees, or the land to be dedicated, or both, is consistent with the city general plan.

(Ord. 9505 § 1, 1978; Ord. 9533 § 4, 1979)

#### **§ 21.55.140. Payment of fees in smaller developments.**

Only the payment of fees shall be required in subdivisions containing fifty lots or less and in residential developments where a building permit or grading permit are the only required city approvals. Sections 21.55.160, 21.55.170, 21.55.180 and 21.55.190 shall not apply to residential developments for which only fees may be required.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.150. Standards for land dedication and fees.**

The standards for the amount of dedicated land or fees to be required shall be determined by the City Council and set by resolution. The governing board of each school district where a determination has been made pursuant to Section 21.55.100 that conditions of overcrowding exist, shall recommend standards for their attendance areas to the City Council. Such standards and the facts supporting them shall be transmitted to the City Council within sixty days of a request therefor by the City Council or within sixty days following the issuance of the initial permit for the development. Failure to provide such recommendation shall constitute a waiver by the governing body of the school district of the fees. If the City Council concurs in such recommended standards, they shall, until revised, be used by decision-making bodies in situations where dedications of land and/or fees are required as a condition to the approval of a residential development. Nothing in this section shall prevent the City Council from using standards other than those recommended by the school district in the event the City Council is unable to concur in those transmitted by the district.

(Ord. 9505 § 1, 1978; Ord. 9533 § 5, 1979)

#### **§ 21.55.155. Limitation on fee—Builder's option.**

- (a) Notwithstanding anything in this chapter to the contrary, after a school district has received an apportionment pursuant to the Leroy F. Green State School Building Lease Purchase Law of 1976 (Chapter 22, commencing with Section 17700, of Part 10 of the California Education Code), the dedication of land or the payment of a fee shall not be required. Any school district receiving such an apportionment shall immediately notify the city.
- (b) Notwithstanding the provisions of Section 21.55.150, the fee to be required by this chapter shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of such fees, the builder of a residential development shall have the option, at his or her expense, of providing interim facilities, owned or controlled by such builder, at the place designated by the school district, and at the conclusion of the fifth school year the builder shall, at his or her expense, remove the interim facilities. In exercising such option the builder shall make arrangements satisfactory to the school district prior to the issuance of building permits within the residential development.

(Ord. 9505 § 1, 1978; Ord. 9533 § 5, 1979)

**§ 21.55.160. Filing application for residential development.**

At the time of filing an application for approval of a residential development located within an attendance area where the findings required by Section 21.55.100 have been made, the applicant shall, as part of such filing, indicate whether he or she prefers to dedicate land for school facilities, to pay a fee in lieu thereof, or do a combination of these. If the applicant prefers to dedicate land, he or she shall suggest the specific land.

(Ord. 9505 § 1, 1978)

**§ 21.55.170. Notification to school districts.**

Upon receipt of an application for a residential development within an attendance area where the findings required by Section 21.55.100 have been made, the City Planner shall notify the affected school districts thereof. Said notification shall be made no later than thirty days prior to consideration of the application by a decision-making body.

(Ord. 9505 § 1, 1978; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

**§ 21.55.180. Decision factors.**

(a) Upon receipt of the notification required by Section 21.55.170, the governing board of the affected school district shall recommend whether a dedication of land within the development, payment of a fee in lieu thereof, or a combination of both, should be required. The school district shall make and transmit their recommendation to the City Planner within twenty days of the notification date. Failure by a district to reply within such twenty-day period shall be deemed to be a recommendation that a fee payment only be required. The City Planner shall submit the recommendation to the appropriate decision-making body for concurrence. If the decision-making body concurs in such recommendations, it may, at the time of its consideration of a residential development application, impose such requirements. In their respective actions regarding this determination, the school district and the decision-making body shall consider the following factors:

- (1) Whether lands offered for dedication will be consistent with the city general plan;
- (2) Whether the lands offered for dedication meet the criteria established by Education Code Section 39000, et seq.;
- (3) The topography, soils, soil stability, drainage, access, location and general utility of land in the development available for dedication;
- (4) Whether the location and amount of lands proposed to be dedicated or the amount of fees to be paid, or both, will bear a reasonable relationship and will be limited to the needs of the community for interim elementary, junior high school, or senior high school facilities and will be reasonably related and limited to the need for schools caused by the development;
- (5) If only a subdivision is proposed, whether it will contain fifty parcels or less.

Nothing herein shall prevent a decision-making body from imposing requirements other than those recommended by the school district in the event that a decision-making body is unable to concur in the district's recommendation hereunder.

- (b) If the school district has entered into an agreement with the applicant for the residential development to mitigate conditions of overcrowding within the attendance area covered by the application, the governing board shall, upon receipt of the notification required by Section 21.55.170, so advise the City Planner and transmit a copy thereof for submission to the appropriate decision-making body for

consideration as an overriding factor under Section 21.55.120.  
(Ord. 9505 § 1, 1978; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.55.190. School district schedule.**

Following the action by a decision-making body to require the dedication of land or the payment of fees, or both, the City Planner shall notify each school district affected thereby. The governing body of the school district shall then submit a schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the City Council and the reasons for the modifications.

(Ord. 9505 § 1, 1978; Ord. 1256 § 7, 1982; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.55.200. Land dedication.**

When land is to be dedicated, it shall be offered for dedication to the affected school district in substantially the same manner as prescribed in Title 20 regarding streets and public easements for subdivisions. Dedicated land which subsequently is determined by the school district to be unsuitable for school purposes may be sold with the approval of the City Council. The funds derived therefrom must be used in accordance with this chapter.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.210. Fee payment.**

If the payment of a fee is required, such payment or the pro rata amount thereof shall be made at the time a building permit within the residential development is approved and issued.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.220. Fees held in trust.**

Fees paid under this chapter shall be held in trust by the city. Such fees, plus accrued interest, less a reasonable service and handling charge of no more than the accrued interest, shall be transferred to the school districts operating schools within the attendance area from which the fees were collected from time to time as the City Council may determine.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.230. Use of land and fees.**

All land or fees, or both, collected pursuant to this chapter and transferred to a school district, shall be held in trust and shall be used only by the district for the purpose of providing interim elementary, junior high or high school classroom and related facilities in the attendance area from which the land or fees were collected.

(Ord. 9505 § 1, 1978)

#### **§ 21.55.240. Refunds.**

If a residential development approval is vacated or voided, and if the affected school district has not made use of the land and/or fees collected therefor, and if the applicant so requests, the governing board of the school district shall order the land and/or fees returned to the applicant.

(Ord. 9505 § 1, 1978)

**§ 21.55.250. Agreement for fee distribution.**

If two separate school districts operate schools in an attendance area where the City Council has concurred that overcrowding conditions exist for both school districts, the City Council will enter into an agreement with the governing body of each school district for the purpose of determining the distribution of revenues from the fees levied pursuant to this chapter. In the event the school districts do not agree, the city shall retain all fees until an agreement is secured.

(Ord. 9505 § 1, 1978)

**§ 21.55.260. Fee fund records and reports.**

Any school district receiving funds pursuant to this chapter shall maintain a separate account for any fees paid and shall file a report with the City Council on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased, or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1st of each year and shall be filed more frequently at the request of the City Council.

(Ord. 9505 § 1, 1978)

**§ 21.55.270. Termination of dedication and fee requirements.**

When it is determined by the City Council that conditions of overcrowding no longer exist in an attendance area, decision-making bodies shall cease levying any fee or requiring the dedication of any land for that area pursuant to this chapter. Action under this section shall not affect the validity of conditions already imposed for levy of fees and dedications of land and such conditions shall remain binding.

(Ord. 9505 § 1, 1978)

**§ 21.55.280. Operative date.**

This chapter shall become operative on October 5, 1978.

(Ord. 9505 § 1, 1978)

**§ 21.55.290. Residential developments in process—Exempted.**

Residential developments for which the only city approvals required are a grading permit or building permit are exempt from the provisions of this chapter, provided the application for such grading permit or building permit has been accepted by the city as complete and was on file with the city on September 5, 1978.

(Ord. 9505 § 1, 1978)

## CHAPTER 21.56 INTERPRETATION

### **§ 21.56.010. Provisions to be minimum requirements—Conflict of provisions.**

In interpreting and applying the provisions of this title they shall be held to be the minimum requirement for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this title to interfere with or abrogate or annul any easement, covenant or other agreement between parties, provided, however, for developments located in the coastal zone, easements, covenants, or other agreements between parties may not annul the requirements, restrictions or obligations placed on the zone. When this title imposes a greater restriction upon the use of building or land, or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this title shall control.

(Ord. 9060 § 2100; Ord. NS-365 § 18, 1996)

**CHAPTER 21.58  
VIOLATION—REVOCATION—EXPIRATION**

**Note: Prior ordinance history: Ord. Nos. 9060, 9337, 9423, and 9760.**

**§ 21.58.010. Notice of violation for noncompliance with conditions.**

- (a) Failure to comply with the conditions of approval for any discretionary or ministerial permit is unlawful. Whenever the city has knowledge that conditions of approval of any permit or discretionary action issued pursuant to this title have not been complied with, the city shall mail by certified mail a notice of intention to record a notice of violation to the property owner and the permittee. The notice of intention to record a notice of violation shall:
  - (1) Describe the conditions of development in detail, naming the permittees and owners of the property;
  - (2) Describe the violation (specifying which condition(s) have not been satisfied);
  - (3) State that an opportunity will be given to the property owner and/or permittee to present evidence why such notice should not be recorded; and
  - (4) Specify a place, time, and date, which is not less than thirty days and not more than sixty days from the date of mailing at which the owner may present evidence to the city.
- (b) If, after the owner and/or permittee has presented evidence, the city determines that there has been no violation, the city shall mail a clearance letter to the owner and permittee.
- (c) If, however, after the owner and/or permittee has presented evidence, the city determines that the owner and/or permittee has in fact not complied with conditions of the subject approval or discretionary action, or if within fifteen days of receipt of a copy of such notice the owner and/or permittee of such real property fails to inform the city of his or her objection to recording the notice of violation, the city shall record the notice of violation with the County Recorder.
- (d) The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such real property.

(Ord. CS-102 § CVII, 2010)

**§ 21.58.020. Revocation of permits or variance.**

- (a) The decision-making body who issued a permit pursuant to this title may revoke or modify said permit or variance; except those permits or variances issued by the City Planner, in which case the Planning Commission, may revoke or modify said permit or variance. The revocation hearing shall be noticed consistent with Section 21.54.060, and the revocation shall be based on one or more of the following grounds:
  - (1) That the approval was obtained by fraud;
  - (2) That the use for which such approval is 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 permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation;

- (5) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

(Ord. CS-102 § CVII, 2010; Ord. CS-164 § 10, 2011)

#### **§ 21.58.030. Expiration of permits.**

Any permit or approval granted pursuant to this title becomes null and void if not exercised within two years of the date of approval; however, permits or approvals which are issued in conjunction with a tentative map or tentative parcel map, shall not expire sooner than the approved tentative map or tentative parcel map. The permit or approval may be extended pursuant to Section 21.58.040.

(Ord. CS-102 § CVII, 2010; Ord. CS-178 § CXII, 2012)

#### **§ 21.58.040. Extensions.**

- (a) This section shall apply to extensions of time that may be granted to permits or approvals granted pursuant to this title.
- (b) The City Planner may administratively, without a public hearing or notice, extend the time within which the right or privilege granted under a permit or approval is valid, subject to the following:
- (1) Prior to the expiration date of the permit or approval, the applicant shall submit a written request for a time extension, along with payment of the application fee contained in the most recent fee schedule adopted by the City Council.
- (2) Provided the written request for a time extension is timely filed, the permit shall be automatically extended until a decision to approve, conditionally approve or deny the request is rendered; however, if a time extension is granted, it shall be based on the original approval date.
- (3) The City Planner shall extend the permit or approval for an additional two years, if the following findings are made:
- (A) The permit or approval remains consistent with the general plan, all titles of this code and growth management program policies and standards in place at the time the extension is considered.
- (B) Circumstances have not substantially changed since the permit or approval was originally granted.
- (C) The City Planner may grant no more than three, two-year extensions, for a total cumulative time extension of six years; except however, that any permit or approval issued in conjunction with the approval of a tentative map or tentative parcel map shall be extended for the same period of time that a tentative map or tentative parcel map may be extended pursuant to Title 20 of this code.
- (D) All project related permits or approvals, which were granted concurrently, shall be extended to expire concurrently, provided all such permits are extended pursuant to the provisions of this section.
- (E) When granting an extension of a permit or approval, the City Planner may impose new conditions and may revise existing conditions.
- (F) The City Planner shall announce in writing, by letter, his/her decision to grant or deny an extension of a permit or approval. A copy of the letter announcing the City Planner's

decision shall be mailed to the applicant and/or the applicant's representative and to any person who has filed a written request to receive such notice.

(Ord. CS-178 § CXIII, 2012)

**CHAPTER 21.60  
PERMITS—LICENSE ENFORCEMENT**

**§ 21.60.010. Certificate of occupancy permit.**

To assure compliance with the parking requirements and other provisions of the zoning title, a certificate of occupancy shall be obtained from the Community and Economic Development Director before:

- (1) Any new building be initially occupied or used;
- (2) Any existing building be altered or a change of type or class of use be made; and
- (3) A change of use of any unimproved premises be made.

(Ord. 9060 § 2300; Ord. 1261 § 53, 1983; Ord. NS-675 § 79, 2003; Ord. CS-164 § 14, 2011)

**§ 21.60.020. Conflicting licenses or permits.**

All departments, officials or public employees vested with the duty or authority to issue permits or licenses where required by law shall conform to the provisions of this title. No such license or permit for uses, buildings or purposes where the same would be in conflict with the provisions of this title shall be issued. Any such license or permit, if issued in conflict with the provisions hereof, shall be null and void.  
(Ord. 9060 § 2301)

**§ 21.60.030. Permit issuance for model homes.**

Whenever a tentative subdivision map shall have been approved by the Carlsbad city Planning Commission and the Carlsbad City Council, the Community and Economic Development Director may issue building permits for model homes to be located on property contained within any such tentative map under the following conditions:

- (1) That no certificate of occupancy or final inspection certificate shall be issued for such model homes until the final subdivision map shall have been filed and recorded;
- (2) That all model homes shall be erected on lots as indicated on the approved subdivision map and all regulations of the Zoning Ordinance shall be observed in the manner required of lots on a recorded subdivision;
- (3) That not more than four building permits for model homes may be issued for any one proposed subdivision for which a tentative map has been fully approved by the city; provided, that if such model homes are to be located on streets that are not dedicated and improved in accordance with the standards of the city not more than two building permits for more than two such model homes may be issued;
- (4) That if for any reason the final recording of the final map is not completed within a one-year period, or the map is abandoned, final inspection certificate and certificate of occupancy for any model homes erected under this section may be issued upon the dedication of the full right-of-way required along the full frontage of any lots built upon and the full improvement to city standards of such right-of-way.

(Ord. 9060 § 2301.1; Ord. 9082 § 1; Ord. 1261 § 53, 1983; Ord. NS-675 § 79, 2003; Ord. CS-164 § 14, 2011)

**CHAPTER 21.61  
JUDICIAL REVIEW OF ZONING DECISIONS AND TIME LIMITATION**

**§ 21.61.010. Time limits for judicial review of zoning decisions.**

Any legally permitted action or proceeding to attack, review, set aside, void, annul, or seek damages or compensation for any city decision or action taken pursuant to this title or to determine the reasonableness, legality or validity of any condition attached thereto shall not be maintained by any person unless such action or proceeding is commenced and service effected within the time limits specified in Chapter 1.16 of this code and Section 65860 of the Government Code and Sections 21167 and 30801 of the Public Resources Code. Thereafter all persons are barred from commencing or prosecuting any action or proceeding or asserting any defense of invalidity or unreasonableness of such decision or of such proceedings, determinations or actions taken. For the purpose of this section, the terms "decision," "determination," "action taken" and "action taken pursuant to this code" shall include administrative, adjudicatory, legislative, discretionary, executive and ministerial decisions, determinations, proceedings or other action taken or authorized by this code. The provisions of this section shall not expand the scope of judicial review and shall prevail over any conflicting provisions and any otherwise applicable law relating to the subject matter.

(Ord. 1216 § 2, 1979)

**§ 21.61.020. Zoning as the result of judicial decision.**

Whenever any zone or zone classification is declared invalid as applied to any specific property or properties by the final action of any court of competent jurisdiction, such property shall automatically be zoned L-C limited control and shall be subject to the provisions of Chapter 21.39 of this code without the necessity of any action by the city.

(Ord. 9540 § 2, 1980)

**§ 21.61.025. Notification of litigation and Attorney General intervention for developments in the coastal zone.**

The provisions of Public Resources Code Section 30800 et seq., shall apply to developments in the coastal zone in any case where no appeal has been filed from the decision of a local government on a development permit in the coastal zone (including decisions or nonappealable developments) or where an appeal has been filed but the Commission has determined not to hear the appeal, and where litigation has subsequently been commenced against the local government concerning its decision, the local government and plaintiff or petitioner shall promptly forward a copy of the complaint or petition to the Executive Director of the Commission. At the request of the local government (with the concurrence of the commission) or upon an order of the Commission, the Executive Director shall request the Attorney General to intervene in such litigation on behalf of the Commission. Administrative remedies pertaining to coastal development permits are not deemed to have been exhausted unless all appeal procedures provided by the California Coastal Act and its regulations have been utilized.

(Ord. NS-365 § 19, 1996)

## **CHAPTER 21.62 VIOLATIONS**

### **§ 21.62.010. Violation—Penalty.**

Each person, firm or corporation found guilty of a violation is deemed guilty of a separate offense for every day during any portion of which any violation of any provisions of this title is committed, continued or permitted by such person, firm or corporation, and shall be punishable therefor as provided in this title and in Section 1.08.010 of this code, and any use, occupation or building or structure maintained contrary to the provisions hereof shall constitute a public nuisance.

(Ord. 9060 § 2401)

### **§ 21.62.020. Violation—Remedies.**

The city retains the right to enforce any remedy for violations in accordance with Chapters 1.08 and 1.10 of the Carlsbad Municipal Code, including, but not limited to, recording a notice of violation.

(Ord. CS-102 § CIX, 2010)

## CHAPTER 21.70 DEVELOPMENT AGREEMENTS

### **§ 21.70.005. Authority for adoption—Applicability.**

This chapter is adopted under the authority of Government Code Sections 65864—65869.5. This chapter shall be applicable to any project for which an applicant requests consideration of a development agreement.

(Ord. 9643 § 1, 1982; Ord. NS-302 § 1, 1995)

### **§ 21.70.010. Application.**

- A. An application for a development agreement may be made by any person having a legal or equitable interest in real property for the development of the real property or by that person's authorized agent. The application shall:
  1. Be made in writing on a form provided by the City Planner;
  2. State fully the circumstances and conditions relied upon as grounds for the application;
  3. Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner;
  4. Be accompanied by the form of development agreement agreeable to the City Planner and City Attorney. The proposed agreement shall contain all the elements required by Government Code Section 65865.2 and may include any other provisions permitted by law, including requirements that the applicant provide sufficient security approved by the City Attorney to ensure provision of public facilities;
  5. Be accompanied by a fiscal impact analysis, if the applicant claims that the project will have an economic benefit to the city.
- B. The City Planner shall require an applicant or the applicant's authorized agent to submit proof of interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the City Planner shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

(Ord. 9643 § 1, 1982; Ord. 1261 § 54, 1983; Ord. NS-302 § 2, 1995; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXV, 2012)

### **§ 21.70.020. Fees and reimbursements.**

- A. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
  1. Nothing in this chapter shall relieve the applicant from the obligation to pay any other fee for a city approval, permit or entitlement required by this code.
  2. The city may require the applicant to agree to pay the city's costs in negotiating, preparing and processing the development agreement, including the fees and expenses of special counsel and any other consultants engaged by the city in connection with the development agreement.

(Ord. 9643 § 1, 1982; Ord. NS-302 § 3, 1995; Ord. CS-178 § CXV, 2012)

### **§ 21.70.030. Accounting requirements.**

- A. For any development agreement entered into on or after January 1, 2004, the city shall comply with Government Code Section 66006 et seq., the Mitigation Fee Act, with respect to any fee it receives or costs it recovers pursuant to this chapter.
- B. The Mitigation Fee Act requires the city to deposit developer fees or costs reimbursements collected associated with the development agreement into a separate capital facilities account or fund and spend the money only for the purpose for which it was collected. The city must provide an annual public report accounting for these funds.

(Ord. 9643 § 1, 1982; Ord. 1261 § 54, 1983; Ord. NS-302 § 4, 1995; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXVII, 2012)

#### **§ 21.70.040. Notices and hearings.**

Notice of an application for a development agreement shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. 9643 § 1, 1982; Ord. NS-302 § 5, 1995; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXVII, 2012)

#### **§ 21.70.050. Decision-making authority.**

- A. An application for a development agreement may be approved, modified or denied by the City Council based upon its review of the facts as set forth in the application, the circumstances of the particular case, and evidence presented at the public hearing.
- B. Prior to the City Council's decision on a development agreement, the application shall be processed as follows:
  1. The City Planner shall review the application and may reject it if it is incomplete or inaccurate for processing. If the Planner finds that the application is complete, he or she shall accept it for filing.
  2. After the application is found to be complete, the City Planner shall forward a copy of the application and proposed agreement to the City Attorney for review.
  3. If the applicant claims that the project will have an economic benefit to the city, the City Planner shall forward a copy of the application, proposed agreement, and fiscal impact analysis, to the Finance Director for review.
  4. If the project is located within the coastal zone, the city shall forward copies of any proposed development agreement to the California Coastal Commission for review and invite comments as to its consistency with the certified local coastal program.
  5. The City Planner shall review the application and proposed agreement and shall prepare a report and recommendation to the Planning Commission on the agreement; said report shall include the recommendations of the City Attorney and Finance Director.
  6. The Planning Commission shall hear and consider the application and prepare a recommendation and findings for the City Council, including the matters stated in Section 21.70.050 of this chapter.
- C. The City Council shall hear the matter and consider the findings and recommendations of the Planning Commission.
- D. The City Council may approve the development agreement only if all the findings of fact in Section

21.70.060 of this chapter are found to exist.

- E. If the City Council approves the development agreement, it shall adopt an ordinance approving the agreement and directing the Mayor to execute the agreement after the effective date of the ordinance on behalf of the city. Before execution, each agreement shall be approved as to form by the City Attorney.

(Ord. 9643 § 1, 1982; Ord. 1261 § 54, 1983; Ord. NS-302 § 6, 1995; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXVII, 2012)

#### **§ 21.70.060. Findings of fact.**

- A. The City Council shall not approve a development agreement unless it finds that the agreement:
1. Is consistent with the objectives, policies, general land uses and programs specified in the general plan, the certified local coastal program and any applicable specific plan;
  2. Is compatible with the uses authorized in and the regulations prescribed for the land use district in which the real property is located and all other provisions of Title 21 of this code;
  3. Is in conformity with public convenience, general welfare and good land-use practices;
  4. Will not be detrimental to the health, safety and general welfare;
  5. Will not adversely affect the orderly development of property or the preservation of property values;
  6. Is consistent with the provisions of Government Code Sections 65864—65869.5;
  7. Where applicable, ensures provision of public facilities in a manner consistent with the general plan;
  8. When applicable, is consistent with the provisions of Title 20 of this code;
  9. Will result in the provision of economic, environmental, recreational, cultural or social benefits to the city which would not be attainable without approval of the agreement.

(Ord. 9643 § 1, 1982; Ord. 1261 § 54, 1983; Ord. NS-302 § 7, 1995; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXVII, 2012)

#### **§ 21.70.110. Irregularity in proceedings.**

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation or any matters of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

(Ord. 9643 § 1, 1982)

#### **§ 21.70.120. Amendment and cancellation of agreement by mutual consent.**

- (a) Either party may propose an amendment to or cancellation in whole or in part of the development

agreement previously entered into. The amendment or cancellation permitted by this section must be by mutual consent of the parties.

- (b) The procedure for proposing and adoption of 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 in the first instance. However, where the city initiates the proposed amendment to or cancellation in whole or in part of the development agreement, it shall first give notice to the property owner of its intention to initiate such proceedings at least thirty days in advance of the giving of public notice of the hearing to consider the amendment or cancellation.

(Ord. 9643 § 1, 1982)

#### **§ 21.70.130. Recordation.**

- (a) Within ten 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 or their successors in interest amend or cancel the agreement as provided in Government Code Section 65868, or if the city terminates or modifies the agreement as provided in Government Code Section 65865.1 for failure of the applicant 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. 9643 § 1, 1982)

#### **§ 21.70.150. Procedure for periodic review.**

- (a) The City Council or the Planning Commission, if the matter has been referred, shall conduct a public review hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.
- (b) The City Council shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.
- (c) If the City Council finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, no other action is necessary.
- (d) If the City Council finds and determines on the basis of substantial evidence that the applicant has not complied in good faith with the terms and conditions of the agreement during the period under review, the council may initiate proceedings to modify or terminate the agreement.

(Ord. 9643 § 1, 1982)

#### **§ 21.70.160. Modification or termination.**

- A. A development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successors in interest.
- B. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Section 21.54.060.A of this title.

(Ord. 9643 § 1, 1982; Ord. CS-178 § CXIX, 2012)

**§ 21.70.170. No damages on termination.**

In no event shall the applicant or his/her successors in interest be entitled to any damages against the city upon termination of the agreement.

(Ord. 9643 § 1, 1982)

**§ 21.70.180. No vesting of rights.**

Approval and construction of a portion or phase of a development pursuant to the agreement shall not vest any rights to construct the remainder or any other portion of the development nor create any vested rights to the approval thereof if the agreement is terminated as provided in this chapter.

(Ord. 9643 § 1, 1982)

**§ 21.70.190. Reservation of rights.**

The City Council reserves the right to terminate or modify any development agreement after a public hearing if such termination or modification is reasonable and necessary to protect the public health, safety or welfare.

(Ord. 9643 § 1, 1982)

**CHAPTER 21.80  
COASTAL DEVELOPMENT PERMITS—AGUA HEDIONDA**

**§ 21.80.010. Definitions.**

**Coastal Zone.** The coastal zone is defined as the Agua Hedionda segment of the Carlsbad coastal zone and shown on the map entitled "Agua Hedionda segment of the Carlsbad Coastal Zone," dated January 26, 1983, and on file in the planning division.

"Development" means, on land, in or under water the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the subdivision map act and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of private, public, or municipal utility, and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electric power transmission and distribution line.

"Major energy facility" means any energy facility as defined by Public Resources Code Section 30107 and exceeding fifty thousand dollars in estimated cost of construction.

"Major public works project" means any public works project as defined by Title 14 California Administrative Code Section 13012 and exceeding fifty thousand dollars in estimated cost of construction. (Ord. 9670 § 1, 1983; Ord. NS-675 § 79, 2003; amended during 2-04 supplement; Ord. CS-164 § 11, 2011)

**§ 21.80.020. Permit required.**

No development shall occur in the coastal zone without a permit having first been issued according to the provisions of this chapter.

(Ord. 9670 § 1, 1983)

**§ 21.80.030. Development exempt from coastal development permit procedures.**

- (a) A permit issued for a development which is categorically excluded from the coastal development permit requirements pursuant to California Public Resources Code Section 30610 shall be exempt from the requirement of this chapter. The City Planner shall maintain a record of all permits issued for categorically excluded development. The records shall include the applicant's name, an indication that the project is located in the coastal zone, the location of the project, and a brief description of the project.
- (b) The following developments are within the original permit jurisdiction of the Coastal Commission pursuant to California Public Resources Code Section 30600.5(b). Consequently, they are exempt from the requirements of this chapter:
  - (1) Developments between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance;

- (2) Developments located on tidelands, submerged lands, public trust lands, within one hundred feet of any wetland, estuary, stream, or within three hundred feet of the top of the seaward face of any coastal bluff;
- (3) Any development which constitutes a major public works project or a major energy facility;
- (4) Any development proposed or undertaken within ports covered by Chapter 8 commencing with Section 30700 of the Public Resources Code or within any state university or college within the coastal zone;
- (5) Any development proposed by any state agency. Applications for these developments must be made directly with the Commission.

(Ord. 9670 § 1, 1983; Ord. NS-675 § 78, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.80.040. Application.**

Application for a permit for a coastal development permit shall be made in accordance with the procedures set forth in this section.

- (a) An application for a permit may be made by the record owner or owners of the property affected or the authorized agent of the owner or owners. The application shall be filed with the City Planner upon forms provided by the Planner. The application shall be accompanied by adequate plans which allow for detailed review pursuant to this chapter, a legal description of the property and all other materials and information specified by the Director.
- (b) At the time of filing the application the applicant shall pay a processing fee in an amount specified by City Council resolution.
- (c) Unless the property has previously been legally subdivided and no further subdivision is required the application shall be accompanied by a tentative map which shall be filed with the Director in accordance with procedures set forth in Chapter 20.12 of this code. If the project contains four or less lots or units, the application shall be accompanied by a tentative parcel map which shall be filed with the City Engineer in accordance with procedures set forth in Chapter 20.24 of this code.
- (d) Whenever the development would require a permit or approval under the provisions of this title, notwithstanding this chapter, the application shall include sufficient information to allow review of such permit or approval. Application for all permits or approvals under this title and the coastal permit may be consolidated into one application.
- (e) The City Planner may require that the application contain a description of the feasible alternatives to the development or mitigation measures which will be incorporated into the development to substantially lessen any significant effect on the environment which may be caused by the development.
- (f) The application shall provide the applicant an opportunity to indicate whether the project qualifies for administrative approval pursuant to Section 21.80.160.

(Ord. 9670 § 1, 1983; Ord. NS-675 § 78, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.80.050. Duties of City Planner.**

- (a) After the application has been accepted as complete the City Planner shall determine if the project is exempt from the requirements of this chapter pursuant to Section 21.80.030. The Planner shall give notice of a determination of exemption to all persons specified in Section 21.80.160. The cost of

providing this notice shall be included in the fee paid by the applicant.

- (b) The City Planner shall approve, conditionally approve or deny permits for projects qualifying for administrative approval pursuant to Section 30624 of the state Public Resources Code; providing, however, that an administrative permit shall not be issued for any development which must be reviewed by the Coastal Commission pursuant to Sections 30579(b) and 30601 of the Public Resources Code.
- (c) The City Planner shall issue all emergency permits.
- (d) If the Planner determines that the matter does not qualify for an exemption or an administrative or emergency permit, then the Planner shall set the matter for public hearing before the Planning Commission. The coastal permit may be set for hearing at the same time as any other permit for the project.
- (e) The effective date of the City Planner's decision and the method for appeal of such decision shall be governed by Section 21.54.140.

(Ord. 9670 § 1, 1983; Ord. NS-675 §§ 63, 78, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.80.060. Transmittal of Planning Commission.**

Unless the application is exempt or qualifies for an administrative or emergency permit, the Director shall transmit the application, together with a recommendation thereon, to the Planning Commission for public hearing when all necessary reports and processes have been completed. An application for a coastal permit may be considered in conjunction with any other discretionary permit required for the project.

(Ord. 9670 § 1, 1983)

#### **§ 21.80.070. Planning Commission action.**

After a public hearing the Planning Commission may approve, conditionally approve or deny the application. No approval or conditional approval shall be given unless the Planning Commission finds: (1) that the development is consistent with the provisions of the Agua Hedionda land use plan; and (2) will not conflict with the development of permanent ordinances and procedures for implementation of the Agua Hedionda local coastal program.

(Ord. 9670 § 1, 1983)

#### **§ 21.80.080. Effective date of order—Appeal of Planning Commission decision.**

- (a) The effective date of the decision of the Planning Commission and method for appeal of such decision shall be governed by Section 21.54.150 of this code.
- (b) If the development for which a coastal development permit also requires other discretionary approvals for which the Planning Commission is not given final approval authority, then the Planning Commission action on the coastal development permit shall be deemed a recommendation to the City Council.

(Ord. 9670 § 1, 1983; Ord. NS-356 § 6, 1996; Ord. NS-506 § 7, 1999; Ord. NS-675 § 64, 2003)

#### **§ 21.80.090. City Council action.**

If the review of the coastal development is consolidated with other reviews pursuant to this code for which the Planning Commission does not have final approval authority, the City Council shall hold a public hearing on the coastal permit. At the public hearing, the City Council shall review the Planning

Commission's decision, shall consider the matter and shall approve, conditionally approve or disapprove the permit. The City Council shall not approve or conditionally approve or disapprove the permit unless it finds that the project is consistent with the Agua Hedionda land use plan and that approval or conditional approval will not conflict with the development of permanent ordinances and procedures for implementation of the Agua Hedionda local coastal program. The decision of the City Council is final. (Ord. 9670 § 1, 1983)

#### **§ 21.80.100. Public hearings.**

Whenever a public hearing is required by this chapter, notice of the hearing shall be given as provided in Section 21.54.060(1) of this code. When the hearing on a coastal development permit is consolidated with the hearing on a tentative map, notice shall satisfy the requirements of both this chapter and Title 20 of this code. In addition to the persons required to be notified pursuant to Section 21.54.060(1) or Title 20, notice shall be given to all persons who have previously requested notice of development permits within the coastal zone. The list of persons requesting such notice shall be updated annually. (Ord. 9670 § 1, 1983)

#### **§ 21.80.110. Appeals to Coastal Commission.**

- (a) Any final action taken by the city on a coastal development permit application, or any permit approval which occurs by operation of law, may be appealed to the Coastal Commission by any person, the Executive Director or any two members of the Commission pursuant to Public Resources Code Section 30602. Exhaustion of all local appeals must occur before an application may be appealed to the Commission.
- (b) The appeal shall be filed not later than thirty days after the date of the final local action. (Ord. 9670 § 1, 1983)

#### **§ 21.80.120. Notice of final local action.**

Within five working days of a final local action on an application for any coastal development, or any approval which occurs by operation of law, the City Planner shall provide notice of the action by first class mail to the Commission and to any persons who specifically requested notice of such final action by submitting an addressed, stamped envelope to the city. Such notice shall include any conditions of approval and written findings and the procedures for appeal of the local action to the Commission. (Ord. 9670 § 1, 1983; Ord. NS-675 § 76, 2003; Ord. CS-164 § 10, 2011)

#### **§ 21.80.130. Effective date of permit.**

The coastal development permit shall be valid upon the expiration of thirty days from the date of the final local action unless an appeal to the Commission has been filed or the notice of final local action does not comply with the requirements of Section 21.80.110.

(Ord. 9670 § 1, 1983)

#### **§ 21.80.140. Review of recorded documents.**

All coastal development permits subject to conditions that require the recordation of deed restrictions, offers to dedicate or agreements imposing restrictions on real property shall be subject to the following procedures:

- (a) The Executive Director of the Commission shall review and approve all legal documents specified in

the conditions of approval of a coastal development permit that are necessary to find the development consistent with the land use plan.

- (b) The Executive Director of the Commission shall have fifteen working days from receipt of the documents in which to complete the review and notify the applicant of recommended revisions, if any.
- (c) The local government may issue the permit upon expiration of the fifteen-working-day period if notification of inadequacy has not been received by the local government within that time period.
- (d) If the Executive Director has recommended revisions to the applicant, the permit shall not be issued until the deficiencies have been resolved to the satisfaction of the Executive Director.

(Ord. 9670 § 1, 1983)

#### **§ 21.80.150. Expiration of coastal permits.**

A coastal development permit shall expire on the latest expiration date applicable to any other permit or approval required for the project, including any extension granted for other permits or approvals. Should the project require no permits or approvals other than a coastal development permit, the coastal development permit shall expire one year from its date of approval if the project has not been commenced during that time.

(Ord. 9670 § 1, 1983)

#### **§ 21.80.160. Administrative permits procedures.**

- (a) An applicant requesting an administrative permit shall so indicate at the time the application is filed.
- (b) Notice than an administrative permit has been issued shall be given to the public and shall also be given to all organizations and individuals who have previously requested such notice. The public notice shall be given by at least one of the following procedures:
  - (1) Publication at least one time in a newspaper of general circulation in the city;
  - (2) Posting for not less than ten days on and off site in the area where the project is located;
  - (3) Direct mailing to owners of property within three hundred feet of the project as such owners are shown on the latest equalized assessment roll.
- (c) Approval or conditional approval of an administrative permit may be given only if the City Planner makes the findings specified in Section 21.80.070. Any application for a development deemed a principal permitted use within the meaning of Section 30624 of the Public Resources Code may be issued an administrative permit under this chapter only if the development is specifically categorized as the principal permitted use in the certified land use plan unless specifically set forth in Section 30624 of the Public Resources Code.
- (d) The effective date of any decision of the Director pursuant to this section and method for appeal of such decision shall be governed by Section 21.54.140 of this code. The appeal shall be considered by the Planning Commission in accordance with the provisions of this chapter for any other application.
- (e) Notice of the Director's decision on an administrative application shall be mailed to the applicant within five days of the dates of the decision. The applicant may appeal the decision as provided in subsection (d).

(f) Amendments to administrative permits may be considered on the same criteria and under the same procedures as original applications pursuant to this section.

(Ord. 9670 § 1, 1983; Ord. NS-675 §§ 65, 78, 2003; Ord. CS-164 § 10, 2011)

**§ 21.80.170. Applications for emergency permits.**

- (a) Applications in case of emergency shall be made by letter to the City Planner or in person or by telephone, if time does not allow. "Emergency" means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.
- (b) The following information shall be included in the request:
  - (1) Nature of the emergency;
  - (2) Cause of the emergency, insofar as this can be established;
  - (3) Location of the emergency;
  - (4) The remedial, protective or preventive work required to deal with the emergency; and
  - (5) The circumstances during the emergency that appeared to justify the cause(s) of action taken, including the probable consequences of failing to take action.
- (c) The Director shall verify the facts, including the existence and the nature of the emergency, insofar as time allows.
- (d) The Director shall provide public notice of the emergency work, with the extent and type of notice determined on the basis of the nature of the emergency.
- (e) The Director may grant an emergency permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, if the Director finds that:
  - (1) An emergency exists that requires action more quickly than permitted by the procedures for administrative permits or for regular permits and the work can and will be completed within thirty days unless otherwise specified by the terms of the permit;
  - (2) Public comment on the proposed emergency action has been reviewed, if time allows; and
  - (3) The work proposed would be consistent with the requirements of the certified land use plan.
- (f) The Director shall not issue an emergency permit for any work that falls within the provisions of Public Resources Code, Sections 30159(b) and 30601.
- (g) The Director shall report, in writing, to the Coastal Commission through its Executive Director and to the City Council, at its first scheduled meeting after the emergency permit has been issued, the nature of the emergency and the work involved. The report of the Director shall be informational only; the decision to issue an emergency permit is solely at the discretion of the Director subject to the provisions of this section. Copies of this report shall be available at the meeting and shall be mailed to all persons who have requested such notification in writing. If at that meeting, one-third of the City Council so request, the permit issued by the Director shall not go into effect and the application for a coastal development permit shall be processed in due course in accordance with the procedures set forth in Chapter 21.80.

(Ord. 9670 § 1, 1983; Ord. NS-675 § 78, 2003; Ord. CS-054 § 3, 2009; Ord. CS-164 § 10, 2011)

**§ 21.80.180. Termination.**

The provisions of this chapter shall be effective until such time as the ordinances and other acts necessary to implement the Agua Hedionda local coastal program are adopted, at which time this chapter shall be superseded by the chapter establishing the permit procedures.

(Ord. 9670 § 1, 1983)

**§ 21.80.190. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held to be unconstitutional such decision shall not affect the validity 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 sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

(Ord. 9670 § 1, 1983)

## CHAPTER 21.82 BEACH AREA OVERLAY (BAO) ZONES

### **§ 21.82.010. Intent and purpose.**

- A. The intent and purpose of the beach area overlay (BAO) zone is to supplement the underlying residential zoning by providing additional regulations for development within designated beach areas to:
1. Ensure that development will be compatible with surrounding developments, both existing and proposed, in the beach area;
  2. Provide for adequate parking as needed by residential projects;
  3. Ensure that adequate public facilities will exist to serve the beach area;
  4. Protect the unique mix of residential development and aesthetic quality of the area.

(Ord. NS-834 § III, 2007)

### **§ 21.82.020. Application.**

The beach area overlay zone shall apply to any residentially zoned property within the area bounded by the AT&SF Railroad right-of-way to the east, the Pacific Ocean to the west, Buena Vista Lagoon to the north and Agua Hedionda Lagoon to the south.

(Ord. NS-834 § III, 2007)

### **§ 21.82.030. Permitted uses.**

In the beach area overlay zone, any principal use, accessory use, transitional use or conditional use permitted in the underlying zone is permitted subject to the same conditions and restrictions applicable in such underlying zone and to all of the requirements of this chapter.

(Ord. NS-834 § III, 2007)

### **§ 21.82.040. Site development plan required.**

No building permit or other entitlement shall be issued for any use in the beach area overlay zone unless there is a valid site development plan approved for the property processed pursuant to Chapter 21.06 (Q-Overlay Zone) of this code. When a development requires a conditional use permit or is processed pursuant to Chapter 21.45 of this code, a site development plan is not required unless the planned development is for four or less units in which case a site development plan shall be processed. Further, a site development plan is not required for the construction, reconstruction, alteration or enlargement of a single-family residential dwelling on a residentially zoned lot.

(Ord. NS-834 § III, 2007)

### **§ 21.82.050. Building height.**

No newly constructed, reconstructed, altered or enlarged residential structure within the beach area overlay zone shall exceed thirty feet if a minimum 3/12 roof pitch is provided or twenty-four feet if less than a 3/12 roof pitch is provided.

(Ord. NS-834 § III, 2007; Ord. CS-026 § 10, 2009)

### **§ 21.82.060. Parking.**

- A. With the exception of the parking standards specified in this section, the parking standards specified in Chapter 21.44 shall apply.
- B. The parking standards specified in Chapter 21.45 shall apply to planned developments within the BAO zone.
- C. Visitor Parking.

1. Visitor parking shall be provided for all residential development, as follows:

**TABLE A NUMBER OF VISITOR PARKING SPACES REQUIRED**

<b>Number of Units</b>	<b>Amount of Visitor Parking</b>
Projects with 10 dwelling units or less	A 0.30 space per each unit or fraction thereof.
Projects with 11 units or more	A 0.25 space per each unit or fraction thereof.

- 2. When calculating the required number of parking spaces, if the calculation results in a fractional parking space, the required number of parking spaces shall always be rounded up to the nearest whole number.
  - 3. Required visitor parking may be provided within driveways, subject to the following:
    - a. One required visitor parking space may be credited for each driveway in a project that has a depth of forty feet or more.
    - b. If all streets within and/or adjacent to the project allow for on-street parking on both sides of the street, then visitor parking may be located in a driveway, subject to the following:
      - i. All required visitor parking may be located within driveways, provided that all dwelling units in the project have driveways with a depth of twenty feet or more.
      - ii. If less than one hundred percent of the driveways in a project have a depth of twenty feet or more, then a 0.25 visitor parking space will be credited for each driveway in a project that has a depth of twenty feet or more (calculations resulting in a fractional parking space credit shall always be rounded down to the nearest whole number).
      - iv. The minimum twenty-foot driveway depth required for visitor parking applies to driveways for front or side-loaded garages, and is measured from the property line, back of sidewalk, or from the edge of street pavement, whichever is closest to the structure.
    - 4. Up to fifty-five percent of the visitor parking may be provided as compact spaces (eight feet by fifteen feet);
    - 5. No credit will be given for on-street parking to satisfy any of the parking requirements above.
- (Ord. NS-834 § III, 2007)

#### **§ 21.82.070. Approved projects.**

This chapter shall not apply to projects having received final discretionary approval, pursuant to Titles 20 and 21 both, from the City of Carlsbad prior to June 26, 1985. If projects exempted above have not commenced construction and made substantial progress towards completion by June 26, 1987, then this chapter shall apply to those projects at that time.

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ZONING

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(Ord. NS-834 § III, 2007)

## CHAPTER 21.83 CHILD CARE

### **§ 21.83.010. Purpose.**

The purposes of the child care development regulations are to:

- A. Recognize that affordable, quality, licensed child care is critical to both the well-being of children and parents as well as the economic vitality of the city;
- B. Provide a comprehensive set of guidelines to ensure a safe child care environment and to maintain compatibility between child care facilities and surrounding land uses;
- C. Ensure that the needs of children for adequate care are balanced with the rights of property owners;
- D. Facilitate the establishment of child care facilities as a permitted use within certain zones;
- E. Enhance provider awareness of city requirements;
- F. Authorize child day care centers in P-M and C-M zones as conditionally permitted uses and subject to specified standards; and
- G. Implement state law with regard to the provision of child care facilities. As stated in Health and Safety Code, Section 1597.40: "Family Day Care Homes must be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a Family Day Care Home the same home environment as provided in a traditional home setting." It is the policy of the state that small and large family day care homes do not constitute a change of occupancy of residentially zoned and occupied properties for purposes of local ordinances as well as local building and fire codes. Traffic and noise generated by child day care homes are considered to be of normal residential levels which may be reasonably restricted but not used as a basis for permit denial. Conditions, covenants and restrictions (CC&Rs) restricting or prohibiting child care homes in residential neighborhoods were voided by Health and Safety Code Section 1597.40(c). Judgments on the quality of child care are the responsibility of parents, the provider, and the licensing agency.

(Ord. NS-409 § 21, 1997)

### **§ 21.83.020. Definitions.**

For the purposes of this chapter, the terms used herein relating to the provision of child care services are defined as follows:

"Acutely hazardous materials" means substances which have the greatest potential to pose a hazard to public health and the environment in the event of accidental release. These substances are identified in California Health and Safety Code Chapter 6.95.

"Threshold planning quantities" means the amount of specific acutely hazardous materials which, if accidentally released into the environment, are likely to cause acute health effects resulting in significant injury to or death of humans.

"Child or children" means a person or persons, under eighteen years of age being provided care and supervision in a child care facility.

"Child day care center" means a facility other than a family day care home which provides nonmedical care, protection, and supervision for children under eighteen years of age for periods of less than twenty-

four hours per day. Child day care centers include preschools, nursery schools, employer-sponsored child day care facilities, and before- and after-school recreational programs, but do not include public or private elementary schools.

"Employer-sponsored child day care center" means any child day care center at the employer's site of business and operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of that employer, and of the officers, managers, and employees of the employer.

"Family day care home" means a single-family dwelling which regularly provides nonmedical care, protection, and supervision of fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardians are away. The actual number of children permitted in a family day care home is based on age composition as determined by the permitting agency. Family day care homes include either of the following:

1"Large family day care home," means a detached, single-family dwelling which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and as permitted by the licensing agency;

2"Small family day care home," means a detached, single-family dwelling which provides family day care for eight or fewer children, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and as permitted by the licensing agency.

"Provider" means a person or entity who operates a child day care center or a large family day care home and is licensed by the county to provide child care services.

(Ord. NS-409 § 21, 1997)

#### **§ 21.83.030. Exclusions.**

The requirements of this chapter do not apply to the following:

- A. Any child day care home providing care for the children of only one family in addition to the provider's own children;
- B. Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved;
- C. Any arrangement for the receiving and care of children by a relative;
- D. Any public recreation programs conducted by a public entity specified in and meeting the requirements of Health and Safety Code Section 1596.792(g); or recreation programs conducted for children by a Boys' Club, a Girls' Club, the Brownies, the Cub/Boy/Girl Scouts, the Campfire Girls or similar such organizations as determined by state regulations issued pursuant to Health and Safety Code Section 1596.793; and
- E. Any public or private schools operating before- and after-school recreational programs or child day care centers.

(Ord. NS-409 § 21, 1997; Ord. NS-675 § 68, 2003)

#### **§ 21.83.040. Use chart.**

The following use chart indicates the zones where small and large family day care homes and child day

care centers are permitted, subject to the requirements of this chapter.

- "P" indicates that the use is permitted in the zone.
- "LDCP" indicates that the use is permitted subject to approval of a large family day care permit, processed in accordance with Section 21.83.050 of this chapter.
- "MCUP" indicates that the use is permitted subject to approval of a minor conditional use permit (process one) processed in accordance with Chapter 21.42 of this title.
- "CUP" indicates that the use is permitted subject to approval of a conditional use permit (process two) processed in accordance with Chapter 21.42 of this title.
- "X". indicates that the use is prohibited in the zone.

<b>Zoning</b>	<b>Small Family Day Care Home (8 or fewer children)</b>	<b>Large Family Day Care Home (14 or fewer children)</b>	<b>Child Day Care Center</b>
R-A, R-E, E-A	P	LDCP (1)	X
R-1	P	LDCP (1)	X
R-2	P	LDCP (1)	X
R-3, RD-M, R-P	P	LDCP (1)	MCUP(2)(3)
R-T, R-W, RMHP	P	LDCP (1)	X
O	X	X	MCUP(2)(3)
H-O	X	X	P(2)
C-F	X	X	MCUP(2)(3)
C-1, C-2, C-L	X	X	P(2)
P-M, C-M	X	X	CUP(5)
M, P-U, O-S, L-C, T-C, C-T	X	X	X
V-B, P-C	(4)	LDCP (1)(4)	(2)(3)(4)

**Notes:**

- (1) Permitted only when the large family day care home is located on a lot occupied by a detached, single-family dwelling, subject to the provisions of Section 21.83.050 of this chapter.
- (2) Permitted subject to the provisions of Section 21.83.080 of this chapter.
- (3) Child day care centers are allowed as a permitted use (no conditional use permit or minor conditional use permit required) within existing buildings on developed church or school sites, subject to the provisions of Section 21.83.080 of this chapter.
- (4) Permitted subject to the standards of the controlling document (Village and Barrio master plan or designated master plan).
- (5) Permitted subject to the provisions of Sections 21.83.060 and 21.83.080 of this chapter.

(Ord. NS-409 § 21, 1997; Ord. NS-765 § 4, 2005; Ord. CS-102 § CX, 2010; Ord. CS-178 § CXXII, 2012; Ord. CS-334 § 12, 2018)

**§ 21.83.050. Requirements for large family day care homes.**

- A. The applicant shall obtain all licenses and permits required by state law for operation of the facility and shall keep all state licenses or permits valid and current.
- B. Large Family Day Care Permit. No large family day care home shall operate without first obtaining a large family day care permit issued by the city.
  1. Application and Fee.
    - a. An application for a large family day care permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
      - i. Be made in writing on a form provided by the City Planner;
      - ii. State fully the circumstances and conditions relied upon as grounds for the application; and
      - iii. Be accompanied by adequate plans, a legal description of the property involved and all other materials as specified by the City Planner.
      - iv. Applicants who reside on rented or leased property shall provide proof of written notice to the landlord or owner of the property that they intend to operate a family day care home on the rented or leased premises in accordance with Section 1597.40 of the California Health and Safety Code.
    - b. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.
  2. Decision-Making Authority. The City Planner shall approve the large family day care permit if the City Planner finds that the request complies with the requirements of this section.
  3. Announcement of Decision and Findings of Fact. When a decision on a large family day care permit is made pursuant to this chapter, the decision-making body shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.
  4. Effective Date and Appeals. The decision of the City Planner made pursuant to this section shall become effective or may be appealed in accordance with Section 21.54.140 of this title.
  5. Expiration, Extensions And Amendments.
    - a. The expiration period for a large family day care permit shall be as specified in Section 21.58.030 of this title.
    - b. A large family day care permit may be extended pursuant to Section 21.58.040 of this title.
    - c. A large family day care permit may be amended pursuant to Section 21.58.124 of this title.
- C. Development Standards.
  1. The facility shall comply with all zoning standards otherwise applicable to other single-family residences, however, the use of a detached, single-family dwelling for the purposes of this section shall not constitute a change of occupancy for purposes of Title 18 of this code.
  2. The facility shall comply with all standards relating to fire and life safety applicable to single-

family residences established by the state Fire Marshal contained in Title 24 of the California Code of Regulations as amended from time to time.

3. The subject site shall not be located closer than one thousand two hundred lineal feet from any other large family day care home on the same street.
4. An outdoor play area which satisfies the requirements of the state, community care licensing division shall be provided in the rear yard and shall be enclosed by a natural barrier, wall, solid fence, or other solid structure a minimum of five feet in height. The provider shall ensure that outdoor play times do not begin until after nine a.m. and end before five p.m. The provider shall stagger the number of children playing outdoors at any one time to reduce noise impacts on surrounding residences.
5. All outdoor play areas shall be adequately separated from vehicular circulation and parking areas by a strong fence such as chain link, wood or masonry.
6. Required garages shall be prohibited for use as a family day care home and shall be utilized for parking two of the applicant's onsite vehicles during the daily operation of the day care home rather than parking the vehicles on the street or in the driveway.
7. The applicant shall designate the onsite driveway as the official drop-off and pick-up area for children and shall notify parents of this requirement. Said driveway shall remain free and clear of parked cars.
8. The applicant shall require that employees park in locations which will not inconvenience nearby residents. To disrupt the neighborhood as little as possible, best efforts shall be made by the applicant to require employees to park as close as possible to the family day care home.

(Ord. NS-409 § 21, 1997; Ord. NS-565 § 2, 2001; Ord. NS-675 § 69, 2003; Ord. CS-178 § CXXII, 2012)

#### **§ 21.83.060. Child day care centers in the P-M and C-M zones.**

A. Child day care centers are permitted in the P-M and C-M zones with a conditional use permit (process two) processed in accordance with Chapter 21.42 of this title, and subject to Section 21.83.080 of this chapter and the following provisions:

1. The applicant shall conduct an evaluation of the health and safety risks associated with the proposed child day care center. The evaluation shall include a survey of all businesses within one thousand feet of the proposed child day care center to determine the nature and quantity of hazardous materials in use nearby. If the conditional use permit is granted, thereafter, the provider shall conduct similar annual evaluations and disclose results to the Fire Chief and City Planner. The evaluations must demonstrate to the satisfaction of the Fire Chief and City Planner that the occurrence of the following within one thousand feet of the child care center presents no significant health or safety risks to the occupants:
  - a. Use or storage of acutely hazardous materials in amounts above the threshold planning quantities (TPQs);
  - b. Use or storage of more than ten thousand gallons of flammable liquids; or
  - c. Use or storage of more than one thousand five hundred pounds of flammable compressed gas.
2. Prior to enrollment of the child in the child day care center, the provider shall, in writing, inform

the child's parents that their child(ren) may be subject to health and safety risks due to the presence, use and discharge of hazardous materials (including acutely hazardous materials above the TPQs) in the area. Parents shall also be informed that the provider may be required to retain custody of their children for extended time periods during an emergency.

3. Prior to occupancy, the provider shall prepare and obtain approval by the Fire Chief of an emergency operating plan which prescribes procedures to be followed during the existence of the child day care center which ensure the following:
  - a. That children can be evacuated from the building within five minutes and relocated to a predetermined refuge area(s) within ten minutes of emergency notification; and
  - b. Quarterly exercise of the plan.
4. The applicant shall enter into an agreement with the city to discontinue operation of the child day care center immediately upon the discovery of the existence of hazardous materials as described in Section 21.83.060A.1.a above when such materials are found by the Fire Chief and City Planner to present a health and safety risk to children attending the child day care center. The applicant shall have ninety days to mitigate, to the satisfaction of the Fire Chief, the impacts created by the use of said hazardous materials. If impacts are not mitigated within ninety days, the conditional use permit for the child day care center shall become null and void. The applicant shall agree to indemnify and hold the city and its officers, employees, and agents free and harmless from any claims, actions, damages, costs, or expenses arising from exposure of children to hazardous substances as a result of the presence of the former in or near the child day care center. The Fire Chief or City Planner are authorized to enter into the agreement on behalf of the city.
5. The applicant shall submit a conversion plan at the time of application which demonstrates to the satisfaction of the City Planner and the Fire Chief that the child day care center could be converted to a use permitted within the zone if the conditional use as a child day care center is discontinued.
6. Upon acceptance of a complete application and payment of the required fees, the City Planner shall process the application in accordance with Chapter 21.54 of this title except that notices shall be given to all property owners within one thousand feet of the subject property.

(Ord. NS-409 § 21, 1997; Ord. NS-565 § 3, 2001; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXXII, 2012)

#### **§ 21.83.080. Development standards for child day care centers.**

All child day care centers shall comply with the following development standards:

- A. The applicant has or will obtain all licenses and permits required by state law for operation of the facility. The applicant shall keep all state licenses or permits valid and current.
- B. The center shall meet all zoning standards otherwise applicable to the project site.
- C. Indoor and outdoor play areas which satisfy the requirements of the County of San Diego day care licensing agency shall be provided. The outdoor play area shall be adjacent to the center and accessible through the center itself. The outdoor play area shall be enclosed by a natural barrier, wall, or fence a minimum of five feet in height. If located adjacent to residentially-zoned property, the separating barrier, wall, or fence shall be of solid construction. Said outdoor play area shall not be allowed in any required front, side or rear yard setbacks and shall be located and designed so as to

reduce noise impacts on adjacent properties.

- D. The outdoor play space shall be viewable directly from the interior of the structure by having windows at strategic points so that the yard area can be seen from the inside of the child care center.
- E. Each child day care center shall have a direct source of natural light which shall be located so as to maximize the ability for children to see out of windows.
- F. The following parking requirements shall apply:
  - 1. Parking shall be provided consistent with the standards specified in Chapter 21.44, unless otherwise specified in this section.
  - 2. Parking shall not be located in any required front yard setback.
  - 3. An adequate on-site loading/unloading area shall be provided which can be easily accessed from the child day care center without crossing any driveways or streets. This area may be counted towards the required parking.
  - 4. Clearly designated pedestrian walkways shall be provided.
- G. Signs shall be permitted in accordance with the underlying zone as provided in Chapter 21.41 of this title.
- H. Any additional conditions regarding safety and access deemed necessary or desirable by the City Engineer, or Community and Economic Development Director.

(Ord. NS-409 § 21, 1997; Ord. NS-675 § 79, 2003; Ord. CS-102 § CXI, 2010; Ord. CS-164 § 14, 2011)

**CHAPTER 21.84  
HOUSING FOR SENIOR CITIZENS**

**§ 21.84.010. Title.**

This chapter shall be known and may be cited and referred to as the "Housing for Senior Citizens Ordinance of the City of Carlsbad."

(Ord. NS-662 § 12, 2003)

**§ 21.84.020. Purpose.**

A. The purpose of the housing for senior citizens regulations is to:

1. Recognize the housing needs of senior citizens;
2. Provide a mechanism and standards for the development of rental or for-sale housing available to senior citizens;
3. Provide comprehensive standards and regulations to ensure housing is designed to meet the special needs of senior citizens (i.e., physical, social and economic needs);
4. Facilitate the establishment of housing for senior citizens within certain zones subject to the approval of a site development plan;
5. Comply with state and federal laws prohibiting age discrimination in housing; and
6. Provide standards and regulations for housing for senior citizens construed in accordance with California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and the Federal Code of Regulations Title 24 Sections 100.300 to 100.308.

(Ord. NS-662 § 12, 2003)

**§ 21.84.030. Definitions.**

A. For the purposes of this chapter, the terms used in this chapter relating to the provision of housing for senior citizens are defined as follows:

"Cohabitant" refers to and means persons who live together as husband and wife, or persons who are domestic partners within the meaning of Section 297 of the Family Code.

"Disability" means any mental or physical disability as defined in Section 12926 of the Government Code.

"Housing" or "dwelling unit" means any residential accommodation (rental unit or for-sale unit) designed for occupancy by a senior citizen or qualifying resident, and each unit having only one kitchen, excluding mobile homes in a "senior citizen housing development."

"Housing community" means any dwelling or group of dwelling units governed by a common set of rules, regulations or restrictions. A portion or portions of a single building shall not constitute a housing community.

"Housing for senior citizens" means a housing community:

- a. Provided under any state or federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist senior citizens (as defined in the state or federal program); or

- b. Intended for, and solely occupied by, persons sixty-two years of age or older; or
- c. Intended and operated for occupancy by persons fifty-five years of age or older, and where the housing facility is consistent with the definition of a "senior citizen housing development."

"Senior citizen" means:

- a. A person sixty-two years of age or older; or
- b. A person fifty-five years of age or older in a "senior citizen housing development."

"Senior citizen housing development" means:

- a. A residential development developed, substantially rehabilitated, or substantially renovated, for persons fifty-five years of age or older, that has:
  - i. At least thirty-five dwelling units (rental or for-sale units); and
  - ii. At least eighty percent of the occupied dwelling units occupied by at least one person who is fifty-five years of age or older.

B. The following definitions shall only apply to a "senior citizen housing development":

"Qualifying resident" means a person fifty-five years of age or older in a senior citizen housing development.

"Qualified permanent resident" means:

- a. A person who meets both of the following requirements:
  - i. Was residing with the qualifying resident prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the qualifying resident; and
  - ii. Was forty-five years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident.
- b. A disabled person or person with a disabling illness or injury who is a child or grandchild of the qualifying resident or a qualified permanent resident, who needs to live with the qualifying resident or qualified permanent resident because of the disabling condition, illness or injury.

"Permitted health care resident" means a person hired to provide live-in, long-term, or terminal health care to a qualifying resident, or a family member of the qualifying resident providing that care. The care provided by a permitted health care resident must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment, or both.

(Ord. NS-662 § 12, 2003)

**§ 21.84.040. Use table.**

Housing for senior citizens is permitted subject to the approval of a minor site development plan (MSDP) or site development plan (SDP) in certain zones as indicated in the following table:

**Table A**  
**Zones Where Housing for Senior Citizens Is Permitted**

Zone	Housing for Senior Citizens
R-3	MSDP/SDP <sup>1</sup>
R-P	MSDP/SDP <sup>1,2</sup>
R-T	MSDP/SDP <sup>1</sup>
R-W	MSDP/SDP <sup>1</sup>
RD-M	MSDP/SDP <sup>1</sup>
V-B	See note 3, below
P-C	See note 3, below

Note: Housing for senior citizens is prohibited in those zones not indicated.

**Notes:**

- 1 Housing for senior citizens with four units or less shall be subject to the approval of a minor site development plan, and housing for senior citizens with five units or more shall be subject to the approval of a site development plan.
- 2 The city may approve a minor site development plan or site development plan for housing for senior citizens on property in the R-P zone where the general plan applicable to such property permits residential uses.
- 3 May be permitted subject to the standards of the controlling document (i.e., in V-B zone -Village and Barrio master plan, and in P-C zone -applicable master plan) and the provisions of this chapter.

(Ord. NS-662 § 12, 2003; Ord. CS-099 § VI, 2010; Ord. CS-178 § CXXIII, 2012; Ord. CS-334 § 13, 2018)

**§ 21.84.050. Location guidelines.**

- A. Housing for senior citizens should, whenever reasonably possible, be located consistent with the following location guidelines:
  1. The proposed project should be located in close proximity to a wide range of commercial retail, professional, social and community services patronized by senior citizens; or have its own private shuttle bus which will provide daily access to these services;
  2. The proposed project should be located within a reasonable walking distance of a bus or transit stop unless a common transportation service for residents is provided and maintained;
  3. The proposed project should be located in a topographically level area; and
  4. Development of housing for senior citizens at the proposed location should not be detrimental to public health, safety and general welfare.

(Ord. NS-662 § 12, 2003)

**§ 21.84.060. Development standards and design criteria.**

- A. Housing for senior citizens shall comply with all applicable development standards of the underlying

zone, except those which may be modified in this chapter or as an additional incentive granted pursuant to Chapter 21.86 of this code.

- B. In the coastal zone, any project processed pursuant to this chapter and Chapter 21.86 of this code shall be consistent with all certified local coastal program provisions, with the exception of density.
- C. The following parking requirements shall apply:
  - 1. Parking shall be provided consistent with the standards specified in Chapter 21.44, unless otherwise specified in this section.
  - 2. Whenever possible, parking spaces should be laid out at either a thirty, forty-five or sixty degree angle; and
  - 3. Required parking spaces shall be available to residents of the project at no fee.
- D. To the maximum extent feasible, architectural harmony, through the use of appropriate building height, materials, bulk and scale within the development and within the existing neighborhood and community shall be obtained.
- E. The building(s) shall be finished on all sides with similar roof and wall materials, colors and architectural accent features.
- F. Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every twenty-five dwelling units or fractional number thereof. At least one washer and one dryer shall be provided in every project. Washers and dryers may be coin operated.
- G. A manager's unit shall be provided in every housing project of sixteen or more units (rental projects only). The manager's unit shall be a complete dwelling unit and so designated on all plans.
- H. Housing for senior citizens shall be designed to encourage social contact by providing a minimum of one common room, which may include, but is not limited to, a recreation/social room, a common dining facility or a reading/TV room. Common open space shall also be provided, which may include, but is not limited to, community gardening areas or open landscaped areas with walkways and seating. Common areas shall be designed to ensure that they are useful and functional for residents, and shall comply with the following:
  - 1. The minimum amount of common area required in each project shall be no less than twenty square feet per dwelling unit;
  - 2. Common space excludes all stairwells and any balconies of less than forty square feet;
  - 3. Unless the building is serviced by an elevator, common rooms shall be located on the ground floor; and
  - 4. Adjacent toilet facilities for men and women shall be provided.
- I. In addition to the common areas described above, additional services and programs are encouraged, but not required, to be included in all projects to meet the physical and social needs of senior citizens. Such desirable services and programs may include, but are not limited to, the following:
  - 1. Social and recreational programs;
  - 2. Continuing education, information and counseling services;

3. House cleaning/cooking;
  4. Inside/outside maintenance services;
  5. Emergency and preventative health care programs/services; and
  6. Transportation services.
- J. Access to all common areas and housing units within a project shall be provided without use of stairs, either by means of an elevator or sloped walking ramps.
- K. Entryways, walkways, and hallways in the common areas, and doorways and paths of access to and within the housing units, shall be as wide as required by current laws applicable to new multifamily housing construction for provision of access to persons using a standard-width wheelchair.
- L. Walkways and hallways in the common areas shall be equipped with standard height railings or grab bars to assist persons who have difficulty with walking, and shall have lighting conditions that are of sufficient brightness to assist persons who have difficulty seeing.
- M. Trash collection containers shall be provided in an easily accessible location and in manner that requires a minimum of physical exertion by residents. Trash collection containers shall also be completely screened and located as inconspicuously as possible. Trash enclosures shall be of similar colors and materials as the main building.
- N. Dwelling units shall be provided with the following:
1. Tubs and/or showers equipped with, or adaptable for, at least one grab bar;
  2. Tubs and/or showers equipped with temperature regulating devices;
  3. Slip resistant tub and/or shower bottom surfaces; and
  4. Peepholes in entry doors.
- O. The design of housing for senior citizens should, to the extent practicable, implement the principles of universal design as currently established by the Center for Universal Design at the North Carolina State University, or any other residential design elements for seniors that may currently be established by the California Department of Aging. Universal design principles encourage building design with accessible and adaptable features that are universally usable by most people regardless of their level of ability or disability. Examples of universal design are as follows:
1. A dwelling unit should be designed to be accessible or adaptable for disabled access;
  2. An adaptable dwelling unit has all accessible features that a fixed accessible unit has but allows some items to be omitted or concealed until needed so the dwelling unit can be better matched to individual needs when occupied; and
  3. In an adaptable unit, wide doors, no steps, knee spaces, control and switch locations, grab bar reinforcing and other access features must be built in. Grab bars, however, can be omitted and installed when needed. Knee space can be concealed by installing a removable base cabinet that can be removed when needed. Counter tops and closet rods can be placed on adjustable supports rather than fixed at lower heights as required for wheelchair users.
- P. Housing for senior citizens shall comply with all applicable building and housing codes and requirements for access and design imposed by law, including, but not limited to, the Fair Housing

Act (42 U.S.C. Section 3601 et seq.), the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), and the regulations of Title 24 of the California Code of Regulations that relate to access for persons with disabilities or handicaps. Nothing in this section shall be construed to limit or reduce any right or obligation applicable under those laws.

(Ord. NS-662 § 12, 2003; Ord. CS-102 § CXII, 2010)

#### **§ 21.84.070. Inclusionary housing requirements and density bonus provisions.**

- A. Any market-rate rental or for-sale project constructed pursuant to this chapter shall be required to comply with the inclusionary requirements for residential developments in Chapter 21.85 of this code.
- B. Upon written request by an applicant, and in return for his or her agreement to develop and operate a project in accordance with this chapter and Chapter 21.86 of this code (residential density bonus), the final decision-making authority shall allow an increase in the number of dwelling units permitted per acre (density), provided the request for density bonus complies with the requirements of Chapter 21.86.

(Ord. NS-662 § 12, 2003)

#### **§ 21.84.080. Application process.**

- A. Preliminary Review Application. A preliminary review application may be submitted prior to the submittal of a formal application (note: if the project includes a request for a density bonus, a preliminary review application is required).
  1. The preliminary review application shall include the following information:
    - a. A brief description of the proposal including the total number of senior units, density bonus units and affordable senior units proposed;
    - b. The general plan and zoning designations and assessor's parcel number(s) of the project site;
    - c. A site plan, drawn to scale, which includes: building footprints, driveway and parking layout, existing contours and proposed grading; and
    - d. A letter identifying what specific incentives (i.e., density bonus, standards modifications or financial incentives) are being requested of the city, if any.
  2. After review of the preliminary application, the planning division shall provide to an applicant a letter identifying project issues of concern to staff, and the incentives or assistance that the City Planner can support when making a recommendation to the final decision-making authority.
- B. Formal Application. Except as otherwise provided in this chapter, a minor site development plan or site development plan for housing for senior citizens shall be processed in accordance with the provisions of Chapter 21.06 of this title, excluding Section 21.06.020(b). The findings for approval of a minor site development plan or site development plan for housing for senior citizens are specified in Section 21.84.090 of this chapter.
  1. In addition to the application requirements specified in Chapter 21.06, a minor site development plan or site development plan application for housing for senior citizens shall include the following information:

- a. If a density bonus or other incentives are requested, a letter shall be submitted signed by the present owner stating how the project will comply with Government Code Section 65915 and stating what is being requested from the city, (i.e., density bonus, modification of development standards or other additional incentives);
  - b. A detailed vicinity map showing the project location and such details as the nearest market, transit stop, park or recreation center, medical facilities or other related uses and services likely to be patronized by senior citizens;
  - c. A set of floor plans for each different type of unit indicating a typically furnished apartment, with dimensions of doorways, hallways, closets and cabinets;
  - d. A floor plan of the first floor or other floor showing any common areas and accommodations;
  - e. A monitoring and maintenance plan; and
2. The decision-making authority for the minor site development plan or site development plan shall be as specified in Chapter 21.06 of this title, unless the project involves a request for financial incentives from the city. If financial incentives are requested, the City Council shall have the authority to approve, conditionally approve or deny:
    - a. The minor site development plan or site development plan, upon a recommendation from the Planning Commission; and
    - b. The request for financial incentives, upon a recommendation from the Housing Commission.
- C. Building Permit. At the time of plan submittal for building permits, in addition to other required information, the applicant shall submit a set of detailed drawings for kitchens and bathrooms indicating counter and cabinet heights and depth, type of pulls, faucets, grab-bars, tub and/or shower dimensions, and handicapped turn space where appropriate.

(Ord. NS-662 § 12, 2003; Ord. CS-102 § CXIII, 2010; Ord. CS-164 §§ 10, 11, 2011; Ord. CS-178 § CXXIV, 2012)

#### **§ 21.84.090. Findings for approval.**

- A. A minor site development plan or site development plan for housing for senior citizens shall be approved only if the following findings are made:
  1. The project is consistent with the various goals, objectives, policies and programs of the general plan, the provisions of municipal code Title 21 (zoning ordinance), the local coastal program (if applicable), and/or the provisions of an applicable master or specific plan;
  2. The project site is adequate in size and shape to accommodate the proposed project;
  3. The project is properly related to and will not adversely impact the site, surroundings and environmental settings, and will not be detrimental to existing uses specifically permitted in the area in which the proposed project is to be located;
  4. The project shall not result in density or design that is incompatible with other land uses in the immediate vicinity, and the project will provide and maintain all yards, setbacks, walls, fences, landscaping, and other features determined necessary to provide compatibility with existing or

permitted future uses in the neighborhood;

5. The street system serving the proposed project is adequate to properly handle all traffic generated by the project; and
6. The request for a density bonus and/or additional incentive(s) is consistent with the provisions of Chapter 21.86 of this code. (This finding shall only apply to projects requesting a density bonus and/or additional incentives.)

(Ord. NS-662 § 12, 2003; Ord. CS-178 § CXXIV, 2012)

**§ 21.84.100. Additional requirements.**

- A. No housing development constructed prior to January 1, 1985, shall fail to qualify as a "senior citizen housing development" because it was not originally developed or put to use for occupancy by senior citizens.
- B. Any person who, on January 1, 1985, had the right to reside in, occupy, or use housing that is subject to the provisions for a "senior citizen housing development" in this chapter and California Civil Code Sections 51.2, 51.3 and 51.4, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the implementation of this chapter.
- C. Any person who is not sixty-two years of age or older, and who, on September 13, 1988, had the right to reside in, occupy, or use housing that is restricted to occupancy by persons sixty-two years of age or older, shall not be deprived of the right to continue that residency, occupancy or use as a result of the implementation of this chapter; provided that all new occupants are persons 62 years of age or older.
- D. A developer of housing for senior citizens shall establish a homeowner's association, Board of Directors, or other governing body, and corresponding covenants, conditions and restrictions or other documents or written policy. Said CC&Rs or other documents or written policy shall be submitted to and approved by the City Planner and recorded prior to issuance of a building permit. At a minimum, the CC&Rs or other documents or written policy shall set forth the following:
  1. Limitations on occupancy, residency or use on the basis of age;
    - a. Any such limitation shall not be more exclusive than to require that:
      - i. Each person in residence in each dwelling unit be required to be sixty-two years of age or older; or
      - ii. In a "senior citizen housing development" one person in residence in each dwelling unit is required to be a senior citizen or qualifying resident, and that each other resident in the same dwelling unit may be required to be a qualified permanent resident, a permitted health care resident, or a person under fifty-five years of age whose occupancy is permitted under California Civil Code Section 51.3(h) or Section 51.4(b);
    - b. The limitations on occupancy may allow for occupancy of units by employees of the housing community (and family members residing in the same unit) who are under sixty-two years of age, or who do not qualify as a qualifying resident, provided they perform substantial duties directly related to the management or maintenance of the housing community;

- c. The limitations on occupancy for housing that is intended for, and solely occupied by, persons sixty-two years of age or older, shall not be less exclusive than to require that the persons commencing any occupancy of a dwelling unit be sixty-two years of age or older, excluding occupancy by persons, permitted pursuant to Section 21.84.100.C and D.1.b, above;
  - d. In a "senior citizen housing development," the limitations on occupancy may be less exclusive than stated above, but shall at least require that the persons commencing any occupancy of a dwelling unit include a qualifying resident who intends to reside in the unit as his or her primary residence on a permanent basis;
  - e. In a "senior citizen housing development," the limitation on occupancy may result in more than, but not less than eighty percent, all of the dwellings being actually occupied by a qualifying resident;
2. In a "senior citizen housing development," upon the death, dissolution of marriage, or upon hospitalization, or other prolonged absence of the qualifying resident, any qualified permanent resident, as defined in this chapter and Section 51.3 of the California Civil Code, shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit as a permitted resident. This provision shall not apply to a permitted health care resident;
3. In a "senior citizen housing development," a permitted health care resident shall be entitled to occupy a dwelling unit during any period that the person is actually providing live-in, long-term, or hospice health care to a senior citizen or qualifying resident for compensation, which includes the provision of lodging and food in exchange for care;
4. In a "senior citizen housing development," upon the absence of the qualifying resident, a permitted health care resident shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit only if: a) the qualifying resident became absent from the dwelling unit due to hospitalization or other necessary medical treatment and expects to return to his or her residence within ninety days from the date the absence began; and b) the absent qualifying resident, or an authorized person acting for the qualifying resident, submits a written request to the owner, HOA, Board of Directors, or other governing body stating that the qualifying resident desires that the permitted health care resident be allowed to remain in order to be present when the qualifying resident returns to reside in the development. The HOA, Board of Directors, or other governing body may permit a permitted health care resident to remain for a period longer than ninety days, but not to exceed an additional ninety days;
5. In a "senior citizen housing development," for any person who is a qualified permanent resident, as defined in this chapter, whose disabling condition ends, the owner, HOA, Board of Directors, or other governing body may require the formerly disabled resident to cease residing in the development, subject to the provisions of California Civil Code Section 51.3(b)(3); and
6. In a "senior citizen housing development," CC&Rs or other documents or written policy shall allow temporary residency for a guest, who may be less than fifty-five years in age, of a qualifying resident, or qualified permanent resident, for periods of time, not less than sixty days in any year, that are specified in the CC&Rs or other documents or written policy.
- E. CC&Rs or other documents or written policies applicable housing for senior citizens that contain age restrictions, shall be enforceable only to the extent permitted in California Civil Code Section 51.3, the Federal Fair Housing Act, and the Federal Code of Regulations Title 24 Sections 100.300 to 100.308, notwithstanding lower age restrictions contained in those documents.

(Ord. NS-662 § 12, 2003; Ord. CS-102 § CXIV, 2010; Ord. CS-164 § 10, 2011)

**§ 21.84.110. Monitoring and reporting requirements.**

To assure compliance with the age requirement of this chapter, all applicants/owners of housing for senior citizens shall be required to submit, on an annual basis, an updated list of all project tenants and their age to the city's Planner.

(Ord. NS-662 § 12, 2003; Ord. CS-164 § 10, 2011)

## CHAPTER 21.85 INCLUSIONARY HOUSING

### **§ 21.85.010. Purpose and intent.**

The purpose and intent of this chapter is as follows:

- A. It is an objective of the city, as established by the housing element of the city's general plan, to ensure that all residential development, including all master planned and specific planned communities and all residential subdivisions provide a range of housing opportunities for all identifiable economic segments of the population, including households of lower and moderate income. It is also the policy of the city to:
    1. Require that a minimum of fifteen percent of all approved residential development as set forth in Section 21.85.030(A) be restricted to and affordable to lower-income households; subject to adjustment based on the granting of an inclusionary credit;
    2. Require that for those developments which provide ten or more units affordable to lower-income households, at least ten percent of the lower-income units shall have three or more bedrooms;
    3. Under certain conditions, allow alternatives to on-site construction as a means of providing affordable units; and
    4. In specific cases, allow inclusionary requirements to be satisfied through the payment of an in-lieu fee as an alternative to requiring inclusionary units to be constructed.
  - B. It is the purpose of this chapter to ensure the implementation of the city objective and policy stated in subsection A.
  - C. Nothing in this chapter is intended to create a mandatory duty on the part of the city or its employees under the Government Tort Claims Act and no cause of action against the city or its employees is created by this chapter that would not arise independently of the provisions of this chapter.
- (Ord. NS-535 § 1, 2000; Ord. NS-794 § 2, 2006; Ord. CS-109 § II, 2010; Ord. CS-368 § 3, 2020)

### **§ 21.85.020. Definitions.**

Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

"Affordable housing" means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the county median income, adjusted for household size, as follows:

1. Extremely low-income, rental or ownership units: the product of thirty percent times thirty percent of the county median income, adjusted for household size;
2. Very low-income, rental and ownership units: the product of thirty percent times fifty percent of the county median income, adjusted for household size;
3. Low-income, ownership units: the product of thirty percent times eighty percent of the county median income, adjusted for household size; and
4. Low-income, rental units: the product of thirty percent times seventy percent of the county

median income, adjusted for household size.

"Affordable housing agreement" means a legally binding agreement between a developer and the city to ensure that the inclusionary requirements of this chapter are satisfied. The agreement establishes, among other things, the number of required inclusionary units, the unit sizes, location, affordability tenure, terms and conditions of affordability and unit production schedule.

"Allowable housing expense" means the total monthly or annual recurring expenses required of a household to obtain shelter. For an ownership unit, allowable housing expenses include loan principal and interest at the time of initial purchase by the homebuyer, allowances for property and mortgage insurance, property taxes, homeowners' association dues and a reasonable allowance for utilities as defined by the Code of Federal Regulations (24 CFR 982). For a rental unit, allowable housing expenses include rent and a utility allowance as established and adopted by the City of Carlsbad housing authority, as well as all monthly payments made by the tenant to the lessor in connection with use and occupancy of a housing unit and land and facilities associated therewith, including any separately charged fees, utility charges, or service charges assessed by the lessor and payable by the tenant.

"Affordable housing policy team" shall consist of the Community and Economic Development Director, City Planner, Housing and Neighborhood Services Director, Administrative Services Director/Finance Director and a representative of the City Attorney's office.

"Combined inclusionary housing project" means separate residential development sites which are linked by a contractual relationship such that some or all of the inclusionary units which are associated with one development site are produced and operated at a separate development site or sites.

"Conversion" means the change of status of a dwelling unit from an ownership unit to a rental unit or vice versa and/or a market-rate unit to a unit affordable to lower-income households.

"Development revision" means revisions to development permits, entitlements, and/or related maps.

"Density bonus" shall have the same meaning as defined in Section 21.86.020(A)(7) of this title.

"Extremely low-income household" means those households whose gross income is equal to or less than thirty percent of the median income for San Diego County as determined by the U.S. Department of Housing and Urban Development.

"Financial assistance" means assistance to include, but not be limited to, the subsidization of fees, infrastructure, land costs, or construction costs, the use of redevelopment set-aside funds, community development block grant (CDBG) funds, or the provision of other direct financial aid in the form of cash transfer payments or other monetary compensation, by the City of Carlsbad.

"Growth management control point" shall have the same meaning as provided in Chapter 21.90, Section 21.90.045 of this title.

"Incentives or concessions" shall have the same meaning as defined in Section 21.86.020(A)(12) of this title.

"Inclusionary credit" means a reduction in the inclusionary housing requirement granted in return for the provision of certain desired types of affordable housing or related amenities as determined by the City Council.

"Inclusionary housing project" means a new residential development or conversion of existing residential buildings which has at least fifteen percent of the total units reserved and made affordable to lower-income households as required by this chapter.

"Inclusionary unit" means a dwelling unit that will be offered for rent or sale exclusively to and which shall be affordable to lower-income households, as required by this chapter.

"Income" means any monetary benefits that qualify as income in accordance with the criteria and procedures used by the City of Carlsbad housing and redevelopment department for the acceptance of applications and recertifications for the tenant based rental assistance program, or its successor.

"Low-income household" means those households whose gross income is more than fifty percent but does not exceed eighty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

"Lower-income household" means low-income, very low-income and extremely low-income households, whose gross income does not exceed eighty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

"Market-rate unit" means a dwelling unit where the rental rate or sales price is not restricted either by this chapter or by requirements imposed through other local, state, or federal affordable housing programs.

"Offsets" means concessions or assistance to include, but not be limited to, direct financial assistance, density increases, standards modifications or any other financial, land use, or regulatory concession which would result in an identifiable cost reduction enabling the provision of affordable housing.

"Ownership unit" means a residential unit with a condominium or other subdivision map allowing units to be sold individually.

"Rental unit" means a residential unit with no condominium or other subdivision map allowing units to be sold individually.

"Residential development" means any new residential construction of ownership or rental units; or development revisions, including those with and without a master plan or specific plan, planned unit developments, site development plans, mobile home developments and conversions of apartments to condominiums, as well as dwelling units for which the cost of shelter is included in a recurring payment for expenses, whether or not an initial lump sum fee is also required.

"Target income level" means the income standards for extremely low, very low and low-income levels within San Diego County as determined annually by the U.S. Department of Housing and Urban Development, and adjusted for family size.

"Total residential units" means the total units approved by the final decision-making authority. Total residential units are composed of both market-rate units and inclusionary units.

"Very low-income household" means a household earning a gross income equal to fifty percent or less of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

(Ord. NS-535 § 1, 2000; Ord. NS-794 § 3, 2006; Ord. CS-109 § III, 2010; Ord. CS-164 §§ 10, 12, 14, 2011)

### **§ 21.85.030. Inclusionary housing requirement.**

The inclusionary housing requirements of this chapter shall apply as follows:

- A. This chapter shall apply to all housing development projects that result in the construction of new residential units, including mixed use projects that include residential units and the conversion of apartments to condominiums.
- B. For any residential development or development revision of seven or more units as set forth in subsection A, not less than fifteen percent of the total units approved shall be constructed and restricted both as to occupancy and affordability to lower-income households.

- C. For those developments which are required to provide ten or more units affordable to lower-income households, at least ten percent of the lower-income units shall have three or more bedrooms.
- D. This chapter shall not apply to the following:
  - 1. Existing residences which are altered, improved, restored, repaired, expanded or extended, provided that the number of units is not increased, except that this chapter shall pertain to the subdivision of land for the conversion of apartments to condominiums;
  - 2. Conversion of a mobile home park pursuant to Section 21.37.120 of the code;
  - 3. The construction of a new residential structure which replaces a residential structure that was destroyed or demolished within two years prior to the application for a building permit for the new residential structure, provided that the number of residential units is not increased from the number of residential units of the previously destroyed or demolished residential structure;
  - 4. Any residential unit which is accessory as defined in Section 21.04.020 of this code;
  - 5. Accessory dwelling units not constructed to fulfill inclusionary housing requirements and developed in accordance with Section 21.10.030 of this code;
  - 6. Any project or portion of a project which is a commercial living unit as defined in Section 21.04.093 of this code; and
  - 7. Those residential units which have obtained affordable housing approvals prior to the effective date of the ordinance codified in this chapter, as set forth in Section 21.85.160 of this chapter.

(Ord. NS-535 § 1, 2000; Ord. CS-109 §§ IV—VI, 2010; Ord. CS-324 § 2, 2017; Ord. CS-368 § 4, 2020)

### **§ 21.85.035. New master plans or specific plans.**

New master plans and specific plans shall submit an inclusionary housing plan as follows:

- A. All master plans and specific plans approved on or after the effective date of the ordinance codified in this chapter are required by this chapter to provide an inclusionary housing plan within the master plan or specific plan document. This inclusionary housing plan will include appropriate text, maps, tables, or figures to establish the basic framework for implementing the requirements of this chapter. It shall establish, as a minimum, but not be limited to, the following:
  - 1. The number of market-rate units in the master plan or specific plan;
  - 2. The number of required inclusionary units for lower-income households over the entire master plan or specific plan;
  - 3. The designated sites for the location of the inclusionary units, including, but not limited to, any sites for locating off-site inclusionary housing projects or combined inclusionary housing projects;
  - 4. A general provision stipulating that an affordable housing agreement shall be made a condition of all future discretionary permits for development within the master or specific plan area such as tentative maps, parcel maps, planned unit developments and site development plans. The provision shall establish that all relevant terms and conditions of any affordable housing agreement shall be filed and recorded as a restriction on the project as a whole and those individual lots, units or projects which are designated as inclusionary units. The affordable housing agreement shall be consistent with Section 21.85.140 of this chapter.

- B. The location and phasing of inclusionary dwelling units may be modified as a minor amendment to the master plan pursuant to Section 21.38.120 of this title if the City Council authorizes such modifications when approving the master plan.
- C. All existing master plans or specific plans proposed for major amendment, pursuant to Section 21.38.120 of this code, shall incorporate into the amended master plan or specific plan document an inclusionary housing plan, consistent with this section of this chapter.

(Ord. NS-535 § 1, 2000)

**§ 21.85.040. Affordable housing standards.**

The affordable housing standards are as follows:

- A. All qualifying residential developments pursuant to Section 21.85.030(A) are subject to and must satisfy the inclusionary housing requirements of this chapter, notwithstanding a developer's request to process a residential development under other program requirements, laws or regulations, including, but not limited to, Chapter 21.86 (Residential Density Bonus) of this code. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of Chapter 21.86 (Residential Density Bonus), those affordable dwelling units that qualify a residential development for a density bonus shall also be counted toward satisfying the inclusionary housing requirements of this chapter.
- B. Whenever reasonably possible, inclusionary units should be built on the residential development project site.
- C. The required inclusionary 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.
- D. Inclusionary rental units shall remain restricted and affordable to the designated income group for fifty-five years. In addition to the income of a targeted group, limitations on assets may also be used as a factor in determining eligibility for rental or ownership units. Notwithstanding anything to the contrary in this chapter, no inclusionary unit shall be rented for an amount which exceeds ninety percent of the actual rent charged for a comparable market unit in the same development, if any.
- E. After the initial sale of the inclusionary ownership units at a price affordable to the target income level group, inclusionary ownership units shall remain affordable to subsequent income eligible buyers pursuant to a resale restriction with a term of thirty years or ownership units may be sold at a market price to other than targeted households provided that the sale shall result in the recapture by the city or its designee of a financial interest in the units equal to the amount of subsidy necessary to make the unit affordable to the designated income group and a proportionate share of any appreciation. Funds recaptured by the city shall be used in assisting other eligible households with home purchases at affordable prices. To the extent possible, projects using ownership units to satisfy inclusionary requirements shall be designed to be compatible with conventional mortgage financing programs including secondary market requirements.
- F. Inclusionary units should be located on sites that are in proximity to or will provide access to employment opportunities, urban services, or major roads or other transportation and commuter rail facilities and that are compatible with adjacent land uses.
- G. The design of the inclusionary units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.

H. Inclusionary projects shall provide a mix of number of bedrooms in the affordable dwelling units in response to affordable housing demand priorities of the city.

I. No building permit shall be issued, nor any development approval granted for a development which does not meet the requirements of this chapter. No inclusionary unit shall be rented or sold except in accordance with this chapter.

(Ord. NS-535 § 1, 2000; Ord. NS-794 § 4, 2006; Ord. CS-109 §§ VII—IX, 2010; Ord. CS-368 § 5, 2020)

#### **§ 21.85.050. Calculating the required number of inclusionary units.**

Subject to adjustments for an inclusionary credit, the required number of lower-income inclusionary units shall be fifteen percent of the total residential units approved by the final decision-making authority, including density bonus units. If the inclusionary units are to be provided within an off-site combined or other project, the required number of lower-income inclusionary units shall be fifteen percent of the total residential units to be provided both on-site and/or off-site. Subject to the maximum density allowed per the growth management control point or per specific authorization granted by the Planning Commission or City Council, fractional units for both market rate and inclusionary units of 0.5 will be rounded up to a whole unit. If the rounding calculation results in a total residential unit count which exceeds the maximum allowed, neither the market rate nor the inclusionary unit count will be increased to the next whole number.

Example 1: Total residential units = fifteen percent inclusionary units plus eighty-five percent market-rate units. If the final decision-making authority approves one hundred total residential units, then the inclusionary requirement equals fifteen percent of the "total" or fifteen units ( $100 \times 0.15 = 15$ ). The allowable market-rate units would be eighty-five percent of the "total" or eighty-five units.

Example 2: If the inclusionary units are to be provided off-site, the total number of inclusionary units shall be calculated according to the total number of market-rate units approved by the final decision-making authority. If one hundred market-rate units are approved, then this total is divided by 0.85 which provides a total residential unit count ( $100 \div 0.85 = 117$ ). The fifteen percent requirement is applied to this "total" (one hundred seventeen units) which equals the inclusionary unit requirement ( $117 \times 0.15 = 17.6$  units).  
(Ord. NS-535 § 1, 2000; Ord. NS-794 § 5, 2006; Ord. CS-368 § 6, 2020)

#### **§ 21.85.060. Inclusionary credit adjustment.**

Certain types of affordable housing are relatively more desirable in satisfying the city's state-mandated affordable housing requirement as well as the city's housing element goals, objectives and policies, and these may change over time.

To assist the city in providing this housing, developers may receive additional (more than one unit) credit for each of such units provided, thereby reducing the total inclusionary housing requirement to less than fifteen percent of all residential units approved. A schedule of inclusionary housing credit specifying how credit may be earned shall be adopted by the City Council and made available to developers subject to this chapter.

(Ord. NS-535 § 1, 2000; Ord. NS-794 § 6, 2006)

#### **§ 21.85.070. Alternatives to construction of inclusionary units.**

Notwithstanding any contrary provisions of this chapter, at the sole discretion of the City Council, the city may determine that an alternative to the construction of new inclusionary units is acceptable.

A. The City Council may approve alternatives to the construction of new inclusionary units where the proposed alternative supports specific housing element policies and goals and assists the city in

meeting its state housing requirements. Such determination shall be based on findings that new construction would be infeasible or present unreasonable hardship in light of such factors as project size, site constraints, market competition, price and product type disparity, developer capability, and financial subsidies available. Alternatives may include, but not be limited to, acquisition and rehabilitation of affordable units, conversion of existing market-rate units to affordable units, construction of special needs housing projects or programs (shelters, transitional housing, etc.), and the construction of accessory dwelling units.

- B. Accessory dwelling units constructed to satisfy an inclusionary housing requirement shall be rent restricted to affordable rental rates, and renters shall be income-qualified, as specified in the applicable affordable housing agreement. In no event shall a developer be allowed to construct more than a total of fifteen accessory dwelling units in any given development, master plan, or specific plan, to satisfy an inclusionary requirement.
- C. Contribution to a special needs housing project or program may also be an acceptable alternative based upon such findings. The requisite contribution shall be calculated in the same manner as an in-lieu fee per Section 21.85.110.

(Ord. NS-535 § 1, 2000; Ord. CS-109 § X, 2010; Ord. CS-324 § 2, 2017)

#### **§ 21.85.080. Combined inclusionary housing projects.**

An affordable housing requirement may be satisfied with off-site construction as follows:

- A. When it can be demonstrated by a developer that the goals of this chapter and the city's housing element would be better served by allowing some or all of the inclusionary units associated with one residential project site to be produced and operated at an alternative site or sites, the resulting linked inclusionary project site(s) is a combined inclusionary housing project.
- B. It is at the sole discretion of the City Council to authorize the residential site(s) which form a combined inclusionary housing project. Such decision shall be based on findings that the combined project represents a more effective and feasible means of implementing this chapter and the goals of the city's housing element. Factors to be weighed in this determination include: the feasibility of the on-site option considering project size, site constraints, competition from other projects, difficulty in integrating due to significant price and product type disparity, and lack of capacity of the on-site development entity to deliver affordable housing. Also to be considered are whether the off-site option offers greater feasibility and cost effectiveness, particularly regarding potential local public assistance and the city's affordable housing financial assistance policy, location advantages such as proximity to jobs, schools, transportation, and services, diminished impact on other existing developments, capacity of the development entity to deliver the project, and satisfaction of multiple developer obligations that would be difficult to satisfy with multiple projects.
- C. All agreements between parties to form a combined inclusionary housing project shall be made a part of the affordable housing agreement required for the site(s), which affordable housing agreement(s) shall be approved by council.
- D. Location of the combined inclusionary housing project is limited to sites within the same city quadrant in which the market-rate units are located, or sites which are contiguous to the quadrant in which the market-rate units are proposed.

(Ord. NS-535 § 1, 2000)

**§ 21.85.090. Creation of inclusionary units not required.**

Inclusionary units created which exceed the final requirement for a project may, subject to City Council approval in the affordable housing agreement, be utilized by the developer to satisfy other inclusionary requirements for which it is obligated or market the units to other developers as a combined project subject to the requirements of Section 21.85.080.

(Ord. NS-535 § 1, 2000)

**§ 21.85.100. Offsets to the cost of affordable housing development.**

- A. The city shall consider making offsets available to developers when necessary to enable residential projects to provide a preferable product type or affordability in excess of the requirements of this chapter.
- B. Offsets will be offered by the city to the extent that resources and programs for this purpose are available to the city and approved for such use by the City Council, and to the extent that the residential development, with the use of offsets, assists in achieving the city's housing goals. To the degree that the city makes available programs to provide offsets, developers may make application for such programs.
- C. Evaluation of requests for offsets shall be based on the effectiveness of the offsets in achieving a preferable product type and/or affordability objectives as set forth within the housing element; the capability of the development team; the reasonableness of development costs and justification of subsidy needs; and the extent to which other resources are used to leverage the requested offsets.
- D. Nothing in this chapter establishes, directly or through implication, a right to receive any offsets from the city or any other party or agency to enable the developer to meet the obligations established by this chapter.
- E. Any offsets approved by the City Council and the housing affordability to be achieved by use of those offsets shall be set out within the affordable housing agreement pursuant to Section 21.85.140 or, at the city's discretion in a subsequent document.
- F. Developers are encouraged to utilize local, state or federal assistance, when available, to meet the affordability standards set forth in Sections 21.85.030 and 21.85.040.
- G. For development located in the coastal zone, any offset provided pursuant to this section shall be consistent with the applicable provisions of the certified Carlsbad Local Coastal Program Land Use Plan(s), with the exception of density.

(Ord. NS-535 § 1, 2000; Ord. NS-794 § 7, 2006; Ord. NS-889 § 1, 2008)

**§ 21.85.110. In-lieu fees.**

Payment of a fee in lieu of construction of affordable units may be appropriate in the following circumstances:

- A. For any qualifying residential development or development revision pursuant to Section 21.85.030(A) of less than seven units, the inclusionary requirements may be satisfied through the payment to the city of an in-lieu fee.
- B. The in-lieu fee to be paid for each market-rate dwelling unit shall be fifteen percent of the subsidy needed to make affordable to a lower-income household one newly constructed, typical attached-housing unit. This subsidy shall be based upon the City Council's determination of the average

subsidy that would be required to make affordable typical, new two-bedroom/one-bath and three-bedroom/two-bath ownership units and rental units, each with an assumed affordability tenure of at least fifty-five years.

- C. The dollar amount and method of payment of the in-lieu fees shall be fixed by a schedule adopted, from time to time, by resolution of the City Council. Said fee shall be assessed against the market-rate lots/units of a development.
  - D. All in-lieu fees collected hereunder shall be deposited in a housing trust fund. Said fund shall be administered by the city and shall be used only for the purpose of providing funding assistance for the provision of affordable housing and reasonable costs of administration consistent with the policies and programs contained in the housing element of the general plan.
  - E. At the discretion of the City Council, where a developer is authorized to pay a fee in lieu of development, an irrevocable dedication of land or other non-monetary contribution of a value not less than the sum of the otherwise required in-lieu fee may be accepted as an alternative to paying the in-lieu fee if it is determined that the non-monetary contribution will be effectual in furthering the goals and policies of the housing element and this chapter. The valuation of any land offered in-lieu shall be determined by an appraisal made by an agent mutually agreed upon by the city and the developer. Costs associated with the appraisal shall be borne by the developer.
  - F. Where a developer is authorized to pay a fee in lieu of development of affordable housing units, any approvals shall be conditioned upon a requirement to pay the in-lieu fee in an amount established by resolution of the City Council in effect at the time of payment.
  - G. As an alternative to paying an in-lieu fee(s), inclusionary housing requirements may be satisfied either through a combined inclusionary housing project, pursuant to Section 21.85.080 of this chapter or new construction of inclusionary units subject to approval of the final decision-making authority.
- (Ord. NS-535 § 1, 2000; Ord. CS-109 §§ XI, XII, 2010)

#### **§ 21.85.120. Collection of fees.**

All fees collected under this chapter shall be deposited into a housing trust fund and shall be expended only for the affordable housing needs of lower-income households, and reasonable costs of administration consistent with the purpose of this chapter.

(Ord. NS-535 § 1, 2000)

#### **§ 21.85.130. Preliminary project application and review process.**

The preliminary project application/review process shall be as follows:

- A. A developer of a residential development not subject to a master plan or specific plan, proposing an inclusionary housing project shall have an approved site development plan prior to execution of an affordable housing agreement for the project. The developer may submit a preliminary application to the Housing and Neighborhood Services Director prior to the submittal of any formal applications for such housing development. The preliminary application shall include the following information if applicable:
  1. A brief description of the proposal including the number of inclusionary units proposed;
  2. The zoning, general plan designations and assessors parcel number(s) of the project site;
  3. A site plan, drawn to scale, which includes: building footprints, driveway and parking layout,

- building elevations, existing contours and proposed grading; and
4. A letter identifying what specific offsets and/or adjustments are being requested of the city. Justification for each request should also be included.
- B. Within thirty days of receipt of the preliminary application for projects not requesting offsets or inclusionary credit adjustments, or ninety days for projects requesting offsets or inclusionary credit adjustments, the department shall provide to an applicant, a letter which identifies project issues of concern, the offsets and inclusionary credit adjustments that the Community and Economic Development Director can support when making a recommendation to the final decision-making authority, and the procedures for compliance with this chapter. The applicant shall also be provided with a copy of this chapter and related policies, the pertinent sections of the California codes to which reference is made in this chapter and all required application forms.
- (Ord. NS-535 § 1, 2000; Ord. NS-794 § 8, 2006; Ord. CS-164 §§ 12, 14, 2011)

#### **§ 21.85.140. Affordable housing agreement as a condition of development.**

This chapter requires the following:

- A. Developers subject to this chapter shall demonstrate compliance with this chapter by executing an affordable housing agreement prepared by the city Housing and Neighborhood Services Director and submitted to the developer for execution. Agreements which conform to the requirements of this section and which do not involve requests for offsets and/or an inclusionary credit, other than those permitted by right, if any, shall be reviewed by the affordable housing policy team and approved by the Community and Economic Development Director or designee. Agreements which involve requests for offsets and/or an inclusionary credit, other than those permitted by right, shall require the recommendation of the Housing Commission and action by the City Council as the final decision-maker. Following the approval and execution by all parties, the affordable housing agreement with approved site development plan shall be recorded against the entire development, including market-rate lots/units and the relevant terms and conditions therefrom filed and subsequently recorded as a separate deed restriction or regulatory agreement on the affordable project individual lots or units of property which are designated for the location of affordable units. The approval and execution of the affordable housing agreement shall take place prior to final map approval and shall be recorded upon final map recordation or, where a map is not being processed, prior to the issuance of building permits for such lots/units. The affordable housing agreement may require that more specific project and/or unit restrictions be recorded at a future time. The affordable housing agreement shall bind all future owners and successors in interest for the term of years specified therein.
- B. An affordable housing agreement, for which the inclusionary housing requirement will be satisfied through new construction of inclusionary units, either on-site or off-site, shall establish, but not be limited to, the following:
  1. The number of inclusionary dwelling units proposed, with specific calculations detailing the application of any inclusionary credit adjustment;
  2. The unit square footage, and number of bedrooms;
  3. The proposed location of the inclusionary units;
  4. Amenities and services provided, such as daycare, after school programs, transportation, job training/employment services and recreation;

5. Level and tenure of affordability for inclusionary units;
  6. Schedule for production of dwelling units;
  7. Approved offsets provided by the city;
  8. Where applicable, requirements for other documents to be approved by the city, such as marketing, leasing and management plans; financial assistance/loan documents; resale agreements; and monitoring and compliance plans;
  9. Where applicable, identification of the affordable housing developer and agreements specifying their role and relationship to the project.
- C. An affordable housing agreement, for which the inclusionary housing requirement will be satisfied through payment to the city of any in-lieu contributions other than fee monies, such as land dedication, shall include the method of determination, schedule and value of total in-lieu contributions.
- D. An affordable housing agreement will not be required for projects which will be satisfying their inclusionary housing requirement through payment to the city of an in-lieu fee.

(Ord. NS-535 § 1, 2000; Ord. NS-794 §§ 9, 10, 2006; Ord. CS-164 §§ 12, 14, 2011)

#### **§ 21.85.145. Agreement processing fee.**

The City Council may establish by resolution, fees to be paid by the developer at the time of preliminary project application to defray the city's cost of preparing and/or reviewing all inclusionary housing agreements.

(Ord. NS-535 § 1, 2000)

#### **§ 21.85.150. Agreement amendments.**

Any amendment to an affordable housing agreement shall be processed in the same manner as an original application for approval, except as authorized in Section 21.85.035(B). Amendments to affordable housing agreements initially approved prior to the effective date of the ordinance codified in this chapter shall be entitled to consideration under the ordinance provisions superseded by the ordinance codified in this chapter.

(Ord. NS-535 § 1, 2000)

#### **§ 21.85.155. Expiration of affordability tenure.**

The city or its designee shall have a one-time first right of refusal to purchase any project containing affordable units offered for sale at the end of the minimum tenure of affordability for rental projects. The first right of refusal to purchase the rental project shall be submitted in writing to the Housing and Neighborhood Services Director. Within ninety days of its receipt, the city shall indicate its intent to exercise the first right of refusal for the purpose of providing affordable housing.

(Ord. NS-535 § 1, 2000; Ord. CS-164 § 12, 2011)

#### **§ 21.85.160. Pre-existing approvals.**

Any residential developments for which a site development plan for the affordable housing component of the development was approved prior to the effective date of the ordinance codified in this chapter shall be subject to the ordinance in effect at the time of the approval.

(Ord. NS-535 § 1, 2000)

**§ 21.85.170. Enforcement.**

Enforcement provisions are as follows:

- A. The provisions of this chapter shall apply to all developers and their agents, successors and assigns proposing a qualifying residential development governed by this chapter pursuant to Section 21.85.030(A). No building permit or occupancy permit shall be issued, nor any entitlement granted, for a project which is not exempt and does not meet the requirements of this chapter. All inclusionary units shall be rented or owned in accordance with this chapter.
- B. The city may institute any appropriate legal actions or proceedings necessary to ensure compliance with this chapter, including, but not limited to, actions to revoke, deny or suspend any permit or development approval.
- C. Any individual who sells or rents a restricted unit in violation of the provisions of this chapter shall be required to forfeit all monetary amounts so obtained. Such amounts shall be added to the city's housing trust fund.

(Ord. NS-535 § 1, 2000; Ord. CS-109 § XIII, 2010)

**§ 21.85.180. Savings clause.**

All code provisions, ordinances, and parts of ordinances in conflict with the provisions of this chapter are repealed. The provisions of this chapter, insofar as they are substantially the same as existing code provisions relating to the same subject matter shall be construed as restatements and continuations thereof and not as new enactments. With respect, however, to violations, rights accrued, liabilities accrued, or appeals taken, prior to the effective date of the ordinance codified in this chapter, under any chapter, ordinance, or part of an ordinance shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceedings, with respect to any such violation, right, liability or appeal.

(Ord. NS-535 § 1, 2000)

**§ 21.85.190. Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Ord. NS-535 § 1, 2000; Ord. CS-109 § XIV, 2010)

**§ 21.85.195. Fee deferral.**

Notwithstanding anything in this chapter to the contrary, all housing in-lieu and housing impact fees for any residential development that consists of five or more dwelling units shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant.

The amount of the fees shall be based on the fees in effect at the time of the request for the final inspection, not the time of building permit issuance.

In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner.

(Ord. CS-200 § V, 2013; Ord. CS-271 § V, 2015)

## CHAPTER 21.86 DENSITY BONUS

### **§ 21.86.010. Purpose.**

The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to the public who reside within that city. There is in the City of Carlsbad a need for housing affordable to various groups, such as lower income, moderate income and senior citizen households. Therefore, it is in the public interest for the city to promote the construction of such additional housing through the exercise of its powers and utilization of its resources to facilitate the development of quality housing affordable for these types of households.

- A. It is the purpose of this section to specify how compliance with Government Code Section 65915 et seq. ("State Density Bonus Law") will be implemented, as required by Government Code Section 65915, subdivision (a).
- B. It is the purpose of this section to implement the goals, objectives and policies of the housing element of the city's general plan.
- C. It is the purpose of this section to provide the implementing framework, as it relates to affordable housing density bonuses, and offer concessions and incentives for eligible housing developments which are consistent with the city's long-standing commitment to provide for affordable housing.

(Ord. CS-382 § 3, 2020)

### **§ 21.86.020. Definitions.**

The definitions found in State Density Bonus Law shall apply to the terms contained in this chapter.  
(Ord. CS-382 § 3, 2020)

### **§ 21.86.030. Applicability.**

A housing development as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory incentives that are provided by State Density Bonus Law when the applicant seeks and agrees to provide very-low, low or moderate income housing units, or units intended to serve seniors, transitional foster youth, disabled veterans, homeless persons, and lower income students in the threshold amounts specified in State Density Bonus Law. A housing development includes only the residential component of a mixed-use project. A commercial development as defined in Section 21.86.110 shall be eligible for a commercial development bonus as provided in Section 21.86.110.

The granting of a density bonus, incentive or concession, pursuant to this section, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

(Ord. CS-382 § 3, 2020)

### **§ 21.86.040. Application requirements.**

- A. Any applicant requesting a density bonus and any incentive(s), waiver(s), parking reductions, or commercial development bonus provided by State Density Bonus Law shall submit a density bonus report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development, commercial development, or mixed-use development. The requests contained in the density bonus report shall be processed concurrently with

the planning application. The applicant shall be informed whether the application is complete consistent with California Government Code Section 65943.

- B. The density bonus report shall include the following minimum information:
1. Requested Density Bonus.
    - a. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.
    - b. A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.
    - c. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
    - d. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.
    - e. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very-low or lower income households in the five-year period preceding the date of submittal of the application.
    - f. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in California Government Code Section 65915, subdivision (g) can be met.
  2. Requested Concession(s) or Incentive(s). In the event an application proposes concessions or incentives for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:
    - a. The city's usual development standard and the requested development standard or regulatory incentive.
    - b. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
    - c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs or rents.

3. Requested Waiver(s). In the event an application proposes waivers of development standards for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:
  - a. The city's usual development standard and the requested development standard.
  - b. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.
4. Requested Parking Reduction. In the event an application proposes a parking reduction for a housing development pursuant to California Government Code Section 65915, subdivision (p), a table showing parking required by the zoning regulations, parking proposed under Section 65915, subdivision (p), and reasonable documentation that the project is eligible for the requested parking reduction.
5. Child Care Facility. If a density bonus or incentive is requested for a child care facility in a housing development, reasonable documentation that all of the requirements included in California Government Code Section 65915, subdivision (h) can be met.
6. Condominium Conversion. If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all of the requirements included in California Government Code Section 65915.5 can be met.
7. Commercial Development Bonus. If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus, as defined in Section 21.86.110, and reasonable documentation that each of the standards included in Subsection 21.86.110(C) has been met.
8. Fee. Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the density bonus plan with State Density Bonus Law.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.050. Density bonus.**

All calculations are rounded up for any fractional numeric value in determining the total number of units to be granted, including base density and bonus density as well as the resulting number of affordable units needed for a given density bonus project.

- A. If a housing development qualifies for a density bonus under more than one income category, or additionally as a senior citizen housing development as defined in Chapter 21.84 and State Density Bonus Law, or as housing intended to serve transitional foster youth, disabled veterans, homeless persons, or lower income students, the applicant shall identify the categories under which the density bonus would be associated and granted. Density bonuses from more than one category can be combined up to the maximum allowed under State Density Bonus Law.
- B. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.
- C. The applicant may elect to accept a lesser percentage of density bonus than the housing development

is entitled to, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in California Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than what is authorized under State Density Bonus Law.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.060. Incentives.**

- A. Incentives include incentives and concessions as defined in State Density Bonus Law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.
- B. Nothing in this section requires the provision of direct financial incentives for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The city, at its sole discretion, may choose to provide such direct financial incentives.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.070. Local coastal program consistency.**

- A. State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (California Public Resources Code Section 30000 et seq.), and further provides that the granting of a density bonus or an incentive shall not be interpreted, in and of itself, to require a local coastal plan amendment.
- B. Development within the coastal zone that is granted a density bonus, incentive(s), waiver(s), parking reduction(s), or commercial development bonus shall be consistent with the coastal resource protection policies, and where applicable, the public access requirements of the certified Carlsbad Local Coastal Program.

(Ord. CS-382 § 3, 2020; Ord. CS-426 § 2, 2022)

#### **§ 21.86.080. Review procedures.**

All requests for density bonuses, incentives, parking reductions, waivers, or commercial development bonuses shall be considered and acted upon by the approval body with authority to approve the development within the timelines prescribed by California Government Code Section 65950 et seq., with right of appeal to the City Council.

- A. Eligibility for Density Bonus, Incentive(s), Parking Reduction, and/or Waiver(s) for a Housing Development. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law and the Coastal Act, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of state law as applicable:
  1. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to very-low and low income households as required by California Government Code Section 65915, subdivision (c)(3).
  2. Any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents; except that, if a mixed-use development is requested, the

application must instead meet all of the requirements of California Government Code Section 65915, subdivision (k)(2).

3. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.
  4. The housing development is eligible for any requested parking reductions under California Government Code Section 65915, subdivision (p).
  5. If the density bonus is based all or in part on donation of land, all of the requirements included in California Government Code Section 65915, subdivision (g) have been met.
  6. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in California Government Code Section 65915, subdivision (h) have been met.
  7. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in California Government Code Section 65915.5 have been met.
  8. If the housing development is in the coastal zone, the development is consistent with the coastal resource protection policies, and where applicable, the public access requirements of the certified Carlsbad Local Coastal Program.
- B. If a commercial development bonus is requested for a commercial development, the decision-making body shall make a finding that the development complies with all of the requirements of Section 21.86.110(C), that the city has approved the partnered housing agreement, and that the commercial development bonus has been mutually agreed upon by the city and the commercial developer. If the project is in the coastal zone, the decision-making body shall also find that the commercial development is consistent with the coastal resource protection policies, and where applicable, the public access requirements of the certified Carlsbad Local Coastal Program.
- C. The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in California Health and Safety Code Section 50052.5, or for affordable rents, as defined in California Health and Safety Code Section 50053; or
  2. The proposed incentive would be contrary to state or federal law; or
  3. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- D. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed waiver would be contrary to state or federal law; or
  2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
  3. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- E. If any density bonus, incentive, parking reduction, waiver, or commercial development bonus is approved pursuant to this chapter, the applicant shall enter into an affordable housing agreement or senior housing agreement with the city pursuant to Section 21.86.090.

(Ord. CS-382 § 3, 2020; Ord. CS-426 § 3, 2022)

**§ 21.86.090. Affordable housing agreement and senior housing agreement.**

- A. Affordable Housing Agreement. Except where a density bonus, incentive, waiver, parking reduction, or commercial development bonus is provided for a market-rate senior housing development, the applicant shall enter into an affordable housing agreement with the city, in a form approved by the City Attorney, to be executed by the City Manager, to ensure that the requirements of this section are satisfied. The affordable housing agreement shall guarantee the affordability of the affordable units for a minimum of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; shall identify the type, size and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units.
- B. Senior Housing Agreement. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the city, running with the land, in a form approved by the City Attorney, to be executed by the City Manager, to require that the housing development be operated as "housing for older persons" consistent with state and federal fair housing laws.
- C. The executed affordable housing agreement or senior housing agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The affordable housing agreement or senior housing agreement shall be binding on all future owners and successors in interest.
- D. The affordable housing agreement shall include, but not be limited to, the following:
  1. The number of density bonus dwelling units granted;
  2. The number and type of affordable dwelling units;
  3. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
  4. The proposed location of the affordable dwelling units;

5. Schedule for production of affordable dwelling units;
6. Incentives or concessions or waivers provided by the city;
7. Where applicable, tenure and conditions governing the initial sale of the affordable units;
8. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units;
9. Marketing plan; publication and notification of availability of affordable units;
10. Compliance with federal and state laws;
11. Prohibition against discrimination;
12. Indemnification;
13. City's right to inspect units and documents;
14. Remedies.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.100. Design and quality.**

- A. The city may not issue building permits for more than 50 percent of the market rate units until it has issued building permits for all of the affordable units, and the city may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.
- B. Affordable units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the city.
- C. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market rate units.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.110. Commercial density bonus.**

- A. The following definitions shall apply to commercial density bonus:

"Commercial development" means a development project for nonresidential uses.

"Commercial development bonus" means a modification of development standards mutually agreed upon by the city and a commercial developer and provided to a commercial development eligible for such a bonus under Section 21.86.110(C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.

"Partnered housing agreement" means an agreement approved by the city between a commercial developer and a housing developer identifying how the commercial development will provide housing available at affordable ownership cost or affordable rent consistent with Section 21.86.110(C). A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial

developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial development and the housing development.

- B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the city, the city shall grant a commercial development bonus mutually agreed upon by the developer and the city. The commercial development bonus shall not include a reduction or waiver of fees imposed on the commercial development to provide for affordable housing.
- C. The requirements for commercial development bonus are as follows, which also be described in the partnered housing agreement:
  - 1. The housing development shall be located either: (a) on the site of the commercial development; or (b) on a site within the city that is within one-half mile of a major transit stop and is located in close proximity to public amenities, including schools and employment centers.
  - 2. At least thirty percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for low-income households, or at least 15 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for very low-income households.
  - 3. The commercial developer must agree either to directly build the affordable units; donate a site consistent with subparagraph (C)(1) above for the affordable units; or make a cash payment to the housing developer for the affordable units.

- D. Any approved partnered housing agreement shall be described in the city's housing element annual report as required by California Government Code Section 65915.7, subdivision (k).

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.120. Interpretation.**

If any portion of this chapter conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with State Density Bonus Law.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.130. Inclusionary housing.**

All housing development projects are required to provide affordable housing units in accordance with Chapter 21.85, Inclusionary Housing, of this title. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of this chapter, those affordable dwelling units provided to meet the inclusionary requirement established pursuant to Chapter 21.85 of this title shall be counted toward satisfying the density bonus requirements of this chapter.

(Ord. CS-382 § 3, 2020)

#### **§ 21.86.140. Severability.**

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected.

(Ord. CS-382 § 3, 2020)

**CHAPTER 21.87  
REASONABLE ACCOMMODATION**

**§ 21.87.010. Purpose and intent.**

A. The purpose and intent of this chapter is as follows:

1. To provide individuals with disabilities reasonable accommodation in land use and zoning and building regulations, policies, practices, and procedures to provide equal opportunity to use and enjoy housing and facilitate the development of housing for individuals with disabilities pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereafter "fair housing laws").
2. To establish a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the city to comply fully with the intent and purpose of fair housing laws.
3. To establish findings that ensure a requested accommodation, if granted, is necessary and reasonable, and would not require a fundamental alteration in the nature of the city's land use and zoning and building regulations, policies, practices, and procedures.

(Ord. CS-125 § II, 2011)

**§ 21.87.020. Definitions.**

A. For the purposes of this chapter, the terms used in this chapter relating to the provisions of reasonable accommodation are defined as follows:

"Individual with a disability" means someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. This section is intended to apply to those persons who are defined as disabled under the fair housing laws.

"Reasonable accommodation" means, in the land use and zoning context, providing individuals with disabilities or developers of housing for people with disabilities: (1) reasonable, necessary, or feasible flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or (2) the waiver of certain requirements when it is necessary to provide equal opportunity to use and enjoy housing and/or eliminate barriers to housing opportunities so long as the requested flexibility or waiver would not require a fundamental alteration in the nature of the city's land use and zoning and building regulations, policies, practices, and procedures, and the city's Local Coastal Program.

(Ord. CS-125 § II, 2011; Ord. CS-196 § 1, 2012)

**§ 21.87.030. Applicability.**

- A. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to housing opportunities.
- B. A request for reasonable accommodation may include a modification or exception to the rules, standards, development and use of housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to the housing of their choice.

- C. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect the obligations of an individual or a developer of housing for an individual with disabilities to comply with other applicable regulations not at issue in the requested accommodation.
- D. Requests for reasonable accommodation shall be made in the manner prescribed by Section 21.87.040 of this chapter.
- E. If a request for reasonable accommodation is granted, the request shall be granted to an individual and shall not run with the land unless it is determined that: (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with applicable city or state codes; or (2) the accommodation is to be used by another individual with a disability.
- F. Nothing in this ordinance shall require the city to waive or reduce development or building fees associated with the granting of a reasonable accommodation request.

(Ord. CS-125 § II, 2011; Ord. CS-196 § 2, 2012)

#### **§ 21.87.040. Request for reasonable accommodation.**

- A. Application for a request for reasonable accommodation shall be made in writing on a form provided by the City Planner. The form shall be signed by the property owner or authorized agent. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans and all other materials as specified by the City Planner. The application shall include the zoning, land use or building code provision, regulation, policy or practice from which modification or exception for reasonable accommodation is being requested including an explanation of how application of the existing zoning, land use or building code provision, regulation, policy or practice would preclude the provision of reasonable accommodation.
- B. Proof of applicable disability shall be provided in the form of a note from a medical doctor or other third party professional documentation deemed acceptable to the City Planner.
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. If an individual needs assistance in making the application for reasonable accommodation, the city will provide assistance to ensure the process is accessible.

(Ord. CS-125 § II, 2011; Ord. CS-196 § 3, 2012)

#### **§ 21.87.050. Review authority and procedure.**

- A. A request for reasonable accommodation may be approved or conditionally approved by the City Planner and shall be processed independently of any other required development permits. However, approval of a reasonable accommodation may be conditioned upon approval of other related permits.
- B. The filing of an application for request for reasonable accommodation shall not require public notice.
- C. If necessary to reach a determination on the request for reasonable accommodation, the City Planner may request:
  1. Further information from the applicant consistent with fair housing laws, specifying in detail the

information that is required.

2. Information from other city departments and divisions or other agencies.
- D. Conditions may be imposed to ensure that any removable structures or physical design features that are constructed or installed in association with the reasonable accommodation be removed once those structures or physical design features are unnecessary to provide access to the dwelling unit for the current occupants.

(Ord. CS-125 § II, 2011)

#### **§ 21.87.060. Required findings.**

- A. The housing, which is the subject of the request for reasonable accommodation, will be occupied by an individual with a disability protected under fair housing laws;
- B. The requested accommodation is necessary to make housing available to an individual with a disability protected under the fair housing laws;
- C. The requested accommodation would not impose an undue financial or administrative burden on the city;
- D. The requested accommodation would not require a fundamental alteration in the nature of the city's land use and zoning and building regulations, policies, practices, and procedures, and for housing in the coastal zone, the city's local coastal program.

(Ord. CS-125 § II, 2011)

#### **§ 21.87.070. Effective date of order—Appeal of decision.**

- A. The effective date of the City Planner's decision and method for appeal of such decision shall be governed by Chapter 21.54 of this title.
- B. Nothing in this procedure shall require the City Planner to disclose any information provided to support the request for reasonable accommodation which, in the opinion of the City Attorney, would violate state or federal privacy rights of the individual with a disability.
- C. Nothing in the procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

(Ord. CS-125 § II, 2011)

**CHAPTER 21.90  
GROWTH MANAGEMENT**

**§ 21.90.010. Purpose and intent.**

- (a) It is the policy of the city to:
  - (1) Provide quality housing opportunities for all economic sectors of the community;
  - (2) Provide a balanced community with adequate commercial, industrial, recreational and open space areas to support the residential areas of the city;
  - (3) To implement the provisions of Proposition E adopted by the citizens of Carlsbad on November 4, 1986, to require that public facilities and improvements meeting city standards are available concurrently with the need created by new developments and to limit the number of residential dwelling units which can be approved or constructed in the city;
  - (4) Balance the housing needs of the region against the public service needs of Carlsbad residents and available fiscal and environmental resources;
  - (5) Encourage infill development in urbanized areas before allowing extensions of public facilities and improvements to areas which have yet to be urbanized;
  - (6) Ensure that all development is consistent with the Carlsbad general plan;
  - (7) Prevent growth unless adequate public facilities and improvements are provided in a phased and logical fashion as required by the general plan;
  - (8) Control of the timing and location of development by tying the pace of development to the provision of public facilities and improvements at the times established by the city-wide facilities and improvements plan.
- (b) The City Council of the city has determined despite previous City Council actions, including, but not limited to, amendments to the land use, housing, and parks and recreation elements of the general plan, amendments to City Council Policy No. 17, adoption of traffic impact fees, and modification of park dedication and improvement requirements, that the demand for facilities and improvements has outpaced the supply resulting in shortages in public facilities and improvements, including, but not limited to, streets, parks, open space, schools, libraries, drainage facilities and general governmental facilities. The City Council has further determined that these shortages are detrimental to the public health, safety and welfare of the citizens of Carlsbad.
- (c) This chapter is adopted to ensure the implementation of the policies stated in subsection (a), to eliminate the shortages identified in subsection (b), to ensure that no development occurs without providing for adequate facilities and improvements, to regulate the pace of development thereby ensuring a continued supply of housing over a period of years and to continue the quality of life for all economic sectors of the Carlsbad community.
- (d) This chapter will further the policies, goals and objectives established herein by requiring identification of all public facilities and improvements required for development, by prohibiting development until adequate provisions for the public facilities and improvements are made by developers of projects within the city, and by giving development priority to areas of the city where public facilities and improvements are already in place (infill areas).

- (e) This chapter replaces the temporary moratorium on processing and approval of development projects imposed by City Council Ordinance No. 9791.

(Ord. 9808 § 1, 1986; Ord. 9829 § 1, 1987)

#### **§ 21.90.020. Definitions.**

- (a) Whenever the following terms are used in this chapter they shall have the meaning established by this section unless from the context it is apparent that another meaning is intended:

"City-wide facilities and improvements plan" means a plan prepared and approved according to Section 21.90.090 identifying those facilities and improvements required on a city-wide basis to serve the projected population of the city as established by the general plan and providing an outline and budget for financing certain facilities and improvements which will be provided by the city.

"Development" means any use to which land is put, building or other alteration of land and construction incident thereto.

"Development permit" means any permit, entitlement or approval, whether discretionary or ministerial, issued under Titles 20 or 21 of this code and any legislative actions such as zone changes, general plan amendments, or master plan approval or amendment.

"Facilities" means any schools, parks, open space, or recreational areas or structures providing for fire, library, or governmental services, identified in a facilities management plan.

"Improvement" includes traffic controls, streets and highways, including curbs, gutters and sidewalks, bridges, overcrossings, street interchanges, flood control or stormdrain facilities, sewer facilities, water facilities and lighting facilities.

"Local facilities management plan" means a facilities management plan defined by Section 21.90.120 for a local facilities management zone which is established according to Section 21.90.100.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.030. General prohibition—Exceptions.**

- (a) Unless exempted by the provisions of this chapter, no application for any building permit or development permit shall be accepted, processed or approved until a city-wide facilities and improvements plan has been adopted and a local facilities management plan for the applicable local facilities management zone has been submitted and approved according to this chapter.
- (b) No zone change, general plan amendment, master plan amendment or specific plan amendment which would increase the residential density or development intensity established by the general plan in effect on the effective date of this chapter shall be approved unless an amendment to the citywide facilities management plan and the applicable local facilities management plan has first been approved.
- (c) The classes of projects or permits listed in this subsection shall be exempt from the provisions of subsection (a). Development permits and building permits for these projects shall be subject to any fees established pursuant to the city-wide facilities and improvement plan and any applicable local facilities management plan.
- (1) Redevelopment projects;
  - (2) Projects consisting of the construction or alteration of a single dwelling structure for a family on a lot owned by the family intending to occupy the structure, or not to exceed one nonowner-

- occupied house per individual for one or more lots owned prior to July 20, 1986;
- (3) Building permits and final maps for projects identified in Section 2(F) of Ordinance No. 9791 (projects for which construction had commenced and were designated on the map marked Exhibit A to Ordinance No. 9791 "as developing");
- (4) Building permits for projects for which all required development permits were issued or approved on or before January 21, 1986. If all required development permits were issued for a portion of the project only, the exemption shall apply to that portion;
- (5) Building permits for projects for which all required development permits were issued or approved before July 20, 1986, and for which building permits could have been issued under Ordinance No. 9791. If all required development permits were issued for a portion of the project only, the exemption shall apply to that portion;
- (6) Commercial and industrial projects with approved development permits or with a complete application on file with the city prior to June 11, 1986, for such permits. New permits for commercial and industrial projects located within an area that has been previously approved for such uses may also be processed and approved;
- (7) Projects by nonprofit entities for structures and uses for youth recreational, educational or guidance programs such as boys and girls clubs or private schools;
- (8) Zone changes or general plan amendments necessary to accomplish consistency between the general plan and zoning, to implement the provisions of the local coastal plan or which the City Council finds will not increase the public facilities or services and which are initiated by the City Council or Planning Commission;
- (9) Public utility facilities and improvement projects without accommodations for permanent employees are exempt from the provisions of this chapter unless the City Council determines they are of sufficient size and scale to impact public facilities;
- (10) Adjustment plans;
- (11) Development permits for minor subdivisions located in the northwest quadrant of the city as defined in Ordinance No. 9791. Building permits for commercial or industrial construction on lots in such subdivisions may be approved. Residential building permits will not be approved for lots in such subdivisions unless otherwise exempt under this chapter except one permit for a nonowner-occupied lot may be approved for each such subdivision;
- (12) The conversion of existing mobile home parks to condominiums or similar forms of ownership whereby the mobile home park will remain substantially the same in appearance following such conversion;
- (13) Master plans or general plan amendments in connection with master plans which do not increase the residential density or the overall development intensity or facility needs established by the existing general plan provided a local facilities management plan must be prepared, processed and approved concurrently with the master plan.
- (d) The provisions of this subsection apply to final maps and other development permits for projects with a tentative map approved July 20, 1986, which are not included in the exemptions listed in subsection (c).

- (1) If a tentative map or tentative parcel map was approved on or before January 21, 1986, then, after approval of the city-wide facilities plan, a final map or parcel map may be processed and approved before the adoption of a local facility management plan. The expiration period for those tentative maps shall be tolled until the city-wide plan is adopted. The expiration of any development permits issued in conjunction with those maps shall be tolled until the applicable local facilities management plan is approved or, two years after the date the city-wide plan is approved, whichever occurs first.
  - (2) If a tentative map or tentative parcel map was approved after January 21, 1986, and before July 20, 1986, but the approval of final map or parcel map was prohibited by Ordinance No. 9791, then approval of final maps and parcel maps is prohibited until after preparation of the applicable local facilities management plan. The expiration period of those tentative maps and tentative parcel maps, and any other development permits issued in conjunction with the maps shall be tolled until the local facilities management plan is approved, or two years after the date the city-wide facilities and improvements plan is approved, whichever occurs first.
- (e) The exemption for projects listed in subsection (c)(3), (4), (5), and (6) shall expire on July 20, 1988. After that date all development permits for those projects shall be fully subject to the provisions of this chapter. The exemptions for projects listed in subsection (c)(3), (4), (5), and (6) shall apply only so long as the facilities and improvements required as a condition to the issuance of final development permits have been installed or are being installed pursuant to a secured agreement. Any breach of such secured improvement agreement shall subject any remaining building permits for the project to the provisions of subsection (a).
- (f) Final or parcel maps for projects listed in subsection (c)(3), (4), (5), (6) and (7) which comply with all the requirements of the Subdivision Map Act and Title 20 of this code which were filed with the city before July 20, 1986, may be approved by the City Council, or City Engineer as appropriate, after July 20, 1986. Upon approval, those projects shall be subject to the exemption of subsection (c).
- (g) The City Council may authorize the processing of and decision making on building permits and development permits for a project with a master plan approved before July 20, 1986, subject to the following restrictions:
- (1) The City Council finds that the facilities and improvements required by the master plan are sufficient to meet the needs created by the project and that the master plan developer has agreed to install those facilities and improvements to the satisfaction of the City Council.
  - (2) The master plan developer shall agree in writing that all facilities and improvement requirements, including, but not limited to, the payment of fees established by the city-wide facilities and management plan and the applicable local facilities management plan shall be applicable to development within the master plan area and that the master plan developer shall comply with those plans.
  - (3) The master plan establishes an educational park and all uses within the park comprise an integral part of the educational facility.
  - (4) Building permits for the one hundred twenty-nine unit residential portion of Phase I of the project may be approved provided the applicant has provided written evidence that an educational entity will occupy Phase I of the project which the City Council finds is satisfactory and consistent with the goals and intent of the approved master plan.
  - (5) Prior to the approval of the final map for Phase I the master plan developer shall have agreed to

participate in the restoration of a significant lagoon and wetland resource area and made any dedications of property necessary to accomplish the restoration.

- (h) After making the findings in paragraph (1) the City Council may authorize the processing of and decisionmaking on master plans subject to the requirements of paragraph (2). After the grant of the easement required by subparagraph (h)(2)(iv) the tentative map for Phase I of the project, the site plan for the commercial development and the local coastal plan amendment may also be processed and approved. If such approvals are granted and, subject to all other provisions of this code, grading and building permits for construction of the golf course and first phase of the commercial portions of the project may be processed and approved.

The processing and approval of all other developments and building permits within the master plan shall not occur until after the city-wide facilities plan and the local facilities management plan have been adopted by the City Council.

- (1) (i) That the master plan will provide all necessary public facilities for the project and will cure any facilities deficits in the area affected by the project;
- (ii) That the approval will not prejudice the preparation of the city-wide facilities plan and will improve the level of public facilities and services in the area;
- (iii) That by the dedication of land and the construction of public improvements the project will make a significant contribution to the public facilities needs of the city and provide for the preservation or enhancement of significant environmental resources.
- (2) (i) The master plan shall include all of the information required by and implementing the provisions of Sections 21.90.090 and 21.90.110 for the area covered by the master plan;
- (ii) The applicant shall agree in writing that all facilities and improvement requirements, including, but not limited to, the payment of fees established by the citywide facilities and improvement plan and the applicable local facilities management plan shall be applicable to development within the master plan area and that the master plan developer shall comply with those requirements;
- (iii) The master plan applicant shall agree to participate in the restoration of a significant lagoon and wetland resource area;
- (iv) Prior to any processing on the master plan the applicant shall grant an easement over the property necessary for the lagoon restoration and the right-of-way necessary for the widening of La Costa Avenue and its intersection with El Camino Real.

(Ord. 9808 § 1, 1986; Ord. 9837 § 1, 1987; Ord. NS-63 § 1, 1989)

**§ 21.90.031. Tolling of time for consideration of applications submitted before the effective date of this chapter.**

After approval of the city-wide facilities and improvement plan and the applicable local facilities management plan, applications for development permits which were accepted as complete before the effective date of this chapter shall have processing priority in relationship to the acceptance date. Until the approval of the plans all applicable time limits for processing the development permits shall be tolled.

(Ord. 9808 § 1, 1986)

**§ 21.90.032. Tolling of expiration of previously issued development permits.**

If a discretionary development permit, other than a development permit issued in conjunction with a subdivision map, issued prior to July 20, 1986, has an expiration period within which building permits must be issued and the issuance of building permits for the project is prohibited by this chapter then the expiration period shall be tolled until the applicable local facilities management plan is approved, or two years after the date the citywide plan is approved, whichever occurs first.

(Ord. 9808 § 1, 1986)

**§ 21.90.033. Extensions of prior approvals prohibited.**

After approval of an applicable local facilities management plan an extension of the expiration date of any development permit shall not be granted unless the extension is found to be consistent with the plan. The decisionmaking body considering an extension may condition the extension upon compliance with the city-wide plan and applicable local facilities management plan.

(Ord. 9808 § 1, 1986)

**§ 21.90.040. Compliance with this chapter.**

- (a) No development permit shall be approved unless the approving authority finds that the permit is consistent with the city-wide facilities and improvements plan and the applicable local facilities management plan. To ensure consistency the approving authority may impose any condition to the approval necessary to implement the plans.
- (b) No building permit shall be issued unless the fees required by this chapter, and any applicable local facilities management plan fees are first paid, and the permit is consistent with the applicable local facilities management plan. As a condition to the issuance of any building permit pursuant to Section 21.90.030(C) the applicant shall agree to pay the appropriate fees within thirty days of the date each fee is established.
- (c) The requirements of this chapter are imposed as a condition of zoning on the property to ensure implementation of and consistency with the general plan and to protect the public health, safety and welfare by ensuring that public facilities and improvements will be installed to serve new development prior to or concurrently with need.

(Ord. 9808 § 1, 1986)

**§ 21.90.045. Growth management residential control point established.**

In order to ensure that residential development does not exceed those limits established in the general plan, the following growth management control points are established for the residential density ranges of the land use element.

Allowed Dwelling Units Per Acre	
General Plan Density Ranges	Growth Management Control Point
RL 0—1.5	1.0
RLM 0—4.0	3.2
RM 4.0—8.0	6.0
RMH 8.0—15.0	11.5
RH 15.0—23.0	19.0

<b>Allowed Dwelling Units Per Acre</b>	
<b>General Plan Density Ranges</b>	<b>Growth Management Control Point</b>
R-30 23.0—30.0	25.0

No residential development permit shall be approved which density exceeds the growth management control point for the applicable density range unless the following findings are made:

1. The project will provide sufficient additional public facilities for the density in excess of the control point to ensure that the adequacy of the city's public facilities plans will not be adversely impacted; and
2. There have been sufficient developments approved in the quadrant at densities below the control point to cover the units in the project above the control point so that approval will not result in exceeding the quadrant limit; and
3. All necessary public facilities required by this chapter will be constructed or are guaranteed to be constructed concurrently with the need for them created by this development and in compliance with the adopted city standards.

For the purposes of this section the term "quadrant" means those quadrants established by the intersections of El Camino Real and Palomar Airport Road as set forth in the map amending the General Plan and as required by Proposition E adopted November 4, 1986.

(Ord. 9829 § 2, 1987; Ord. CS-206 § II, 2013)

#### **§ 21.90.050. Establishment of local facilities management fee.**

- (a) A local facilities management fee is established to pay for improvements or facilities identified in a local facilities management plan which are related to new development within the zone and are not otherwise financed by any other fee, charge or tax on development, or are not installed by a developer as a condition of a building permit or development permit. The fee may also be used to pay for that portion of the facilities or improvements identified in the city-wide facilities and improvements plan attributed to development within the local zone which are not financed by other means. The facilities management fee shall be paid before the issuance of a building permit. The amount of the fee shall be determined based upon the estimated cost of the facility or improvement designated as necessary to accommodate additional development within the applicable local facilities management zone plus the estimated cost of facilities and improvements identified in the city-wide facilities and improvement plan attributable to the local zone. The fee shall be fairly apportioned among the new development.
- (b) The fee required by this section is in addition to any other means of financing facilities or improvements identified by a local facilities management plan or any other tax, fee, charge or improvement requirement which may be imposed on the development of property under the provisions of state law, this code or City Council policy.
- (c) The amount of the fee for a local facilities management zone shall be set by City Council resolution after a public hearing, published notice of which shall be given according to Section 21.54.060.A.2 and Government Code Section 54992.
- (d) As a condition of any building or development permit application submitted after the effective date of this chapter the applicant shall agree to pay the fee established by this section at the time a building permit is issued.

- (e) The fee established by this section shall be levied at the time of issuance of a building permit.  
(Ord. 9808 § 1, 1986; Ord. CS-178 § CXXV, 2012)

**§ 21.90.060. Special provisions for building permits issued during temporary moratorium.**

Applicants for projects for which building permits were issued after January 21, 1986, and before July 20, 1986, shall pay the fee established by Section 21.90.050 within thirty days after the amount of the fee is determined by the City Council. Payment shall be made according to the agreement executed by the applicant pursuant to Section 3 of Ordinance No. 9791.

(Ord. 9808 § 1, 1986)

**§ 21.90.070. Finding of health, safety and welfare necessary for the fees imposed by Sections 21.90.050 and 21.90.060.**

- (a) The City Council declares that payment of the fee established and imposed by Sections 21.90.050 and 21.90.060 and installation of the facilities and improvements identified in a facilities management plan are necessary to achieve the policies established in Section 21.90.010 and to implement the city's general plan. If the fees are not paid or the facilities or improvements are not installed the public health, safety and welfare will suffer because there will be insufficient facilities and improvements to accommodate any new development. This finding is based upon City Council Policy No. 17, City Council Ordinance No. 9791, and the evidence presented at the public hearings on the ordinance adopting this chapter.
- (b) If any condition imposed as a condition of a development permit or building permit pursuant to this chapter is protested then the permit shall be suspended during the period of the protest.
- (c) This section is adopted pursuant to Government Code Section 65913.5.

(Ord. 9808 § 1, 1986)

**§ 21.90.080. Performance standard.**

The City Council shall adopt general performance standards for each facility or improvement listed in Section 21.90.090(b) or 21.90.110(c). Specific performance standards for city-wide facilities shall be adopted as part of the city-wide facilities and improvement plan. Specific performance standards for each zone shall be adopted as part of the local facilities management plan. If at any time after preparation of a local facilities management plan the performance standards established by a plan are not met then no development permits or building permits shall be issued within the local zone until the performance standard is met or arrangements satisfactory to the City Council guaranteeing the facilities and improvements have been made.

(Ord. 9808 § 1, 1986)

**§ 21.90.090. City-wide facilities and improvements plan.**

- (a) To implement the city's general plan by securing provision of facilities and improvements, and to ensure that development does not occur unless facilities and improvements are available, the City Council shall adopt by resolution a city-wide facilities and improvements plan. The plan shall: Identify all facilities and improvements necessary to accommodate the land uses specified in the general plan and by the zoning; specify size, capacity and service level performance standards for the identified facilities and improvements; establish specific time tables for acquisition, installation and operation of the facilities and improvements correlated to projected population growth, facility and improvement performance standards, and projected nonresidential development; identify the

financing method or methods for each facility and improvement; and establish a facility and improvement budget for those facilities or improvements which will be constructed or financed by the city. The plan shall encourage infill development and reduce the growth-inducing impact of premature extension of facilities or improvements to undeveloped areas by establishing priorities for facility and improvement installation or financing.

- (b) The city-wide facilities and improvement plan shall show how and when the following facilities and improvements will be installed or financed as specified in subsection (c):

- (1) Major sewage transmission systems and sewage treatment plants;
- (2) Major water transmission lines;
- (3) Major area-wide drainage facilities;
- (4) Prime and major arterials; freeway interchanges, bridges or overcrossings;
- (5) Fire facilities;
- (6) Governmental administration facilities;
- (7) Parks and other recreational facilities;
- (8) Libraries.

- (c) The plan shall include the following information with regard to each facility and improvement listed in subsection (b):

- (1) An inventory of present and future requirements for each facility and improvement based upon the performance standard established for each facility and improvement. Cost estimates shall be included. The inventory shall be consistent with the general plan and zoning for the area;
- (2) A phasing schedule establishing the timing for installation or provisions of facilities or improvements in relationship to the amount of development activity (e.g. number of dwelling units, number of square feet of commercial space within the service area of the facility or improvement) and the facility and improvement performance standards;
- (3) A financing plan establishing various methods of funding the facilities and improvements identified in the plan. The plan shall identify those facilities and improvements which would otherwise be provided as a requirement of processing a development project (i.e. requirements imposed as a condition of a development permit) or provided by the developer in order to establish consistency with the general plan or Titles 18, 20 or 21 of this code, and those facilities and improvements for which new funding methods which shall be sufficient to ensure sufficient funds are available to construct or provide facilities or improvements when required by the phasing schedule.

- (d) The City Manager shall prepare and present the plan to the City Council not later than one year from the effective date of the ordinance codified in this chapter.
- (e) Amendments to this city-wide facilities and improvements plan shall be initiated by action of the Planning Commission or City Council.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.100. Local facilities management zones.**

- (a) The City Council shall divide the city into facilities management zones.
- (b) The boundaries of the zones shall be established based upon logical facilities and improvements planning, construction and service relationships to ensure the economically efficient and timely installation of required facilities and improvements. In establishing zone boundaries the City Council shall also be guided by the following considerations:
  - (1) Service areas or drainage basins;
  - (2) Extent to which facilities or improvements are in place or available;
  - (3) Ownership of property;
  - (4) Boundaries of existing zoning master plans;
  - (5) Boundaries of pending zoning master plans;
  - (6) Boundaries of potential future zoning master plan areas;
  - (7) Boundaries of approved tentative maps;
  - (8) Public facilities relationships, especially the relationship to the city's planned major circulation network;
  - (9) Special district service territories;
  - (10) Approved fire, drainage, sewer, or other facilities or improvement master plans.
- (c) The zones shall be established by resolution after a public hearing notice of which is given pursuant to Section 21.54.060.A.2 of this code.

(Ord. 9808 § 1, 1986; Ord. CS-178 § CXXVI, 2012)

#### **§ 21.90.110. Contents of local facility management plans.**

- (a) A local facilities management plan shall be prepared for each facility zone and shall cover the entire zone.
- (b) The plan shall consist of maps, graphs, tables and narrative text and shall be based upon the general plan and zoning applicable within the local zone at the time of plan approval. The local facilities management plan shall be consistent with the city-wide facilities and improvements plan and shall implement the city-wide facilities and improvements plan within the zone.
- (c) The facilities management plan shall show how and when the following facilities and improvements necessary to accommodate development within the zone will be installed or financed as specified in subsection (d):
  - (1) Sewer systems;
  - (2) Water;
  - (3) Drainage;
  - (4) Circulation;
  - (5) Fire facilities;

- (6) Schools;
  - (7) Parks and other recreational facilities;
  - (8) Open space.
- (d) The plan shall be consistent with and implement the city-wide facilities management plan and general plan and shall include the following information with regard to each facility and improvement listed in subsection (c):
- (1) An inventory of present and future requirements for each facility and improvement based upon the performance standard established for each facility. Because improvement requirements for certain facilities and improvements may overlap zone boundaries a discussion of the need for coordination and a proposed coordination plan for facilities extending from one zone to another shall be included. Cost estimates shall be included. It must be shown that development in the zone will not reduce the facilities or improvements capabilities or create facilities or improvements shortages in other zones or reduce service capability in any zone below the performance standard which is established pursuant to Section 21.90.080. The growth-inducing impact of the out-of-zone improvements shall be assessed.
  - (2) A phasing schedule establishing the timing for installation or provisions of facilities or improvements in relationship to the amount of development activity (e.g. number of dwelling units, number of square feet of commercial space, etc.) for the facilities management zone. The phasing schedule shall ensure the development of one area of the zone will not utilize more than the area's pro rata share of facility or improvement capacity within that zone unless sufficient capacity is ensured for other areas of the zone at the time of the first development. The phasing schedule shall include a schedule of development within the zone and a market data and cash flow analysis for financing of facilities and improvements for the zone. The phasing schedule shall identify periods where the demand for facilities and improvements may exceed the capacity and provide a plan for eliminating the shortfall. In those situations when demand exceeds capacity and it is not feasible to increase the capacity prior to development, no development shall occur unless a time schedule for and a means of increasing the capacity is established in the plan.
  - (3) A financing plan establishing various methods of funding the facilities and improvements identified in the plan fairly allocating the cost to the various properties within the zone. The plan shall identify those facilities and improvements which would otherwise be provided as a requirement of processing a development project (i.e. requirements imposed as a condition of a development permit) or provided by the developer in order to establish consistency with the general plan or Titles 18, 20 or 21 of this code, and those facilities and improvements for which new funding methods which shall be sufficient to ensure sufficient funds are available to construct or provide facilities or improvements when required by the phasing schedule. Where facilities or improvements are required for more than one zone, the phasing plan shall identify those other zones and the plan for each zone shall be coordinated. Coordination, however, shall not require identical funding methods.
  - (4) A list or schedule of facilities requirements correlated to individual development projects within the zone.
- (e) The local facilities management plan shall establish the proportionate share of the cost of facilities and improvements identified in the city-wide facilities and improvement plan attributable to development of property on the local facilities management zone.

(Ord. 9808 § 1, 1986)

**§ 21.90.120. Local facilities management plan preparation.**

- (a) A local facilities management plan may be prepared by the city or by the property owners within the zone according to the procedures established by this section.
- (b) The City Council, upon its own initiative, may by resolution direct the City Manager to prepare a facilities management plan for any zone. The City Council may assess the cost of preparing the plan to the owners within the zone after a hearing ten days' written notice of which is given to the property owners within the zone. The cost shall be spread pro rata according to acreage and development potential.
- (c) All owners within the zone may jointly submit a facilities management plan.
- (d) For zones in which joint submission of a facilities management plan is shown to be not feasible any owner or group of cooperating owners within the zone may petition the City Council to allow the owner or group of owners to prepare the plan. After a meeting for which ten days' prior written notice has been given to the property owners within the zone, the City Council may permit the owner or group of owners to prepare and submit the plan. A limit based on the estimated cost of the plan shall be determined at the time of the hearing. The actual cost shall be determined when the plan is adopted and shall be assessed pro rata based on acreage and development potential to property within the facilities management zone. The assessment shall be collected by the city at the time any application for a development project within the zone is submitted. The owner or owners who prepared the plan shall be reimbursed for the cost of the plan less the owner's or owners' pro rata share. No reimbursement shall be made unless the plan is approved. Cost of preparation shall not include interest.
- (e) As an option to preparation by the owner or group of owners as provided in subsection (d), the City Council may decide to direct the City Manager to prepare the facilities management plan. The cost of preparation shall be advanced to the city by the requesting owner or owners, assessed to all the owners and reimbursed as provided in subsection (d).

(Ord. 9808 § 1, 1986)

**§ 21.90.125. Facilities management plan processing.**

- (a) Facilities management plans shall be reviewed according to the following procedure:
  - (1) A completed facilities management plan complying with this chapter, and accompanied by a processing fee submitted to the Planning Director for processing. If the Planning Director determines that the plan complies with the provisions of Section 21.90.110 the director shall set a facilities management plan for public hearing before the Planning Commission within sixty days of receipt of a complete application.
  - (2) The hearing shall be noticed according to the provisions of Section 21.54.060.A.2. A staff report containing recommendation on the plan shall be prepared and furnished to the public, the applicant, and the Planning Commission prior to the hearing.
  - (3) The Planning Commission shall hear and consider the application for a facilities management plan and shall by resolution prepare recommendations and findings for the City Council. The action of the Commission shall be filed with the City Clerk, and a copy shall be mailed to the owners within the facility zone.

- (4) When the Planning Commission action is filed with the City Clerk, the clerk shall set the matter for public hearing before the City Council. The hearing shall be noticed according to the provisions of Section 21.54.060.A.2.
- (5) The City Council shall hear the matter, and after considering the findings and recommendations of the Planning Commission, may approve, conditionally approve or deny a facilities management plan. The City Council may include in the resolution adopting the facilities management plan any fees or facilities improvement requirements which it deems necessary to impose on development projects within the zone in order to implement the city-wide facilities and improvement plan and the local facilities management plan.
- (b) A facilities management plan may be amended following the same procedures for the original adoption.
- (c) A local facilities management plan shall be considered a project for the purposes of Title 19 of this code. Environmental documents should be processed concurrently with the plan.

(Ord. 9808 § 1, 1986; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXXVII, 2012)

#### **§ 21.90.130. Implementation of facilities and improvements requirements.**

- (a) To ensure that the provisions of this chapter and the general plan are met, the following shall apply:
- (1) Except as otherwise provided in this chapter no development permit shall be approved unless the map or permit is consistent with the local facilities management plan and unless provision for all facilities and improvements related to the development project are provided or funded.
- (2) No building permit shall be issued unless all applicable fees, including, but not limited to, public facilities fees, bridge and thoroughfare fees, traffic impact fees, facilities management fees, school fees, park-in-lieu fees, sewer fees, water fees, or other development fees identified in the city-wide facilities and improvements plan and local facilities management plan and adopted by the City Council have first been paid or provision for their payment has been made to the satisfaction of the City Council.
- (b) The city-wide facilities and improvement plan and the local facility management plan process is part of the city's ongoing planning effort. It is anticipated that amendments to the plans may be necessary. Adoption of a facilities management plan does not establish any entitlement or right to any particular general plan or zoning designation or any particular development proposal. The city-wide facilities and improvements plan and the local facilities management plans are guides to ensure that no development occurs unless adequate facilities or improvements will be available to meet demands created by development. The City Council may initiate an amendment to any of the plans at any time if in its discretion it determines that an amendment is necessary to ensure adequate facilities and improvements.
- (c) If at any time it appears to the satisfaction of the City Manager that facilities or improvements within a facilities management zone or zones are inadequate to accommodate any further development within that zone or that the performance standards adopted pursuant to Section 21.90.100 are not being met he or she shall immediately report the deficiency to the council. If the council determines that a deficiency exists then no further building or development permits shall be issued within the affected zone or zones and development shall cease until an amendment to the city-wide facilities and improvements plan or applicable local facilities management plan which addresses the deficiency is approved by the City Council and the performance standard is met.

- (d) The City Planner shall monitor the development activity for each local facilities management zone and shall prepare an annual report to the City Council consisting of maps, graphs, charts, tables and text and which includes a developmental activity analysis, a facilities and improvements adequacy analysis, a facility revenue/expenditure analysis and recommendation for any amendments to the facilities management plan. The content of the annual report shall be established by the City Council.
- (e) The City Council shall annually review the city-wide facilities and improvements plan at the time it considers the city's capital improvement budget.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.140. Obligation to pay fees or install improvements required by any other law.**

Nothing in this chapter shall be construed as relieving a builder, developer or subdivider from any public improvement requirement, dedication requirement or fee requirement which is imposed pursuant to Titles 13, 18, 20 or 21 of this code or pursuant to any City Council policy.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.150. Implementing guidelines.**

The City Council may adopt any guidelines it deems necessary to implement this chapter.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.160. Exclusions.**

- (a) Development proposals which consist of facilities, or structures constructed by a city, county, special district, state, or federal government or any agency, department, or subsidiary thereof for governmental purposes are excluded from the provisions of this chapter. This exclusion shall not apply to development proposals to which a possessory interest tax would be applicable.
- (b) Tentative maps the application for which was accepted before August 6, 1985, may be approved without complying with the plans adopted pursuant to this chapter but any other development permits or building permits for the project shall be subject to the requirements of the plans. The tentative map shall be subject to Section 21.90.030.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.170. Council actions, fees, notice.**

- (a) Whenever this chapter requires or permits an action or decision of the City Council, that action or decision shall be accomplished by a resolution.
- (b) The City Council shall establish application and processing fees for the submission and processing of facilities management plans and for any other request made under Sections 21.90.100, 21.90.120 or 21.90.140.
- (c) Whenever written notice is required to be given to property owners under this section the notice shall be mailed by first class mail to the owners shown on the last equalized assessment roll.

(Ord. 9808 § 1, 1986)

#### **§ 21.90.180. Public facility reductions.**

Notwithstanding any previous sections of this chapter, the City Council shall not materially reduce or delete any public facilities or improvements without making a corresponding reduction in residential

density unless such a reduction or deletion of public facilities is ratified by a vote of the citizens of Carlsbad.

(Ord. 9829 § 4, 1987)

**§ 21.90.185. Residential dwelling unit caps.**

Notwithstanding any previous sections of this chapter, the number of residential dwellings to be approved or constructed after November 4, 1986, shall not exceed the following: Northwest quadrant 5,844; Northeast quadrant 6,166; Southwest quadrant 10,667; Southeast quadrant 10,801, without an affirmative vote of the citizens of Carlsbad.

(Ord. 9829 § 4, 1987)

**§ 21.90.190. Severability.**

If any section, subsection, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any part thereof be declared invalid or unconstitutional.

(Ord. 9808 § 1, 1986)

**§ 21.90.195. Fee deferral.**

Notwithstanding anything in this chapter and any resolution of the City Council to the contrary, all fees subject to this chapter for any residential development that consists of five or more dwelling units and all new commercial, office, and industrial buildings or building additions shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant.

The amount of the fees shall be based on the fees in effect at the time of the request for the final inspection, not the time of building permit issuance.

In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner.

(Ord. CS-200 § V, 2013; Ord. CS-271 § V, 2015)

**CHAPTER 21.95  
HILLSIDE DEVELOPMENT REGULATIONS**

**Note: Prior ordinance history: Ord. Nos. NS-446, NS-524, NS-783, CS-102, and CS-164.**

**§ 21.95.010. Purpose and intent.**

The purposes and intent of this chapter are to:

- A. Implement the goals and objectives of the land use and open space/conservation elements of the Carlsbad general plan;
- B. Assure hillside conditions are properly identified and incorporated into the planning process;
- C. Preserve and/or enhance the aesthetic qualities of nature hillsides and manufactured slopes by designing projects which relate to the slope of the land, minimizing the amount of project grading, and incorporating contour grading into manufactured slopes which are located in highly visible public locations;
- D. Assure that the alteration of natural hillsides will be done in an environmentally sensitive manner whereby lagoons and riparian ecosystems will be protected from increased erosion and no substantial impacts to natural resource areas, wildlife habitats or native vegetation areas will occur.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.020. Definitions.**

The following definitions are established:

- A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

"Collector street" means any street with a minimum right-of-way width of sixty feet which intersects with a circulation element road and provides either primary or secondary access to a residential or nonresidential project.

"Contour grading" means a grading concept designed to result in earth forms which resemble natural terrain characteristics. Horizontal and vertical curve variations should be used for slope banks.

"Development" means grade, erect or construct.

"Downhill perimeter slope" means a slope located between a pad or gently sloping area (gradient is less than ten percent) of a single lot and the property line that is at a lower level than the pad or gently sloping area of the lot.

"Grade" means to excavate or fill or any combination thereof.

"Manufactured slope" means a man-made slope consisting wholly or partially of either cut or fill material.

"Natural slope" means a slope which is not manufactured.

"Project" means any proposal for "development."

"Slope" means ground that forms a natural or artificial incline.

"Total graded area" means all areas of project grading (both on-site and off-site) which are necessary

to enable the achievement of the project.

"Uphill perimeter slope" means a slope located between the pad or gently sloping area (gradient is less than ten percent) of a single lot and a property line located at a higher level than the pad or gently sloping area of the lot.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.030. Applicability of minor hillside development permit and hillside development permit.**

- A. Unless exempt pursuant to Section 21.95.040 of this chapter, no person shall grade, or erect, or construct into or on top of a slope which has a gradient of fifteen percent or more and an elevation differential greater than fifteen feet without first obtaining a minor hillside development permit or hillside development permit pursuant to this chapter.
- B. A minor hillside development permit shall be required, except as specified in subsection C of this section.
- C. A hillside development permit shall be required if the permit application is processed concurrently with any other permit(s) for which the Planning Commission or City Council is the decision-making authority.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.040. Exemptions from minor hillside development permit and hillside development permit.**

- A. The following developments are exempt from the requirement to obtain a minor hillside development permit or hillside development permit, provided that the development complies with Section 21.95.140 of this chapter and the city's hillside development and design guidelines:
  1. The development of one single-family dwelling unit on a residentially zoned lot;
  2. On a single lot, the additional development (i.e.; regrading, slope alteration or building encroachment) of or upon any manufactured slope with a gradient of forty percent or greater and an elevational difference (height) of fifteen feet or greater which has been previously graded consistent with an authorized grading permit;
  3. The development (trenching, utility construction and backfilling) of underground utility systems.
- B. Any development exempted by Section 21.95.040.A above, which does not comply with Section 21.95.140 and the city's hillside development guidelines, must submit an application for a hillside development permit or hillside development permit amendment in order to obtain an exclusion from or modification to the development and design standards pursuant to this chapter.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.050. Application and fees.**

- A. An application for a minor hillside development permit or hillside development permit may be made by the owner of the property affected or the authorized agent of the owner. The application shall:
  1. Be made in writing on a form provided by the City Planner;
  2. State fully the circumstances and conditions relied upon as grounds for the application; and

3. Be accompanied by:
  - a. A legal description of the property involved.
  - b. Adequate plans that allow for detailed review pursuant to this chapter and demonstrate compliance with the hillside mapping procedures in Section 21.95.130.
  - c. All other materials as specified by the City Planner.

B. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

(Ord. CS-178 § CXXVIII, 2012)

#### **§ 21.95.060. Notices and hearings.**

- A. Notice of an application for a minor hillside development permit shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.
- B. Notice of an application for a hillside development permit shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

(Ord. CS-178 § CXXVIII, 2012)

#### **§ 21.95.070. Decision-making authority.**

- A. Applications for minor hillside development permits and hillside development permits shall be acted upon in accordance with the following:
  1. Minor Hillside Development Permit.
    - a. An application for a minor hillside development permit may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
    - b. The City Planner may approve or conditionally approve the minor hillside development permit if all of the findings of fact in Section 21.95.080 of this chapter are found to exist.
  2. Hillside Development Permit.
    - a. An application for a hillside development permit may be approved, conditionally approved or denied by the Planning Commission or City Council, as specified in Section 21.54.040 of this title.
    - b. The decision on a hillside development permit shall be based upon the decision-making authority's review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
    - c. The decision-making authority shall hear the matter, and may approve or conditionally approve the hillside development permit if all of the findings of fact in Section 21.95.080 of this title are found to exist.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.080. Required findings.**

- A. No minor hillside development permit or hillside development permit shall be approved unless the decision-making authority finds that:
  1. Undevelopable areas of the project, pursuant to Section 21.53.230(b) of this code, have been properly identified;
  2. The project complies with the purpose and intent provisions of Section 21.95.010 of this chapter;
  3. The project complies with Section 21.95.140 of this chapter and Section 21.95.160 if a modification to the development and design standards is approved;
  4. The project design substantially conforms to the hillside development guidelines manual.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.090. Announcement of decision and findings of fact.**

When a decision on a minor hillside development permit or hillside development permit is made pursuant to this chapter, the decision-making body shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.100. Effective date and appeals.**

Decisions on minor hillside development permits and hillside development permits shall become effective unless appealed in accordance with the applicable provisions of Sections 21.54.140 and 21.54.150 of this title.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.110. Expiration, extensions and amendments.**

- A. The expiration period for an approved minor hillside development permit or hillside development permit shall be as specified in Section 21.58.030 of this title.
- B. The expiration period for an approved minor hillside development permit or hillside development permit may be extended pursuant to Section 21.58.040 of this title.
- C. An approved minor hillside development permit or hillside development permit may be amended pursuant to the provisions of Section 21.54.125 of this title.
  1. Unless exempted by Section 21.95.040, an amendment to a minor hillside development permit or hillside development permit shall be required for any portion of a project which has a minor hillside development permit or hillside development permit that is proposed for redesign and otherwise requires a minor hillside development permit or hillside development permit per Section 21.95.030.

(Ord. CS-178 § CXXVIII, 2012)

**§ 21.95.120. Minimum development of hillside lands.**

The provisions of this chapter shall be applied so as to:

A. Not preclude a reasonable use of a legal parcel which includes hillside conditions as regulated by this chapter;

B. Not preclude the efficient and safe provision of public facilities or services to any legal parcel; and

C. Allow development of at least one single-family dwelling unit per parcel described in subsection A of this section.

(Ord. CS-178 § CXXVIII, 2012)

#### **§ 21.95.130. Hillside mapping procedures.**

A slope analysis and slope profiles shall be illustrated on a constraints map, and shall accompany all development submittals which propose grading or development of slopes which have a gradient of fifteen percent or more and have an elevation differential greater than fifteen feet.

A. Slope Analysis. The slope analysis shall identify the acreage of all natural and manufactured slopes within each of the following slope categories.

1. 0—less than 15% slopes.

2. 15—less than 25% slopes.

3. 25—40% slopes.

4. Slopes greater than 40%.

5. Percentage of slope is determined by:

$$\frac{\text{Vertical Distance} \\ (\text{Contour interval})}{\text{Horizontal Distance} \\ (\text{Distance between contour intervals})} \times 100 = \% \text{ Slope}$$

B. Slope Profiles. A minimum of three slope profiles (slope cross sections) shall be included with the submittal of the slope analysis on the constraints map. Slope profiles shall:

1. Be drawn at the same scale and indexed or keyed to the constraints map, grading or preliminary grading plan and project site map;

2. Show both existing and proposed topography, structures and surface infrastructure. Proposed topography, structures and infrastructure shall be drawn with a solid heavy line. Existing topography, structures and infrastructure shall be drawn with a thin or dashed line;

3. Include the slope profile for at least one hundred feet outside of the project site boundary or adjacent public street;

4. Be drawn along those locations of the project site where:

a. The greatest alteration of the existing topography is proposed,

b. The most intense or bulky development is proposed, and

c. The site is most visible from surrounding land uses;

5. Two of the slope profiles shall be roughly parallel to each other and roughly perpendicular to

existing contour lines. The remaining slope profile shall be roughly at a forty-five degree angle to the other slope profiles and existing contour lines.

- C. Assurance of Accurate Hillside Mapping. Both the slope analysis and slope profiles shall be stamped and signed by either a registered landscape architect, civil engineer or land surveyor indicating the datum, source and scale of topographic data used in the slope analysis and slope profiles, and attesting to the fact that the slope analysis and slope profiles have been accurately calculated and identified, consistent with this section.
- D. Development which is exempt per Section 21.95.040 or excluded per Section 21.95.150 is generally exempt from the hillside mapping requirements of this section except in cases where the City Planner determines that hillside mapping is necessary to assess project compliance with the hillside ordinance. (Ord. CS-178 § CXXVIII, 2012)

#### **§ 21.95.140. Hillside development and design standards.**

The provisions of this section shall apply to all projects that propose to grade, erect or construct into or on top of a natural slope or manufactured slope which has a gradient of fifteen percent or more and an elevation differential greater than fifteen feet.

- A. Coastal Zone Hillside Development Regulations.
  1. All development on natural slopes of twenty-five percent or greater within the coastal zone shall comply with the requirements of Chapters 21.38 and 21.203 of the Carlsbad Municipal Code and the slope protection policies of the applicable local coastal program segment. Additionally, all hillside development processed pursuant to this chapter shall be consistent with all applicable provisions and policies of the certified local coastal program(s) and shall not result in significant adverse impacts to coastal resources. Within the coastal zone, in case of conflict between this section and any other provision of Chapter 21.95, Hillside Development Regulations, this section shall apply.
- B. Development of Natural Slopes of Over Forty Percent Gradient.
  1. Natural slopes which have all of the following characteristics shall be undevelopable:
    - a. A gradient of greater than forty percent; and
    - b. An elevation differential of greater than fifteen feet; and
    - c. A minimum area of ten thousand square feet; and
    - d. The slope comprises a prominent land form feature.
  2. Outside the coastal zone, projects which propose the development of natural slopes defined in Section 21.95.140(B)(1) shall nevertheless be allowed, only if the project qualifies as an exclusion or obtains a modification, pursuant to Sections 21.95.150 and 21.95.160, respectively.
- C. Development of Manufactured Slopes of Over Forty Percent Gradient.
  1. Manufactured slopes which have a gradient of greater than forty percent and an elevation differential of greater than fifteen feet shall be subject to the following development standards.
    - a. Development of Uphill Perimeter Slopes.

- (i) The following types of development on or into an uphill perimeter manufactured slope shall be limited to a maximum of six vertical feet as measured from the existing grade at the toe of slope:
  - (A) Main building(s);
  - (B) Accessory buildings; and
  - (C) Retaining walls.
- (ii) Decks may be constructed upon an uphill perimeter manufactured slope up to the required building setback(s) of the underlying zone.
- b. Development of Downhill Perimeter Slopes.
  - (i) For nonresidential projects only, the following types of development over a downhill perimeter manufactured slope shall be limited to a maximum of six vertical feet as measured from the existing grade at the top slope:
    - (A) Decks; and
    - (B) Retaining walls.
  - (ii) Deck surface areas shall be allowed to extend to the same point that a six-foot vertical retaining wall would be permitted.
  - (iii) No main or accessory building may encroach over the top/edge of a downhill perimeter slope.
- c. The manufactured slope standards within this section do not apply to manufactured slopes which are not located along perimeter property lines (including intervening manufactured slopes between split level pads which are located on a single lot).

D. Volume of Grading.

1. The volume of earth moved for cuts and fills shall be minimized.
2. The relative acceptability of hillside grading volume shall be determined by the following:

Cubic Yards of Cut or Fill Grading per Acre of Cut and Fill Area (in acres)	Relative Sensitivity of Hillside Grading Volume
0—7,999 cubic yards/acre	Acceptable
8,000—10,000 cubic yards/acre	Potentially acceptable
> 10,000 cubic yards/acre	Unacceptable

3. The methodology for determining the volumes of both the cut and fill in cubic yards shall be calculated as follows. A grading and preliminary grading plan shall be prepared and shall include: the cut or fill volumes noted for each particular cut or fill and the total volume of cut and fill for the project. The larger volume of the total cut or total fill volumes divided by the total graded area (in acres) shall equal the volume of hillside grading for the project.
4. Applications proposing grading volumes which are potentially acceptable (eight thousand to ten thousand cubic yards/acre of cut or fill) shall, on the preliminary grading plan, submit for review

specific written findings justifying the reasons for the amount of grading, subject to the approval of the City Planner and City Engineer.

5. Applications proposing grading volumes which are unacceptable (greater than ten thousand cubic yards/acre of cut or fill) shall be allowed only if they qualify as an exclusion or modification pursuant to Sections 21.95.150 and 21.95.160 of this chapter respectively.

E. Slope Height.

1. Manufactured slopes shall not be greater than forty feet in height.
2. Slope Height Exclusions. See Section 21.95.150 of this chapter.

F. Contour Grading.

1. All manufactured slopes which are greater than twenty feet in height and two hundred feet in length and which are located adjacent to or are substantially visible from a circulation element road, collector street or useable public open space area shall be contour graded.
2. Contour graded slopes that are developed in nonresidential projects shall be designed to vary slope gradients between fifty percent (2:1 slope ratio) and thirty-three percent (3:1 slope ratio).

G. Screening Manufactured Slopes. All manufactured slopes shall be landscaped consistent with the city's landscape manual.

H. Hillside and Hilltop Architecture. Hillside and hilltop structures shall be consistent with the architectural guidelines included within the city's hillside development guidelines.

I. Slope Edge Building Setbacks (pursuant to this chapter).

1. Slope edge building setbacks shall be sufficient to eliminate or significantly reduce views of vertical building forms which would be visually incompatible with hillside landforms. Notwithstanding the building setback requirements of the underlying zone, all main and accessory buildings that are developed on hilltops and/or pads created on downhill perimeter slopes of greater than fifteen feet in height shall be set back so that the building does not intrude into a 0.7 foot horizontal to one foot vertical imaginary diagonal plane that is measured from the edge of slope to the building. For all buildings which are subject to this slope edge building setback standard, a profile of the diagonal plane shall be submitted with all other development application requirements.
2. Building setbacks pursuant to this chapter do not apply to:
  - a. Slopes which are less than fifteen feet in height;
  - b. The intervening slopes of split-level pads which are located on a single lot, but do apply to the edge of slope of the lowest pad;
  - c. Downhill slopes which are located along the sideyards of residential lots; and
  - d. Substandard residential lots where the top/edge of slope setback standards would preclude a reasonable use of the property.
3. If a downhill perimeter slope is regraded (filled) consistent with Section 21.95.140(C) of this chapter, and a vertical retaining structure is used, then the required building setback shall be measured from the edge of slope which existed prior to regrading (filling).

4. Fencing proposed along a slope edge should be of an open design which does not visually extend the height of the slope. Exceptions to this may include, but are not limited to, noise attenuation walls, privacy walls or security walls.
- J. Roadway Design. Hillside roadway design shall be consistent with the city's hillside development guidelines manual.
- K. Hillside Drainage. Hillside drainage shall be consistent with the city's hillside development guidelines.

(Ord. CS-178 § CXXVIII, 2012)

#### **§ 21.95.150. Exclusions.**

- A. Outside the coastal zone, the following are excluded from the hillside development and design standards of Section 21.95.140.
  1. Hillside areas where a circulation element roadway or a collector street must be located provided that the proposed alignment(s) are environmentally preferred and comply with all other city standards.
  2. Grading volumes, slope heights and graded areas which are directly associated with circulation element roadways or collector streets, provided that the proposed alignment(s) are environmentally preferred and comply with all other city standards.
  3. Hillside areas that have unusual geotechnical or soil conditions that necessitate corrective work that may require significant amounts of or grading.
- B. Within the coastal zone, grading for construction of circulation element roadways are excluded from Sections 21.38.141(C)(1)(a) and 21.203.040(A)(1) of the municipal code.

(Ord. CS-178 § CXXVIII, 2012)

#### **§ 21.95.160. Modifications to the development and design standards.**

- A. Outside the coastal zone, the decision-making body or official may approve a modification to the hillside development and design standards of Section 21.95.140 if it finds that the proposed development complies with the purpose and intent provisions of Section 21.95.010 and makes one or more of the following findings:
  1. The proposed modification will result in significantly more open space or undisturbed area than would a strict adherence to the requirements of Section 21.95.140.
  2. The proposed modification will result in the development of manufactured slopes which are more aesthetically pleasing and natural appearing than would a strict adherence to the requirements of Section 21.95.140.
  3. The proposed modifications will result in the preservation of natural habitat as required by the city's habitat management plan and the required amount of preservation could not be achieved by strict adherence to the requirements of Section 21.95.140 of this chapter.
- B. Any request for a modification to the development and design standards of this chapter shall be accompanied by two preliminary grading plans. One plan shall illustrate how a site would be developed with a strict adherence to the requirements of Section 21.95.140. The second set shall illustrate the extent and type of the requested modification. This plan shall also be accompanied by

any other documentation needed by the decision-making body to determine that the proposed modifications will result in a superior project with less adverse environmental impacts.

- C. If a modification is proposed to allow grading in excess of ten thousand cubic yards/acre of cut or fill, or a manufactured slope in excess of forty feet in height, the applicant shall submit both written and graphic exhibits to justify the proposed grading to the satisfaction of the decision-making body or official. In addition, a detailed mitigation and landscaping plan shall be submitted as part of the application. This plan shall illustrate the mitigation measures and landscaping utilized to screen the proposed grading.
- D. Development on land designated for nonresidential development shall comply with all requirements of this chapter except Sections 21.95.140(D) and 21.95.140(E). Any nonresidential project proposing grading in excess of ten thousand cubic yards per acre or creating slopes in excess of forty feet in height shall provide both written and graphic exhibits to justify the proposed grading to the satisfaction of the decision-making body.
- E. Inside the coastal zone, the decision-making body or official may approve encroachments to slopes of twenty-five percent grade and over in order to preserve natural habitats required by the city's habitat management plan, in accordance with Chapter 21.203 of the municipal code, provided that the required amount of preservation could not be achieved by strict adherence to the requirements of Sections 21.95.140(A) and (B) of this chapter.

(Ord. CS-178 § CXXVIII, 2012)

**CHAPTER 21.100  
T-C TRANSPORTATION CORRIDOR**

**§ 21.100.010. Intent and purpose.**

The intent and purpose of the T-C zone is to provide for and ensure the preservation of certain public transportation rights-of-way which will:

- (1) Insure that adequate land area is available for future transportation modes;
  - (2) Insure compatibility of the development with the general plan and the surrounding developments;
  - (3) Insure that due regard is given to environmental factors;
  - (4) Provide for public improvements and other conditions of approval necessitated by the development.
- (Ord. 9818 § 1, 1986)

**§ 21.100.020. Permitted uses.**

- A. In a T-C zone, notwithstanding any other provision of this title, only the uses listed in Table A, below, shall be permitted, subject to the requirements and development standards specified by this chapter, and subject to the provisions of Chapter 21.44 of this title governing off-street parking requirements.
- B. The uses permitted by conditional use permit, as indicated in Table A, shall be subject to the provisions of Chapter 21.42 of this title.
- C. A use similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purposes of the zone, and is substantially similar to the specified permitted uses.
- D. A use category may be general in nature, where more than one particular use fits into the general category (ex. in some commercial zones "office" is a general use category that applies to various office uses). However, if a particular use is permitted by conditional use permit in another zone, the use shall not be permitted in this T-C zone (even under a general use category) unless it is specifically listed in Table A of this chapter as permitted or conditionally permitted.

**Table A  
Permitted Uses**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates use is permitted

"CUP" indicates use is permitted with approval of a conditional use permit.

1 = Administrative hearing process

2 = Planning Commission hearing process

3 = City Council hearing process

"Acc" indicates use is permitted as an accessory use.

Use	P	CUP	Acc
Agriculture (see note 2 below)	X		
Light-rail transit related facilities (see note 1 below)	X		
Parking lots		2	
Public streets	X		
Railroad museum		2	
Railroad tracks and related facilities	X		
Recreational facilities (public) (see note 3 below)	X		
Recreation use open to the public (see note 4 below)		2	
Signs, except for billboards, subject to the provisions of Chapter 21.41	X		

**Notes:**

1. Consisting of: (A) Tracks, (B) Energy transmission facilities, including rights-of-way and pressure control or booster stations for gasoline, electricity, natural gas, synthetic natural gas, oil or other forms of energy sources, (C) Maintenance/repair facilities, (D) Stations.
2. Only the following agricultural uses, and buildings accessory to such agricultural uses, are permitted in the T-C zone: (A) Field and seed crops, (B) Truck crops, (C) Horticultural crops, (D) Orchards and vineyards, (E) Tree farms, (F) Fallow lands.
3. Limited to: (A) Passive open space, (B) Bicycle paths, (C) Pedestrian trails.
4. Tennis courts, picnic areas and similar temporary uses.

(Ord. 9818 § 1, 1986; Ord. NS-791 § 30, 2006; Ord. CS-164 § 10, 2011)

**§ 21.100.040. Site development plan.**

No building permit or other entitlement for any use in the T-C zone shall be issued until a site development plan has been approved for the property. The site development plan may include provisions for any accessory use necessary to conduct any permitted use. The site plan shall be processed and approved according to the provisions of Chapter 21.06.

(Ord. 9818 § 1, 1986)

**§ 21.100.050. Conditions.**

The decision-making body may impose such conditions on the site plan as are determined necessary to implement and ensure consistency with the provisions of this chapter, the general plan, the local coastal land use plans, and any applicable specific plans, to ensure that the uses are sufficiently isolated from any rail facilities.

(Ord. 9818 § 1, 1986)

**§ 21.100.060. Minimum lot area.**

There shall be no minimum lot area established for the T-C zone. The size of the lot shall be dependent upon the existing or proposed use.

(Ord. 9818 § 1, 1986)

## CHAPTER 21.105 RECYCLING FACILITIES AND RECYCLING AREAS

### **§ 21.105.010. Recyclable material.**

"Recyclable material" means reusable material including, but not limited to, metals, glass, plastic, cardboard, paper, and organic waste (defined in Section 42649.8 of the Public Resources Code), which are intended for reuse, remanufacture or reconstitution for the purpose of using the altered form. In addition, "recyclable material" is material that is permitted to be recycled at a given site and facility. "Recyclable material" does not include refuse or hazardous materials. "Recyclable material" may include used motor oil collected and transported in accordance with Sections 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.

(Ord. NS-6 § 1, 1988; Ord. CS-312 § 1, 2017)

### **§ 21.105.015. Recycling facility.**

"Recycling collection facility" means a center for the acceptance of recyclable materials. Unless otherwise indicated, such a facility does not use power-driven processing equipment. A small recycling collection facility is less than or equal to five hundred square feet. A large recycling collection facility is greater than five hundred square feet. A mobile recycling collection facility is an automobile, truck, trailer or van licensed by the Department of Motor Vehicles and other ancillary facilities permitted by the city which are used for the collection of recyclable materials.

(Ord. NS-6 § 1, 1988)

### **§ 21.105.020. Recycling processing facility.**

A "recycling processing facility" means a building or enclosed space used for the collection and processing of recyclable materials. "Recycling processing" means the preparation of recyclable material for efficient shipment, to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning. A light recycling processing facility occupies an area of under forty-five thousand square feet of gross collection, processing and storage area and is limited to two outbound truck shipments per day. Light recycling processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials. A light recycling processing facility shall not shred, compact or bale ferrous metals other than food and beverage containers. A heavy recycling processing facility is any recycling processing facility other than a light recycling processing facility.

(Ord. NS-6 § 1, 1988)

### **§ 21.105.025. Reverse vending machine.**

A "reverse vending machine (RVM)" means an automated mechanical device which accepts one or more types of empty containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value as determined by the state. An RVM may sort and process containers mechanically; provided, that the entire process is enclosed within the machine. A bulk RVM is an RVM that is larger than fifty square feet, is designed to accept more than one type of container at a time, and will pay by weight instead of by individual container.

(Ord. NS-6 § 1, 1988)

**§ 21.105.030. Recycling collection facilities allowed in commercial and industrial zones.**

Recycling collection facilities shall be allowed in commercial and industrial zones upon approval of a conditional use permit pursuant to Chapter 21.42 of this title, and subject to the following:

## (a) Small recycling collection facilities:

- (1) Shall be established in conjunction with an existing commercial use or community service facility which complies with city codes, ordinances and design standards;
- (2) Shall be no larger than five hundred square feet;
- (3) Shall meet all applicable development standards and shall not interfere with pedestrian or vehicular movements;
- (4) Shall accept only glass, metals, plastic containers, papers and reusable items as allowed by the specific conditional use permit;
- (5) Shall use no power driven processing equipment;
- (6) Shall use attractive containers as approved by the City Planner that are compatible with the site and surrounding area and are constructed and maintained with durable waterproof and rustproof material. The containers shall be covered when the site is not attended and be secure from unauthorized entry or removal of material. The containers shall be of a capacity sufficient to accommodate materials collected according to an adopted collection schedule;
- (7) Shall store all recyclable material in containers or in a mobile recycling collection facility. Recyclable materials shall not be left outside of containers or a mobile recycling collection facility when an attendant is not present;
- (8) Shall be maintained free of fluids, odors, litter, rubbish and any other non-recyclable materials, and shall be swept and cleaned at the end of each collection day;
- (9) Noise levels shall comply with city ordinance and standards;
- (10) Attended facilities located within one hundred feet of a property planned, zoned or occupied for residential use shall operate only during the hours between nine a.m. and seven p.m.;
- (11) Containers for the twenty-four-hour collection of materials shall be at least one hundred feet from any property zoned or occupied for residential use;
- (12) Containers shall be clearly marked to identify the type of material which may be deposited. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers;
- (13) Signs shall be provided as follows:
  - (A) Recycling facilities may have identification signs with a maximum size of eight square feet. The signage shall include the recycling logo provided by the city and shall indicate the location of other small recycling collection facilities in Carlsbad,
  - (B) Signs must be consistent with the positive characteristics of the location and conform to Chapter 21.41 and/or any adopted sign regulation on the site,

- (C) Directional signs, bearing only the recycling logo, may be installed with approval of the conditional use permit if necessary to facilitate efficient and desirable traffic circulation;
  - (14) The facility shall not impair required landscaping of the site;
  - (15) No additional recycling customer parking spaces will be required for a small recycling collection facility located at the established parking lot of a host use that conforms to the present city parking standards;
  - (16) Use of parking spaces by the small recycling collection facility shall not reduce the quantity or quality of available parking spaces below the minimum number required for the site unless all of the following findings can be made:
    - (A) The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation,
    - (B) A parking study shows that existing parking capacity is not already fully utilized during the time that the small recycling collection facility will be on the site. The results of the parking study shall be incorporated into an adopted site parking plan. The plan shall be used by all users of the site along with the city in reviewing land use applications, building permits, tenant improvements to assure parking facilities are adequate to meet demand;
  - (17) If the conditional use permit expires without renewal, the recycling collection facility shall be removed from the site on the day following permit expiration.
- (b) Large recycling facilities:
- (1) The facility is not within one hundred fifty feet of a property planned, zoned or occupied for residential use;
  - (2) The facility is completely screened from the public view by operating in an enclosed building or within an area completely enclosed by landscaping and a permitted opaque wall or fence of sufficient height to completely screen the facility from the public view. Large recycling collection facilities proposed in the PM zone shall only be allowed to operate completely within an enclosed building;
  - (3) The facility complies with the applicable requirements for the site in which the facility is located;
  - (4) Any storage of recyclable material shall be in sturdy containers, baled or pelletized. Storage of such material shall be covered, secured and maintained in a clean and orderly condition. Storage containers for flammable materials shall be approved by the fire department;
  - (5) The site shall be maintained free of fluids, odors, litter, rubbish and any other nonrecyclable materials, and will be cleaned on a daily basis;
  - (6) Reserved;
  - (7) Facilities located within five hundred feet of property planned, zoned or occupied for residential use, shall not be in operation between seven p.m. and seven a.m.;
  - (8) Any containers provided for after-hour collection of recyclable materials shall be at least two hundred fifty feet from any property planned, zoned or occupied for residential use. All containers shall be of sturdy, rustproof and leakproof construction, shall have sufficient capacity

to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials. Containers within the PM zone shall be enclosed within a building;

- (9) The facility shall be kept free of fluids, odors, litter and rubbish. The collection area shall be clearly marked to identify type of material that may be deposited. The collection area shall display a notice stating that no material shall be left outside of the containers. A trash can shall be provided and emptied daily;
- (10) Signage shall meet the standards of the site in which the facility is located. Signage including the recycling logo provided by the city, shall clearly indicate the name and phone number of the facility operator, and shall indicate the location of other large recycling collection facilities in Carlsbad.

(Ord. NS-6 § 1, 1988; Ord. CS-102 §§ CXVIII, CXIX, 2010; Ord. CS-164 § 10, 2011)

#### **§ 21.105.040. Recycling processing facilities allowed in industrial zones.**

Recycling processing facilities shall be allowed in industrial zones upon approval of a conditional use permit pursuant to Chapter 21.42 and subject to the following:

- (a) The facility shall meet all applicable development standards;
- (b) The facility shall not abut a property planned, zoned or occupied for residential use;
- (c) The facility shall operate in an area completely enclosed on all sides by landscaping and a permitted opaque fence or wall of sufficient height to completely screen the facility from the public view; and located at least two hundred fifty feet from property planned or zoned or occupied for residential use. Recycling processing facilities proposed in the PM zone shall only be allowed to operate completely within an enclosed building;
- (d) Power-driven processing shall be permitted, provided noise levels shall comply with city ordinances and standards. Recycling processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials;
- (e) All storage of material shall be in sturdy containers or enclosures which are covered, secured and maintained in good condition. Storage containers for flammable material shall be approved by the fire department. No storage facilities shall be visible above the height of fencing. No exterior storage shall be allowed in the PM zone;
- (f) The site shall be maintained free of fluids, odors, litter, rubbish and any other nonrecyclable materials. The site shall be cleaned of debris on a daily basis and will be secured from unauthorized entry and removal of materials when attendants are not present;
- (g) Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space will be provided for a minimum of ten customers or the peak hourly load, whichever is higher;
- (h) Space shall be provided to park each commercial vehicle operated by the processing facility and for each employee of the facility;
- (i) Noise levels shall conform with city ordinance and standards;
- (j) If the facility is located within five hundred feet of property planned, zoned or occupied for residential use, it shall not be in operation between seven p.m. and seven a.m. The facility will be administered

by on-site personnel during the hours the facility is open;

- (k) Areas where recyclable materials are collected shall be kept free of fluids, odors, litter, rubbish and any other undesirable materials, and the collection area shall be clearly marked to identify the type of material that may be deposited, and shall display a notice stating that no material shall be left outside. A rubbish container shall be provided and emptied daily;
- (l) No dust, fumes, smoke, vibration or odor above ambient level shall be detectable on neighboring properties;
- (m) Signage shall meet the standards applicable to the site. Signage shall include the recycling logo as provided by the city, shall clearly indicate the name and phone number of the facility operator, shall indicate the hours of operation and shall indicate the location of other recycling processing facilities in Carlsbad.

(Ord. NS-6 § 1, 1988; Ord. CS-102 § CXX, 2010)

#### **§ 21.105.050. Reverse vending machine facilities.**

In commercial zoning districts, a reverse vending machine (RVM) facility may be required by the City Planner to be located and maintained on-site for the following uses and subject to the following standards:

- (a) The RVM shall be located within fifty feet of the entrance of a host use. Host uses include the following:
  - (1) Drug stores;
  - (2) Grocery stores;
  - (3) Eating establishments which provide take-out service;
  - (4) Retail or wholesale business or service stations which provide for the sale of items contained in recyclable materials;
  - (5) Packaged liquor stores.
- (b) A trash can shall be located within ten feet of a reverse vending machine. A RVM facility shall be maintained in a clean, litter and odor free condition.
- (c) A RVM facility shall be an integral part of a site's design and shall not interfere with pedestrian or vehicular movement.
- (d) A RVM facility shall have operating hours that are at least as long as the operating hours and the host use or vending machine(s).
- (e) Each RVM within a RVM facility shall:
  - (1) Be constructed and maintained with durable waterproof and rustproof material from which no fluids or odors are allowed to emit;
  - (2) With a maximum of four square feet of instructions that clearly indicate:
    - (A) The type of recyclable material to be deposited,
    - (B) The operating instructions,

- (C) The identity and phone number of the operator or responsible person to call if the machine is inoperable;
  - (D) A current list of similar RVMs within the city.
- (f) An RVM facility shall be identified with a two-foot maximum recycling logo approved by the city for use city-wide. The recycling logo shall not be considered a sign in determining allowable signage for the host site or use.
- (Ord. NS-6 § 1, 1988; Ord. CS-164 § 10, 2011)

**§ 21.105.060. Recycling areas in development projects.**

- (a) Definitions. The following definitions are applicable to this section.

"Development project" means any of the following:

- (A) A project for which a building permit is required for a commercial, industrial, or institutional building, marina, or residential building having five or more living units, where solid waste is collected and loaded and any residential project where solid waste is collected and loaded in a location serving five or more living units;
- (B) Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste;
- (C) The definition of development project only includes subdivisions or tracts of single-family detached homes if, within such subdivisions or tracts, there is an area where solid waste is collected and loaded in a location which serves five or more living units. In such instances, recycling areas as specified in this section are only required to serve the needs of the living units which utilize the solid waste collection and loading area.

"Improvement" means any activity which adds to the value of a facility, prolongs its useful life, or adapts it to new uses. For purposes of this chapter, "improvements" do not include "repairs."

"Repairs" keep facilities in good operating condition, but do not materially add to the value of the facility, and do not substantially extend the life of the facility.

"Floor area of a marina" shall be defined as the space dedicated to the docking or mooring of marine vessels.

"Public facility" means and includes, but is not limited to, buildings, structures, marinas and outdoor recreation areas owned by a local agency.

"Recyclable material" is defined in Section 21.105.010 of this chapter.

"Recycling area" means space allocated for collecting and loading of recyclable materials.

- (b) Applicability. Adequate, accessible and convenient areas for collecting and loading recyclable materials shall be provided for each of the following types of development:
- (1) Any new development project for which an application for a building permit is submitted;
  - (2) Any improvements for areas of a public facility used for collecting and loading solid waste;
  - (3) Any existing development project for which an application for a building permit is submitted for a single alteration which is subsequently performed that adds thirty percent or more to the existing floor area of the development project;

- (4) Any existing development project for which an application for a building permit is submitted for multiple alterations which are conducted within a twelve-month period which collectively add thirty percent or more to the existing floor area of the development project;
- (5) Any existing development project for which multiple applications for building permits are submitted within a twelve-month period for multiple alterations which are subsequently performed that collectively add thirty percent or more to the existing floor area of the development project;
- (6) Any existing development project occupied by multiple tenants, one of which submits an application for a building permit for a single alteration which is subsequently performed that adds thirty percent or more to the existing floor area of that portion of the development project which said tenant leases;
- (7) Any existing development project occupied by multiple tenants, one of which submits an application for a building permit for multiple alterations which are conducted within a twelve-month period which collectively add thirty percent or more to the existing floor area of that portion of the development project which said tenant leases; and
- (8) Any existing development project occupied by multiple tenants, one of which submits within a twelve-month period multiple applications for building permits for multiple alterations which are subsequently performed that collectively add thirty percent or more to the existing floor area of that portion of the development project which said tenant leases.

(c) Guidelines for All Development Projects.

- (1) Recycling areas shall be designed to be architecturally compatible with nearby structures and with existing topography and vegetation.
- (2) The design and construction of recycling areas shall not prevent security of any recyclable materials placed therein.
- (3) The design and construction of recycling areas shall not be in conflict with any applicable federal, state or local laws relating to fire, building, access, transportation, circulation, storm water pollution prevention, or safety.
- (4) Recycling areas shall not be located in any area required to be constructed or maintained as unencumbered, according to any applicable federal, state or local laws relating to fire, access, building, transportation, circulation or safety.
- (5) Recycling areas or the bins or containers placed therein must provide protection against adverse environmental conditions, such as rain, which might render the collected materials unmarketable.
- (6) Driveways and/or travel aisles shall, at a minimum, conform to local building code requirements for garbage collection access and clearance. In the absence of such building code requirements, driveways and/or travel aisles should provide unobstructed access for collection vehicles and personnel.
- (7) A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the recycling areas.

- (8) Developments and transportation corridors adjacent to recycling areas shall be adequately protected from any adverse impacts such as noise, odor, vectors, glare, and storm water pollutants through measures including, but not limited to, maintaining adequate separation, fencing, and landscaping.
  - (9) Recycling areas shall have the ability to accommodate receptacles for recyclable materials.
  - (10) Recycling areas shall be accessible and convenient for those who deposit as well as those who collect and load any recyclable materials placed therein.
  - (11) Recycling areas shall be located so they are as convenient for those persons who deposit, collect, and load the recyclable materials placed therein as are the area(s) where solid waste is deposited, collected and loaded.
  - (12) Whenever feasible, areas for collecting and loading recyclable materials shall be adjacent to the solid waste collection areas.
- (d) Additional Guidelines for Single-Tenant Development Projects.
- (1) Recycling areas shall be adequate in capacity, number and distribution to serve the development project.
  - (2) Dimensions of recycling areas shall accommodate receptacles sufficient to meet the recycling needs of the development project.
  - (3) Recycling areas shall contain an adequate number of bins or containers to allow for the collection and loading of recyclable materials generated by the development project.
- (e) Additional Guidelines for Multiple-Tenant Development Projects.
- (1) Recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project leased by the tenant(s) who submitted an application or applications resulting in the need to provide recycling area(s) pursuant to subsection (b) of this section.
  - (2) Dimensions of recycling areas shall accommodate receptacles sufficient to meet the recycling needs of that portion of the development project leased by the tenant(s) who submitted an application or applications resulting in the need to provide recycling area(s) pursuant to subsection (b) of this section.
  - (3) Recycling areas shall contain an adequate number of bins or containers to allow for the collection and loading of recyclable materials generated by that portion of the development project leased by the tenant(s) who submitted an application or applications resulting in the need to provide recycling area(s) pursuant to subsection (b) of this section.
- (f) Costs. Any costs associated with adding recycling space to existing development projects shall be the responsibility of the party or parties who are responsible for financing the alterations.

(Ord. NS-321 § 2, 1995; Ord. CS-312 § 2, 2017)

**CHAPTER 21.110  
FLOODPLAIN MANAGEMENT REGULATIONS**

**§ 21.110.010. Statutory authorization.**

This chapter is adopted pursuant to the legislative authority set forth in Government Code Sections 65302, 65560 and 65800 which conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(Ord. NS-39 § 1, 1988)

**§ 21.110.030. Statement of purpose.**

(a) The floodplain management regulations are necessary due to the following facts:

- (1) The flood hazard areas of the city are subject to periodic inundation that may result 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.
  - (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.
- (b) 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:
- (1) To protect human life and health;
  - (2) To minimize expenditure of public money for costly flood-control projects;
  - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) To minimize prolonged business interruptions;
  - (5) To 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;
  - (6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - (7) To insure that potential buyers are notified that property is in an area of special flood hazard;
  - (8) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
  - (9) Recognize floodplain areas as potential open space resources and encourage compatible open space uses wherever possible.

(Ord. NS-39 § 1, 1988; Ord. CS-102 § CXXIII, 2010)

**§ 21.110.040. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. NS-39 § 1, 1988)

#### **§ 21.110.050. Definitions.**

For the purposes of this chapter, the following words and phrases have the meaning respectively ascribed to them by this section:

"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, AH or VO 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.

"Area of special flood-related erosion hazard" means the area subject to severe flood related erosion losses. The area is designated as zone E on the Flood Insurance Rate Map (FIRM).

Area of Special Flood Hazard. See "Special flood hazard area."

"Area of special mudslide (i.e., mudflow) hazard" means the area subject to severe mudslides (i.e., mudflows). The area is designated as zone M on the Flood Insurance Rate Map (FIRM).

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also called the one-hundred-year flood).

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway walls" means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- (A) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (B) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Coastal high hazard area" means 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 zone V1-30, VE

or V.

"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.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas due to:

- (A) The overflow of floodwaters;
- (B) The unusual and rapid accumulation or runoff of surface waters from any source; and/or
- (C) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this 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 community.

"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 definition of flooding.

"Floodplain management" means the operation of an overall program of corrective and preventive measures of reducing flood damage including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

"Floodplain management regulations" means zoning chapters, subdivision regulations, building codes, health regulations, special purpose chapters (such as floodplain chapter, grading chapter and erosion control chapter) 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."

"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.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

(A) An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

- (i) The anchoring standards in Section 21.110.160(1);
- (ii) The construction materials and methods standards in Section 21.110.160(2);
- (iii) The wet flood proofing standard in Section 21.110.160(3); and
- (iv) The standards for utilities in Section 21.110.170.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty consecutive days.

"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.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"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 community.

"One-hundred-year flood" or "100-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/her agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

"Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of 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, formed 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.

"Special flood hazard area (SFHA)" means an area having special flood or flood-related erosion hazards, and shown on an FHB or FIRM as zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE or V.

"Start of construction" means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installations 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, footing, 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 improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (A) Any project for improvement of a structure to correct existing violations or state or local health, sanitary or safety code specifications which have been identified by the applicable code enforcement officials and which are the minimum necessary to assure safe living conditions; or
- (B) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"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 a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(Ord. NS-39 § 1, 1988; Ord. NS-664 §§ 1, 2, 2003)

#### **§ 21.110.060. Lands to which this chapter applies.**

This chapter shall apply to all areas of special flood hazards, areas of flood-related erosion hazards and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of the city. When only a portion of a parcel of land lies within the areas of special flood hazards, the provisions of this chapter shall apply only to that portion lying within those areas.

(Ord. NS-39 § 1, 1988)

#### **§ 21.110.070. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the San Diego County and incorporated areas Flood Insurance Study (FIS), dated June 19, 1997, and accompanying Flood Insurance Rate Map (FIRM), dated June 19, 1997, 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 that allow implementation of this chapter and are recommended to the City Council by the floodplain administrator. The FIS and FIRM are on file

in the office of the City Engineer in Carlsbad, California, 92008.  
(Ord. NS-39 § 1, 1988; Ord. NS-664 § 3, 2003)

**§ 21.110.080. 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. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the city from taking such lawful action as is necessary to prevent, enjoin or remedy any violation.

(Ord. NS-39 § 1, 1988)

**§ 21.110.090. Abrogation and greater regulations.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other chapter, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. NS-39 § 1, 1988)

**§ 21.110.100. 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. NS-39 § 1, 1988)

**§ 21.110.110. 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, areas of flood-related erosion hazards and areas of mudslide (i.e., mudflow) 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, 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. NS-39 § 1, 1988)

**§ 21.110.120. Severability.**

This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

(Ord. NS-39 § 1, 1988)

**§ 21.110.130. Special use permit.**

A special use permit shall be obtained in addition to any other required permits or entitlements before construction or development begins within any area of special flood hazards, areas of flood-related erosion hazards or areas of mudslide (i.e., mudflow) hazards established in Section 21.110.070. The filing fees for a special use permit shall be in an amount as the City Council may by resolution establish. Applications for a special use permit shall be made on forms furnished by the City Planner 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:

- (1) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in zone AO or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
- (2) Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
- (3) All appropriate certifications listed in Section 21.110.150(D) of this chapter;
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
- (5) Environmental impact assessment (one copy only); and
- (6) Environmental impact report (twenty copies), if required.

(Ord. NS-39 § 1, 1988; Ord. CS-102 § CXXIV, 2010; Ord. CS-164 § 10, 2011)

**§ 21.110.135. Findings for approval.**

- (a) A special use permit required by this chapter may be approved or conditionally approved only if the following findings are made:
  - (1) The project is consistent with the general plan, local coastal program, the requirements of this chapter, and any other applicable requirement of this code.
  - (2) The site is reasonably safe from flooding.
  - (3) The project is designed to minimize the flood hazard to the habitable portions of the proposed structure.
  - (4) The proposed project does not create a hazard for adjacent or upstream properties or structures.
  - (5) The proposed project does not create any additional hazard or cause adverse impacts to downstream properties or structures.
  - (6) The proposed project does not reduce the ability of the site to pass or handle a base flood of 100-year frequency.
  - (7) The cumulative effect of the proposed project when combined with all the other existing, proposed, and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
  - (8) The project is contingent upon compliance with other federal and state regulations as required.

(Ord. CS-102 § CXXV, 2010; Ord. CS-164 § 10, 2011)

**§ 21.110.140. Designation of floodplain administrator.**

The Planning Commission is appointed as the floodplain administrator.  
(Ord. NS-39 § 1, 1988; Ord. CS-102 § CXXVI, 2010)

**§ 21.110.150. Duties and responsibilities of the floodplain administrator.**

The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

- (1) Permit Authority. The floodplain administrator may approve, conditionally approve or deny a special use permit required by this chapter upon the advice of the City Engineer.
- (2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 21.110.070, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 21.110.160 through 21.110.230 of this chapter. Any such information shall be submitted to the City Council for adoption.
- (3) Whenever a watercourse is to be altered or relocated:
  - (A) Notify adjacent communities and the California Department of Water Resources prior to the alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
  - (B) Require that the flood-carrying capacity of the altered or relocated portion of such watercourse is maintained.
- (4) Obtain and maintain for public inspection and make available as needed:
  - (A) The certification required in Section 21.110.160(3)(A)21.110.160(3)(A), floor elevations;
  - (B) The certification required in Section 21.110.160(3)(B)21.110.160(3)(B), elevations in areas of shallow flooding;
  - (C) The certification required in Section 21.110.160(3)(C)21.110.160(3)(C), elevations or floodproofing of nonresidential structures;
  - (D) The certification required in Section 21.110.160(3)(D)21.110.160(3)(D), wet floodproofing standard;
  - (E) The certified elevation required in Section 21.110.180(b), subdivision standards;
  - (F) The certification required in Section 21.110.200(1), floodway encroachments;
  - (G) The information required in Section 21.110.210(6), coastal construction; and
  - (H) The reports required in Section 21.110.220(d), mudflow standards.
- (5) Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards, areas of special flood-related erosion hazards or areas of mudslide (i.e., mudflow) 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 Sections 21.110.240 and 21.110.250 of this chapter.

- (6) Take action to remedy violations of this chapter as specified in Section 21.110.080 of this chapter.  
(Ord. NS-39 § 1, 1988; Ord. CS-102 § CXXVII, 2010)

**§ 21.110.160. Standards of construction.**

In all areas of special flood hazards the following standards are required:

- (1) Anchoring.
  - (A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - (B) All manufactured homes shall meet the anchoring standards of Section 21.110.190.
- (2) 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 flood damage.
  - (C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (D) Require within zones AH, AO or VO, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (3) Elevation and Floodproofing.
  - (A) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in subsection (3)(C) of this section. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the City Building Inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.
  - (B) New construction and substantial improvement of any structure in Zone AO or VO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the standards in subsection (3)(C) 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 City Building Inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.
  - (C) Nonresidential construction shall either be elevated in conformance with subsection (3)(A) or (3)(B) of this section or together with attendant utility and sanitary facilities:
    - (i) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(iii) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.

(D) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(i) 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

(ii) Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.

(E) Manufactured homes shall also meet the standards in Section 21.110.190 of this chapter.

(Ord. NS-39 § 1, 1988)

#### **§ 21.110.170. 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. NS-39 § 1, 1988)

#### **§ 21.110.180. Standards for subdivisions.**

(a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

(b) All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage.

(d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

(Ord. NS-39 § 1, 1988)

**§ 21.110.190. Standards for manufactured homes.**

All new and replacement manufactured homes and additions to manufactured homes shall:

- (1) Be elevated so that the lowest floor is at or above the base flood elevation; and
- (2) Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement.

(Ord. NS-39 § 1, 1988)

**§ 21.110.200. Floodways.**

Located within areas of special flood hazard established in Section 21.110.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If subsection 1 of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Sections 21.110.160 through 21.110.230 of this chapter.

(Ord. NS-39 § 1, 1988)

**§ 21.110.210. Coastal high hazard areas.**

Within coastal high hazard areas established in Section 21.110.070, the following standards shall apply:

- (1) All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation.
- (2) All new construction shall be located on the landward side of the reach of mean high tide.
- (3) All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.
- (4) Fill shall not be used for structural support of buildings.
- (5) Manmade alterations of sand dunes which would increase potential flood damage is prohibited.
- (6) The floodplain administrator shall obtain and maintain the following records:
  - (A) Certification by a registered engineer or architect that a proposed structure complies with Section 21.110.210(1).
  - (B) 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. NS-39 § 1, 1988)

**§ 21.110.220. Mudslide (i.e., mudflow) prone areas.**

- (a) The floodplain administrator shall review permits for proposed construction or other development to determine if it is proposed within a mudslide area.
- (b) Permits shall be reviewed to determine that the proposed development is reasonably safe from mudslide hazards. Factors to be considered in making this determination include, but are not limited to:
  - (1) The type and quality of soils;
  - (2) Evidence of groundwater or surface water problems;
  - (3) The depth and quality of any fill;
  - (4) The overall slope of the site; and
  - (5) The weight that any proposed development will impose on the slope.
- (c) Within areas that have mudslide hazards, the following requirements apply:
  - (1) A site investigation and further review shall be made by a person qualified in geology and soils engineering;
  - (2) The proposed grading, excavation, new construction and substantial improvements shall be adequately designed and protected against mudslide damages;
  - (3) The proposed grading, excavations, new construction and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances; and
  - (4) Drainage, planting, watering and maintenance shall not endanger slope stability.
- (d) Within zone M on the Flood Insurance Rate Map, the community shall adopt a drainage chapter which at least complies with the standards of Section 7001 through 7006 and Sections 7008 through 7015 of the most recent amendment of the 1982 Uniform Building Code:
  - (1) The location of foundation and utility systems of new construction and substantial improvements;
  - (2) The location, drainage and maintenance of all excavations, cuts and fills and planted slopes;
  - (3) Protective measures including, but not limited to, retaining walls, buttress fills, subdrains, diverter terraces, benchings, etc.; and
  - (4) Engineering drawings and specifications to be submitted for all corrective measures, accompanied by supporting soils engineering and geology reports.

(Ord. NS-39 § 1, 1988)

**§ 21.110.230. Flood-related erosion-prone areas.**

- (a) The floodplain administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.
- (b) Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or

otherwise aggravate the existing hazard.

- (c) If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
- (d) Within zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated useful life of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

(Ord. NS-39 § 1, 1988)

#### **§ 21.110.240. Appeals.**

- (a) The floodplain administrator shall announce its decision and findings by resolution to the applicant and the resolution shall recite, among other things, the facts and reasons which, in the opinion of the floodplain administrator, make the granting or denial of a special use permit, variance or other entitlement under this chapter necessary to carry out the provisions and general purposes of this title and shall order that the special use permit, variance or other entitlement be granted or denied, and if such resolution orders that the special use permit, variance or other entitlement be granted, it shall also notice such conditions and limitations as the floodplain administrator may impose.
- (b) The effective date of order of the floodplain administrator granting or denying a special use permit, variance or other entitlement and the method for appeal of such order shall be governed by Section 21.54.150 of this code. In passing upon appeals and requests for variances from the requirements of this chapter, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger of life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and

- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (c) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (b)(1) through (b)(11) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (d) Upon consideration of the factors of subsection (b) of this section and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (e) The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

(Ord. NS-39 § 1, 1988; Ord. NS-664 § 4, 2003; Ord. NS-675 § 72, 2003)

#### **§ 21.110.250. Conditions for variances.**

- (a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be issued upon:
- (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public or conflict with existing local laws or chapters.
- (e) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that the provisions of subsections (a) through (d) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (f) Any applicant to whom a variance is granted shall be given written notice over the signature of the Community and Economic Development Director that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for two hundred dollars of insurance coverage with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be

recorded by the floodplain administrator in the office of the San Diego County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.  
(Ord. NS-39 § 1, 1988; Ord. NS-664 § 5, 2003; Ord. CS-164 § 15, 2011)

**CHAPTER 21.201  
COASTAL DEVELOPMENT PERMIT PROCEDURES**

**Note: Prior ordinance history: Ord. Nos. NS-365, NS-663, NS-675, CS-054, CS-099, CS-102, and CS-164.**

**§ 21.201.010. Purpose.**

This chapter establishes the permit procedures for developments located in the coastal zone. This chapter is based on the local coastal program implementation regulations adopted by the California Coastal Commission pursuant to Public Resources Code Sections 30620.6 and 30333, and as such shall constitute the minimum procedural requirements for review of developments in the coastal zone pursuant to Public Resources Code Section 30600(d).

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.015. Applicability.**

This chapter shall apply to development within the coastal zone, with the exception of the Agua Hedionda Lagoon segment of the Carlsbad Local Coastal Program.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.020. Definitions.**

"Aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the city in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the city of the nature of his or her concerns or who for good cause was unable to do either.

"Allowable use" means any use allowed by right which does not require a public hearing or any discretionary or nondiscretionary permit of the approving authority.

"Appealable development" means in accordance with Public Resources Codes Section 30603(a), any of the following:

1. Developments approved by the local government between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
2. Developments approved by the local government not included within subsection (C)(1) of this section located on tidelands, submerged lands, public trust lands, within one hundred feet of any wetland, estuary, stream or within three hundred feet of the top of the seaward face of any coastal bluff.
3. Any development which constitutes a major public works project or a major energy facility. The phrase "major public works project or a major energy facility" as used in Public Resources Code Section 30603(a)(5) and its regulations shall mean any proposed public works project, as defined by Section 13012 of the Coastal Commission Regulations, (Title 14 California Code of Regulations, Division 5.5) or energy facility, as defined by Public Resources Code Section 30107.

"Appellant" means any person who may file an appeal and includes an applicant, any aggrieved person or any two members of the Coastal Commission.

"Applicant" means the person, partnership, corporation, state or local government agency applying for a coastal development permit.

"Categorically excluded development" means a development (upon request of the city, public agency or other person) which the City Planner has determined pursuant to Section 21.201.060(C) of this code to have no potential for significant adverse effect on coastal resources or access and, therefore, has issued an exclusion.

"Coastal zone" means the coastal zone of the city as described in the Public Resources Code Section 30103.

"Coastal Commission" means the California Coastal Commission.

"Decision-making authority" means the city officer, Planning Commission or council approving a coastal development permit.

"Executive Director" means the Executive Director of the Coastal Commission.

"Local coastal program" means the city's land use plan, zoning ordinances, zoning maps, and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

"Major energy facility" means any energy facility as defined by Public Resources Code Section 30107 and exceeding one hundred thousand dollars in estimated cost of construction.

"Major public works project" means any public works project as defined by Title 14 California Code of Regulations Section 13012 and exceeding one hundred thousand dollars in estimated cost of construction.

"Permitted use" means any use allowed by right which does not require a public hearing, but does require a discretionary or nondiscretionary permit (e.g., building permit) to be issued by the approving authority.

"Other permits and approvals" means permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

(Ord. CS-178 § CXXIX, 2012)

### **§ 21.201.030. Requirements for minor coastal development permits and coastal development permits.**

Except as provided in Section 21.201.060 below, any applicant wishing to undertake a development (defined in Section 21.04.107) in the coastal zone shall obtain a minor coastal development permit or coastal development permit in accordance with the provisions of this chapter, in addition to any other permit required by law. Development undertaken pursuant to a minor coastal development permit or coastal development permit shall conform to the plans, specifications, terms and conditions approved in granting the permit. The procedures prescribed herein may be used in conjunction with other procedural requirements of the decision-making authority, provided that the minimum requirements as specified herein are assured.

(Ord. CS-178 § CXXIX, 2012)

### **§ 21.201.050. Determination of applicable procedures.**

- A. The City Planner shall determine whether a development is exempt or categorically excluded from the requirements of this chapter, or is nonappealable or appealable to the Coastal Commission. This determination shall be made with reference to the certified local coastal program, including maps, categorical exclusions, land use designations, and zoning ordinances adopted as part of the certified local coastal program.
- B. The City Planner shall inform the applicant whether the project is exempt (and whether in the

"appealable area," if not exempt) within ten calendar days of the determination that the application is complete. The written notice to the applicant shall include advice that, if dissatisfied with or if there is a question regarding the determination, the applicant (or City Planner) may request the opinion of the Coastal Commission's Executive Director in accordance with 14 Code of California Regulations Section 13569.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.060. Exemptions and categorical exclusions from minor coastal development permit and coastal development permit procedures.**

- A. For the purposes of subsection (B)(1) of this section, an existing single-family residential building shall include:
1. All appurtenances and other accessory structures, including decks, directly attached to the residence;
  2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;
  3. Landscaping on the lot.
- B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:
1. Improvements to an existing single-family residential building, except:
    - a. On a beach, wetland or seaward of the mean high tide line;
    - b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;
    - c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant to California Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:
      - i. Between the sea and the first public road paralleling the sea,
      - ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or
      - iii. In significant scenic resources areas as designated by the Commission;
    - d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections (B)(8), (B)(9), (B)(10) and (B)(11) of this section;
    - e. Expansion or construction of water wells or septic systems;

- f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure or a junior accessory dwelling unit within a one-family dwelling where such primary residence or attached accessory structure is nonconforming with respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.
2. Improvements to existing structures other than a single-family residence or public works facility, except:
  - a. On a beach, wetland, lake or stream or seaward of the mean high tide line;
  - b. Where the structure or improvement would encroach within fifty feet of the edge of the coastal bluff;
  - c. On property located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance;
  - d. Any improvement that would increase by ten percent or more the internal floor area of an existing structure, or any additional improvement where an improvement to the structure had previously been undertaken pursuant to Public Resources Code Section 30610(b), or this section, and the cumulative increase of the improvements is ten percent or more;
  - e. An increase in height by more than ten percent of an existing structure, including any significant detached accessory structure, such as garages, fences, shoreline protective structures or docks;
  - f. Any improvement which changes the intensity of use of a structure;
  - g. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland or sand dune, or within one hundred feet of the edge of a coastal bluff or stream except as provided in subsections (B)(8), (B)(9), (B)(10) and (B)(11) of this section;
  - h. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative, conversion or motel/hotel timesharing conversion;
    - i. Expansion or construction of water wells or septic systems.
3. Occupancy permits.
4. Harvesting of agricultural crops or other agriculturally related activities specifically defined as permitted uses in the applicable zone, which require no other permits and approvals of the decision-making authority, and are thereby allowable uses herein.
5. Fences for farm or ranch purposes.
6. Water wells, well covers, pump houses, water storage tanks of less than ten thousand gallons capacity and water distribution lines, including up to one hundred cubic yards of associated grading, provided such water facilities are used for onsite agriculturally-related purposes only.

7. Water impoundments located in drainage areas not identified as blue line streams (dashed or solid) on USGS 7½ minute quadrangle maps, provided such impoundments do not exceed twenty-five acre feet in capacity.
8. Water pollution control facilities for agricultural purposes if constructed to comply with waste discharge requirements or other orders of the Regional Water Quality Control Board.
9. Landscaping on the lot unless the landscaping could result in erosion or damage to sensitive habitat areas.
10. Repair or maintenance activities not described in Section 21.201.070 of this chapter.
11. Activities of public utilities as specified in the repair, maintenance and utility hookup exclusion adopted by the Coastal Commission, September 5, 1978, and as modified from time to time.

C. Categorical Exclusions.

1. A permit issued for a development which is categorically excluded from the coastal development permit requirements pursuant to California Public Resources Code Section 30610, shall be exempt from the requirements of this chapter.
  2. The City Council may designate by resolution, after a public hearing, categories of development that have no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along the coast. Development which has been so designated shall be categorically excluded from the provisions of this chapter. The designation of any categorical exclusion shall not be effective until the categorical exclusion order has been approved by the Coastal Commission.
  3. The City Planner shall keep a record of all permits issued for such categorically excluded projects.
- D. Notice of Categorically Excluded or Exempt Developments. A permit issued by the city for a development which is categorically excluded or exempt from the coastal development permit requirements, shall be exempt from the notice and hearing requirements of this chapter. The city shall maintain a record for all permits issued for categorically excluded or exempt developments which shall be made available to the Coastal Commission or any interested person upon request. This record may be in the form of any record of permits issued currently maintained by the city; provided, that such record includes the applicant's name, the location of the project, and brief description of the project.

(Ord. CS-178 § CXXIX, 2012; Ord. CS-324 § 24, 2017; Ord. CS-330 § 4, 2018; Ord. CS-384 § 27, 2020)

**§ 21.201.070. Repair and maintenance activities requiring a coastal development permit.**

- A. All repair and maintenance activities governed by the provisions of this subsection shall be subject to the permit regulations of the California Coastal Act, including, but not limited to, the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code Section 30700, unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Coastal Commission on September 5, 1978.
- B. The following repair and maintenance activities require a coastal development permit because they involve a risk of substantial adverse impact to coastal resources or access.

1. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
    - a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
    - b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
    - c. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind; or
    - d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sandy area or bluff or within twenty feet of coastal waters or streams.
  2. Any method of routine maintenance dredging that involves:
    - a. The dredging of one hundred thousand cubic yards or more within a twelve-month period;
    - b. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive area, or within twenty feet of coastal waters or streams; or
    - c. The removal, sale or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.
  3. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, or any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams that include:
    - a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;
    - b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.
- C. Unless destroyed by natural disaster, the replacement of fifty percent or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership is not repair and maintenance under Public Resources Code Section 30610(d), but instead constitutes a replacement structure requiring a coastal development permit.

(Ord. CS-178 § CXXIX, 2012)

#### **§ 21.201.080. Minor coastal development permits and coastal development permits.**

##### A. Application and Fees.

1. Applications for minor coastal development permits and coastal development permits may be made by the record owner or owners of the property affected or the authorized agent of the

owner or owners. The application shall:

- a. Be made in writing on a form provided by the City Planner.
- b. State fully the circumstances and conditions relied upon as grounds for the application.
- c. Be accompanied by adequate plans which allow for detailed review pursuant to this chapter, a legal description of the property and all other materials and information specified by the City Planner.
2. At the time of filing the application the applicant shall pay the application fee contained in the most recent fee schedule adopted by City Council.
3. Unless the property has previously been legally subdivided and no further subdivision is required the application shall be accompanied by a tentative map which shall be filed with the City Planner in accordance with procedures set forth in Chapter 20.12 of this code. If the project contains four or less lots or units, the application shall be accompanied by a tentative parcel map which shall be filed with the City Engineer in accordance with procedures set forth in Chapter 20.24 of this code.
4. Whenever the development would require a permit or approval under the provisions of this title, notwithstanding this chapter, the application shall include sufficient information to allow review of such permit or approval. Application for all permits or approvals under this title and the coastal development permit may be consolidated into one application.
5. The City Planner may require that the application contain a description of the feasible alternatives to the development or mitigation measures which will be incorporated into the development to substantially lessen any significant effect on the environment which may be caused by the development.

B. Notices and Hearings.

1. Notice of an application for a minor coastal development permit shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title, except that the notice of a minor coastal development permit for an accessory dwelling unit shall not allow for the ability to request an administrative hearing.
2. Notice of an application for a coastal development permit shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

C. Decision-Making Authority.

1. Minor Coastal Development Permits.

- a. The City Planner may approve, conditionally approve or deny minor coastal development permits for:
  - i. Development that costs less than sixty thousand dollars;
  - ii. Accessory dwelling units (no discretionary approval shall be required for accessory dwelling units);
  - iii. Projects that require a minor site development plan, minor conditional use permit, or minor variance, pursuant to the Village and Barrio master plan.

- b. The City Planner may approve or conditionally approve a minor coastal development permit, if the development complies with the following criteria:
    - i. The development is consistent with the certified local coastal program as defined in Section 30108.6 of the Coastal Act.
    - ii. The development requires no discretionary approvals other than a minor coastal development permit.
    - iii. The development has no adverse effect individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
  - c. The City Planner's decision shall be based upon his or her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.
  - d. The City Planner may approve or conditionally approve a minor coastal development permit if he or she finds that the project complies with the certified local coastal program and, if applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act. If the project is an accessory dwelling unit, the City Planner shall additionally find that the project complies with the provisions of Section 21.10.030 of this title.
2. Coastal Development Permits.
    - a. The Planning Commission may approve, conditionally approve, or deny a coastal development permit for development in the coastal zone that is not subject to subsection C.1 of this section.
    - b. The Planning Commission's decision shall be based upon its review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
    - c. The Planning Commission shall hear the matter and may approve or conditionally approve a coastal development permit if it finds that the project complies with the certified local coastal program and, if applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act.

(Ord. CS-178 § CXXIX, 2012; Ord. CS-324 § 2, 2017; Ord. CS-334 § 14, 2018)

#### **§ 21.201.090. Announcement of decision and notice of final local government action.**

- A. When a decision on a minor coastal development permit or coastal development permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing:
  1. In accordance with the provisions of Section 21.54.120 of this title (announcement of decision and findings of fact).
  2. In accordance with Section 13315 of Title 14 of the California Code of Regulations (notice of final local government action).

(Ord. CS-178 § CXXIX, 2012)

#### **§ 21.201.120. Effective date and appeal.**

- A. City Planner decisions on minor coastal development permits shall become effective unless appealed in accordance with the provisions of Section 21.54.140 of this title, except that decisions to approve minor coastal development permits for accessory dwelling units shall not be appealable to the Planning Commission or City Council.
- B. Planning Commission decisions on coastal development permits shall become effective unless appealed in accordance with the provisions of Section 21.54.150 of this title.
- C. Decisions that may be appealed to the Coastal Commission.
  1. A decision on a minor coastal development permit or coastal development permit made pursuant to this chapter, and which is appealable to the Coastal Commission pursuant to Section 21.201.130 of this chapter, shall become effective on the tenth working day following the Coastal Commission's receipt of the notice of final local government action provided pursuant to Section 21.201.090 of this chapter, unless:
    - a. An appeal is filed with the Coastal Commission in accordance with the Coastal Commission's regulations;
    - b. The notice of final local government action does not meet the requirements of Sections 21.201.090.A.2 and 21.201.160;
    - c. The notice of final local government action is not received in the Coastal Commission office and/or distributed to interested parties in time to allow for the ten working day appeal period.
  2. Where any of the circumstances in subsections 21.201.120.C.1.a through 21.201.120.C.1.c occur, the Commission shall, within five calendar days of receiving notice of that circumstance, notify the city and applicant that the effective date of the city action has been suspended.

(Ord. CS-178 § CXXIX, 2012; Ord. CS-324 § 2, 2017)

#### **§ 21.201.130. Developments appealable to the Coastal Commission.**

- A. The following developments, due to their type or location, are within the appeal jurisdiction of the Coastal Commission. Only decisions approving a coastal development permit for these developments are appealable to the Coastal Commission, unless otherwise noted. Areas subject to appeal jurisdiction are shown on the post LCP certification map which is on file in the planning division.
  1. Developments on property located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance.
  2. Development on property located within three hundred feet of the top of the seaward face of any coastal bluff, or within one hundred feet of any wetland, estuary or stream.
  3. Developments approved by the city not included within subsections A and B of this section which are located in a sensitive coastal resource area.
  4. Any decision approving or denying a development which constitutes a major public works project or a major energy facility.

(Ord. CS-178 § CXXIX, 2012)

#### **§ 21.201.140. Exhaustion of local appeals.**

- A. An appellant shall be deemed to have exhausted local appeals for purposes of filing an appeal under the Coastal Commission's regulations and be an aggrieved person where the appellant has pursued the appeal to the appellate body (bodies) as required by the city appeal procedures; except that exhaustion of all local appeals is not required if any of the following occurs:
1. The city requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the local coastal program;
  2. An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision;
  3. An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this chapter;
  4. The city charges an appeal fee for the filing or processing of appeals.
- B. Where the project is appealed by any two members of the Coastal Commission, there shall be no requirement of exhaustion of local appeals. Provided, that notice of Coastal Commission appeals may be transmitted to the City Council (which considers appeals from the Planning Commission which rendered the final decision), and the appeal to the Coastal Commission may be suspended pending a decision on the merits by the City Council. If the decision of the City Council modifies or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal from that decision.
- C. The appeal to the California Coastal Commission shall be filed at the local district office no later than ten working days after the date of the receipt of the notice of final local action by the local district office. No coastal development permit shall be issued or deemed approved until an appeal, if any, to the Coastal Commission has been resolved.

(Ord. CS-178 § CXXIX, 2012)

#### **§ 21.201.150. Public hearing on appealable developments.**

At least one public hearing shall be held on each application for an appealable development, (except as provided in Section 21.201.080 for minor coastal development permits) thereby affording any persons the opportunity to appear at the hearing and inform the city of the nature of their concerns regarding the project. Such hearing shall occur no earlier than ten calendar days following the mailing of the notice required in Section 21.54.060. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

(Ord. CS-178 § CXXIX, 2012)

#### **§ 21.201.160. Finality of city action.**

A local decision on an application for development shall be deemed final when (1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, and that the required conditions of approval adequate to carry out the certified local coastal plan as provided in the implementing ordinances have been imposed, and (2) when all rights of appeal have been provided as defined in Sections 21.201.130 and 21.201.140.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.190. Emergency coastal development permits.**

- A. Applications in case of emergency shall be made by letter to the City Planner or in person or by telephone, if time does not allow. "Emergency" means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.
- B. The following information shall be included in the request:
  1. Nature of emergency;
  2. Cause of the emergency, insofar as this can be established;
  3. Location of the emergency;
  4. The remedial, protective or preventive work required to deal with the emergency; and
  5. The circumstances during the emergency that appeared to justify the cause(s) of action taken, including the probable consequences of failing to take action.
- C. The City Planner shall verify the facts, including the existence of the nature of the emergency, insofar as time allows.
- D. The City Planner may grant an emergency permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, if the City Planner finds that:
  1. An emergency exists that requires action more quickly than permitted by the procedures for minor coastal permits or for regular permits and the work can and will be completed within thirty days unless otherwise specified by the terms of the permit;
  2. Public comment on the proposed emergency action has been reviewed, if time allows; and
  3. The work proposed would be consistent with the requirements of the certified land use plan.
- E. The City Planner shall report, in writing, to the Coastal Commission through its Executive Director and to the City Council at its first scheduled meeting after the emergency permit has been issued, the nature of the emergency and the work involved. The report of the City Planner shall be informational only; the decision to issue an emergency permit is solely at the discretion of the City Planner subject to the provisions of this section. Copies of this report shall be available at the meeting and shall be mailed to all persons who have requested such notification in writing. If at that meeting, one-third of the City Council so request, the permit issued by the City Planner shall not go into effect and the application for a coastal development permit shall be processed in due course in accordance with the procedures set forth in Chapter 21.201.
- F. Any request for an emergency permit within the Coastal Commission area of original jurisdiction as defined in Section 21.201.230 shall be referred to the Coastal Commission for review and issuance.  
(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.200. Expiration of minor coastal development permits and coastal development permits.**

The expiration period for an approved minor coastal development permit or coastal development permit shall be as specified in Section 21.58.030 of this title.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.210. Extensions.**

- A. The expiration period for an approved minor coastal development permit or coastal development permit may be extended pursuant to Section 21.58.040 of this title, and subject to the following:
1. An extension may be approved only if it is found that there has been no change of circumstances that may affect the development's consistency with the certified local coastal program or with the policies of Chapter 3 of the Coastal Act, if applicable.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.220. Permit amendment.**

An approved minor coastal development permit or coastal development permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.230. Coastal development permits issued by Coastal Commission.**

The Coastal Commission shall have original jurisdiction for all coastal development permits for development on tidelands, submerged lands and public trust lands, whether filled or unfilled. Such lands are specified as the area of "original jurisdiction" of the Coastal Commission pursuant to Public Resources Code Section 30519(b), and are shown on the post LCP certification map which is on file in the planning division. The applicant for any project which requires a coastal development permit issued by the Coastal Commission shall obtain all discretionary approvals required by this code prior to filing an application with the Coastal Commission for said coastal development permit.

(Ord. CS-178 § CXXIX, 2012)

**§ 21.201.240. Violations of the Public Resources Code.**

Any person who violates any provision of Division 20 of the Public Resources Code shall be subject to the penalties contained in Public Resources Code Article 2, Section 30820 et seq.

(Ord. CS-178 § CXXIX, 2012)

**CHAPTER 21.202  
COASTAL AGRICULTURE OVERLAY ZONE**

**§ 21.202.010. Intent and purpose.**

The coastal agriculture overlay (CA) zone is established to implement Sections 30170(f), 30171(b), 30241, 30242 and 30250 of the California Coastal Act and the local coastal program land use plan certified on June 1981. This zone recognizes agriculture as a priority use under the Coastal Act and protects that use by establishing mechanisms to assure the continued and renewed agricultural use of agricultural lands. The local coastal program recognizes that long-term agriculture may not be feasible and establishes agriculture as an interim use. Therefore, this zone allows urban development of such lands if specific findings are made or mitigation measures are undertaken. The coastal agriculture zone is an overlay zone; no use shall be allowed on any property zoned coastal agriculture unless such use complies with the provisions of this chapter and with the provisions of any other chapters of this title which are applicable to the property. (Ord. NS-365 § 21, 1996)

**§ 21.202.020. Definitions.**

For the purposes of this zone, terms used herein are defined as follows:

"Coastal agricultural lands" means those agricultural lands identified on Map x attached to the land use plan certified on September 1980. The following are the lands identified on Map x:

Approximate Acres	
Site II	377
Site III	275
Site IV	109
Lusk	93
Bankers	27
Hunt	200
Carlitas	301.38

"Class I-IV agricultural land" means all land which qualifies for rating as Class I through Class IV in the U.S. Department of Agriculture Soil Conservation Service Land Use Compatibility Classification.

"Class V-VIII agricultural land" means all land which qualified for rating as Class V through Class VIII in the U.S. Department of Agriculture Soil Conservation Service Land Use Compatibility Classification.

"Land division" means the creation of any new property line whether by subdivision or other means.

"Net impacted agricultural land" means, for purposes of calculating required mitigation acreage, the parcels and acreages designated on Map x (located in the local coastal program land use plan) and the 301.38 acre Carlitas property suitable for agricultural use minus the acreage in steep slopes (twenty-five percent or greater) and areas containing sensitive coastal resources that would preclude development in addition to any acreage under the control of a public entity for a public recreation or open space use.

"Underlying land use designation" means those urban uses which are consistent with the urban land use designation established by the Carlsbad General Plan and the local coastal program land use plan, which agricultural lands may be converted in conformance with this chapter.

"Urban uses" means any use other than a use permitted by Section 21.202.050 including any use necessary

or convenient to urban use.

(Ord. NS-365 § 21, 1996)

**§ 21.202.030. Urban development of coastal agricultural land.**

Coastal agricultural land may be converted from agricultural use and developed for urban use in compliance with the procedures of this chapter.

(Ord. NS-365 § 21, 1996)

**§ 21.202.040. Permits required.**

No development, including, but not limited to, land divisions, as defined in Section 21.04.108 of this code shall occur without a coastal development permit having first been issued pursuant to Chapter 21.201 of this code. A master plan or a planned development permit processed according to Section 21.202.060 shall be considered a coastal permit if also processed in compliance with Chapter 21.201.

(Ord. NS-365 § 21, 1996)

**§ 21.202.050. Permitted uses on agricultural lands.**

The provisions of this section shall apply to any coastal agricultural land which has not been approved for development pursuant to this chapter.

A. On any Class I through Class IV agricultural land the following uses only are permitted:

1. Cattle, sheep, goats and swine production; provided, that the number of any one or combination of said animals shall not exceed one animal per half acre of lot area. Structures for containing animals shall not be located within fifty feet of any habitable structure on the same parcel, nor within three hundred feet of an adjoining parcel zoned for residential uses.
2. Crop production.
3. Floriculture.
4. Horses, private use.
5. Nursery crop production.
6. Poultry, rabbits, chinchillas, hamsters and other small animals, provided not more than twenty-five of any one or combination thereof shall be kept within fifty feet of any habitable structure, or within three hundred feet of an adjoining parcel zoned for residential uses.
7. Roadside stands for display and sale of products produced on the same premises, with a floor area not exceeding two hundred square feet, and located not nearer than twenty feet to any street or highway.
8. Tree farms.
9. Truck farms.
10. Wildlife refuges and game preserves.
11. Other uses or enterprises similar to the above customarily carried on in the field of general agriculture including accessory uses such as silos, tank houses, shops, barns, offices, coops, stables, corrals, and similar uses required for the conduct of the uses above.

12. One single-family dwelling per existing legal building parcel.
- B. On any Class V through VIII agricultural land the following uses only are permitted:
1. All of the permitted uses listed above.
  2. Hay and feed stores.
  3. Nurseries, retail and wholesale.
  4. Packing sheds, processing plants and commercial outlets for farm crops, provided that such activities are not located within one hundred feet of any lot line.
  5. Greenhouses, provided all requirements for yard setbacks and height as specified in Chapter 21.07 of this code are met.

(Ord. NS-365 § 21, 1996)

#### **§ 21.202.055. Lot and yard standards—Agricultural lands.**

The provisions of this section shall apply to any coastal agricultural land which has not been approved for development pursuant to this chapter.

- A. The minimum required lot area of any newly created lot shall not be less than ten acres unless the City Council finds that smaller parcel sizes will not adversely affect the agricultural use of the property.
- B. Every newly created lot shall have a minimum width of the rear line of the required front yard of not less than three hundred feet.
- C. Every lot shall have a required front yard of forty feet. Except as otherwise provided in Section 21.202.050 no building or structure shall be located on the required front yard.
- D. Every lot and building site shall have a side yard on each side of the lot or building site not less than fifteen feet in width unless otherwise permitted by Section 21.202.050.
- E. Every lot and building site shall have a rear yard of not less than twenty-five feet unless otherwise permitted by Section 21.202.050.
- F. No building or structure shall exceed thirty-five feet in height.
- G. Buildings and structures shall not cover more than forty percent of a lot.

H. All residential structures shall conform to the provisions of Section 21.07.120 of this code.

(Ord. NS-365 § 21, 1996)

#### **§ 21.202.060. Development of coastal agricultural land.**

Coastal agricultural lands may be converted from agricultural to urban uses pursuant to the following procedures:

- A. Zoning Approvals:
1. For property over one hundred acres in area a master plan shall be submitted and processed according to the provisions of Chapter 21.38 of this code. The uses permitted pursuant to the master plan shall be those permitted by the provisions of the Carlsbad general plan and certified

local coastal program in effect at the time the application is submitted.

2. For property less than one hundred acres in area, a planned development permit shall be submitted and processed pursuant to Chapter 21.45 or 21.47 of this code, whichever is applicable. The uses permitted pursuant to the planned development permit and the development standards shall be as follows:

<b>Land Designation on Carlsbad General Plan</b>	<b>Permitted Uses and Development Standards</b>
Residential low density	R-1 40000
Residential low medium density	R-1 10000
Residential medium density	RD-M
Residential medium to high density	RD-M
Planned industrial	P-M

(Map Y of the certified local coastal program shows existing permitted land use categories)

- B. Development Permitted Based Upon Mitigation of Lands Zoned Coastal Agricultural. A master plan or planned development permit for urban development of lands zoned coastal agriculture shall, in addition to complying with all aspects of the city's general plan, include the following items:

1. An enforceable, nonrevocable commitment by the property owner to preserve permanently one acre of prime agricultural land within the California coastal zone for each net impacted acre of nonprime coastal agricultural land in the local coastal program proposed for development. The preserved land shall be located in an area selected by the State Coastal Conservancy and approved by the City Council. This enforceable commitment shall require, prior to issuance of a building permit, the permanent transfer or dedication of interest in the prime agricultural land to a grantee that is a local or state agency, or a tax exempt organization qualifying under Section 501(c)(3) of the U.S. Internal Revenue Code. Grantees also shall be limited to organizations and agencies whose principal purposes are consistent with the preservation of agriculture.
2. The following documentation pertaining to the prime agricultural land outside the local coastal program that is being permanently preserved:
  - a. Parties. Identification of the grantor and grantee (i.e., property owner, and government agency or tax exempt organization having a letter determination from the IRS documenting qualification per Section 501(c)(3) of the Internal Revenue Code).
  - b. Legal Description. A legal description of the prime agricultural lands being preserved.
  - c. Type and Purpose of Easement. A clear statement defining the type and purpose of the easement or other form of property interest being used to protect prime agriculture. Acceptable interests include, but shall not be limited to, conservation easements, transfers in trust, common law easements, open space easements, restrictive covenants, equitable servitudes, fee ownership or any other permanent restriction approved by the City Council.
  - d. Statement of Intent. A statement of intent by the grantor shall be submitted declaring an intent to protect agricultural land through the creation of easements or other interests running with the property, and a declaration of intent by the grantee to honor such grantor intent in perpetuity.

- e. Documentation. Maps, reports, aerial photographs shall be incorporated into the easement showing evidence of the agricultural lands that grantor and grantee intend to preserve.
  - f. Rights, Restrictions, Permitted Uses and Reservations. Grantee shall demonstrate the necessary authority to monitor and enforce compliance with terms of the agreement as the trustee or guardian. Restrictions shall prescribe all reasonable foreseeable activities that could be potentially harmful to conservation values.
  - g. Executory Limitation. Provisions for forfeiture of the easement or interest by the grantee to another qualified organization should the grantee fail to maintain the land for agricultural use, shall be included.
  - h. Assignment. Grantee shall agree to hold easements or interests for conservation purposes and guarantee that he or she will not transfer the easement except to an organization qualified to hold such interests under the relevant California and federal laws and the terms of this section.
  - i. Habendum Clause. The interest in property shall inure to the benefit of the grantee. All restrictions shall bind all subsequent purchasers or title holders of the restricted land and shall continue as a servitude running with the land in perpetuity.
3. Prior to building permit issuance, the property owner shall present to the City Manager proof of dedication by grantor and acceptance by grantee of an appropriate interest in prime agricultural lands pursuant to subsection (B)(2) of this section.
- C. Urban Development of Lands Shown to be not Feasible for Continued or Renewed Agricultural Use. In lieu of the procedures established by subsection B or subsection D of this section property owners may complete an agricultural feasibility study prior to conversion of lands designated coastal agriculture. The purpose of the feasibility study shall be to determine, consistent with Section 30242 of the Coastal Act, if continued or renewed agriculture is feasible on the subject property.

1. An applicant or group of applicants may complete an agricultural feasibility analysis for one or any combination of the following study areas:
  - a. All coastal agricultural lands in the local coastal program area;
  - b. Individual feasibility analyses for each of five sub-units in the local coastal program (refer to Map x; located in the local coastal program land use plan);

Approximate Acres	
Site II	377
Site III	275
Site IV	109
Lusk/Bankers Site	120
Carltas Site	301.38

- c. An individual study for the Hunt property may be submitted as part of a submitted master plan for each of its sub-units; or
- d. Feasibility studies may be submitted for contiguous land holdings of one hundred acres or more in single ownership.

2. Feasibility studies submitted for the purpose of determining the viability of continued or renewed agriculture on coastal agricultural parcel(s) shall provide the following:
    - a. Description of the farm unit under study including discussions of land capabilities, crop patterns, and minimum economic farm size.
    - b. Investment cost analysis including cost of land for agricultural purposes.
    - c. Farm unit cash flow analysis (production costs, income, etc.).
    - d. Tax considerations relative to feasibility.
    - e. Implications of future trends in water cost and availability, land and labor costs, and market competition.
  3. Upon completion, the agricultural study shall be submitted to the city for review and approval concurrent with the filing of a master plan or planned development permit.
    - a. If the study finds that continued or renewed agriculture is feasible, the property owner has the choice of: (1) maintaining agricultural uses; or (2) proceeding with conversion and mitigation pursuant to the procedures set forth in subsection B of this section.
    - b. If the feasibility study finds that continued or renewed agriculture is not feasible and City Council concurs, the city shall review the submitted master plan or planned development permit on its merits and for consistency with the other provisions of this code and the local coastal program. If City Council determines that the development is in conformance with all provisions of the code and the local coastal program, it may be approved without mitigation for conversion of agricultural land. The approved feasibility study and master plan or planned development permit approved by the city shall be prepared as a local coastal program amendment and submitted to the Coastal Commission for certification. The master plan, planned development permit or coastal permit shall not be final unless the local coastal program amendment is approved by the Coastal Commission.
- D. Agricultural Conversion Mitigation Fee and Expenditure Plan. In lieu of the procedures established by subsection B or subsection C of this section, property may be converted to urban uses upon payment of an agricultural conversion mitigation fee.
1. This fee is separate and distinct from the mitigation fee established by Section 301717.5 of the Public Resources Code, which applies to certain properties outside the Mello I and Mello II segments of the city's local coastal program, is collected and administered by the State Coastal Conservancy and has different expenditure priorities.
  2. The amount of the fee shall be determined by the City Council at the time it considers a coastal development permit for urban development of the property. The fee shall not be less than five thousand dollars nor more than ten thousand dollars per net converted acre of agricultural land and shall reflect the approximate cost of preserving prime agricultural land pursuant to subsection B of this section. The fees shall be paid prior to the issuance of building permits for the project. All mitigation fees collected under this section shall be deposited in the City of Carlsbad LCP agricultural mitigation fees fund and shall be expended by the City of Carlsbad subject to the recommendations of an advisory committee to be established by City Council action. The advisory committee shall have city and coastal conservancy staff and community representation. The intent is not to establish priorities for program use, but rather to promote equitable distribution amongst the allowable uses outlined below. The advisory committee may

also develop policies or procedures for the review of requests and the allocation of funds. The allowable uses for the agricultural mitigation fees are:

- a. Restoration of the coastal and lagoon environment including, but not limited to, acquisition, management and/or restoration involving wildlife habitat or open space preservation;
  - b. Purchase and improvement of agricultural lands for continued agricultural production, or for the provision of research activities or ancillary uses necessary for the continued production of agriculture and/or aquaculture in the city's coastal zone, including, but not limited to, farm worker housing;
  - c. Restoration of beaches for public use including, but not limited to local and regional sand replenishment programs, vertical and lateral beach access improvements, trails, and other beach-related improvements that enhance accessibility, and/or public use of beaches; and
  - d. Improvements to existing or proposed lagoon nature centers.
- E. Site I Special Restrictions. Notwithstanding anything to the contrary in this chapter, Site I as shown on Map x shall not be converted to urban use except as specifically permitted by the local coastal program provisions for urban development of Site I.

(Ord. NS-365 § 21, 1996; Ord. NS-711 § 1, 2004; Ord. NS-752 § 1, 2005)

#### **§ 21.202.070. Findings required before conversion to urban uses.**

- A. Where a property owner has agreed to preserve prime agricultural land elsewhere in the state coastal zone pursuant to Section 21.202.060 then the City Council prior to approval of a master plan or planned development permit must find that:
  1. The conversion would preserve prime agricultural land in a manner consistent with Section 30242 of the Public Resources Code, the certified local coastal plan and this chapter.
  2. The master plan or planned development permit is consistent with the certified local coastal program.
  3. Conversion would concentrate urban development consistent with Section 30250 in areas able to accommodate it, and within or adjacent to developed areas.
  4. Conversion would be compatible with continued agriculture on adjacent agricultural lands.
  5. Consistent with the certified local coastal program and Section 30241 of the Coastal Act, conversion would contribute to limiting conversions of prime agricultural land and create stable urban/rural boundaries within prime agricultural lands located elsewhere in the coastal zone.
- B. Where a property owner has elected to complete an agricultural feasibility analysis, and the property owner and city agree, based on that analysis, that continued or renewed agriculture is not feasible on the subject lands, and a City Council approved feasibility analysis and master plan/planned development permit must incorporate city findings declaring that:
  1. Continued or renewed agriculture is not feasible on the subject parcel(s) and, consistent with Section 30242 of the Coastal Act, conversion of the parcels designated coastal agriculture in the land use plan shall not require the preservation of prime agricultural lands elsewhere in the coastal zone.

2. Development permitted is consistent with the certified local coastal program.
  3. Permitted development is compatible with continued agriculture on adjacent agricultural lands.
- C. Where a property owner has agreed to pay an agricultural conversion mitigation fee pursuant to Section 21.202.060 then the City Council prior to approval of a master plan or planned development permit must find that:
1. The master plan or planned development permit is consistent with the certified local coastal program.
  2. Conversion would be compatible with continued agriculture on adjacent agricultural lands.
  3. The property owner has executed an agreement to pay the fee and the agreement has been approved by the City Council.

(Ord. NS-365 § 21, 1996)

**§ 21.202.075. Development on coastal agricultural lands not consistent with underlying land use designations.**

Conversions of coastal agricultural lands to urban uses other than those underlying land use designations identified on Map Y may be permitted pursuant to the procedures and findings set forth in Sections 21.202.060 and 21.202.070 subject to the preparation and submission of a local coastal program amendment for Coastal Commission certification.

(Ord. NS-365 § 21, 1996)

**§ 21.202.080. Proximity of urban development to existing development areas.**

Urban development of agricultural lands shall be located:

- A. Contiguous with or in close proximity to existing developed areas;
- B. In areas with adequate public facilities and services;
- C. Where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

(Ord. NS-365 § 21, 1996)

**CHAPTER 21.203  
COASTAL RESOURCE PROTECTION OVERLAY ZONE**

**§ 21.203.010. Intent and purpose.**

The intent and purpose of the coastal resource protection overlay zone is to:

- A. Supplement the underlying zoning by providing additional resource protective regulations within designated areas to preserve, protect and enhance the habitat resource values of Buena Vista Lagoon, Agua Hedionda Lagoon, Batiquitos Lagoon, and steep sloping hillsides;
- B. Provide regulations in areas which provide the best wildlife habitat characteristics;
- C. Encourage proper lagoon management;
- D. Deter soil erosion by maintaining the vegetative cover on steep slopes;
- E. Implement the goals and objectives of Sections 30231, 30233, 30240(b) and 30253 of the Public Resources Code and the approved Carlsbad local coastal program.

(Ord. NS-365 § 22, 1996)

**§ 21.203.020. Applicability.**

This chapter implements the California Coastal Act and is applicable to all properties located in the coastal zone as defined in Public Resources Code Section 30171. In case of any conflict between this zone and the underlying zone, provisions of this zone shall apply.

(Ord. NS-365 § 22, 1996)

**§ 21.203.030. Permit required.**

Developments, including, but not limited to, land divisions, as defined in Section 21.04.108 require a coastal development permit. This permit is subject to the requirements of this zone and the procedural requirements for coastal development permits of Chapter 21.201 of this code.

(Ord. NS-365 § 22, 1996)

**§ 21.203.040. Development standards.**

The following specific development standards shall be applied to areas within the coastal resource protection overlay zone as part of the coastal development permit. Such standards shall control, notwithstanding the provisions of the underlying zone and shall include:

- A. Preservation of Steep Slopes and Vegetation. Any development proposal that affects steep slopes (twenty-five percent inclination or greater) shall be required to prepare a slope map and analysis for the affected slopes. The slope mapping and analysis shall be prepared during the CEQA environmental review on a project-by-project basis and shall be required as a condition of a coastal development permit.
  - 1. Outside the Kelly Ranch property, for those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language applies:
    - a. Slopes of twenty-five percent grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in

which case an encroachment not to exceed ten percent of the steep slope area over twenty-five percent grade may be permitted. For existing legal parcels, with all or nearly all of their area in slope area over twenty-five percent grade, encroachment may be permitted; however, any such encroachment shall be limited so that at no time is more than twenty percent of the entire parcel (including areas under twenty-five percent slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the city's circulation element or the development of utility systems. Uses of slopes over twenty-five percent may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

- b. No further subdivisions of land or utilization of planned unit developments shall occur on lots that have their total area in excess of twenty-five percent slope unless a planned unit development is proposed which limits grading and development to not more than ten percent of the total site area.
  - c. Slopes and areas remaining undisturbed as a result of the hillside review process, shall be placed in a permanent open space easement as a condition of development approval. The purpose of the open space easement shall be to reduce the potential for localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to the entire community.
  - d. Notwithstanding subsections a and b of this section, encroachments to slopes of twenty-five percent grade and over may be permitted in order to preserve natural habitat as required by the city's habitat management plan and the required amount of preservation could not be achieved by strict adherence to the requirements of subsections a and b of this section.
2. Within the Kelly Ranch property, for those slopes possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language applies:
  - a. Coastal sage scrub and southern maritime chaparral plant communities shall be preserved in their natural state within designated open space areas shown on the LCP Kelly Ranch open space map and addressed in Policy 3-5 of the certified LCP land use plan.
  - b. The open space shown on the Kelly Ranch open space map shall be secured through conservation easements or dedicated in fee at the time of subdivision approval. The easements shall be granted to the city or other public entity and maintained and managed as part of the LCP Kelly Ranch open space system.
  - c. Restoration of disturbed areas within the designated open space through revegetation of disturbed areas and enhancement of existing vegetation with native upland species shall be required, in consultation with the Department of Fish and Game, as a condition of subdivision approval. The restoration and enhancement plan shall include a maintenance and monitoring component to assure long-term productivity of the habitat value.
  - d. Upon dedication of a conservation easement or in fee dedication, or upon recordation of offers to dedicate the Kelly Ranch open space to the city or other public entity, development of steep slopes over twenty-five percent grade may occur in areas outside the designated open space. Such encroachment shall be approved by the Department of Fish and Game and the U.S. Fish and Wildlife Service as consistent with the State and Federal

Endangered Species Act. Dedication will assure preservation of a viable upland habitat corridor and scenic hillsides.

- e. Roads in Open Space. Access roads shall be a permitted use within designated open space subject to an approved coastal development permit, only when necessary to access flatter areas and when designed to be the least environmentally damaging feasible alternative. Wildlife corridors shall be required when necessary to facilitate wildlife movement through the open space area.
  - f. Siting/Parking. Due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated to minimize paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site.
  - g. Brush Management. A fire suppression plan shall be required for all residential development adjacent to designated open space subject to approval by the city fire department. The fire suppression plan shall incorporate a combination of building materials, sufficient structural setbacks from native vegetation and selective thinning designed to assure safety from fire hazard, protection of native habitat, and landscape screening of the residential structures. No portions of brush management Zones 1 and 2 as defined in the city landscape manual shall occur in designated open space areas. Zone 3 may be permitted within designated open space upon written approval of the fire department and only when native fire retardant planting is permitted to replace high and moderate fuel species required to be removed.
3. For all other steep slope areas, the City Council may allow exceptions to the above grading provisions provided the following mandatory findings to allow exceptions are made:
- a. A soils investigation conducted by a licensed soils engineer has determined the subject slope area to be stable and grading and development impacts mitigatable for at least seventy-five years, or life of structure.
  - b. Grading of the slope is essential to the development intent and design.
  - c. Slope disturbance will not result in substantial damage or alteration to major wildlife habitat or native vegetation areas.
  - d. If the area proposed to be disturbed is predominated by steep slopes and is in excess of ten acres, no more than one-third of the total steep slope area shall be subject to major grade changes.
  - e. If the area proposed to be disturbed is predominated by steep slopes and is less than ten acres, complete grading may be allowed only if no interruption of significant wildlife corridors occurs.
  - f. Because north-facing slopes are generally more prone to stability problems and in many cases contain more extensive natural vegetation, no grading or removal of vegetation from these areas will be permitted unless all environmental impacts have been mitigated. Overriding circumstances are not considered adequate mitigation.

B. Drainage, Erosion, Sedimentation, Habitat.

1. Buena Vista Lagoon. Developments located along the first row of lots bordering Buena Vista

Lagoon, including the parcel at the mouth of the lagoon, shall be designated for residential development at a density of up to four dwelling units per acre. Proposed development in this area shall be required to submit topographic and vegetation mapping and analysis, as well as soils reports, as part of the development permit application. Such information shall be provided in addition to any required environmental impact report, and shall be prepared by qualified professionals and in sufficient detail to locate the boundary of wetland and upland areas and areas of slopes in excess of twenty-five percent. Topographic maps shall be submitted at a scale sufficient to determine the appropriate developable areas, generally not less than a scale of one inch equals one hundred feet with a topographic contour interval of five feet, and shall include an overlay delineating the location of the proposed project. The lagoon and wetland area shall be delineated and criteria used to identify any wetlands existing on the site shall be those of Section 30121 of the Coastal Act and based upon the standards of the local coastal program mapping regulations. Mapping of wetlands and siting of development shall be done in consultation and subject to the approval of the Department of Fish and Game. Development shall be clustered to preserve open space for habitat protection. Minimum setbacks of at least one hundred feet from wetlands/lagoon shall be required in all development, in order to buffer such sensitive habitat area from intrusion. Such buffer areas, as well as other open space areas required in permitted development to preserve habitat areas, shall be permanently preserved for habitat uses through provision of an open space easement as a condition of project approval. In the event that a wetland area is bordered by steep slopes (in excess of twenty-five percent) which will act as a natural buffer to the habitat area, a buffer area of less than one hundred feet in width may be permitted. The density of any permitted development shall be based upon the net developable area of the parcel, excluding any portion of a parcel which is in wetlands or lagoon. As specified in subsection A of this section, a density credit may be provided for that portion of the parcel which is in steep slopes. Storm drain alignments as proposed in the City of Carlsbad Drainage Master Plan which would be carried through or empty into Buena Vista Lagoon shall not be permitted, unless such improvements comply with the requirements of Sections 30230, 30231, 30233 and 30235 of the Coastal Act by maintaining or enhancing the functional capacity of the lagoon in a manner acceptable to the State Department of Fish and Game. Land divisions shall only be permitted on parcels bordering the lagoon pursuant to a single planned development permit for the entire original parcel.

2. Batiquitos Lagoon Watershed. Development located east of I-5 (generally referred to as the Savage property) shall be designated for a maximum density of development of eight units per gross acre, excluding wetlands and constrained slopes. Development shall take place according to the requirements of the P-C planned community zone, Chapter 21.38, supplemented by these additional requirements. Land divisions shall only be permitted pursuant to a master plan for the entire original parcel subject to the requirements herein:
  - a. Drainage, erosion and sedimentation requirements shall be as specified in subsection (B)(4) of this section.
  - b. Detailed topographic maps shall be prepared by qualified professionals including biologists, hydrologists and engineers in sufficient detail to locate the boundary of lagoon or wetland and upland areas. The scale shall not be less than one inch equals one hundred feet with a contour interval of five feet, and shall include an overlay delineating the location of the development. The lagoon and wetland areas shall be delineated according to the requirements of Section 30121 of the Coastal Act and the local coastal program mapping regulations, subject to the review and approval of the State Department of Fish and Game.

- c. Development shall be clustered to preserve open space and habitat.
  - d. A minimum setback of one hundred feet from the lagoon/wetland shall be required.
  - e. At least two-thirds of any development shall be clustered on the half of the property furthest away from the lagoon at the base of the bluff in order to preserve the outstanding visual and natural resources.
  - f. Existing mature trees shall be preserved.
  - g. Public recreation facilities shall be provided as a condition of development including picnic tables, parking, and a public access trail along the lagoon shore. The trail shall be secured by an irrevocable offer to dedicate public access but shall be developed and landscaped as a condition of development and shall be at least fifteen feet wide with unobstructed views of the lagoon.
  - h. To facilitate provision of public use areas and preservation of environmentally sensitive lands, and to maintain the outstanding visual resources in the area surrounding the lagoon, an additional density credit of one dwelling unit per acre of developed land shall be provided for each two and one-half percent of total lot area, excluding wetlands, which is maintained in open space and public recreation in excess of fifty percent of the total lot area, excluding wetlands.
3. Areas West of I-5. For areas west of the existing Paseo del Norte, west of Interstate 5 and along El Camino Real immediately upstream of the existing storm drains, the following policy shall apply:
- a. All development must include mitigation measures for the control of urban runoff flow rates and velocities, urban pollutants, erosion and sedimentation in accordance with: (1) the requirements of the city's grading ordinance, stormwater ordinance, standard urban stormwater mitigation plan (SUSMP) dated April 2003, and as amended, and the City of Carlsbad Drainage Master Plan, as those documents are certified as part of the city's LCP; (2) the city's jurisdictional urban runoff management program (JURMP) and the San Diego County Hydrology Manual to the extent that these requirements are not inconsistent with any policies of the LCP; and (3) the additional requirements contained herein. Such mitigation shall become an element of the project, and shall be installed prior to the initial grading.
  - b. In addition, the following standards shall apply:
    - i. Priority projects identified in the SUSMP will incorporate structural best management practices (BMPs) and submit a water quality technical report as specified in the National Pollutant Discharge Elimination System (NPDES) permit and in the SUSMP;
    - ii. Structural BMPs used to meet SUSMP requirements for priority projects shall be based on the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook, dated January 2003, or the current version of that publication, and designed to infiltrate, filter or treat the runoff produced from each storm event up to and including the eighty-fifth percentile twenty-four hour storm event;
    - iii. Priority projects will include projects increasing impervious area by more than two

thousand five hundred square feet or by more than ten percent of existing impervious area, that are in, adjacent to or drain directly to environmentally sensitive areas (ESA), identified in the City of Carlsbad Standard Urban Stormwater Mitigation Plan (SUSMP) dated April 2003, using the definitions of "adjacent to" and "draining directly to" that are found in the SUSMP;

- iv. The city shall include requirements in all coastal development permit approvals to inspect and maintain required BMPs for the life of the project;
  - v. The city will encourage and support public outreach and education regarding the potential water quality impacts of development;
  - vi. Development shall minimize land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize impacts on water quality of excessive erosion and sedimentation. Development shall incorporate soil stabilization BMPs on disturbed areas as soon as feasible;
  - vii. Projects within two hundred feet of the Pacific Ocean shall be dealt with as "Projects Discharging to Receiving Waters within Environmentally Sensitive Areas" as defined in Appendix I of the SUSMP, including being treated as a priority project if they create more than two thousand five hundred square feet of impermeable surface or increase the impermeable surface on the property by more than ten percent;
  - viii. Although residential developments of less than ten units, including single-family residences, are generally exempt from the SUSMP priority project requirements, they shall meet those requirements, including achievement of the numerical sizing standard, if they are in, within two hundred feet of, or discharging directly to an ESA, including the Pacific Ocean; or shall provide a written report signed by a licensed civil engineer showing that as the project is designed they are mitigating polluted runoff, including dry weather nuisance flows, to the maximum extent practicable;
  - ix. Detached residential homes shall be required to use efficient irrigation systems and landscape designs or other methods to minimize or eliminate dry weather flow, if they are within two hundred feet of an ESA, coastal bluffs or rocky intertidal areas.
- c. Mitigation shall require construction of all improvements shown in the City of Carlsbad Drainage Master Plan and any amendments to them for the area between the project site and the lagoon (including the debris basin), as well as revegetation of graded areas immediately after grading; and a mechanism for permanent maintenance if the city declines to accept the responsibility. Construction of drainage improvements may be through formation of an assessment district, or through any similar arrangement that allocates costs among the various landowners in an equitable manner.

4. All Other Areas in the Coastal Zone.

- a. All development must include mitigation measures for the control of urban runoff flow rates and velocities, urban pollutants, erosion and sedimentation in accordance with: (1) the requirements of the city's grading ordinance, stormwater ordinance, standard urban stormwater mitigation plan (SUSMP) dated April 2003 and as amended, and the City of Carlsbad Drainage Master Plan, as those documents are certified as part of the city's LCP; (2) the city's jurisdictional urban runoff management program (JURMP) and the San

Diego County Hydrology Manual to the extent that these requirements are not inconsistent with any policies of the LCP; and (3) the additional requirements contained herein. Such mitigation shall become an element of the project and shall be installed prior to the initial grading.

- b. In addition, the following standards shall apply:
  - i. Priority projects identified in the SUSMP will incorporate structural best management practices (BMPs) and submit a water quality technical report as specified in the National Pollutant Discharge Elimination System (NPDES) permit and in the SUSMP;
  - ii. Structural BMPs used to meet SUSMP requirements for priority projects shall be based on the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook, dated January 2003, or the current version of that publication, and designed to infiltrate, filter or treat the runoff produced from each storm event up to and including the eighty-fifth percentile twenty-four hour storm event;
  - iii. Priority projects will include projects increasing impervious area by more than two thousand five hundred square feet or by more than ten percent of existing impervious area, that are in, adjacent to or drain directly to environmentally sensitive areas (ESA), identified in the City of Carlsbad standard urban stormwater mitigation plan (SUSMP) dated April 2003, using the definitions of "adjacent to" and "draining directly to" that are found in the SUSMP;
  - iv. The city shall include requirements in all coastal development permit approvals to inspect and maintain required BMPs for the life of the project;
  - v. The city will encourage and support public outreach and education regarding the potential water quality impacts of development;
  - vi. Development shall minimize land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize impacts on water quality of excessive erosion and sedimentation. Development shall incorporate soil stabilization BMPs on disturbed areas as soon as feasible;
  - vii. Projects within two hundred feet of the Pacific Ocean shall be dealt with as "Projects Discharging to Receiving Waters within Environmentally Sensitive Areas" as defined in Appendix I of the SUSMP, including being treated as a priority project if they create more than two thousand five hundred square feet of impermeable surface or increase the impermeable surface on the property by more than ten percent;
  - viii. Although residential developments of less than ten units, including single-family residences, are generally exempt from the SUSMP priority project requirements, they shall meet those requirements, including achievement of the numerical sizing standard, if they are in, within two hundred feet of, or discharging directly to an ESA, including the Pacific Ocean; or shall provide a written report signed by a licensed civil engineer showing that as the project is designed they are mitigating polluted runoff, including dry weather nuisance flows, to the maximum extent practicable;

- ix. Detached residential homes shall be required to use efficient irrigation systems and landscape designs or other methods to minimize or eliminate dry weather flow, if they are within two hundred feet of an ESA, coastal bluffs or rocky intertidal areas.
- c. Mitigation shall also require construction of all improvements shown in the City of Carlsbad Drainage Master Plan and amendments to it. No subsequent amendments are a part of this zone unless certified by the Coastal Commission. The general provisions, procedures, standards, content of plans and implementation contained with them are required conditions of development in addition to the provisions below. Approved development shall include the following conditions, in addition to the requirements specified above:
  - i. All off-site, downstream improvements (including debris basin and any other improvements recommended in the City of Carlsbad Drainage Master Plan) shall be constructed prior to the issuance of a grading permit on-site. Improvements shall be inspected by city or county staff and certified as adequate and in compliance with the requirements of the drainage plan and the additional requirements of this zone. If the city or county declines to accept maintenance responsibility for the improvements, the developer shall maintain the improvements during construction of the on-site improvements;
  - ii. If the off-site or on-site improvements are not to be accepted and maintained by a public agency, detailed maintenance agreements including provisions for financing the maintenance through bonding or other acceptable means shall be secured prior to issuance of the permit. Maintenance shall be addressed in the report required to be submitted with the permit application. The report shall discuss maintenance costs and such costs shall be certified as a best effort at obtaining accurate figures;
  - iii. Construction of off-site grading improvements may use an assessment district or any other acceptable manner of financing. Such mechanisms shall be secured by bonding or other acceptable means prior to issuance of a coastal development permit;
  - iv. If a public agency agrees to accept maintenance responsibilities, it shall inspect the facilities prior to on-site construction or grading and indicate if such facilities assure continued maintenance. No on-site development may take place prior to acceptance of the drainage improvements;
  - v. All areas disturbed by grading shall be planted within sixty days of initial disturbance and prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods;
  - vi. Storm drainage facilities in developed areas shall be improved and enlarged according to City of Carlsbad Drainage Master Plan, incorporating the changes specified in this section. Improvement districts shall be formed for presently undeveloped areas which are expected to urbanize in the future. The improvement districts shall implement City of Carlsbad Drainage Master Plan. Upstream areas in the coastal zone shall not be permitted to develop incrementally prior to installation of the storm drain facilities downstream, in order to assure protection of coastal resources. New drainage facilities, required within the improvement districts shall be financed either by some form of bond or from fees collected from developers on a cost-per-acre basis;

- vii. When earth changes are required and natural vegetation is removed, the area and duration of exposure shall be kept at a minimum;
  - viii. Soil erosion control practices shall be used against "on-site" soil erosion. These include keeping soil covered with temporary or permanent vegetation or with mulch materials, special grading procedures, diversion structures to divert surface runoff from exposed soils, and grade stabilization structures to control surface water;
  - ix. Apply "sediment control" practices as a perimeter protection to prevent off-site drainage. Preventing sediment from leaving the site should be accomplished by such methods as diversion ditches, sediment traps, vegetative filters, and sediment basins. Preventing erosion is, of course, the most efficient way to control sediment runoff.
- d. In addition, the following shall apply to development within Kelly Ranch:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or best management practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the following specific requirements shall be applied to development of type and/or intensity listed below:

Residential Development. Development plans for, or which include, residential housing development with greater than ten housing units shall include a drainage and pollution runoff control plan prepared by a licensed engineer, designed to infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the eighty-fifth percentile twenty-four hour runoff event, prior to conveying runoff in excess of this standard to the stormwater conveyance system. The plan shall be reviewed and approved by the consulting soils engineer or engineering geologist to ensure the plan is in conformance with their recommendations. The plan shall be designed in consideration of the following criteria, and approved prior to issuance of a coastal development permit:

- i. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and/or design site with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- ii. Use porous materials for or near walkways and driveways where feasible;
- iii. Incorporate design elements which will serve to reduce directly connected impervious area where feasible. Options include the use of alternative design features such as concrete grid driveways, and/or pavers for walkways;
- iv. Runoff from driveways, streets and other impervious surfaces shall be collected and directed through a system of vegetated and/or gravel filter strips or other media devices, where feasible. Selected filter elements shall be designed to (1) trap sediment, particulates and other solids; and (2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner;
- v. Selected BMPs shall be engineered and constructed in accordance with the design specifications and guidance contained in the California Stormwater Best

## Management Practices Handbook (Municipal);

- vi. The plan must include provisions for regular inspection and maintenance of structural BMPs, for the life of the project.

Parking Lots. Development plans for, or which include parking lots greater than five thousand square feet in size and/or with twenty-five or more parking spaces, susceptible to stormwater, shall incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination of these. Selected BMPs shall be designed to collectively infiltrate, filter or treat the volume of runoff produced by each and every storm event up to and including the eighty-fifth percentile twenty-four hour runoff event. BMPs shall be engineered and constructed in accordance with the guidance and specifications provided in the California Stormwater Best Management Handbooks (Commercial and Industrial).

All Development. A public education program shall be designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs.

A landscape management plan shall be created that includes herbicide/pesticide management. Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets are consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision stage.

- C. Landslides and Slope Instability. Developments within five hundred feet of areas identified generally in the PRC Toups report, Figure 8, as containing soils of the La Jolla group (susceptible to accelerated erosion) or landslide prone areas shall be required to submit additional geologic reports containing the additional information required in the coastal shoreline development overlay zone.
- D. Seismic Hazards. Development in liquefaction-prone areas shall include site-specific investigations done addressing the liquefaction problem and suggesting mitigation measures. New residential development in excess of four units, commercial, industrial, and public facilities shall have site-specific geologic investigations completed in known potential liquefaction areas.
- E. Floodplain Development. Within the coastal zone, in the one hundred-year floodplain, no new or expanded permanent structures or fill shall be permitted. Only uses compatible with periodic flooding shall be allowed.
- F. Reserved.
- G. Within the Kelly Ranch, scenic public views from Interstate 5, Cannon Road and Agua Hedionda Lagoon shall be preserved, as feasible, through the following measures:
  1. Landscaping and Setbacks. Use of trees or fire-retardant vegetation with substantial height as a landscape screen and/or setbacks from the ridgelines and open space areas;

2. Building Colors. Exterior wall and roof colors shall be of low-intensity earth or vegetative tones. Stucco with accent materials such as tile, natural stone, or other compatible natural building materials shall be preferred. Roof colors shall be low-intensity colors which blend with the environmental setting of the project;
  3. Residential Building Height. Maximum height limits and variation in roof heights shall be utilized, as necessary, to minimize visibility of structures from scenic public roadways, public vista points and public trails.
- H. Within the Kelly Ranch, landscaping shall be utilized as a visual buffer and be compatible with the surrounding native vegetation and preserved open space by incorporation of the following measures:
1. All residential development shall be required to identify and implement a landscaping plan that provides for installation of plant species that are native or noninvasive and drought tolerant to the maximum extent feasible. Ornamental (noninvasive) vegetation shall be permitted in the interior of residential subdivisions only;
  2. Approved landscaping shall be installed immediately upon completion of construction and maintained by the property owners in good growing condition for the life of the development;
  3. Landscape screening of structures, including specimen trees and fire-retardant vegetation of substantial height, shall be required to screen and soften the view of structures from Interstate 5, Cannon Road, Agua Hedionda Lagoon, public trails and public vista points;
  4. The landscape treatment shall cause the development to blend in with the natural setting and present a visually cohesive appearance as viewed from Agua Hedionda Lagoon, Cannon Road and Interstate 5.

(Ord. NS-365 § 22, 1996; Ord. NS-589 §§ 1—8, 2001; Ord. NS-783 § 6, 2006; Ord. NS-801 §§ 1, 2, 2006; CS-005 §§ 2—8, 2008)

**CHAPTER 21.204  
COASTAL SHORELINE DEVELOPMENT OVERLAY ZONE**

**§ 21.204.010. Intent and purpose.**

The coastal shoreline development overlay zone is intended to provide land use regulations along the coastline area including the beaches, bluffs, and the land area immediately landward thereof. The purpose of the coastal shoreline development zone is to provide for control over development and land use along the coastline so that the public's interest in maintaining the shoreline as a unique recreational and scenic resource, promoting public safety and access, and in avoiding the adverse geologic and economic effect of bluff erosion, is adequately protected.

(Ord. NS-365 § 22, 1996)

**§ 21.204.020. Application.**

The coastal shoreline development overlay zone shall be applied to areas within the Mello II Segment of the Carlsbad local coastal program located between the sea and the first public road parallel to the sea.

(Ord. NS-365 § 22, 1996)

**§ 21.204.030. Permitted beach uses.**

Permitted uses and developments are limited to the following uses and require a coastal development permit according to the requirements of this zone:

- A. Steps and stairways for access from the top of the bluff to the beach.
- B. Toilet and bath houses.
- C. Parking lots, only if identified as an appropriate use in the local coastal program Mello II Segment land use plan (see Policy 2-3).
- D. Temporary refreshment stands, having no seating facilities within the structure.
- E. Concession stands for the rental of surfboards, air mattresses and other sports equipment for use in the water or on the beach.
- F. Lifeguard towers and stations and other lifesaving and security facilities.
- G. Fire rings and similar picnic facilities.
- H. Trash containers.
- I. Beach shelters.

(Ord. NS-365 § 22, 1996)

**§ 21.204.040. Conditional beach uses.**

- A. Uses substantially similar to the permitted uses listed above may be permitted on the beach subject to this chapter and Chapters 21.42 and 21.50.
- B. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when

designed to eliminate or mitigate adverse impacts on local shoreline sand supply. As a condition of approval, permitted shoreline structures may be required to replenish the beach with imported sand.

Provisions for the maintenance of any permitted seawalls shall be included as a condition of project approval. As a further condition of approval, permitted shoreline structures shall be required to provide public access. Projects which create dredge spoils shall be required to deposit such spoils on the beaches if the material is suitable for sand replenishment. Seawalls shall be constructed essentially parallel to the base of the bluff and shall not obstruct or interfere with the passage of people along the beach at any time.

(Ord. NS-365 § 22, 1996)

#### **§ 21.204.050. Uses not on the beach subject to coastal shoreline development permit.**

Uses permitted by the underlying zone map may be permitted on non-beach areas subject to granting of a coastal development permit for coastal shoreline development issued pursuant to the procedures of Chapter 21.201 of this title, unless specifically prohibited by policies or other applicable ordinances in the approved Carlsbad local coastal program. "Non beach areas" are defined as areas at elevations of ten feet or more above mean sea level (North American Datum, 1929). Permitted uses are subject to the following criteria:

- A. Grading and Excavation. Grading and excavation shall be the minimum necessary to complete the proposed development consistent with the provisions of this zone and the following requirements:
  1. Building sites shall be graded to direct surface water away from the top of the bluff, or, alternatively, drainage shall be handled in a manner satisfactory to the city which will prevent damage to the bluff by surface and percolating water.
  2. No excavation, grading or deposit of natural materials shall be permitted on the beach or the face of the bluff except to the extent necessary to accomplish construction pursuant to this section.
- B. New development fronting the ocean shall observe at a minimum, an ocean setback based on a "stringline" method of measurement. No enclosed portions of a structure shall be permitted further seaward than those allowed by a line drawn between the adjacent structure to the north and south; no decks or other appurtenances shall be permitted further seaward than those allowed by a line drawn between those on the adjacent structures to the north and south. A greater ocean setback may be required for geologic reasons and if specified in the local coastal program.

(Ord. NS-365 § 22, 1996)

#### **§ 21.204.060. Requirements for public access.**

One or more of the following types of public access shall be required as a condition of development:

- A. Lateral Public Access.
  1. Minimum Requirements. Developments shall be conditioned to provide the public with the right of access to a minimum of twenty-five feet of dry sandy beach at all times of the year. The minimum requirement applies to all new developments proposed along the shoreline requiring any type of local permit including a building permit, minor land division or any other type of discretionary or nondiscretionary action.
  2. Additional Requirements. New developments as specified below shall be conditioned to provide the public with lateral public access in addition to minimum requirements.

- a. Applicability.
  - (1) Seawalls and other shoreline protective devices.
  - (2) Developments on parcels where there is evidence of historic public use. In such areas the amount and location of additional access shall be equal to the amount and extent of public use.
  - (3) Development which either by itself or in conjunction with anticipated future projects adversely affects existing public access by overcrowding of major coastal access roads or existing beach areas.
  - (4) Development which commits ocean front lands to nonpriority uses such as residential uses, non-visitor, or non-coastally oriented commercial and industrial uses.
  - (5) Access as identified in the local coastal program. Developments adjacent to Buena Vista Lagoon (see Policy 7-6 of the local coastal program Mello II Segment land use plan) and the parcel located at extreme north end of Ocean Street (see Policy 7-8 of the local coastal program Mello II Segment land use plan).
- b. Required Standards. In determining the amount and type of additional lateral public access to be required (e.g., area for additional parking facilities, construction of improvements to be made available to the public, increased dry sandy beach area, or type of use of the dry sandy beach) the city shall make findings of fact considering all of the following:
  - (1) The extent to which the development itself creates physical and visual impediments to public access which has not been mitigated through revisions in design or plan changes.
  - (2) The extent to which the development discourages the public from visiting the shoreline because of the physical and visual proximity of the development to the shoreline.
  - (3) The extent to which the development burdens existing road capacity and on street parking areas thereby making it more difficult to gain access to and use of the coast by further congesting access roads and other existing public facilities such as beaches, parks and road or sewer capacities.
  - (4) The extent to which the development increases the intensity of use of existing beach and upland areas, thereby congesting current support facilities.
  - (5) The potential for physically impacting beach and other recreational areas inherent in the project affecting shoreline wave and sand movement processes.

B. Bluff Top Access.

1. Minimum Requirements. Development adjacent to a shorefront bluff top lot where no beach exists or where beach is inaccessible because stairways have not or cannot be provided, shall be conditioned to provide the public with the right of access of at least twenty-five feet along the current bluff edge for coastal scenic access to the shoreline. The minimum requirement applies to all new developments proposed on bluff tops along the shoreline requiring any type of local permit including a building permit, a minor subdivision or any other type of discretionary or non-discretionary action.

2. Additional Requirements. New developments along the bluff top area which result in additional burdens to public access to the shoreline shall be conditioned to provide the public with public access such as view points in addition to the requirements specified above.
3. Description of Accessway. The bluff top access shall be described as an area beginning at the current bluff edge extending at least twenty-five feet inland. Due to the potential for erosion of the bluff edge, the area shall be adjusted inland to the current bluff edge as the edge recedes. However, the easement shall not extend any closer than ten feet from an occupied residential structure or the distance specified in the certified local coastal program. The area shall be legally described with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner: "Such easement shall be located along the bluff top measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right-of-way would change over time with the then current bluff edge, but in no case shall it extend any closer than feet from (a fixed inland point, such as a road or other easement monument)."

C. Vertical Access.

1. Requirements. Development between the first public road and the sea may be required to provide both lateral and vertical access.
2. Standards for Determining if Vertical Access is to be Required. The city shall review all of the following factors in determining whether vertical access is required. The determination shall be supported by findings of fact which consider all of the following:
  - a. Existing and anticipated public need to gain access to the shoreline including the location and use of currently existing official accessways in the vicinity.
  - b. Physical constraints of the site, including availability of sandy beach, safety and current use, and habitat values proximity to agricultural areas, military security.
  - c. Ability to provide for public use by mitigating time and location of such use.
  - d. Location and necessity of support facilities. If suitable parking areas do not exist, vertical accessways will be required at frequent intervals, so that parking will be spaced in the area at an even rate.
  - e. Privacy needs of property owner and site design changes which are available to protect privacy.
  - f. Nature of the development proposed in relation to its impact on public access.
3. Types of Use of Vertical Access Area. The vertical access required as a condition of development shall be limited to the public right-of-pass and repass unless another type of use is specified as a condition of the development. In determining if another type of use is appropriate, the local government shall consider the specific factors enumerated in this section.
4. Siting and Description of the Accessway. If possible, vertical accessways shall be sited along the border of the development and shall extend from the road to the bluff edge or shoreline. If a different siting of the accessway is more appropriate considering the topography of the site and the design of the proposed project, the vertical accessway may be resited in the middle of the parcel. If sited in the middle of a parcel, the property shall be surveyed at the landowner's expense and a legal description shall be prepared. If a residential structure is proposed, the

accessway should not be sited closer than five feet to the structure or the distance specified in the certified local coastal program. The vertical accessway shall be a minimum of ten feet in width to allow for public pedestrian use of the corridor. Any accessway shall be legally described prior to issuance of the coastal development permit.

5. Vertical Accessways Identified in the Mello II Segment of Carlsbad's Local Coastal Program.
  - a. Vacant parcel adjacent to Army/Navy Academy at Del Mar Street.
  - b. South Carlsbad State Beach at intersection of Carlsbad Boulevard and Palomar Airport Road.
  - c. Vacant parcel at Ocean Street.

(Ord. NS-365 § 22, 1996)

**§ 21.204.070. Special access requirements for developments or new developments on sites containing evidence of historic public use.**

If the certified local coastal program or the permit process produces evidence of historic public use on a development site located in the coastal zone, development shall be required to meet all of the following requirements:

- A. Siting and Design of Development.
  1. Development shall be sited and designed in a manner which does not interfere or diminish the potential public rights based on historic public use. Mechanisms for guaranteeing the continued public use of the site shall be required in accordance with Section 21.204.080; or
  2. Development may be sited in the area of potential historic public use provided that an area of equivalent public access has been provided in the immediate vicinity of the development site which will accommodate the same type and intensity of use as previously may have existed on the development site. An equivalent access area shall provide access of comparable site, and type of use. Mechanisms for guaranteeing the continued public use of the area shall be required in accordance with Section 21.204.080.
- B. An access condition shall not serve to extinguish, adjudicate or waive potential prescriptive rights. In permits with possible prescriptive rights, the following language shall be added to the access condition: "Nothing in this condition shall be construed to constitute a waiver of any sort or a determination on any issue of prescriptive rights which may exist on the parcel itself or on the designated easement." In addition, findings shall be made which specifically address the prescriptive rights issue.
- C. The certified local coastal program indicates evidence of historic use on parcels located seaward of Carlsbad Boulevard adjacent to Buena Vista Lagoon. Other areas may also be subject to such use.

(Ord. NS-365 § 22, 1996)

**§ 21.204.080. Mechanism for guaranteeing public access.**

- A. Legal Instruments Required. Prior to the issuance of a permit for development in the coastal zone between the first public road and the sea, each applicant shall record one of the following legal documents as specified in the condition of approval.
  1. Irrevocable Offer to Dedicate. Prior to issuance of a development permit, the landowner shall

submit a preliminary title report and shall record an irrevocable offer to dedicate an easement or fee interest free of prior liens and encumbrances except tax liens in the public accessway as described in the permit condition. This offer can be accepted by an appropriate agency which may or may not be the local government within twenty-one years.

2. **Outright Grant of Fee Interest or Easement.** If the parcel is important in and of itself for access needs, the size and scope of the proposed development is such that an outright interest is appropriate, or there is an accepting agency available to accept the easement (as in subdivision map approvals), a grant of an easement or fee is required prior to issuance of the permit.
  3. **Deed Restrictions.** Deed restrictions do not grant any interest in land proposed for public access and the landowner retains all responsibility for the maintenance of the accessway. Deed restrictions are appropriate in limited situations, e.g., in a large residential development where the accessways will mostly be used by residents and a homeowners association is available to maintain the accessway or in commercial facilities. Deed restrictions are not appropriate for small parcels or for accessways that will require public maintenance.
- B. **Title Information.** As a condition to the issuance of the permit, the applicant shall be required to furnish an ALTA title report and all necessary subordination agreements. Title insurance may also be required where extensive easements are being granted. The amount of insurance shall be estimated on the basis of what it would cost to acquire an equivalent access or recreational use elsewhere in the vicinity.
- C. **Procedure.** Copies of the recorded document, title report, and permit shall be forwarded to the California Coastal Commission by the applicant within ten days after submission of the recorded document for preparation of the coastal access inventory as required by Section 30530 of the Coastal Act. The accepting agency or Commission staff may make minor revisions to the documents (such as corrections in the legal descriptions, minor revisions to the location and use of the accessways in order to open the area up for public use) to assure that the public right-of-access along dry sandy beaches, bluff top parcels, or the vertical accessways is protected and capable of being implemented.  
(Ord. NS-365 § 22, 1996; Ord. CS-102 § CXXXI, 2010)

#### **§ 21.204.090. Site plans required.**

Applications for site plan review shall be accompanied by such data and information as may be required by the City Planner including maps, plans, drawings, sketches and documented material as is necessary to show:

- A. **Boundaries and Topography.** Boundaries and existing topography of the property, location of bluff line and beach, and adjoining or nearby streets;
- B. **Existing Structures.** Location and height of all existing buildings and structures, existing trees and the proposed disposition or use thereof;
- C. **Proposed Structures.** Location, height and proposed use of all proposed structures, including walls, fences and freestanding signs, and location and extent of individual building sites;
- D. **Circulation.** Location and dimensions of ingress and egress and egress points, interior roads and driveways, parking areas, and pedestrian walkways;
- E. **Drainage.** Location and treatment of important drainage ways, including underground drainage systems;

- F. Finished Topography. Proposed grading and removal of placement of natural materials, including finished topography of the site; and
  - G. Landscaping. Proposed landscaping plan including location of game courts, swimming pools and other landscape or activity features.
- (Ord. NS-365 § 22, 1996; Ord. CS-164 § 10, 2011)

#### **§ 21.204.100. Site plan review criteria.**

The site plans required by Section 21.204.090 shall be reviewed and evaluated by the City Planner for conformance with the following criteria:

- A. Coastal Development Regulations. All elements of the proposed development are consistent with the intent and purpose of the coastal shoreline development overlay zone.
- B. Appearance. Buildings and structures will be so located on the site as to create a generally attractive appearance and be agreeably related to surrounding development and the natural environment.
- C. Ocean Views. Buildings, structures, and landscaping will be so located as to preserve to the degree feasible any ocean views as may be visible from the nearest public street.
- D. Retention of Natural Features. Insofar as is feasible, natural topography and scenic features of the site will be retained and incorporated into the proposed development.
- E. Grading and Earth-Moving. Any grading or earth-moving operations in connection with the proposed development are planned and will be executed so as to blend with the existing terrain both on and adjacent to the site.
- F. Public Access. The policies of the local coastal program pertaining to public access have been carried out.

(Ord. NS-365 § 22, 1996; Ord. CS-164 § 10, 2011)

#### **§ 21.204.110. Geotechnical reports.**

- A. Geotechnical reports shall be submitted to the City Planner as part of an application for plan approval. Geotechnical reports shall be prepared and signed by a professional civil engineer with expertise in soils and foundation engineering, and a certified engineering geologist or a registered geologist with a background in engineering applications. The report document shall consist of a single report, or separate but coordinated reports. The document should be based on an onsite inspection in addition to a review of the general character of the area and it shall contain a certification that the development as proposed will have no adverse effect on the stability of the bluff and will not endanger life or property, and professional opinions stating the following:
  - 1. The area covered in the report is sufficient to demonstrate the geotechnical hazards of the site consistent with the geologic, seismic, hydrologic and soil conditions at the site;
  - 2. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake;
  - 3. The effect the project could have on the stability of the bluff.
- B. As a minimum the geotechnical report(s) shall consider, describe and analyze the following:

1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site.
2. Historic, current and foreseeable cliff erosion including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport.
3. Geologic conditions, including soil, sediment and rock types and characteristics and structural features, such as bedding, joints and faults.
4. Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.
5. Impact of construction activity on the stability of the site and adjacent area.
6. Ground and surface water conditions and variations, including hydrologic changes caused by the development (i.e., introduction of sewage effluent and irrigation water to the ground water system, alterations in surface drainage).
7. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design).
8. Effects of marine erosion on seacliffs.
9. Potential effects of earthquakes including:
  - a. Ground shaking caused by maximum credible earthquake;
  - b. Ground failure due to liquefaction, lurching, settlement and sliding; and
  - c. Surface rupture.
10. Any other factors that might affect slope stability.
11. The potential for flooding due to sea surface super elevation (wind and wave surge, low barometric pressure and astronomical tide), wave run-up, tsunami and river flows. This potential should be related to one-hundred and five-hundred-year recurrence intervals.
12. A description of any hazards to the development caused by possible failure of dams, reservoirs, mudflows or slides occurring off the property and caused by forces or activities beyond the control of the applicant.
13. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake.
14. The effect the project could have on the stability of the bluff.
15. Mitigating measures and alternative solutions for any potential impact.

The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability throughout the lifespan of the project. The report shall use a currently acceptable engineering stability analysis method, shall describe the degree of uncertainty of analytical results due to assumptions and unknowns, and at a minimum, shall cover an area from the toe of the bluff inland to a line described on the bluff top by the intersection of a plane inclined at a twenty-degree angle from horizontal passing through the toe of the bluff or fifty feet inland from the bluff edge, whichever is greater. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project. If the report does not conclude that the project can be designed and the site be found to be geologically stable, no coastal shoreline development permit shall be issued.

(Ord. NS-365 § 22, 1996; Ord. CS-164 § 10, 2011)

**§ 21.204.120. Waiver of public liability.**

As part of the coastal development permit for a coastal shoreline development, the following requirement shall be completed:

That prior to the transmittal of the coastal development permit, the applicant shall submit to the City Planner a deed restriction for recording, free of prior liens except for tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the City Planner. The deed restriction shall provide:

- A. That the applicants understand that the site may be subject to extraordinary hazard from waves during storms, from erosion, and from landslides, and the applicants assume the liability from those hazards;
- B. The applicants shall unconditionally agree to indemnify and hold the city harmless from liability for any damage from such hazards; and
- C. The applicants understand that construction in the face of these probable hazards may make them ineligible for public disaster funds or loans for repair, replacement or rehabilitation of the property in the event of storms and landslides.

(Ord. NS-365 § 22, 1996; Ord. CS-102 § CXXXII, 2010; Ord. CS-164 § 10, 2011)

**CHAPTER 21.205  
COASTAL RESOURCE OVERLAY ZONE MELLO I LCP SEGMENT**

**§ 21.205.010. Intent and purpose.**

This zone supplements the underlying zone with additional resource protection policies required to implement the land use plan pursuant to the California Coastal Act codified in Section 30000 et seq., of the Public Resources Code (all citations refer to that code). Property located in this zone is located in the watershed of Batiquitos Lagoon identified by the California Department of Fish and Game as a unique, wetland habitat. Sections 30231, 30240(b) and 30253 require that the developments adjacent to such areas be sited and designed to be compatible with the unique habitat. In addition, Section 30242 of the Coastal Act requires measures to be taken to protect continued agricultural uses in the coastal zone. Property located in this zone is also located adjacent to agricultural areas. The city finds that the additional requirements of this zone are necessary in order to implement the additional requirements of the Coastal Act enumerated above. Only with such requirements on private developments in the watershed can the city assure permanent protection of natural resources located in its portion of the coastal zone.

(Ord. NS-365 § 23, 1996)

**§ 21.205.020. Authority—Conflict.**

This chapter is adopted to implement the California Coastal Act. In the case of any conflict between this zone and the underlying zone, the provisions of this zone shall apply. Further, if there is any conflict between this zone and any other provision of the city code, the provisions of this zone shall apply.

(Ord. NS-365 § 23, 1996)

**§ 21.205.030. Permits—Required.**

Developments, including, but not limited to, land divisions, as defined in Section 21.04.108 require a coastal development permit. Such permits are subject to the requirements of this zone and the procedural requirements for coastal development permits of Chapter 21.201.

(Ord. NS-365 § 23, 1996)

**§ 21.205.040. Maximum density of development.**

The maximum density of development shall be seven units per gross acre. The underlying zone shall be either planned community P-C, Chapter 21.38 or RD-M, residential density-multiple zone, Chapter 21.24, in effect on September 30, 1980. The parking requirements of uses generally, Chapter 21.44, shall also apply. No subsequent amendments of the underlying zones apply in the coastal zone unless certified by the Coastal Commission.

(Ord. NS-365 § 23, 1996)

**§ 21.205.050. Mitigation.**

All recommended mitigation suggested by the certified final EIR shall be incorporated as a part of the project and shall be required as a condition of approval of the coastal development permit.

(Ord. NS-365 § 23, 1996)

**§ 21.205.060. Erosion sedimentation, drainage.**

- a. All development must include mitigation measures for the control of urban runoff flow rates and velocities, urban pollutants, erosion and sedimentation in accordance with: (1) the requirements of

the city's grading ordinance, stormwater ordinance, standard urban stormwater mitigation plan (SUSMP) dated April 2003 and as amended, and the City of Carlsbad Drainage Master Plan, as those documents are certified as part of the city's LCP; (2) the city's jurisdictional urban runoff management program (JURMP) and the San Diego County Hydrology Manual to the extent that these requirements are not inconsistent with any policies of the LCP; and (3) the additional requirements contained herein. Such mitigation shall become an element of the project and shall be installed prior to the initial grading.

- b. In addition, the following standards shall apply:
  - i. Priority projects identified in the SUSMP will incorporate structural best management practices (BMPs) and submit a water quality technical report as specified in the National Pollutant Discharge Elimination System (NPDES) permit and in the SUSMP;
  - ii. Structural BMPs used to meet SUSMP requirements for priority projects shall be based on the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook, dated January 2003 or the current version of that publication, and designed to infiltrate, filter or treat the runoff produced from each storm event up to and including the eighty-fifth percentile twenty-four-hour storm event;
  - iii. Priority projects will include projects increasing impervious area by more than two thousand five hundred square feet or by more than ten percent of existing impervious area, that are in, adjacent to or drain directly to environmentally sensitive areas (ESA), identified in the City of Carlsbad standard urban stormwater mitigation plan (SUSMP) dated April 2003, using the definitions of "adjacent to" and "draining directly to" that are found in the SUSMP;
  - iv. The city shall include requirements in all coastal development permit approvals to inspect and maintain required BMPs for the life of the project;
  - v. The city will encourage and support public outreach and education regarding the potential water quality impacts of development;
  - vi. Development shall minimize land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize impacts on water quality of excessive erosion and sedimentation. Development shall incorporate soil stabilization BMPs on disturbed areas as soon as feasible;
  - vii. Projects within two hundred feet of the Pacific Ocean shall be dealt with as "Projects Discharging to Receiving Waters within Environmentally Sensitive Areas" as defined in Appendix I of the SUSMP, including being treated as a priority project if they create more than two thousand five hundred square feet of impermeable surface or increase the impermeable surface on the property by more than ten percent;
  - viii. Although residential developments of less than ten units, including single-family residences, are generally exempt from the SUSMP priority project requirements, they shall meet those requirements, including achievement of the numerical sizing standard, if they are in, within two hundred feet of, or discharging directly to an ESA, including the Pacific Ocean; or shall provide a written report signed by a licensed civil engineer showing that as the project is designed, they are mitigating polluted runoff, including dry weather nuisance flows, to the maximum extent practicable;
  - ix. Detached residential homes shall be required to use efficient irrigation systems and landscape

designs or other methods to minimize or eliminate dry weather flow, if they are within two hundred feet of an ESA, coastal bluffs or rocky intertidal areas.

- c. Mitigation shall also require construction of all improvements shown in the City of Carlsbad Drainage Master Plan and amendments to it. No subsequent amendments are a part of this zone unless certified by the Coastal Commission. The general provisions, procedures, standards, content of plans and implementation contained in them are required conditions of development in addition to the provisions below. Approved development shall include the following conditions, in addition to the requirements specified above:
  - i. All off-site, downstream improvements (including debris basin and any other improvements) recommended in the City of Carlsbad Drainage Master Plan shall be constructed prior to the issuance of a grading permit on-site. Improvements shall be inspected by city staff and certified as adequate and in compliance with the requirements of the drainage plan and the additional requirements of this zone. If the city declines to accept maintenance responsibility for the improvements, the developer shall maintain the improvements during construction of the on-site improvements;
  - ii. If the off-site or on-site improvements are not to be accepted and maintained by a public agency, detailed maintenance agreements including provisions for financing the maintenance through bonding or other acceptable means shall be secured prior to issuance of the permit. Maintenance shall be addressed in the report required to be submitted with the permit application. The report shall discuss maintenance costs and such costs shall be certified as a best effort at obtaining accurate figures;
  - iii. Construction of off-site drainage improvements may use an assessment district or any other acceptable manner. Such mechanisms shall be secured by bonding or other acceptable means prior to issuance of a coastal development permit;
  - iv. If a public agency agrees to accept maintenance responsibilities, it shall inspect the facilities prior to on-site construction or grading and indicate if such facilities assure continued maintenance. No on-site development may take place prior to acceptance of the drainage improvements;
  - v. All areas disturbed by grading shall be planted within sixty days of the initial disturbance and prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins and silt traps, shall be utilized in conjunction with plantings to minimize soil loss from the construction site. Such planting shall be accomplished under the supervision of a licensed landscape architect, and shall consist of seeding, mulching, fertilization and irrigation adequate to provide ninety percent coverage within ninety days. Planting shall be repeated if the required level of coverage is not established. This requirement shall apply to all disturbed soils including stockpiles. This requirement shall be a condition of the permit.

(Ord. NS-365 § 23, 1996; Ord. NS-622 § 3, 2002; Ord. NS-801 § 3, 2006; Ord. CS-005 §§ 10, 11, 2008)

#### **§ 21.205.070. Buffer.**

A sturdy fence capable of attenuating noise and dust impacts, generally to be a concrete block wall a minimum of six feet in height, shall be provided between residential development and agricultural areas to the north and east. As a partial alternative, utilization of natural topographic separations such as trees,

chaparral and existing slopes is encouraged, to the extent that such separations can be incorporated into site planning and would accomplish adequate attenuation of noise and dust. Permanent maintenance through a homeowners association or other acceptable means shall be provided as a condition of development.  
(Ord. NS-365 § 23, 1996)

**CHAPTER 21.208  
COMMERCIAL/VISITOR-SERVING OVERLAY ZONE**

**§ 21.208.010. Intent and purpose.**

The intent and purpose of the commercial/visitor-serving overlay zone is to supplement the underlying zoning by providing additional regulations for commercial/visitor-serving uses which require a conditional use permit in the underlying zone. The overlay zone is intended and designed to:

- A. Control the location, operation and appearance of newly proposed commercial/visitor-serving uses within the overlay zone to prevent the over-proliferation of certain uses as well as to ensure high quality appearance and operation;
- B. Maximize public disclosure about new commercial/visitor-serving use proposals located within the overlay zone;
- C. Design compatibility, vehicular circulation and shuttle bus/alternative transportation options into commercial/visitor-serving uses within the overlay zone;
- D. Provide for the review of building materials and colors and establish architectural criteria that discourages the use of corporate, standardized building forms, materials and styles;
- E. Formalize the use of conditional use permits for all commercial/visitor-serving uses within the overlay zone and emphasize the aspects of performance monitoring and enforcement;
- F. Require commercial/visitor-serving conditional uses as listed in the planned industrial (P-M) chapter of this title for underlying P-M zoned properties within the overlay zone to be subject to the conditional use permit requirements and provisions of this chapter, except that such uses shall be consistent with the intent and purpose of the P-M zone; and
- G. Establish procedures in the overlay zone to provide for effective code enforcement.

(Ord. NS-485 § 1, 1999; Ord. CS-224 § XLI, 2013)

**§ 21.208.020. Definitions.**

Terms used in this chapter and not defined below shall be defined per Chapter 21.04 of this title. The following terms, as used in this chapter, shall have the meaning established by this section:

"Applicant" means the property owner(s) of the site.

"Applicant's agent" means the authorized representative of the property owner responsible for processing the overlay zone conditional use permit.

"Commercial/visitor-serving use" means uses involving the provision of goods or services designed primarily for tourists or visitors to the city, such as any of the following either individually or in combination: commercial development with retail sales; lodging uses; recreation vehicle (RV) parks, overnight RV parking, campgrounds or overnight campsite uses; sales of souvenirs, gifts or toys; activities including food and/or beverage serving uses. Commercial/visitor-serving uses include, but are not limited to: gas stations/mini-marts, hotels, motels, restaurants, delis, retail stores, gift shops, museums and visitor centers.

"Enforcement agency" means the city's Community and Economic Development department.

"Enforcement official" means the city's Community and Economic Development Director.

"Freestanding sign" means a monument sign supported by the ground and not supported by a pole.

"Time-share project" means a project that meets the time-share definition contained in Section 21.04.357 of this title. Time share projects are distinguished between "lock-off" units and standard units for the purpose of establishing different parking requirements as outlined in Section 21.208.100(A)(2). "Lockoff" units are defined as a timeshare unit which allows the occupancy of less than the entire unit during a timeshare period such that each occupant may occupy a part of the unit for a timeshare period with the remaining part of the unit being "locked-off" and subject to use by others. Standard time share units do not have lock-off provisions.

(Ord. NS-485 § 1, 1999; Ord. CS-164 § 14, 2011)

#### **§ 21.208.030. Boundaries—Exceptions—Applicability.**

- A. This chapter applies generally to all properties shown with the designation "commercial/visitor-serving overlay zone" on the zoning map as concurrently amended with the adoption of this chapter (pursuant to Section 21.05.050), as amended from time to time; excepting therefrom any properties used as automobile dealerships within the car country Carlsbad specific plan area, as amended from time to time.
- B. Notwithstanding properties being within the boundaries of the overlay zone as established above, the requirements for a conditional use permit, and the development standards of this chapter shall apply to:
  1. Commercial/visitor-serving uses within the overlay zone; and
  2. The portions of mixed use projects constituting a commercial/visitor-serving use.
- C. Where the provisions of this chapter conflict with those of the underlying zone or elsewhere in this code, this chapter applies.

(Ord. NS-485 § 1, 1999)

#### **§ 21.208.040. Permitted uses.**

Permitted uses in the overlay zone which are not subject to the provisions of this chapter are the commercial/visitor-serving uses authorized as permitted uses by the underlying zone. Those uses shall be developed subject to the development standards and entitlement process required by the underlying zoning. In addition, a roadside stand for the display and sale of products produced on the same premises is a permitted use provided that the floor area shall not exceed two hundred square feet and is located a minimum of twenty feet from any street, highway, or city right-of-way.

(Ord. NS-485 § 1, 1999; Ord. NS-505 § 1, 1999; Ord. CS-224 § XLII, 2013)

#### **§ 21.208.050. Uses permitted by a conditional use permit.**

Commercial/visitor-serving uses which require a conditional use permit in the underlying zone may be permitted within the overlay zone by approval of a minor conditional use permit pursuant to this chapter, excluding outdoor dining (incidental), which is subject to an administrative permit pursuant to Section 21.26.013 of this title. Conditional uses otherwise allowed by the underlying zoning designations within the overlay zone that are not commercial/visitor-serving uses, are not subject to this chapter. Where the underlying zoning authorizes conditionally permitted uses (other than commercial/visitor-serving uses), Chapter 21.42, not this chapter, shall apply.

(Ord. NS-485 § 1, 1999; Ord. CS-102 § CXXXIII, 2010; Ord. CS-224 § XLIII, 2013)

**§ 21.208.060. Prohibited uses.**

Notwithstanding any underlying zoning provision, the following uses are prohibited in the overlay zone:

- A. Stand-alone liquor stores where the retail sale of liquor and/or alcoholic beverages is the primary form of business;
- B. The outdoor storage or display of merchandise, goods or services for sale; and
- C. Except as authorized pursuant to Chapter 8.17 and/or 8.32 of this code, or a conditional use permit issued pursuant to this chapter, no person shall sell or offer to sell goods, merchandise or services from, or by means of, any temporary display, vehicle, platform, wagon or pushcart upon any public street, privately owned property, public parking lot, city right-of-way or sidewalk within the overlay zone.

(Ord. NS-485 § 1, 1999; Ord. CS-102 § CXXXIV, 2010; Ord. CS-224 § XLIV, 2013)

**§ 21.208.070. Decision-making authority.**

The decision-making authority for all conditionally-permitted commercial/visitor-serving uses shall be determined by the underlying zone.

(Ord. NS-485 § 1, 1999; Ord. CS-224 § XLV, 2013)

**§ 21.208.080. Preliminary review submittal and meeting—Application for conditional use permit.**

- A. If it is determined that a conditional use permit is required for a commercial/visitor-serving use within the overlay zone, prior to filing an application for a conditional use permit, the applicant shall submit an application for a preliminary review and subsequently attend a preliminary review meeting.
  1. Preliminary Review Submittal. The applicant shall file a preliminary review application and shall follow the submittal requirements in accordance with the planning division's preliminary review process accompanied by the applicable fee, as established by the City Council by resolution. The submittal shall demonstrate compliance with this chapter, including the proposal of an architectural style as required by Section 21.208.100(F).
  2. Preliminary Review Meeting. Within thirty days of the applicant's preliminary review submittal, the City Planner shall respond with a written city response letter, thoroughly analyzing the proposal, establishing issues for resolution, and setting a time, date and place to conduct a preliminary review meeting wherein the owner and/or applicant, staff planner and staff engineer would attend to discuss any outstanding issues or questions.
  3. Primary Purpose. Discuss the city response letter, identify issues to be resolved and establish final application requirements.
- B. Good faith participation in the preliminary review meeting is necessary for the submittal of a formal conditional use permit application.
- C. Upon completion of the preliminary review submittal and meeting, the applicant may file a formal application for a conditional use permit pursuant to Chapter 21.42. The application shall be accompanied by application(s) for any other required discretionary entitlement for the project (including, but not limited to, a coastal development permit). Application for, and approval of, a conditional use permit pursuant to this chapter shall satisfy all requirements for a site development plan for the project if such is required by the underlying zoning. If not otherwise required, in addition to the application requirements for a conditional use permit (including special requirements in this

chapter) formal conditional use permit application exhibits subject to this chapter shall show the following:

1. All state and Uniform Building Code requirements for disabled parking spaces and related pathways;
2. All proposed rooftop equipment, mechanical enclosures and any Uniform Building Code requirements relating to rooftop access, ladders or other rooftop structural features.

(Ord. NS-485 § 1, 1999; Ord. CS-164 § 11, 2011; Ord. CS-224 § XLVI, 2013)

#### **§ 21.208.090. Project site notification.**

In addition to the public notice requirements of Section 21.54.060, the applicant shall provide project site notification as follows:

- A. Upon city determination of completeness of a formal application, the applicant shall physically post the following notice on the project site. The applicant shall maintain the posted notice in good and legible condition until the application is withdrawn or scheduled for public hearing, whichever occurs first. Such notice shall state "APPLICATION IN PROCESS," and shall include:
  1. A yellow color background;
  2. A brief but complete explanation of the matter to be considered;
  3. The applicant's name/phone number and applicant's agent's (if applicable) name and phone number;
  4. Planning division contact information.
- B. Concurrent with public noticing for a public hearing, the applicant shall physically post a notice on the project site for the entire term of the public notice period until, and inclusive of, the actual public hearing date. Such notice shall state "PENDING PUBLIC HEARING," and shall include the same information required above, but:
  1. An orange color background; and
  2. Date, time and place of pending public hearing.
- C. Notices required by subsections A and B of this section shall comply with the following:
  1. Sign location shall be in a conspicuous location so that the notice is visible from all portions of the project site which abut a private or public street.
  2. Sign material shall be durable enough to withstand the elements. Signs shall be secured to a ground mounted pole with a minimum pole height of four feet and a maximum pole height of six feet.
  3. Sign dimensions shall be: four feet in height and three feet in length.
  4. Letter height for the "APPLICATION IN PROCESS" or "PENDING PUBLIC HEARING" headings shall be six inches.
  5. Letter height for the project descriptions shall be three inches.
  6. All other letter heights shall be two inches.

7. All letter colors shall be black.
  8. A city seal of the City of Carlsbad shall be displayed in the upper central portion of the notice with a minimum diameter of three inches.
  9. Applicant or developer phrases or logos are not allowed.
  10. Applicant must obtain project planner approval of color and text, prior to posting.
  11. The public hearing notice shall be removed upon withdrawal of the application or completion of the public hearing process, whichever occurs first.
  12. Any removed or damaged notices shall be immediately replaced. Failure to do so may cause the public hearing to be rescheduled by the enforcement official.
- D. The City Planner may modify any of the criteria listed above in subsections (C)(1) through (C)(7) of this section if determined necessary to achieve maximum disclosure of the project and/or to optimize visibility of the sign.

(Ord. NS-485 § 1, 1999; Ord. CS-164 §§ 10, 11, 2011)

#### **§ 21.208.100. Development standards.**

Notwithstanding any underlying zoning provisions, the development standards below shall supersede other provisions of this title, and shall be applied to conditional use permits issued pursuant to this chapter.

A. Parking. The number of parking spaces required for commercial/visitor-serving uses within the overlay zone shall be calculated based on the ratios established below according to land use. Fractional parking spaces are to be rounded up to the nearest whole number. Compact space provisions are provided in Section 21.44.110 of this title. Any use not listed below and subject to the provisions of this chapter, shall be subject to a parking ratio to be determined by the City Planner based on the requirements of similar uses. The City Planner's determination may be appealed in accordance with Section 21.54.140 of this title; or the determination may be incorporated into the project design and conditional use permit application. All state and Uniform Building Code requirements for disabled parking spaces and related pathways shall be shown on the conditional use permit application exhibits.

1. Motels/Hotels/Suites/Inns/Lodges/Resorts. 1.2 spaces per unit, plus parking as required per this chapter for additional ancillary uses (restaurant, retail space, meeting rooms, etc.) as calculated on an individual basis. In addition, these uses shall provide adequate shuttle bus circulation and passenger drop-off/pick-up facilities to be developed on a case-by-case, site-by-site basis. Tour bus/passenger bus parking provisions may also be required based on the specific project and location.
2. Time Share Projects. Lock-off units require 1.5 spaces per unit; standard units require 1.2 spaces per unit. In addition, time share projects shall be subject to the following requirements:
  - a. Adequate shuttle bus circulation and passenger drop-off/pick-up facilities to be developed on a case-by-case, site-by-site basis;
  - b. An interim parking/unit marketing plan which will address the initial sales efforts to sell time share units and the corresponding need to provide additional interim parking while sales are ongoing. Unless otherwise specified in the underlying zone, the interim parking/unit marketing plan shall be approved by the applicable decision-making authority as one

of the approving project exhibits and shall indicate where interim parking is to be provided, the amount of spaces involved, adequate screening and landscaping, and the conversion or integration of the interim parking site into the overall time share project.

3. Gas Station/Mini-Mart. One space/three hundred square feet of gross floor area plus three additional employee parking spaces. Gas stations with work bays shall park the work bay areas at a ratio of four spaces for every work bay. In addition, gas stations shall conform to the use separation and design criteria contained in subsection (H)(1) of this section.
4. Restaurant. One space/one hundred square feet of gross floor area up to two thousand square feet. Two thousand square feet or greater: twenty spaces plus one space/fifty square feet in excess of two thousand square feet. Space used for outdoor dining (incidental), pursuant to Section 21.26.013 of this title, shall be exempt from these parking requirements. Recommended design features include adequate shuttle bus circulation and passenger drop-off/pick-up facilities in addition to tour bus/passenger bus parking provisions.
5. Coffee Shop/Beverage-Serving Use/Delicatessen. One space/three hundred square feet of gross floor area excluding seating areas for eating and/or drinking. Seating areas shall park at one space/one hundred square feet of area. Space used for outdoor dining (incidental), pursuant to Section 21.26.013 of this title, shall be exempt from these parking requirements.
6. Meeting Rooms, Assembly Space, Convention Facilities. One space/one hundred square feet of gross floor area.
7. Individual Retail, Gift Shops, Toy Stores, Convenience Stores, General Sales. One space/three hundred square feet of gross floor area plus two additional employee parking spaces.
8. Shopping Center Retail. Minimum one space/two hundred square feet of gross center. Restaurants in shopping center projects shall provide separate parking as required above in subsection (A)(4) of this section.
9. Museums. One space/five hundred square feet of gross floor area plus a minimum of two additional employee parking spaces. In addition, museums shall provide adequate shuttle bus circulation, passenger drop-off/pick-up facilities, and tour bus/passenger bus parking provisions to be developed on a case-by-case, site-by-site basis.
10. Visitor/Information Center. One space/four hundred square feet of gross floor area plus two additional employee parking spaces. In addition, visitor/information centers shall provide adequate shuttle bus circulation, passenger drop-off/pick-up facilities, and tour bus/passenger bus parking provisions to be developed on a case-by-case, site-by-site basis.
11. Bed and Breakfast. Minimum two spaces, one of which shall be covered for the manager's unit, plus one space per guest room.
12. Car Rental Agencies. One space/two hundred fifty square feet of gross floor area for the car rental office space and customer waiting area. The rental car fleet parking shall be addressed through a fleet parking plan which will be reviewed and considered as part of the conditional use permit application. In addition, car rental agencies shall provide shuttle bus circulation and passenger drop-off/pick-up facilities to be developed on a case-by-case, site-by-site basis.
13. Movie Theaters. Proposals involving movie theaters shall submit land use and parking studies or other appropriate documents to justify the proposed parking provisions as part of the pre-filing submittal process per Section 21.208.080 of this chapter. At the close of the pre-filing

submittal process, the City Planner shall determine what the applicable parking ratios are. The applicant may appeal the City Planner's decision in accordance with Section 21.54.140 of this title.

B. Signs. Except as provided herein, the provisions of Chapter 21.41 apply within the overlay zone. All signage shall be reviewed and approved as part of the conditional use permit process. No internally illuminated thru-face channel letter signs will be allowed to face residentially zoned properties.

1. Maximum Sign Area. The maximum sign area allowance shall not exceed one square foot per lineal foot of building frontage located on the lot. For corner lots or buildings, with two building frontages, sign allowance will be based on 0.90 square foot per the combined lineal footage. Shopping centers or other combined projects subject to the provisions of this chapter including projects that propose freeway service facility uses and signs, as defined in Sections 21.41.030(10)(A) and (B)(i—iv) and regulated by Section 21.41.070(3)(B), shall process a sign program as part of the conditional use permit. Freeway service facility center sign programs shall not allow more than a total of one hundred square feet of freestanding sign area for projects of eight acres or less; or one hundred fifty square feet of freestanding sign area for larger sites. Such sign programs may also allow a maximum of 0.60 square feet of wall signage per lineal foot of commercial tenant/suite frontage; a maximum of 0.90 square feet of wall signage per combined lineal footage of freestanding corner buildings; and, a maximum of one square foot of signage per lineal foot of freestanding or anchor tenant building frontage. Shopping centers or combined projects that do not propose freeway service facilities, shall be allowed a maximum of 0.75 square feet of wall signage per lineal foot of commercial tenant/suite frontage; a maximum of one square foot of wall signage per combined lineal footage of freestanding corner buildings; a maximum of one square foot of signage per lineal foot of freestanding or anchor tenant building frontage; and, a maximum of one hundred twenty-five square feet of additional freestanding signage.
  2. Maximum Sign Height. No freestanding sign shall exceed six feet in height, except for freeway service facility signs; and freestanding multi-tenant directory signs for shopping centers and/or mixed use commercial/visitor-serving projects, which shall not exceed ten feet in height, pursuant to a City Council approved sign program.
  3. Sign Colors. Sign colors and materials are part of the discretionary review process. Sign colors shall complement the overall building style without dominating the building design.
  4. Landscaping Related to Signs. Freestanding signs are subject to the landscaping requirements contained in subsection G of this section.
- C. Building Height. The allowed building height for projects subject to this chapter shall be determined by the development standards of the underlying zoning. Any proposed rooftop equipment or other structural features shall be screened from public view.
- D. Building Setbacks. Commercial/visitor-serving buildings located adjacent to Palomar Airport Road or Cannon Road east of the I-5 interstate freeway shall maintain a minimum setback of fifty feet. Except in the P-M zone, where the underlying zone setback shall apply, new commercial/visitor-serving buildings shall maintain a minimum public street setback of thirty feet. All setback areas shall be exclusive of parking spaces, parking overhang, circulation aisles and trash enclosures. Improvements in this area shall be limited to landscaping, access driveway(s), signage, lighting fixtures, screen walls and pedestrian walkways or sidewalks. For parcels eight acres or less in size, the back ten feet of the required setback may be used as circulation aisles or parking spaces provided there is adequate use of landscaping and screen walls. The minimum building setback from any

freeway right-of-way shall be thirty feet of which the back twenty feet may accommodate circulation aisles, trash and/or recycling enclosures, and/or parking spaces. All development proposals subject to this chapter shall provide decorative paving in the primary approach driveway to the project for an area of at least nine hundred square feet (thirty by thirty foot area) covering, at a minimum, the width of the driveway. The decorative paving shall be depicted on landscape plans and shall be located adjacent to, but not on, city right-of-way adjacent to the project entrance. Side and rear setbacks not subject to the thirty-foot public street setback shall be assessed as part of the discretionary review of the conditional use permit application, however, a minimum setback of ten feet entirely landscaped shall be required.

- E. Building Materials/Colors. Building materials and colors are part of the discretionary review process. The use of illuminated awnings is not allowed. Metal awnings or canopies are not allowed. High quality simulated building materials such as imitation brick, stone, marble or wood may be approved. The primary colors of blue, red, yellow and green shall not be dominate building colors. The use of colors shall be balanced and in the context of the proposed architectural style.
- F. Architectural Style. Two primary architectural styles are allowed in the overlay zone as described in general terms below. One of the two styles shall be proposed in conditional use permit applications, except as provided in subsection (F)(3) of this section.
  - 1. Village Architectural Style. This style involves the use of wood and composition shingle roof materials, steep pitched (7:12 and greater) gabled roofs, gabled windows, use of dormers in gabled roofs, no mansard roof forms, applied surface detail ornamentation and irregular building forms with a variety of roof peaks.
  - 2. Spanish/Mediterranean Architectural Style. This style involves the uses of Spanish/mission style clay roof tiles on a rectangular building form, white stucco walls, arches and arched doorways with wooden beams, low pitched roofs, multi-paned windows and the use of glazed/decorative tiles and tile paving.
  - 3. Alternative Architectural Styles. An alternative architectural style may be proposed on a conditional use permit application if it is specifically supported by the enforcement official at the conclusion of the preliminary review procedures outlined in Section 21.208.080. This alternative architectural style may accommodate a reasonable version of a user's corporate architectural style, provided the corporate architectural elements do not dominate the building design so as to create incompatibility in the area; or detract from the overlay zone's objective of ensuring high quality appearances for commercial/visitor-serving uses.
- G. Landscaping. Landscaping shall be designed to complement the project's proposed architectural style. Landscape plans shall be consistent with the city's landscape manual. The following landscaping regulations shall apply to development proposals subject to this chapter:
  - 1. Freestanding Sign Landscape Theme. Every freestanding sign shall provide adjacent landscaping which promotes a common theme throughout the overlay zone. The freestanding sign and related landscaping theme shall be shown on project landscape exhibits and will consist of, at a minimum:
    - a. Six bird of paradise plants (*Strelitzia reginae*) with a minimum container size of five gallons. These plants shall be located in clusters around the sign;
    - b. One *Phoenix roebelenii* palm tree with a minimum container size of fifteen gallons to be located to one side of the freestanding sign amidst the bird of paradise plant clusters. The

roebelenii palm may be replaced with another palm tree species if supported by staff to be consistent with the overlay zone's common landscaped sign theme and approved with the conditional use permit by the City Council;

- c. Appropriate ground cover such as agapanthus shrubs, or other similar substitute subject to discretionary review, bark and/or turf in a visually pleasing combination;
  - d. The minimum area for the provision of the freestanding sign and corresponding landscaped theme shall be eighty square feet, designed to encompass the minimum perimeter of the sign's base or foundation area;
  - e. The above requirements are not necessary for qualified freeway service signage, however, the structural base of allowed freeway service signs shall be adequately located and screened from view by landscaping as part of the conditional use permit application.
2. Required Trees. Parking lot trees shall be provided at a ratio of one tree for every six parking spaces provided. These trees shall be located in planting areas that are outside of required setback areas. All trees shall be a minimum container size of fifteen gallons, however, at least fifty percent of required parking lot trees shall be a minimum of twenty-four-inch box size. All parking lot planter strips and parking island dimensions, configurations and landscaping shall conform to Appendix E of the city's landscape manual, except that for sites eight acres or less in size, individual planting islands with a minimum width of six feet may be provided. Such planting islands shall have a minimum length of thirty feet, however, the minimum length shall not be less than the length of adjacent parking stalls. Street trees required by the street tree requirements of Section IV.D.3 of the landscape manual shall all be twenty-four-inch box sizes. In addition to the street tree requirements of the landscape manual, and except for the slope planting requirements of Section IV.E.3 of the manual for slopes over eight feet in vertical height, setback landscaping trees shall be provided in clusters at a ratio of one tree for every one thousand square feet of setback area. Except for street trees which shall be twenty-four-inch box sizes, setback area trees shall be a minimum container size of fifteen gallons, however, at least fifty percent of required setback area trees shall be a minimum of twenty-four-inch box sizes. For the calculation of setback areas, multiply the length of the setback times twenty feet; for interior lot and freeway setbacks, multiply the length of the setback times ten feet. The use of existing on-site trees may be considered to replace required trees at a 1:1 ratio, on a case-by-case, site-by-site basis. For existing trees to be considered, landscape plans shall indicate tree caliper width at three feet above existing grade, and photographs of the subject trees shall be submitted.
3. Screening of Areas. The following areas shall be specifically designed to be screened from public points of view:
  - (a) Parking Areas. All surface parking areas shall be screened by the use of forty-two inch high screen walls to be complemented with landscaping in front of the walls within setback areas. Screen walls shall be architecturally finished to complement the project's architecture and shall provide an architectural cap on top of the wall. The screening wall height may reduce to thirty inches to comply with engineering sight distance requirements as necessary. Vines and attaching plant forms shall be used to further obscure the screening walls. The use of existing trees and/or grade separations to screen parking areas may be considered on a case-by-case, site-by-site basis.
  - (b) Loading/Delivery/Trash Enclosure Areas. All areas used for loading activities, receiving deliveries and trash enclosure locations shall be located onsite so as to be screened from

public points of view. Landscaping may assist this objective but is secondary to locating these areas onsite and/or using solid masonry walls, to minimize visibility.

4. Maintenance. All landscaped areas shall be maintained in a healthy, thriving manner. Failure to maintain such areas in conformance with approved landscape plans and concepts, may result in administrative fines and/or revocation or other discretionary action pursuant to the performance monitoring condition (see Section 21.208.120) or other enforcement procedures in this chapter.

H. Use Separation Standards. The uses below are subject to use separations standards.

1. Gas Stations, Gas Stations/Mini-Marts.

- a. Location. New gas stations or gas stations/mini-marts shall only be permitted at intersections where at least one of the streets is classified as a prime, major or secondary arterial on the general plan. A maximum of two stations may be allowed at each such intersection. Where a T-intersection is involved, a maximum of one station may be allowed. The proposed site may not adjoin any residential property.
- b. Lot Dimensions. The minimum lot size, or the minimum area exclusively designated for this use in a mixed use project, shall be fifteen thousand square feet. Street frontage along the nonarterial roadway shall be a minimum of one hundred fifty feet.
- c. Design Criteria. On corner lots, no access shall be made with the prime or major arterial roadway; no driveway access shall be allowed within one hundred feet of a prime or major arterial roadway intersection and may be limited to a right in, right out only access; and, fuel delivery circulation design shall be accommodated onsite on a case-by-case, site-by-site basis.

(Ord. NS-485 § 1, 1999; Ord. CS-102 § CXXXV, 2010; Ord. CS-164 § 10, 2011; Ord. CS-224 §§ XLVII—XLIX, 2013)

**§ 21.208.110. Required findings.**

In addition to the findings required for the granting of a conditional use permit pursuant to Section 21.42.030, conditional use permits issued pursuant to this chapter are subject to the following findings prior to approval:

- A. That the proposed project is adequately designed to accommodate the high percentage of visitor, tourist and shuttle bus/alternative transportation users anticipated given the proposed use and site location within the overlay zone;
- B. That the building forms, building colors and building materials combine to provide an architectural style of development that will add to the objective of high quality architecture and building design within the overlay zone;
- C. That the project complies with all development and design criteria of the overlay zone;
- D. For gas stations, motel, hotel or restaurant uses on a planned industrial zoned property: That the proposed use is commercial in nature and therefore subject to the overlay zone; however, the proposed use shall be consistent with the intent and purpose of the P-M zone;
- E. For recreation vehicle (RV) parks, overnight RV parking, campgrounds or overnight campsite uses: That the proposed use complies with all the provisions of Section 21.42.010(2)(H)(a) through (e) of this title.

(Ord. NS-485 § 1, 1999; Ord. CS-178 § CXXX, 2012; Ord. CS-224 § L, 2013)

**§ 21.208.120. Performance monitoring condition.**

Projects shall be continuously monitored, including at least one formal annual review, to assure long term compliance with all conditions of approval, compatibility with adjacent properties, enforce sign regulations and provide a basis for recommending approval of subsequent permit extension requests. To achieve this, the following condition shall be placed on permits within the overlay zone:

If, at any time, the City Council, Planning Commission or City Planner determine that there has been, or may be, a violation of the findings or conditions of this conditional use permit, or of the Municipal Code regulations, a public hearing may be held before the City Council to review this permit. At said hearing, the City Council may add additional conditions, recommend additional enforcement actions, or revoke the permit entirely, as necessary to ensure compliance with the municipal code and the intent and purposes of the Commercial/Visitor-Serving Overlay Zone, and to provide for the health, safety and general welfare of the City.

(Ord. NS-485 § 1, 1999; Ord. CS-164 § 10, 2011)

**§ 21.208.130. Existing uses, building permits and business licenses.**

For existing uses that propose a change in use, apply for a building permit or apply for a new business license, the provisions of this chapter shall not apply provided that all of the following criteria are met: the proposal is consistent with the uses allowed by the site development plan or specific plan, if any, applicable to the subject site; the proposal does not invoke a higher parking standard pursuant to Section 21.208.100(A) of this chapter; and, the proposal does not involve an increase of greater than two hundred square feet to existing square footage. For such proposals, the additional two hundred square feet of area shall be parked subject to the parking standards of this chapter. Existing structures that propose demolition and redevelopment may be rebuilt to the same square footage as allowed by a valid entitlement prior to the effective date of the ordinance codified in this chapter, or up to an additional two hundred square feet, without being subject to the requirements of this chapter, provided there is no increase in the degree of nonconformity with regards to building setbacks, parking or signage. If a higher parking standard, or more than two hundred square feet of increased square footage is involved for commercial/visitor-serving uses which require a conditional use permit in the underlying zone, the new, or intensified, portion of the existing use shall be subject to the approval of a minor conditional use permit consistent with the standards of this chapter. Existing sign programs and related sign permits are not subject to the provisions of this overlay zone, except that if any existing use proposes an amendment to its existing, approved sign program to increase overall signage allowance, or to increase or alter approved sign locations, then the entire sign program including existing signs shall be subject to the sign standards of Section 21.208.100(B) of this chapter pursuant to the normal processing of such sign program amendment.

(Ord. NS-485 § 1, 1999; Ord. CS-224 § LI, 2013)

**§ 21.208.140. Administrative enforcement powers.**

- A. The enforcement agency and enforcement official can exercise any enforcement powers as provided in Chapter 1.08 of this code. In addition to the general enforcement powers provided in Chapter 1.08 of this code, the enforcement agency and enforcement official have the authority to utilize the administrative remedies set forth in subsection B of this section as may be necessary to enforce this chapter.
- B. Civil Penalties. Any person who violates any of the provisions of this chapter or any condition of a conditional use permit issued pursuant to this chapter shall be liable for a civil penalty not to exceed

one thousand dollars for each day such a violation exists. The violator shall be charged for the full costs of any investigation, inspection or monitoring survey which led to the detection of any such violation, for abatement costs, and for the reasonable costs of preparing and bringing legal action under this subsection. In addition to any other applicable procedures, the enforcement agency may utilize the lien procedures listed in Sections 21.208.150(C)(5) and (D)(2) and Section 21.208.160(B)(3) to enforce the violator's liability.

(Ord. NS-485 § 1, 1999)

**§ 21.208.150. Administrative notice, hearing, and appeal procedures.**

- A. Unless otherwise provided herein, any notice required to be given by the enforcement official under this chapter shall be in writing and served in person or by registered or certified mail. If served by mail, the notice shall be sent to the last address known to the enforcement official. Where the address is unknown, service may be made upon the owner of record of the property involved. Such notice shall be deemed to have been given at the time of deposit, postage prepaid, in a facility regularly serviced by the United States Postal Service whether or not the registered or certified mail is accepted.
- B. When the enforcement official determines that a violation of one or more provisions of this chapter or any condition of a conditional use permit issued pursuant to this chapter exists or has occurred, any violator(s) or property owner(s) of record shall be served by the enforcement official with a written notice and order. The notice and order shall state the municipal code section or the condition violated, describe how violated, the location and date(s) of the violation(s), and describe the corrective action required. The notice and order shall require immediate corrective action by the violator(s) or property owner(s); where the violation is a continuing violation which does not create an immediate danger to health or safety, the notice shall provide a reasonable time, not less than three working days, to correct or otherwise remedy the violation, prior to the imposition of administrative fines. The notice and order shall also explain the consequences of failure to comply, including that civil penalties shall begin to immediately accrue if compliance is not immediately achieved (or, if applicable within three days from the date the notice and order is issued). The notice and order shall identify all hearing rights. The enforcement official may propose any enforcement action reasonably necessary to abate the violation.
- C. If cure or abatement of the violation(s) is not immediately achieved (or, if applicable within three days) from the date the notice and order is issued, the enforcement official shall request the City Manager to appoint a hearing officer and fix a date, time and place for hearing. The enforcement official shall give written notice thereof to the violator(s) or owner(s) of record, at least ten days prior to the date for hearing.
  1. The hearing officer shall consider any written or oral evidence presented to determine whether the violation(s) exists, and/or civil penalties should be imposed, consistent with rules and procedures for the conduct of hearings and rendering of decisions established and promulgated by the City Manager.
  2. In determining whether action should be taken or the amount of a civil penalty to be imposed, the hearing officer may consider any of the following factors:
    - a. Duration of the violation(s);
    - b. Frequency or recurrence;
    - c. Seriousness;

- d. History;
  - e. Violator's conduct after notice and order;
  - f. Good faith effort to comply;
  - g. Economic impact of the penalty on the violator(s);
  - h. Impact of the violation on the community;
  - i. Any other factor which justice may require.
3. If the violator(s) or owner(s) of record fail to attend the hearing, it shall constitute a waiver of the right to a hearing and adjudication of all or any portion of the notice and order.
  4. The hearing officer shall render a written decision within ten days of the close of the hearing, including findings of fact and conclusions of law, identifying the time frame involved and the factors considered in assessing civil penalties, if any. The decision shall be effective immediately unless otherwise stated in the decision. The hearing officer shall cause the decision to be served on the enforcement official and all participating violators or owners of record.
  5. If the persons assessed civil penalties fail to pay them within the time specified in the hearing officer's decision, the unpaid amount constitutes either a personal obligation of the person assessed or a lien upon the real property on which the violation occurred, in the discretion of the enforcement official. If the violation(s) is not corrected as directed the civil penalty continues to accrue on a daily basis. Civil penalties may not exceed one hundred thousand dollars in the aggregate. When the violation is subsequently corrected, the enforcement official shall notify the violator(s) and/or owner(s) of record of the outstanding civil penalties and provide an opportunity for hearing if the amount(s) is disputed within ten days from such notice.

D. Judicial Appeal of Hearing Officer Determination.

1. Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure, within twenty days after service of the final administrative order or decision of the hearing officer is made in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard by the superior court, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. A court proceeding under this section is a limited civil case authorized by Government Code Section 53069.4. A copy of the notice of appeal shall be served in person or by first-class mail upon the local agency by the contestant.
2. The enforcement official shall take all appropriate legal steps to collect these obligations, including referral to the City Attorney for commencement of a civil action to recover said funds. If collected as a lien, the enforcement official shall cause a notice of lien to be filed with the County Recorder, inform the county auditor and County Recorder of the amount of the obligation, a description of the real property upon which the lien is to be recovered, and the name of the agency to which the obligation is to be paid. Upon payment in full, the enforcement official shall file a release of lien with the County Recorder.

(Ord. NS-485 § 1, 1999)

**§ 21.208.160. Judicial enforcement.**

- A. Criminal Penalties. Any person who violates any provision of this chapter or any condition of a conditional use permit issued pursuant to this chapter is guilty of a misdemeanor.
- B. Injunction/Abatement of Public Nuisance—Violations Deemed a Public Nuisance.
  - 1. In addition to the other civil and criminal penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter or any condition of a conditional use permit issued pursuant to this chapter, is a threat to the public health, safety and welfare and is declared and deemed a public nuisance, which may be summarily abated and/or restored as directed by the enforcement official in accordance with the procedures identified in Chapter 6.16.
  - 2. A civil action to abate, enjoin or otherwise compel the cessation of such nuisance may also be taken by the city, if necessary. The enforcement official may also cause the city to seek a petition to the Superior Court for the issuance of a preliminary or permanent injunction, or both, or an action to abate a public nuisance, as may be appropriate.
  - 3. The full cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property in accordance with the procedures set forth in Section 21.208.140.
- C. Other Civil Action. Whenever a notice and order or hearing officer's decision is not complied with, the City Attorney may, at the request of the enforcement official, initiate any appropriate civil action in a court of competent jurisdiction to enforce such notice and order and decision, including the recovery of any unpaid civil penalties provided herein.

(Ord. NS-485 § 1, 1999)

#### **§ 21.208.170. Remedies not exclusive.**

Remedies set forth in this chapter are not exclusive but are cumulative to all other civil and criminal penalties provided by law, including, but not limited to, amortization, abatement, and summary removal pursuant to Chapter 21.41 and/or California Business and Professions Code Sections 5412 through 5412.3 and 5492 through 5497. The seeking of such other remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter.

(Ord. NS-485 § 1, 1999)

#### **§ 21.208.180. Severability.**

If any section, subsection, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconditional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any part thereof be declared invalid or unconditional.

(Ord. NS-485 § 1, 1999)

**CHAPTER 21.209  
CR-A/OS CANNON ROAD AGRICULTURAL/OPEN SPACE ZONE**

**§ 21.209.010. Intent and purpose.**

- A. The intent and purpose of the Cannon Road agricultural/open space (CR-A/OS) zone is to:
1. Implement Proposition D, the "Preserve the Flower and Strawberry Fields and Save Taxpayers Money" proposition enacted by the voters of Carlsbad in November 2006.
  2. Promote and support the continuation of agriculture in the zone for as long as the landowners determine that it is economically viable to do so;
  3. Protect, encourage, and enhance public uses, public access, public views/vantage points, and community gathering places;
  4. Ensure that all uses in the zone address traffic, circulation and transportation impacts;
  5. Provide for agricultural and other active, passive, and cultural open space uses in the zone that provide economic benefit to the landowners as set forth in Table A in Section 21.209.040;
  6. Create a sustainable area, which means an area that contains agricultural and open space uses that balance social, economic, and environmental values important to the community;
  7. Provide for community input on the design of proposed development and uses;
  8. Protect areas of existing natural habitat in conformance with the city's habitat management plan and local coastal program; and
  9. Implement the goals and objectives of the general plan. In particular, the goals and objectives related to the Cannon Road open space, farming and public use corridor.

(Ord. CS-317 § 8, 2017)

**§ 21.209.020. Definitions.**

Whenever the following terms are used in this chapter, they shall have the following meaning established by this section:

"Primary use" means a use that is not required to be developed in conjunction with or on the same site, lot, or parcel of land as another permitted and/or secondary use.

"Secondary use" means a use that is permitted only if developed in conjunction with and/or in support of at least one primary use.

(Ord. CS-317 § 8, 2017)

**§ 21.209.030. Guiding principles.**

- A. The following principles, as set forth below, are intended to guide the planning of development and establishment of uses in the zone to create a sustainable area that balances social, economic and environmental values that are important to the community. All proposed development, uses, or grouping of uses shall be reviewed for conformance with the applicable guiding principles.
1. Social Principles.
    - a. Encourage open space uses that have a strong community orientation and that provide

- maximum opportunities for people to gather, interact, and socialize.
- b. Create an area that is unique, vibrant and exciting by providing a diversity of open space uses.
  - c. Integrate art, culture and history into the agricultural and open space uses permitted in the zone.
2. Economic Principles.
    - a. Recognize that the zone consists of privately owned lands and that community desires for certain open space uses depend on economic feasibility and benefit to the property owners.
    - b. Support uses that economically benefit the continuation of agriculture in the zone, including organic farming, community farming, and other innovative or mixed-use agricultural operations.
  3. Environmental Principles.
    - a. Balance natural open space uses with improved or developed public uses.
    - b. Protect and preserve existing natural habitats and encourage the restoration of disturbed areas of habitat.
    - c. Provide safe walking and biking through trails and pathways that interconnect uses and sites in the zone and surrounding area, which maximize public access to, and preserve and enhance, ocean and lagoon views.

(Ord. CS-317 § 8, 2017)

**§ 21.209.040. Permitted primary and secondary uses.**

- A. In the CR-A/OS zone, notwithstanding any other provisions of this title, only the uses listed in Table A, below, shall be permitted.
- B. Uses similar to those listed in Table A may be permitted if the City Planner determines such similar use falls within the intent and purpose of this zone.
- C. Other uses that are not listed in Table A, and which cannot be found to be similar to those uses listed in Table A, may be recommended for approval as a permitted use to the Planning Commission provided that the City Planner ascertains all pertinent facts and the Planning Commission, by resolution of record, sets forth its findings and its interpretations that the use is substantially consistent with the intent and purpose and guiding principles (Sections 21.209.010 and 21.209.030) of this zone. Such Planning Commission resolution shall be forwarded to the City Council as a recommendation and, if approved by resolution of the City Council, thereafter such interpretation shall govern. An LCP amendment may be required for any change or addition to permitted uses.
- D. The establishment and continuation of agricultural uses in the zone is encouraged for as long as the land owners determine that it is economically viable. When agriculture is no longer economically viable for the landowners, only the other open space uses listed in Table A shall be permitted.

**TABLE A – PERMITTED USES**

In the table, below, subject to all applicable permitting and development requirements of the municipal code:

"P" indicates that the use is permitted.

"CUP" indicates use is permitted with approval of a conditional use permit.

1 = Administrative hearing process.

2 = Planning Commission process.

<b>Agricultural Uses</b>		
<b>Primary Agricultural Uses</b>	<b>P</b>	<b>CUP</b>
Agricultural crop production (wholesale) (including floriculture and horticulture, and structures necessary for production, maintenance, harvesting, storage and distribution functions associated with directly supporting the on-site primary agricultural crop production use)	X	
Agricultural-related educational, research and development facilities		1
Community farming (example: individual citizens or community groups growing agricultural crops)	X	
Agricultural farm worker housing (see note 1 below)	X	
Energy transmission and distribution facilities, including, but not limited to, rights-of-way and pressure control or booster stations, substations, gas metering/regulating stations or operating centers for gasoline, electricity, natural gas, synthetic natural gas, oil or other forms of energy sources, with the necessary accessory equipment incidental thereto	X	
Farmers market (sale of primarily agricultural products)		1
Floral trade center (wholesale or retail)		2
Greenhouses	X	
Plant nurseries and supplies (retail)		1
Tree and seed growing farms	X	
Utility buildings/facilities that are built, operated, or maintained by a public utility to the extent that they are regulated by the California Public Utilities Commission	X	
Vineyards and wineries	X	
<b>Secondary Agricultural Uses</b>	<b>P</b>	<b>CUP</b>
Agricultural distribution facilities		2
Other accessory or related uses that promote the continuation of a primary permitted agricultural use, as determined by the City Planner		1
Public/private events and activities (permanent or temporary) related to promoting a primary permitted agricultural use (examples: demonstrations, seasonal sales/temporary sales, special events, tours) (see note 2 below)	X	

<b>Agricultural Uses</b>		
<b>Primary Agricultural Uses</b>	<b>P</b>	<b>CUP</b>
Retail sales of agricultural crops and related products limited to a cumulative area of 1,000 square feet or less  (examples: on-premises sale of crops to the public, produce store, "you pick" operations, sale of products made from crops)	X	
Retail sales of agricultural crops and related products with a cumulative area of more than 1,000 square feet  (examples: on-premises sale of crops to the public, produce store, "you pick" operations, sale of products made from crops)	1	
<b>Open Space Uses</b>		
<b>Primary Open Space Uses</b>	<b>P</b>	<b>CUP</b>
Amphitheater		2
Civic and public gathering spaces  (examples: art display, gazebos, public plazas, sitting areas, water features, wedding areas)	X	
Community meeting center		1
Dog park		1
Energy transmission and distribution facilities, including, but not limited to, rights-of-way and pressure control or booster stations, substations, gas metering/ regulating stations or operating centers for gasoline, electricity, natural gas, synthetic natural gas, oil or other forms of energy sources, with the necessary accessory equipment incidental thereto	X	
Gardens (public or private)  (examples: botanical, rose, tea, and meditation gardens)		1
Habitat preserves and natural areas	X	
Historic center		1
Agricultural or natural history related museum		1
Parks (public or private)		1
Picnic areas		1
Sports or recreation center (public outdoor)  (examples: athletic courts and fields, lawn bowling, swimming pools, tennis courts)		2
Trails  (examples: bicycle, exercise, equestrian, nature, pedestrian)	X	
Utility buildings/facilities that are built, operated, or maintained by a public utility to the extent that they are regulated by the California Public Utilities Commission	X	
<b>Secondary Open Space Uses</b>	<b>P</b>	<b>CUP</b>

<b>Agricultural Uses</b>		
<b>Primary Agricultural Uses</b>	<b>P</b>	<b>CUP</b>
Food service, including restaurants and cafés, limited to a cumulative area of 500 square feet or less	X	
Food service, including restaurants and cafés with a cumulative area of more than 500 square feet		1
Other accessory or related uses that promote the continuation of a primary permitted open space use		1
Public/private events and activities (permanent or temporary) related to promoting a primary permitted open space use (examples: demonstrations, seasonal sales/temporary sales, special events, tours) (see note 2 below)	X	
Retail sales of goods and products, related to a primary permitted open space use, limited to a cumulative area of 500 square feet or less	X	
Retail sales of goods and products, related to a primary permitted open space use, with a cumulative area of more than 500 square feet		2

**Notes:**

1. Agricultural farm worker housing consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household is permitted in accordance with California Health and Safety Code Section 17021.6.
2. Subject to special events (Chapter 8.17 of this code), minor special events on private property and/or temporary sales location permits as appropriate. (Ord. CS-317 § 8, 2017)

(Ord. CS-317 § 8, 2017)

**§ 21.209.050. Conditional use permit requirement.**

- A. Decision-Making Process. The conditionally permitted primary and secondary uses, as indicated in Table A, shall be processed in accordance with the applicable provisions of Chapter 21.42 (Minor Conditional Use Permits and Conditional Use Permits) of this title and the requisite findings therein.
- B. Finding of Fact. In addition to the findings for approving a minor conditional use permit or a conditional use permit as set out in Chapter 21.42, a finding shall be made that:
  1. The proposed use or grouping of uses implements the intent and purpose of the Cannon Road Agricultural/Open Space (CR-A/OS) zone as set forth in Section 21.209.010 of this chapter.
  2. The proposed use or grouping of uses conforms to the applicable guiding principles contained in Section 21.209.030 of this chapter.
  3. The proposed development complies with the applicable development and design standards contained in Section 21.209.080 of this chapter.
  4. Feasible and appropriate public art, public access, and civic and public gathering space elements have been incorporated into the design of the proposed development.

(Ord. CS-317 § 8, 2017)

**§ 21.209.060. Site development plan requirement.**

- A. A site development plan shall be required for development in the zone as noted below.
1. Exemptions. The following types of development are exempt from the requirement for a minor site development plan or site development plan:
    - a. Structures associated with primary or secondary agricultural uses which include:
      - i. Structures containing a cumulative area of 2,000 square feet or less.
      - ii. Greenhouses or plant protection (shade, wind, etc.) structures containing a cumulative area of 10,000 square feet or less.
      - iii. Temporary or seasonal plant protection (shade, wind, etc.) structures. Temporary or seasonal as used herein shall mean a structure that is in place for no more than 180 days in any 12 month period.
      - iv. Open shade structures (gazebo, trellis, patio cover, etc.) containing a cumulative area of 1,000 square feet or less.
    - b. Structures associated with primary or secondary open space uses which include:
      - i. Structures containing a cumulative area of 1,000 square feet or less.
      - ii. Open shade structures containing a cumulative area of 1,000 square feet or less.
  2. Minor Site Development Plan. A minor site development plan shall be required for the following:
    - a. Structures associated with primary or secondary agricultural uses which include:
      - i. Structures containing a cumulative area of more than 2,000 square feet and up to 10,000 square feet.
      - ii. Greenhouses or plant protection structures containing a cumulative area of more than 10,000 square feet and up to 50,000 square feet.
    - b. Structures associated with primary or secondary open space uses which include:
      - i. Structures containing a cumulative area of more than 1,000 square feet and up to 5,000 square feet.
      - ii. Open shade structures containing a cumulative area of more than 1,000 square feet and up to 5,000 square feet.
  3. Site Development Plan. A site development plan shall be required for, but not limited to, the following:
    - a. Structures associated with primary or secondary agricultural uses which include:
      - i. Structures containing a cumulative area of more than 10,000 square feet.
      - ii. Greenhouses or shade structures containing a cumulative area of more than 50,000 square feet.

- b. Structures associated with primary or secondary open space uses which include:
  - i. Structures containing a cumulative area of more than 5,000 square feet.
  - ii. Open shade structures containing a cumulative area of more than 5,000 square feet.

B. Decision-Making Process.

1. A minor site development plan shall be processed in accordance with the applicable provisions of subsection C and Chapter 21.06 (Q-Qualified Development Overlay Zone) of this title, including the requisite findings therein. The City Planner shall be the decision maker for a minor site development plan required by this chapter.
  2. A site development plan shall be processed in accordance with the applicable provisions of subsection C and Chapter 21.06 (Q-Qualified Development Overlay Zone) of this title, including the requisite findings therein. The Planning Commission shall be the decision maker for a site development plan required by this chapter.
- C. Findings of Fact. In addition to the findings for approving a minor site development plan or site development plan as set out in Chapter 21.06, findings shall be made that:
1. The proposed development implements the intent and purpose of the Cannon Road agricultural/open space (CR-A/OS) zone as set forth in Section 21.209.010 of this chapter.
  2. The proposed development conforms to the applicable guiding principles contained in Section 21.209.030 of this chapter.
  3. The proposed development complies with the applicable development and design standards contained in Section 21.209.080 of this chapter.
  4. Feasible and appropriate public art, public access, and civic and public gathering space elements have been incorporated into the design of the proposed development.

(Ord. CS-317 § 8, 2017)

**§ 21.209.070. Pre-submittal community input process.**

- A. Prior to the submittal of a minor site development plan, site development plan, minor conditional use permit, and/or conditional use permit application for a proposed development, uses, or grouping of uses, the applicant shall submit to the City Planner a proposed strategy for allowing the community to provide pre-submittal input on the proposed development, uses, or grouping of uses.
- B. The strategy shall include at least one publicly noticed community workshop or similar event.
- C. The public outreach must be completed prior to submitting a formal application.
- D. The application submittal shall be accompanied by a written description of the outcome of the community input strategy, description of public noticing, and any features of the proposed development, uses, or grouping of uses that have resulted from the community input.

(Ord. CS-317 § 8, 2017)

**§ 21.209.080. Development and design standards.**

- A. Lot Coverage. Lot coverage shall not exceed 50% of the lot.

- B. Lot Area, Minimum. There shall be no minimum lot area established for the CR-A/OS zone district. The size of the lot shall be dependent upon the existing or proposed use.
- C. Building Design. The design of all buildings in a proposed development shall reflect a human scale (proportionate and attention to details) in terms of the size, bulk and massing of structures.
- D. Building Height.
1. No building or structure shall exceed 25 feet in height unless a higher building height is authorized through a minor site development plan or site development plan approval. Additional building height authorized through a minor site development plan or site development plan approval shall not exceed a maximum of 35 feet.
  2. In approving the increased building height, the decision maker shall determine that the buildings or structures require an increased height in order to provide the function needed for the development, use, or grouping of uses that the building is intended to serve.
- E. Habitat Preservation. Consistent with guiding principle Section 21.209.030.A.3.b contained in this chapter, proposed development shall be consistent with the city's habitat management plan and shall conform to the applicable provisions of Chapter 21.210 and the local coastal program. Restoration of disturbed habitat shall be encouraged for proposed development located adjacent to existing preserve areas.
- F. Parking Requirements.
1. Off-street parking requirements for proposed uses in the zone shall be governed by Chapter 21.44 of this title.
  2. Where a parking requirement for a use permitted in the zone is not specifically identified in Chapter 21.44, the City Planner shall determine which use identified in Chapter 21.44 is the most similar to the use being proposed in the zone and that parking requirement shall apply.
  3. As an alternative, a parking study may be submitted by the applicant for a proposed development, use, or group of uses in the zone for review by the City Planner in order to determine an appropriate parking requirement.
- G. Public Art.
1. Any development proposal that requires a minor site development plan or a site development plan, and/or a minor conditional use permit or conditional use permit shall incorporate feasible and appropriate public art elements into the design of the proposed development.
  2. Art elements may include, but are not limited to, art features on building facades, freestanding sculptures or structures, and mosaics or paintings on public furniture (i.e. benches, fountains, gazebos).
  3. Art elements are encouraged to reflect the cultural, historical and agricultural significance and heritage of the zone.
- H. Public Access.
1. Any development proposal that requires a minor site development plan or a site development plan, and/or a minor conditional use permit or conditional use permit shall incorporate feasible and appropriate public access elements for walking and bicycling that interconnect uses and

sites in and through the zone.

2. Public access elements shall connect to the city's proposed public trails as established in the City of Carlsbad Trails Master Plan or the Carlsbad Ranch Specific Plan; implementation of these public trail elements shall be completed concurrent with adjacent proposed development.
- I. Public Views. Development shall be sited and designed to preserve all significant public view corridors and vantage points as established within the Carlsbad Ranch Specific Plan. All development proposals adjacent to identified view corridors and vantage points shall include adequate setbacks and buffering.
- J. Civic and Public Gathering Places. Any development proposal that requires a minor site development plan or a site development plan, and/or a minor conditional use permit or conditional use permit shall incorporate feasible and appropriate civic and public gathering place elements into the design of the proposed development. Civic gathering places may include, but are not limited to, such things as art display areas, gazebos, public plazas, sitting areas, water features, and wedding areas.
- K. Signs.
  1. Except as otherwise provided in this section, signs shall be permitted in the zone according to the provisions of Chapter 21.41 of this title.
  2. The design of all permitted signs in the zone is encouraged to reflect aspects of the cultural, historical, and agricultural significance and heritage of the zone.
  3. Temporary or seasonal signs shall be permitted on a project site for primary and secondary agricultural uses as allowed in Section 21.209.040 of this chapter, subject to the approval of a sign permit consistent with Section 21.41.050 of this title. The total sign area allowable for temporary or seasonal signs shall be limited to a maximum of 160 square feet per project site and a maximum of 32 square feet per individual sign.

L. Traffic and Circulation.

1. A traffic and circulation study shall be submitted, pursuant to the city's circulation impact analysis thresholds, in conjunction with all proposals for new development, uses, or grouping of uses in the zone that require a minor site development plan, site development plan, minor conditional use permit, or conditional use permit, except for the establishment or expansion of agricultural crop production. The study shall analyze how the proposal affects previously-approved traffic (ADT) projections for the local facilities management zone in which the proposal is located. If the study shows that previous projections are being exceeded as a result of proposed development, uses, or grouping of uses, the study shall identify traffic and circulation improvements that must be constructed to accommodate additional traffic in the zone.
2. The requirement for a traffic and circulation study may be waived at the discretion of the City Engineer and City Planner.

(Ord. CS-317 § 8, 2017)

**§ 21.209.090. Severability.**

If any section, subsection, sentence, clause, phrase or part of this chapter is for any reason found by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter, which shall be in full force and effect. The City Council hereby

declares that it would have adopted this chapter with each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or parts be declared invalid or unconstitutional.

(Ord. CS-317 § 8, 2017)

**CHAPTER 21.210  
HABITAT PRESERVATION AND MANAGEMENT REQUIREMENTS**

**§ 21.210.010. Purpose and intent.**

The purposes and intent of this chapter are to:

- A. Implement the goals and objectives of the land use and the open space/conservation elements of the Carlsbad general plan;
- B. Implement the city's habitat management plan, the implementing agreement and conditions, the North County multiple habitat conservation plan (MHCP), the state's Natural Communities Conservation Plan (NCCP) and 10(a)(1)(B) permit conditions;
- C. Preserve the diversity of natural habitats in the city and protect the rare and unique biological resources located within those habitats;
- D. Assure that all development projects comply with the habitat preservation and conservation standards contained in the habitat management plan;
- E. Provide a process for permitting limited, incidental impacts to occur to natural habitat areas and the species located therein; and
- F. Provide a process for allowing minor amendment from the habitat preservation and conservation standards under limited, specified circumstances.

(Ord. NS-783 § 1, 2006)

**§ 21.210.020. Definitions.**

The following definitions are established:

- A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

"Conditions of coverage" means the measures to avoid, minimize and mitigate for impacts to habitat and the covered species located therein and the conditions and terms of the approval of the HMP by the wildlife agencies contained in the HMP implementing agreement.

"Conservation" means to keep protected habitat and the species located therein from loss, decay or depletion and to move the species toward recovery. Conservation also describes all actions related to maintaining and managing habitat and providing a viable habitat preserve system in the city. Conservation and preservation are similar terms and are used in much the same way. Preservation connotes the act of setting aside or securing habitat, whereas conservation is generally more broad and includes activities such as management of the habitat.

"Covered species" means the species for which take authorization is provided because long-term viability has been determined to be adequately maintained under the HMP as identified in lists 1, 2, and 3, Exhibit "A" to the implementing agreement. The HMP addresses the species identified as list 1 in a manner sufficient to meet all of the criteria for issuing an incidental take permit. Take authorization for species of lists 2 and 3 is contingent on other MHCP subarea plans being permitted and/or funding for enhanced management of preserved areas.

"Development project" means any use of a property, including grading, clearing and grubbing, construction, alteration of any magnitude or activities incidental thereto which requires a

discretionary or ministerial permit, entitlement or approval issued under Titles 15, 18, 20 or 21 of the municipal code.

"Habitat" means the environment or the environmental conditions of a specific location where species or a population of such species lives, occurs or occupies. It includes both natural and native habitat.

"Habitat in-lieu mitigation fee" means a per-acre fee charged for impacts to on-site habitat as an alternative to acquiring off-site habitat to mitigate for such impacts.

"Habitat management plan" means the comprehensive plan which identifies how the city can preserve and conserve the diversity of habitat and protect rare species and biological resources within the city while allowing for additional development consistent with the city's general plan and its growth management plan. In so doing, the plan allows the city to issue permits and authorization for the incidental take of rare species in conjunction with private development projects, public projects, and other activities which are consistent with the plan.

"Hardline preserve areas" means properties which are already part of or are planned to be part of the HMP habitat preserve system. "Existing" hardline preserve areas are depicted on Figure 5 of the HMP and have already been conserved for their habitat value due to permitting actions occurring in the past before approval of the HMP. "Proposed" hardline preserve areas are properties whose preservation and development areas have been planned as part of the HMP. These areas have been agreed-upon in coordination with the landowners, the city, U.S. Fish and Wildlife Service, and the California Department of Fish and Game. If the area proposed for development and proposed for conservations are in conformance with the HMP, the development will be allowed under the HMP.

"HMP" means the Carlsbad Habitat Management Plan (dated December 1999 as amended, final approval November 2004).

"HMP permit" means the permit required when a development project impacts, either directly or indirectly, habitat in the city.

"Implementing agreement" or "IA" means the legal document which defines the roles, responsibilities, activities and conditions that will be undertaken by the city and the wildlife agencies to provide for the preservation, conservation and management of habitat and the species covered under the HMP.

"Incidental take permit" means the taking of an HMP covered species incidental to and not the purpose of carrying out otherwise lawful activities.

"Management of habitat" means all the activities and actions necessary to ensure that the habitat preserve system in the city remains viable and protected for the species that are located there including maintenance, biological monitoring and adequate funding for same.

"MHCP" means the multiple habitat conservation plan, a comprehensive subregional plan which addresses multiple species habitat needs and the preservation of natural vegetation in a one hundred seventy-five square mile area in northwestern San Diego County.

"Mitigation" means measures undertaken to diminish or compensate for the negative impacts of a development project or activity on areas of habitat, native vegetation or species located therein including minimizing the impact by feasible avoidance, repairing or restoring the area of impact or compensating for the impact by replacing or providing substitute resources.

"Narrow endemic species" means native species with restricted geographic distributions, soil affinities and/or habitats, and for purposes of the HMP, species that in addition have important populations within the plan area, such that substantial loss of these populations or their habitat within the HMP area might jeopardize the continued existence or recovery of that species and therefore

special conservation standards are required.

"NCCP" means the Natural Community Conservation Planning Act of 1991.

"Preserve" means an area set aside and managed for the protection of wildlife and biological resources.

"Preservation" means to keep in safety; protect from danger or harm; to keep intact or unimpaired; maintain. Preservation and conservation are similar terms and are used in much the same way. Preservation connotes the act of securing the land and its values, whereas conservation generally is more broad and includes activities such as management of the land and its resources.

"Property analysis record (PAR)" means a computerized database methodology used to calculate the costs associated with the management, maintenance and monitoring of natural habitat areas.

"Standards areas" means properties whose preservation and development areas have not yet been planned as part of the HMP. Instead, preservation and conservation standards have been developed for these properties which must be complied with when a development project is submitted for the property.

"Wildlife agencies" means the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

(Ord. NS-783 § 1, 2006)

### **§ 21.210.030. Applicability.**

- A. All development projects and fuel modification activities in the city shall comply with the habitat preservation and conservation standards contained in the city's habitat management plan (HMP) as well as the implementing agreement, permit conditions, the MHCP, the NCCP and 10(a)1(B) permit conditions, and the requirements contained in this chapter. All requirements of the HMP are incorporated herein by reference.
- B. No grading of habitat in the city, including clearing and grubbing, shall occur pursuant to Title 15 of the municipal code until all the processing and permitting requirements of this chapter are fulfilled.

(Ord. NS-783 § 1, 2006)

### **§ 21.210.040. Habitat preservation requirements.**

The provisions of this section shall apply to all development projects as follows:

- A. Hardline Preserve Areas. Properties or areas of the city identified in the HMP as existing hardline preserve areas are shown on Figure 5 of the HMP. Properties or areas of the city identified in the HMP as proposed hardline preserve areas are shown on Figures 8 through 25 and 34 through 40 of the HMP. These areas shall be prohibited from development located in or encroaching into the hardline preserve area. Minor modifications to the boundaries of the proposed hardline preserve area shall only be allowed if approved as an equivalency finding pursuant to Section 21.210.090 of this chapter. Incidental take of covered species and direct impacts to habitat shall only occur outside the boundaries of the hardline preserve areas. Hardline preserve areas are to be designated as biological open space and preserved in such designation in perpetuity.
- B. Standards Areas. Properties or areas of the city identified in the HMP as standards areas (HMP Figure 26) shall comply with all the habitat preservation standards contained in Section D.3(C) of the HMP which are incorporated by reference. Incidental take of covered species and direct impacts to habitat shall not be permitted in these areas until a development project is approved which complies with the

standards and provides any land to the habitat preserve areas as required by the standards.

C. Additional Mitigation. In addition to setting-aside land for the preserve area, all impacts to habitat and covered species shall be mitigated as follows:

1. All development projects which impact habitat shall provide on-site or off-site replacement habitat in accordance with the mitigation ratios contained in Table 11 in Section D.6 of the HMP. Preference shall be given for on-site mitigation unless off-site mitigation provides for improved quality or configuration of open space. Replacement habitat shall be identified as part of the approval of the development project.
2. Larger, connected areas of habitat that is not impacted by development or brush management and preserved on-site within the boundaries of the property where the project is located shall be credited toward the mitigation ratios.
3. If at least sixty-seven percent of the habitat on the property where the development project is located is preserved, the project shall not be required to obtain off-site mitigation land in compliance with the mitigation ratios except if: 1) the project would otherwise be inconsistent with the HMP, IA, MHCP, and NCCP and 10(a)1(B) permits; 2) the proposed on-site preservation would reduce the city's ability to meet the specific habitat conservation obligations in the HMP; and/or 3) the areas to be preserved on-site would not benefit the city's preserve system (e.g., habitat exists in a small, isolated patch or patches outside of the focus planning area, and containing no narrow endemic species).
4. Mitigation of impacts through habitat restoration or habitat creation shall be allowed in limited circumstances and shall be mitigated at a higher ratio as determined by the city in consultation with the wildlife agencies.

D. Additional Conditions. In addition to the requirements, standards and conditions contained in subsections A, B and C of this section, the following additional conditions of coverage shall apply to all development projects. These conditions are intended to reference existing requirements and conditions contained in the HMP, IA, MHCP, and NCCP and 10(a)1(B) permit conditions; the conditions listed below are not intended to add additional requirements or conditions above those contained in the HMP, IA, MHCP, and NCCP and 10(a)1(B) permit conditions:

1. Impacts to narrow endemic species shall be avoided to the maximum extent practicable in conformance with the narrow endemic species policy contained in the MHCP and incorporated herein by reference, however where impacts to a narrow endemic species population are demonstrated to be unavoidable, impacts shall be limited to five percent of the total narrow endemic species population within the boundaries of the property where the development project is located. Relocation of the narrow endemic species cannot be used to meet the five percent numeric standard.
2. Grading for a development project during wildlife breeding seasons shall be prohibited, except as provided by the HMP and MHCP, unless a minor adjustment is specifically approved by the city and the wildlife agencies.
3. All development projects shall be located and designed to minimize overall impacts to natural habitat.
4. All fuel modification (brush management) zones required as a result of the development project, and as required by the Fire Marshal, shall be located outside the preserve areas, shall be

considered impacted and shall be mitigated according to subsection C of this section.

5. Impacts to wetland and riparian habitats shall be avoided to the maximum extent possible. All development projects that would affect these habitats must demonstrate that the impacts: 1) cannot be avoided by a feasible alternative; 2) have been minimized to the maximum extent practicable; 3) mitigated at a minimum 3:1 ratio; and 4) will be mitigated in ways that assure no net loss of habitat value or function.
  6. Impacts to vernal pools shall be avoided. In the event that no project alternative is feasible that avoids all impacts on a particular property, the impacts must be minimized and mitigated to achieve a no net loss of biological functions and values through strict adherence to the wetland avoidance and mitigation criteria (Section 3.6.1 of MHCP Volume I), standard best management practices (MHCP Appendix B), and revegetation guidelines (MHCP Appendix C).
  7. In the standards areas, sixty-seven percent of coastal sage scrub and seventy-five percent of the gnatcatchers located in the area shall be preserved. Some areas may preserve more or less than these percentages due to parcel size, location, resources, or long-term conservation potential as approved by the city and the wildlife agencies.
  8. All development projects shall comply with the applicable standards of the MHCP (dated March 2003) and the measures to minimize impacts to covered species described in Section D.6, Table 9 and Appendix C of the HMP.
  9. All development projects located in the coastal zone shall also be required to comply with the additional, general conservation standards contained in Section D.7, Standards 7-1 through 7-12 of the HMP and the additional, parcel-specific conservation standards contained in Section D.7, Standards 7-13 and 7-14 of the HMP as incorporated into the local coastal program.
- E. Habitat In-Lieu Mitigation Fee. Development projects which are subject to additional mitigation pursuant to subsection C of this section and which impact habitat types D, E and F listed in Table 11 of the HMP shall pay a fee in an amount to be determined by City Council resolution, in lieu of providing onsite or off-site mitigation land. The fee shall be used to fund the acquisition of habitat land in the MHCP as required by the HMP and implementing agreement. The fee shall be adjusted as necessary to acquire suitable habitat on a per acre basis comparable to the land being developed.

(Ord. NS-783 § 1, 2006)

#### **§ 21.210.050. Habitat management requirements.**

All development projects shall be required to provide for the permanent management, maintenance and biological monitoring in perpetuity of all on-site and off-site mitigation land and all habitat preserve areas within the boundaries of the property in which the project is located according to the provisions of this section:

- A. Standard of Management. All preserve areas shall be managed, maintained and monitored according to the standards contained in Section F.2 of the HMP, Volume 2 and 3 of the MHCP and the citywide open space management plan.
- B. Funding of Management. Based upon the management plan required by subsection D of this section, the developer shall provide a nonwasting endowment or other secure financial mechanism acceptable to the City Planner to the identified conservation entity in an amount sufficient for management, maintenance and monitoring of the preserve areas and mitigation land in perpetuity. The endowment will be tied to the preserved land for which it is provided and will be held by the city or a third-party

financial entity approved by the city with demonstrated success in managing endowments. Only the interest accrued from the endowment shall be paid to the property manager.

C. Conservation Easement Required. A conservation easement shall be placed on all preserve areas to ensure the area will be preserved in perpetuity, managed and maintained for its biological value and to prevent uses which will impair or interfere with the conservation of the area. At a minimum, the required conservation easement shall include the following:

- a. Identification of grantee, underlying land ownership, and third-party beneficiaries including the city and the wildlife agencies;
- b. Permitted and prohibited uses;
- c. Grantor's duties and responsibilities as per the preserve management plan, which may be amended from time to time;
- d. Enforcement provisions.

D. Preserve Management Plan. Prior to recordation of a final map (if applicable) or prior to issuance of a grading permit, the developer shall be required to submit a plan to identify how the preserve areas and mitigation land will be managed and maintained for the first year after the areas are set aside for preservation. The plan shall include the costs for managing and monitoring the areas in perpetuity and shall identify a conservation entity, subject to approval by the City Planner, to serve as preserve manager and who possesses the necessary biological qualifications and experience to manage and monitor the preserve areas in perpetuity. The plan shall be based on the results of a property analysis record (PAR) or other method acceptable to the City Planner. The plan shall commit the preserve manager to prepare a permanent preserve management plan and annual work plans and shall give the city the right to enforce the preparation and execution of the plans. The plan shall be approved by the City Planner. The preserve management plan shall include the following:

1. An overall vision of the preserve area, its role in the citywide preserve system and its regional relationship;
2. The baseline biological conditions as identified in field surveys of the property not more than one year old including an identification of the covered species that occur or have the potential to occur in the preserve area and the known or expected threats to the biological value of the area;
3. Identification of resource management goals and specific conservation objectives based on the vision for the preserve area and baseline biological conditions;
4. Area-specific management directives based on the resource goals and conservation objectives;
5. A description of preserve-level and subregional monitoring activities which shall be consistent with the HMP and MHCP Volumes I and II.

Appendix D of the citywide open space management plan contains an outline of the required format for preserve management plans.

E. Annual Work Plan. Each year, the preserve manager shall be obligated to submit to the planning division an annual work plan for each preserve area. The work plan shall identify specific problems and how they will be addressed, the planned monitoring and management actions for the year and include a prioritization of specific management needs and area-specific management directives.

(Ord. NS-783 § 1, 2006; Ord. CS-164 §§ 10, 11, 2011)

**§ 21.210.060. Permits required.**

Impacts to habitat and covered species shall not occur in the city until the permits required by this chapter have been approved. The permits required by this chapter shall be processed concurrently with any other development permits required by Titles 15, 18, 20 and 21 of the municipal code.

(Ord. NS-783 § 1, 2006)

**§ 21.210.070. Minor HMP permit and HMP permit.**

A. A minor HMP permit or HMP permit shall be required for any development project which directly or indirectly impacts natural habitat in accordance with the procedures set forth in this section.

1. A minor HMP permit shall be required, except as specified in subsection A.2 of this section.
2. A HMP permit shall be required if the permit application is processed concurrently with any other permit for which the Planning Commission or City Council is the decision-making authority.

B. Application and Fees.

1. An application for a minor HMP permit or HMP permit may be made by the record owner or owners of the property affected by the development project or the authorized agent of the owner or owners. The application shall:

- a. Be made in writing on a form provided by the City Planner.
- b. State fully the circumstances and conditions relied upon as grounds for the application.
- c. Be accompanied by:
  - i. A legal description of the property involved.
  - ii. Adequate plans that allow for detailed review pursuant to this chapter.
  - iii. A biological report, which demonstrates compliance with this chapter and includes the information specified in subsection C of this section.
  - iv. All other materials as specified by the City Planner.

2. At the time of filing the application, the applicant shall pay the application fee contained in the most recent fee schedule adopted by the City Council.

C. Biological Report.

1. The biological report shall be prepared by a biologist. The report shall identify:

- a. The location and quantifies of all habitat and vegetation on the property (or any off-site work area).
- b. The location of any covered species.
- c. The location of any off-site wetland, riparian habitat, oak woodland, nesting raptors or narrow endemic species located within one hundred feet of the property.

2. If the biological survey is conducted outside the acceptable time of year for identifying narrow

endemic species, but the biologist identifies that narrow endemic species could be present on the property, then surveys for narrow endemic species must be conducted during the acceptable time of year in accordance with wildlife agencies protocols, if such protocols exist. The processing of the HMP permit application will be held in abeyance until the applicant submits subsequent surveys conducted during the acceptable time of the year.

3. For projects located in a proposed hardline area, a map shall be submitted showing the precise boundary of the proposed development area and the proposed preserve area consistent with the proposed hardline preserve area figures contained in the HMP.
4. For projects located in the standards areas, an analysis shall be submitted which exactly and clearly identifies:
  - a. How the project complies with the standards and conditions contained in the HMP, MHCP, and IA, and any applicable permit conditions in the NCCP and 10(a)1(B) permits;
  - b. The hardline preserve boundaries which would result from compliance with the standards; and
  - c. How the project is being located on the least biologically sensitive portion of the property.
5. For projects which impact narrow endemic species, the following information shall be provided:
  - a. A graphic depiction of all narrow endemic species located on the property where the development project is located;
  - b. A written biological description of the status of the narrow endemic species;
  - c. Quantification of both preservation of narrow endemic species and impacts to narrow endemic species associated with the project including direct and indirect effects on an area and individual plant basis;
  - d. A written report of the feasibility or infeasibility of total avoidance of narrow endemic species population(s);
  - e. A written description of project design features that reduce indirect effects such as edge treatments, landscaping, elevation differences, minimization and/or compensation through restoration or enhancement and consistently with the MHCP adjacency standards.
6. For projects which impact wetlands, the following information shall be provided:
  - a. A graphic depiction of all wetlands located on the property where the development project is located;
  - b. A written biological description of the status of the wetlands;
  - c. Quantification of proposed impacts to wetlands associated with the project;
  - d. Written analysis of the inability to avoid impacts to wetlands;
  - e. Written description of project design features that minimize impacts to wetlands including buffers as described in Section 7-11 of the HMP.
7. An analysis of how the development project complies with the additional preservation conditions contained in Section 21.210.040(D) of this chapter.

8. A description of proposed additional mitigation consistent with Sections 21.210.040(C) and (E) of this chapter.

9. Any other information, data or analysis deemed necessary by the City Planner.

D. Notices and Hearings.

1. Notice of an application for a minor HMP permit shall be given pursuant to the provisions of Sections 21.54.060.B and 21.54.061 of this title.

2. Notice of an application for a HMP permit shall be given pursuant to the provisions of Sections 21.54.060.A and 21.54.061 of this title.

E. Decision-Making Authority.

1. Applications for minor HMP permits and HMP permits shall be acted upon in accordance with the following:

a. Minor HMP Permit.

i. An application for a minor HMP permit may be approved, conditionally approved or denied by the City Planner based upon his/her review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the administrative hearing, if one is conducted pursuant to the provisions of Section 21.54.060.B.2 of this title.

ii. The City Planner may approve or conditionally approve the minor HMP permit if all of the findings of fact in subsection F of this section are found to exist.

b. HMP Permit.

i. An application for a HMP permit may be approved, conditionally approved or denied by the Planning Commission or City Council, as specified in Section 21.54.042 of this title.

ii. The decision on a HMP permit shall be based upon the decision-making authority's review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.

iii. The decision-making authority shall hear the matter, and may approve or conditionally approve the HMP permit if all of the findings of fact in subsection F of this section are found to exist.

F. Required Findings.

1. No minor HMP permit or HMP permit shall be approved unless the decision-making authority finds that:

a. The development project complies with the purpose and intent provisions of Section 21.210.010 of this chapter.

b. The proposed development is in compliance with all provisions of the Carlsbad habitat management plan (HMP), the implementing agreement, the multiple habitat conservation plan (MHCP), the natural community conservation plan (NCCP) and 10(a)1(B) permit conditions, the preservation requirements set forth in Section 21.210.040 of this chapter

and the management requirements set forth in Section 21.210.050 of this chapter.

- c. The project design as approved by the city has avoided and minimized impacts to habitat and covered species to the maximum extent feasible.
  - d. If applicable, the take of covered species is consistent with the citywide incidental take permit issued for the HMP, will be incidental to otherwise lawful activities related to construction and operation of the project and will not appreciably reduce the likelihood of survival and recovery of the species.
- G. Announcement of Decision and Findings of Fact. When a decision on a minor HMP permit or HMP permit is made pursuant to this chapter, the decision-making authority shall announce its decision in writing in accordance with the provisions of Section 21.54.120 of this title.
- H. Effective Date and Appeals. Decisions on minor HMP permits and HMP permits shall become effective unless appealed in accordance with the applicable provisions of Sections 21.54.140 and 21.54.150 of this title.
- I. Expiration, Extensions and Amendments.
1. The expiration period for an approved minor HMP permit or HMP permit shall be as specified in Section 21.58.030 of this title.
  2. The expiration period for an approved minor HMP permit or HMP permit may be extended pursuant to Section 21.58.040 of this title.
  3. An approved minor HMP permit or HMP permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

(Ord. NS-783 § 1, 2006; Ord. CS-164 § 10, 2011; Ord. CS-178 § CXXXII, 2012)

#### **§ 21.210.075. Incidental take permit.**

If a development project impacts a HMP covered species and an incidental take permit is required under the authority of the citywide incidental take permit issued for the HMP, the City Planner shall have the authority to issue the take permit as long as a minor HMP permit or HMP permit has been approved for the project.

(Ord. CS-178 § CXXXIII, 2012)

#### **§ 21.210.080. Habitat management plan amendment.**

Certain HMP implementation actions will require an amendment to the HMP as follows:

A. Minor Amendments.

1. Equivalency Findings. Minor changes to the boundary of proposed hardline preserve areas or other HMP maps which do not reduce the acreage or quality of habitat are considered minor amendments to the HMP and can be approved by the city with equivalency findings. The city shall provide written notice of the equivalency findings to the wildlife agencies, and unless the agencies object within thirty days of notification, the change will be considered automatically approved. If objections are raised, the city will meet with the agencies to resolve the objection and written approval of the change from the agencies will be required.
2. Consistency Findings. The conversion of standards areas to hardline preserve areas and the

processing of certain city projects not shown as hardline preserve areas in the HMP are considered minor amendments to the HMP and can be approved by the city with consistency findings as follows:

- a. Conversion of Standards Areas to Hardline Preserve Areas. If the City Planner determines that the new hardline preserve area boundary conforms to the standards contained in Section D.3(C) of the HMP, the planner shall consult with the wildlife agencies as part of the environmental review process for the development project. If objections to the new preserve area boundaries are not received during the public review period for the environmental review process from the wildlife agencies, consistency findings shall be prepared and adopted as part of the normal development permitting process for the project.
  - b. City Projects. For city projects not proposed as hardline preserve areas and not requiring any discretionary review and permitting process, the city shall review the project for compliance with the standards contained in Section 21.210.040 of this chapter. If the city project complies, it shall be determined to be consistent with the HMP and the City Planner shall make consistency findings.
3. Other Minor Amendments.
- a. Minor amendments may also be considered for the following cases:
    - i. The total impact to habitat is less than one acre, the habitat is not occupied by a covered species, does not impact a narrow endemic species or a wetland and the habitat mitigation in-lieu fee is assessed pursuant to Section 21.210.040(E) of this chapter;
    - ii. The development project is an essential public works project resulting in a public facility or infrastructure that benefits the community at large and strict adherence to the requirements would render the project completely infeasible;
    - iii. Strict application of the requirements of this chapter would result in development of less than twenty-five percent of the property. Development shall occur on the least biologically sensitive portion of the property;
    - iv. The alternate design results in a biologically superior development.
  - b. Process for Minor Amendments for These Cases. A request for a minor amendment shall be processed concurrently with any other permit required for the development project. Supporting data and information shall be submitted by the applicant for the minor amendment which clearly demonstrates that the project design, siting and size are the minimum necessary to make the project feasible or provide an economically viable use of the property. The City Planner shall consult with and obtain approval from the wildlife agencies in reviewing a request for a minor amendment. The minor amendment shall require the approval or conditional approval of the Planning Commission or City Council based on whichever authority is the final decision-maker on the concurrent permit(s) [Note: Such projects may require a major amendment (described below) depending upon the nature of the impact and conflict with the HMP, IA, MHCP, and NCCP and 10(a)1(B) permits].
  - c. Required Findings. No minor amendment request shall be approved unless the decision-making body finds that:

- i. If applicable, the project is an essential public works project that will service the community at large;
  - ii. The proposed project and all project alternatives have been analyzed in an appropriate environmental (CEQA) document;
  - iii. The impacts to habitat have been minimized to the maximum extent practicable;
  - iv. The project has mitigated its impacts to the maximum extent practicable; and
  - v. The project does not reduce the ability to meet the specific habitat conservation obligations of the HMP, IA, MHCP, and NCCP and 10(a)(B) permits.
- B. Major Amendments. Removal of lands from conserved areas, or reconfiguration of hardline areas resulting in a decrease of acreage, quality of habitat, or function of the conserved area shall constitute a major amendment to the HMP. Additions to the covered species list shall also require a major amendment to the plan. Major amendments shall require public, environmental review (CEQA and NEPA) and will be subject to the following amendment process:
1. The city will initiate a pre-amendment review with the wildlife agencies. In this review, the city will present a report that identifies the change or the affected species. The purpose of the review meeting will be to determine whether adequate information is available to consider approval of the change.
  2. Within ninety days of the review meeting, the wildlife agencies will notify the city that they have sufficient information to act on the proposed change; have specific items of additional information necessary to properly evaluate the proposed changes; or have determined that additional data collection and analysis is necessary for adequate evaluation of the impacts of the proposed change.
  3. Where specific items of additional information are requested, the city will provide the information to the extent it is reasonably available within ninety days. Where additional data collection and analysis are requested, the agencies will provide a detailed explanation of what is required and the purpose of the data and analysis.
  4. Once the additional information is received, the agencies shall notify the city within thirty days whether the change is approved. If approved, the change shall constitute an amendment of the plan which shall then be presented to the City Council for approval and adoption.

(Ord. NS-783 § 1, 2006; Ord. CS-164 § 10, 2011)

#### **§ 21.210.090. Guidelines.**

From time to time, the City Planner may, upon review by the City Attorney, prepare guidelines to assist in the implementation of this chapter or the HMP, including, but not limited to, wetland preservation and mitigation. The City Planner shall have the authority to approve and publish any guidelines.

(Ord. NS-783 § 1, 2006; Ord. CS-164 § 10, 2011)

#### **§ 21.210.100. Enforcement measures—Violations and remedies.**

- A. Whenever the City Planner determines that a violation of this chapter has occurred or an individual has impacted habitat without the benefit of an HMP permit, the following enforcement measures and remedies may be undertaken by the City Planner, in lieu of or in addition to any remedial actions undertaken in accordance with Section 15.16.140 of the municipal code.

1. Stop Work Notice. The City Planner shall issue a stop work order demanding that all activities in violation of this chapter be stopped until a valid HMP permit is obtained and corrective action is authorized by the City Planner.
2. Corrective Action. The City Planner, in consultation with the wildlife agencies, shall determine the extent of corrective action necessary to cure the violation. Corrective action may include a higher mitigation ratio than specified in Table 11 of Section D.6 of the HMP.
3. Owner-Notification. The owner of the property shall be notified in writing that a violation has occurred. The notification shall specify the location, nature and extent of the activity or condition which contributed to the violation, the corrective action needed to cure the violation and the period of time deemed necessary by the City Planner to correct the violation. The appeal process contained in Section 21.51.140 of this code shall apply to the City Planner's determination.
4. Record Notice of Violation. In the event that the owner does not correct the violation in the manner or within the time period requested by the City Planner, the City Planner shall record a notice of HMP violation against the property with the County Recorder. Upon completion of any corrective action and/or issuance of a valid HMP permit and upon payment of the investigation fee required pursuant to this section, the City Planner shall file a notice of release of HMP violation with the County Recorder releasing the property from the notice of violation.
5. Prohibition of Development Permits. Any property which has a notice of HMP violation recorded against it shall be prohibited from obtaining or using any development permit pursuant to Titles 18, 20 and 21 of this code until after all corrective actions are taken in accordance with the requirements of the City Planner and, a notice of release of violation has been recorded with the County Recorder.
6. Investigation Fee. An investigation fee established by City Council resolution shall be paid by the person responsible for the violation in accordance with the provisions of this chapter. The payment of such investigation fee shall not relieve any person from the performance of the corrective work or otherwise complying with the requirements of this chapter.
7. Criminal Penalties. Each person, firm or corporation who commences or does any activity contrary to the provisions of this chapter, or otherwise violates the provisions of this chapter, is guilty of an infraction. Every day during any portion of which any violation of any provisions of this title is committed, continued or permitted by such person, firm or corporation, shall be deemed a separate violation and shall be punishable as provided in this title and in Section 1.08.010(B) of this code.
8. Abatement of Public Nuisance. Any activity commenced or done contrary to the provisions of this chapter, or other violation of this chapter, shall be, and the same is declared to be, a public nuisance. Upon order of the City Council, the City Attorney shall commence necessary proceedings for the abatement of any such public nuisance in the manner provided by law. Any failure, refusal, or neglect to obtain a permit as required by this chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with any activity commenced or done contrary to the provisions of this chapter.
9. Civil Action. The City Attorney may, at the request of the City Planner, initiate any appropriate civil action in a court of competent jurisdiction to enforce the stop work notice, including the required corrective actions, including the recovery of any funds expended by the city to abate any public nuisance resulting from an unlawful act as defined in Section 15.16.170 of the

municipal code and any additional civil penalties provided for by law.  
(Ord. NS-783 § 1, 2006; Ord. CS-164 § 10, 2011)

ZONING

**Title 22****HISTORIC PRESERVATION**

<b>GENERAL REGULATION AND ADMINISTRATION</b>	Chapter 22.02	<b>§ 22.06.050.</b>	Historic district designation procedures.
<b>§ 22.02.010.</b>	Short title.	<b>§ 22.06.060.</b>	Historic resource and historic district de-designation procedures.
<b>§ 22.02.020.</b>	Purpose and intent.		
<b>§ 22.02.030.</b>	Boundaries and areas of application.		
<b>§ 22.02.040.</b>	Definitions.		
<b>HISTORIC RESOURCES, HISTORIC LANDMARKS AND HISTORIC DISTRICTS</b>	Chapter 22.06	<b>PERMITS AND PERMIT PROCEDURES</b>	Chapter 22.08
<b>§ 22.06.010.</b>	Establishment of City of Carlsbad historic resource register.	<b>§ 22.08.010.</b>	Permits to work on a historic resource.
<b>§ 22.06.020.</b>	Historic resource and historic landmark designation criteria.	<b>§ 22.08.020.</b>	Permit procedure.
<b>§ 22.06.030.</b>	Historic district designation criteria.	<b>§ 22.08.030.</b>	Permit criteria.
<b>§ 22.06.040.</b>	Historic resource and historic landmark designation procedures.	<b>§ 22.08.040.</b>	Duty to keep in good repair.
		<b>§ 22.08.050.</b>	Existing improvements.
		<b>§ 22.08.060.</b>	Enforcement and penalties.
		<b>PRESERVATION BENEFITS AND INCENTIVES</b>	Chapter 22.10
		<b>§ 22.10.020.</b>	Historical property contracts.

## CHAPTER 22.02 GENERAL REGULATION AND ADMINISTRATION

### **§ 22.02.010. Short title.**

This title shall be known as the "Historic Preservation Ordinance."  
(Ord. 9776 § 1, 1985; Ord. NS-433 § 2, 1997; Ord. CS-438 § 3, 2022)

### **§ 22.02.020. Purpose and intent.**

It is the intent and purpose of this title to:

- A. Provide a means to promote, preserve, protect, and enhance historic properties that represent or reflect elements of the city's cultural, social, economic, political and architectural history;
- B. Safeguard the city's historic heritage by encouraging preservation of its historic properties;
- C. Promote the use of historic resources, historic landmarks, and historic districts for the education, pleasure, and welfare of the people of the city; and
- D. Provide preservation benefits or incentives to property owners who voluntarily wish to preserve any structures, buildings, sites, artifacts, or landscape features, or portions thereof with historic authenticity, integrity, value, and/or importance.

(Ord. 9776 § 1, 1985; Ord. NS-433 § 2, 1997; Ord. CS-438 § 3, 2022)

### **§ 22.02.030. Boundaries and areas of application.**

This title shall apply to all historic resources, publicly and privately owned, within the corporate limits of the city.

(Ord. 9776 § 1, 1985; Ord. NS-433 § 2, 1997; Ord. CS-438 § 3, 2022)

### **§ 22.02.040. Definitions.**

For the purpose of this title, the following words and phrases shall have the following meanings:

"Alteration" means any change or modification, through public or private action, of any nominated historic resource, historic resource, or of any property located within a historic district, including, but not limited to, exterior changes to or modifications of, a structure or any of its architectural details or visual characteristics, including doors, windows, paint color, surface materials and texture, grading, surface paving, addition of new structures, cutting or removal of trees and other natural features, disturbances of archeological sites or areas, and the placement or removal of any objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings, and landscape accessories affecting the historic qualities of the property.

"Character-defining feature" means all those visual aspects and physical features that comprise the historical appearance and significance of the property including overall building shape; architectural elements embodying style; design; craftsmanship; decorative details; proportions; general arrangement and components of all surfaces including the kind, color or texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to the building and/or property; and includes interior visual aspects and physical features that are specifically stated as included in the property's historic designation.

"Commission" means the Historic Preservation Commission.

"Contributing resource" means a building, structure, site, artifact, or landscape feature, or portion thereof, which by location, design, setting, materials, workmanship, feeling, or association adds to the sense of authenticity, integrity, value, and/or importance of an historical district.

"Demolition" means the dismantling, razing, wrecking, or destruction in whole or in part of an improvement.

"Director" means the Community Development Director, or designee.

"Historic district" means a geographic area which possesses a significant concentration, linkage, or continuity of improvements united historically, culturally, or architecturally by plan, history, or physical development and which has been designated a historic district pursuant to the provisions of this title.

"Historic landmark" means any historic resource which meets the designation criteria for a historic landmark and has been designated a historic landmark pursuant to the provisions of this title.

"Historical property contract" means a contract between the city and the owner of a qualified historical property, which meets the requirements of California Government Code Sections 50280-50290 and the applicable provisions of this title. The terms "historical property contract" and "Mills Act contract" are used interchangeably throughout this title.

"Historic resource" means an improvement which has been determined to meet the eligibility criteria for historic resources and has been designated a historic resource by the City Council pursuant to the provisions of this title. Historic resources include local historic landmarks, contributing resources to a historic district, and qualified historical properties.

"Improvement" means any building, structure, site, artifact, or landscape feature, or portion thereof constituting a physical betterment of real property, or any part thereof.

"Mills Act" means the historic preservation incentive codified in California Government Code Sections 50280-50290 and California Revenue and Taxation Code Sections 439-439.4, as it exists now or as it may be amended.

"Nominated historic resource" means a resource nominated for placement in the City of Carlsbad Historic Resource Register as provided for in this title.

"Non-contributing resource" means all resources of a City of Carlsbad historic district that are not designated as contributing resources.

"Ordinary maintenance and repair" means construction, work or modification of real property, for which a building permit is not required by this code, and where the purpose and effect of such construction, work or modification is to correct deterioration or damage to a building, structure, site, artifact or landscape feature, or portion thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such change, deterioration, damage, destruction, or adverse effect.

"Preservation" means the act or process of applying measures to sustain the existing form, integrity, or materials of a historic resource. It may include stabilization work, as well as ordinary maintenance and repair.

"Professional qualification standards" means the United States Secretary of the Interior's Professional Qualification Standards which include the minimum education and experience required in several disciplines to perform identification, evaluation, registration, and treatment activities for archaeological and historic properties, as provided by Part 61 of Title 36 of the Code of Federal Regulations.

"Qualified historical property" shall have the same meaning as defined in Government Code Section 50280.1 as it now exists or as it may be amended.

"Reconstruction" means the act or process of reproduction through construction of the exact form and detail of a vanished building, structure, site, artifact, or landscape feature, or portion thereof, for the purpose of replicating its appearance as it appeared at a specified period of time.

"Register" means the City of Carlsbad Historic Resource Register. The local register is an inventory of improvements designated by the City Council as historic resources.

"Rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or character-defining features of the property which are significant to its historical, cultural or architectural authenticity, integrity, value, and/or importance.

"Restoration" means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

"Secretary of the Interior's Standards" means the United States Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings. The Standards for the Treatment of Historic Properties are codified at Part 68 of Title 36 of the Code of Federal Regulations, as it exists now or as it may be amended.

(Ord. 9776 § 1, 1985; Ord. 9835 § 1, 1987; Ord. NS-141 § 1, 1991; Ord. NS-433 § 2, 1997; Ord. CS-438 § 3, 2022)

**CHAPTER 22.06  
HISTORIC RESOURCES, HISTORIC LANDMARKS AND HISTORIC DISTRICTS**

**§ 22.06.010. Establishment of City of Carlsbad historic resource register.**

Resolutions adopting designations of historic resources and historic districts shall collectively be known as the City of Carlsbad Historic Resource Register. The list of historic resources in the local register will be kept on file with the City Clerk's office.

(Ord. 9776 § 1, 1985; Ord. NS-141 § 4, 1991; Ord. NS-433 § 3, 1997; Ord. CS-438 § 4, 2022)

**§ 22.06.020. Historic resource and historic landmark designation criteria.**

A. Any improvement may be designated as a historic resource if, upon recommendation of the Commission, it is found by the City Council to meet the following criteria:

1. The property owner consents to the proposed designation;
2. The Improvement must be at least 50 years old, or have achieved significance within the past 50 years, and exhibit one or more of the following attributes:
  - a. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the historic, cultural or architectural heritage of California or the United States; or
  - b. It is associated with the lives of persons important to local, California, or United States history; or
  - c. It embodies distinctive characteristics of a region, style, type, period or method of construction, or is representative of a notable work of an acclaimed builder, engineer, designer or architect that embodies significant structural, engineering, or architectural achievement; or
  - d. It has yielded or has the potential of yielding information important to the prehistory or history of the local area, California or the United States.

For any improvement less than 50 years old, "achieved significance" means it is of enduring importance within the appropriate historical cultural or architectural context and it can be demonstrated that sufficient time has passed to understand its authenticity, integrity, value, and/or importance.

3. The improvement retains enough of its historic, cultural or architectural character or appearance to be recognizable as a historic resource and to convey the reasons for its significance.
- B. Designation of a Historic Landmark. The Commission may recommend to City Council that a historic resource also be recognized as a historic landmark. The purpose of identifying a historic resource as historical landmark is to provide distinctive recognition of improvements that have outstanding character or historical, cultural or architectural interest or importance as part of the city's cultural, social, economic, political and architectural history.

(Ord. 9776 § 1, 1985; Ord. NS-141 § 5, 1991; Ord. NS-433 § 3, 1997; Ord. CS-438 § 4, 2022)

**§ 22.06.030. Historic district designation criteria.**

- A. Any finite and contiguous grouping of improvements that relate to one another may be designated as a historic district if, upon recommendation by the Commission, it is found by the City Council to

meet the following criteria:

1. Its designation is consented to by all property owners within the proposed historic district;
  2. It is a geographically definable area with a concentration of contributing resources linked historically, culturally, or architecturally through location, design, setting, materials, workmanship, feeling and/or association, in which the collective value of the improvements may be greater than the value of each individual improvement; and
  3. At least 50% of the contributing resources within the proposed historic district are already designated as historic resources, or otherwise determined by the Commission and City Council to be eligible for placement in the local register.
- B. Contributing resources share a time period in which most of the original construction occurred or there is some other shared historical, cultural or architectural period of context or significance.
- C. The City Council may, by resolution or council policy, establish additional criteria for the historic identification, protection, retention, and preservation of a district; designation thereof; and for reviewing proposed work on contributing resources and non-contributing resources within the district.

(Ord. 9776 § 1, 1985; Ord. 9835 § 2, 1987; Ord. NS-433 § 3, 1997; Ord. CS-438 § 4, 2022)

#### **§ 22.06.040. Historic resource and historic landmark designation procedures.**

Historic resources, including historic landmarks, shall be designated by the City Council in the following manner:

- A. A property owner may request an improvement be designated as a historic resource by submitting a written request for such designation to the Commission.
- B. Any such request shall be filed with the planning division upon prescribed forms and shall include the following information:
  1. Name and address of property owner(s) and assessor's parcel number and address of site;
  2. Description of the proposed historic resource, including special aesthetic, cultural, architectural, or engineering interest or value of a historic nature, including information about the architecture, notable features, construction, and other information indicating the historic significance of the proposed historic resource;
  3. Sketches, photographs, or drawings (old and/or recent) depicting the improvement as part of the city's cultural, social, economic, political and architectural history;
  4. Statement of condition of improvements;
  5. Explanation of any known threats to the improvements on the site;
  6. Additional information:
    - a. Site plan in appropriate scale;
    - b. Legal description of the property;
    - c. Photographs, old and recent;

- d. Proposed use;
  - e. Existing zoning;
  - f. Bibliography and references, and other print materials regarding the historical significance of the proposed historic resource;
  - g. Chain of title, if available.
7. An application fee may be required if so specified in the City of Carlsbad Master Fee Schedule.
  8. Other information requested by the planning division.
- C. Within 90 calendar days of receipt of a completed application, the Commission shall hold a public hearing to review the application to designate a historic resource.
- D. Notice of the public hearing shall be given as provided in Section 21.54.060(A)(2) of this code. In addition, notice of the date, place, time and purpose of the hearing shall be mailed, return receipt requested, to the owner of the nominated historic resource as shown on the last equalized assessment roll at least 14 days prior to the date of the public hearing. Failure to send notice by mail to any property owner when the address of such owner is not on the latest equalized assessment roll shall not invalidate any proceedings in connection with the proposed designation.
- E. An application to designate any improvement that is already listed in the National Register of Historic Places or the California Register of Historic Places shall be presented directly to the City Council. A public hearing by the Commission is not required.
- F. Upon receipt of an application for historic designation, the Director shall notify the building official of the pending application. For a period of 90 calendar days beginning upon the date the notice of hearing is deposited in the mail, the property owner and/or any authorized representative of the property for which a historic designation application is pending shall be prohibited from undertaking any alteration, construction, grading, demolition or removal of the nominated historic resource, except ordinary repair and maintenance, and no permit to undertake such work shall be issued by the city.

If no final action has been taken as to the historic resource designation within the 90-day period, these restrictions shall expire unless the Commission, with the consent of the property owner and/or any authorized representative, elects to continue its consideration of the property for historic resource designation. If the Commission, with the consent of the owner and/or any authorized representative, makes such an election, said restrictions shall remain against the property until final action and the Director shall notify the appropriate city officials of said restrictions. Nothing in this provision shall be construed as a prohibition or infringement on the legal use of a property pending consideration by the Commission.

The provisions of this section shall not apply to the construction, grading, alteration, demolition or removal of any structure or other feature, where a permit for the performance of such work was issued prior to the date that the property owner filed the historic resource designation application with the city, and where such permit has not expired or been canceled or revoked, provided that construction is started and diligently pursued to completion in accordance with this code.

- G. After the public hearing, the Commission shall by resolution make a report and recommendation to the City Council. If the Commission determines that the improvement does not meet historic resource criteria, the process shall terminate and the Commission shall notify the applicant of such termination

in writing within 10 days of the Commission's determination. If the Commission determines that the resource warrants historic resource designation and the property owner has consented to same in writing, then the Commission shall submit a written recommendation to the City Council incorporating its reasons in support of the proposed designation. A site shall not be designated a historic resource without the property owner's consent.

- H. The City Council shall hold a public hearing on the proposed historic resource designation within 60 calendar days of the receipt of the recommendation from the Commission.
- I. At the conclusion of the public hearing on the proposed designation, the City Council shall, by resolution, designate or conditionally designate, or disapprove the designation of the historic resource. The City Council may also designate a historic resource as a historic landmark, as provided in Section 22.06.020(B). Written notice of the City Council action shall be mailed to the property owner.
- J. The resolution designating a historic resource shall be recorded with the County Recorder in accordance with Public Resources Code Section 5029 and Government Code Section 27288.2. A property approved for listing in the local register shall not be considered designated until the City Clerk has submitted the resolution to the county and the county has recorded the designation. Property owner(s) shall be responsible for any fees required to record a historic designation.

(Ord. 9776 § 1, 1985; Ord. NS-433 § 3, 1997; Ord. CS-438 § 4, 2022)

#### **§ 22.06.050. Historic district designation procedures.**

Historic districts shall be established by the City Council in the following manner:

- A. The procedures for designating a historic district shall be the same as for designating a historic resource, except as otherwise provided in this section.
- B. A property owner within a proposed historic district may submit an application for designation of a historic district. Such application shall be made in writing, filed with the planning division upon the prescribed form and shall include the following data:
  1. Boundaries of the proposed district and a list of names and addresses of property owners, assessor's parcel numbers and addresses of properties within the boundaries;
  2. Description of the proposed historic district, including special aesthetic, cultural, architectural, or engineering interest or value of a historic nature, and a listing of all parcels of land within the boundaries of the proposed district, labeled as a potential contributing resource or non-contributing resource.
  3. Signatures of all property owners within the proposed historic district consenting to the historic district.
  4. Bibliography and references, and other print materials regarding the historical significance of the proposed historic district;
  5. Sketches, photographs or drawings (old and/or recent) depicting the proposed district, or parts thereof, as part of the city's cultural, social, economic, political and architectural history;
  6. Statement of condition of improvements within the proposed district;
  7. Explanation of any known threats to any improvements within the proposed district;

8. An application fee may be required if so specified in the City of Carlsbad Master Fee Schedule.
  9. Other information requested by the planning division.
- C. An application is incomplete and no public hearing shall be scheduled before the Commission until the written consent of all of the owners of property within the proposed historic district has been obtained.
- D. If the Commission determines that the area warrants historic district designation, it shall submit a written recommendation to the City Council incorporating its reasons in support of the proposed historic district designation. Such recommendation shall include a report containing the following information:
1. A map showing the proposed boundaries of the historic district identifying all contributing resources and non-contributing resources within the boundaries;
  2. An explanation of the significance of the proposed district and description of the historical, cultural or architectural resources within the proposed boundaries;
  3. Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, parking regulations, and any other modification to existing development standards necessary or appropriate to the preservation of the proposed historic district. Any recommendations related to zoning may require an amendment to Title 21 and application pursuant to Chapter 21.52 of this code.
- E. If the historic district application is approved by the City Council, all contributing resources within the district shall be designated as a historic resource. The resolution designating the historic resource(s) shall be recorded with the County Recorder in accordance with Public Resources Code Section 5029 and Government Code Section 27288.2. A property approved for listing in the local register shall not be considered designated until the City Clerk has submitted the resolution to the county and the county has recorded the designation. Property owner(s) shall be responsible for any fees required to record a historic designation.

(Ord. CS-438 § 4, 2022)

#### **§ 22.06.060. Historic resource and historic district de-designation procedures.**

The procedure for de-designation of a historic resource or historic district from the local register shall be as follows:

1. Owners of property with a recorded Mills Act contract who voluntarily seek to be deleted from the local register, shall first follow the procedures and requirements for Mills Act contract cancellations, provided in Chapter 22.10 of this code.
2. Owners of property without a recorded Mills Act contract may request de-designation from the register, or deletion or modification of a historic district within which their property is located, by submitting an application to the Director. A fee, as set forth in the City of Carlsbad Master Fee Schedule, shall accompany each application for de-designation. The fee shall be in an amount reasonably calculated to reimburse the city for its reasonable and necessary costs in receiving, processing and reviewing de-designation applications, including preparation of a historic resource assessment.
3. A historic resource assessment to provide evidence for the de-designation may be requested by the Director as part of the application and will be paid for by the applicant.

4. The Commission shall consider the de-designation application and historic resource assessment at a public hearing, which shall be noticed in the same manner as public hearings under Section 22.06.040 of this chapter. After the public hearing, the Commission shall by resolution make a report and recommendation to the City Council. Within 60 calendar days of the Commission's recommendation, the City Council shall hold a public hearing to consider the de-designation application. The City Council's action shall state the reasons for the de-designation by resolution.

As needed, the Director shall propose and process for de-designation from the local register those historic resources and historic districts which have been changed, deteriorated, damaged, destroyed or adversely affected to such an extent that, in the Director's opinion, they no longer qualify for placement on the local register. Requests for de-designation by the Director shall follow the procedures provided in this section. No fee shall be required.

(Ord. CS-438 § 4, 2022)

**CHAPTER 22.08  
PERMITS AND PERMIT PROCEDURES**

**§ 22.08.010. Permits to work on a historic resource.**

- A. It is unlawful for any person to alter, tear down, demolish, construct, remove, or relocate any nominated historic resource, historic resource, or any property located within a historic district without first obtaining a permit from the city as provided by this chapter. An application fee may be required if so specified in the city's master fee schedule.
- B. Exceptions.
  1. Ordinary maintenance and repair. No permit shall be necessary for ordinary maintenance and repair.
  2. Public health and safety. No permit shall be necessary for work on an improvement when the city's building division certifies that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified using the California Historical Building Code.
  3. Economic hardship. The owner of a historic resource may request to be exempted from the permit requirement and carry out work that may adversely affect the authenticity, integrity, value and/or importance of the historic resource on the basis of extreme financial hardship or adversity. Such request shall be submitted by the property owner and considered by the Commission (and City Council if appealed) in the same manner as an application described in Section 22.08.020. The Director may require the owner to furnish material evidence supporting the request for exemption.
- C. The permit required by this chapter shall be in addition to any other permit required for a proposed project.

(Ord. 9776 § 1, 1985; Ord. NS-433 § 4, 1997; Ord. CS-438 § 5, 2022)

**§ 22.08.020. Permit procedure.**

The permit procedure to alter, tear down, demolish, construct, remove, or relocate any portion of a nominated historic resource, historic resource, or any property located within a historic district is as follows:

- A. An application for a permit to do work at a historic resource or any property within a historic district shall be submitted to the development processing division on forms designated by the City Planner.
- B. If the application is for work on a historic resource subject to a historical property contract between the city and the property owner(s), then the City Planner shall review the application to ensure that the proposed alteration, demolition, reconstruction, rehabilitation or restorative work is consistent with the terms of the historical property contract, the Secretary of the Interior's Standards and any local design guidelines or standards adopted for the historic district, if applicable. If the City Planner determines that the application is consistent with those criteria, the application may be approved and a permit may be issued administratively. If the proposed alteration, demolition, reconstruction, rehabilitation or restorative work was not listed in the historical property contract approved by City Council, or is determined to be inconsistent with the Secretary of the Interior's Standards or local design guidelines or standards, then the application shall be processed pursuant to subsection C of this section.

- C. If the historic resource is not subject to a historical property contract between the city and property owner(s), the City Planner shall review the application and provide a recommendation to the Commission. Within 60 calendar days from the receipt of such complete application, the Commission shall hold a public hearing to review the application and consider the City Planner's recommendation. Notice of the public hearing shall be given as provided in Section 21.54.060(B) of this code. At the conclusion of the public hearing on the permit application, the Commission shall, by resolution, issue or deny, in whole or in part, any permit application.
- D. The decision of the Commission may be appealed to the City Council by filing an appeal with the City Clerk's office within 10 calendar days of the date of the Commission's decision. If an appeal is filed, the City Council shall hold a public hearing on the application within 30 days of receipt of the appeal. Notice of the public hearing shall be given as provided in Section 21.54.060(B) of this code.  
(Ord. 9776 § 1, 1985; Ord. NS-433 § 4, 1997; Ord. NS-676 § 15, 2003; Ord. CS-164 § 10, 2011; Ord. CS-438 § 5, 2022)

#### **§ 22.08.030. Permit criteria.**

A permit for the proposed work shall be issued if, and only if, the decision-maker determines:

- A. That the proposed work would comply with the Secretary of the Interior's Standards and not detrimentally deteriorate, damage, destroy, or adversely affect the authenticity, integrity, value, and/or importance of the historic resource;
- B. That the proposed exterior work will be compatible with the external appearance of existing improvements on the property or within the historic district, if applicable; and
- C. That the proposed work is consistent with the purpose and intent of this chapter.  
(Ord. 9776 § 1, 1985; Ord. NS-433 § 4, 1997; Ord. CS-438 § 5, 2022)

#### **§ 22.08.040. Duty to keep in good repair.**

The owner, occupant or other person legally responsible for a nominated historic resource, historic resource, or any property located within a historic district shall keep in good repair all portions of such historic resource or property within a historic district, including all interior portions and appurtenances thereof whose maintenance is necessary to prevent change, deterioration, damage, destruction, or adverse effect to the authenticity, integrity, value, and/or importance of the resource.  
(Ord. 9776 § 1, 1985; Ord. NS-433 § 4, 1997; Ord. CS-438 § 5, 2022)

#### **§ 22.08.050. Existing improvements.**

All maintenance and repairs, alterations, reconstructions, restorations, preservations, or rehabilitations of existing improvements shall conform with the historical property contract, and to the guidelines and requirements of the Secretary of Interior's Standards, the California Department of Parks and Recreation Office of Historic Preservation and the State Historical Building Code, as applicable.  
(Ord. 9776 § 1, 1985; Ord. NS-433 § 4, 1997; Ord. CS-438 § 5, 2022)

#### **§ 22.08.060. Enforcement and penalties.**

Any person who violates any of the provisions of this title, including by failing to comply with a condition of approval of any permit or preservation benefit or incentive issued under this title, is guilty of an infraction punishable as provided in Section 1.08.010 of this code, or in the alternative by the administrative code enforcement remedies of Chapter 1.10 of Title 1 of this code.

City of Carlsbad, CA

§ 22.08.060

CARLSBAD CODE

§ 22.08.060

(Ord. CS-438 § 5, 2022)

## CHAPTER 22.10 PRESERVATION BENEFITS AND INCENTIVES

### **§ 22.10.020. Historical property contracts.**

- A. Owners of qualified historical properties improved with at least one building may receive a potential reduction in property taxes through a historical property contract (Mills Act contract), pursuant to California Government Code Section 50280 et seq. and California Revenue and Taxation Code Section 439 et seq., collectively "the Mills Act." The purpose of this section is to implement the Mills Act in order to establish a voluntary process to enter into contract with owners of qualified historical properties that have previously been designated as a historic resource for property tax relief and for the preservation of those historic resources.
- B. Individual properties that are not a qualified historical property at the time of application for a Mills Act contract may submit an application for the property to be listed in the register simultaneously with the application for a Mills Act contract. The applications will be processed concurrently.
- C. Applications. Mills Act contract applications may be submitted to the planning division on a form provided by the City Planner. All applications shall include:
  1. Documentation of status as a qualified historical property or nominated historic resource;
  2. A detailed 10-year work plan of proposed preservation, restoration and/or repair prepared by, or with the concurrence of, an individual qualified under the applicable professional qualification standards;
  3. A description of the property;
  4. Property owner(s) affidavit and acknowledgement of the Mills Act mandatory provisions;
  5. A completed Mills Act contract notarized and signed by the property owner(s); and
  6. All required fee(s), as set by council resolution.
- D. Procedure. Following receipt of a completed application, the City Planner or designee shall review the application materials and schedule the pre-contract approval inspection of the exterior and interior of the subject property with the property owner(s). The purpose of the inspection is to confirm and photo-document the condition of the property and review the proposed work plan of improvements. Failure of a property owner to allow access to the property for purposes of the property inspection shall be grounds for denial of the application. Once the inspection is conducted and the planning division has completed its review of the application to develop a recommendation, the planning division shall forward its recommendation on the Mills Act contract to the Commission. The Commission shall conduct a public hearing to consider the contract terms, including the 10-year work plan, and make a recommendation to City Council regarding the approval, conditional approval or denial of the Mills Act contract.
- E. Following receipt of the Commission's recommendation, the City Council shall conduct a public hearing and shall either approve, conditionally approve or deny the Mills Act contract. The decision of the City Council shall be final.
- F. No later than 20 calendar days after the city enters a Mills Act contract, the City Clerk shall record with the County Recorder a copy of the contract, which shall describe the property subject thereto. The City Clerk shall notify the property owner(s), the county tax assessor's office and the State Office

of Historic Preservation of the recorded Mills Act contract.

- G. Mills Act contract mandatory provisions. All Mills Act contracts shall meet the requirements of Government Code Section 50280 et seq., as it exists now or as may be amended.
- H. Notice of Nonrenewal. Either party to a Mills Act contract may file a notice of nonrenewal at any time after entering into the contract. The effect of the notice of nonrenewal shall be as prescribed in Government Code Section 50282 and Revenue and Taxation Code Section 439.3.
- I. Cancellation.
  - 1. Cancellation of a Mills Act contract shall be in accordance with the terms of the agreement and Government Code Sections 50284—50286.
  - 2. As an alternative to cancellation of the contract, the city may bring any action in court necessary to enforce the Mills Act contract, including an action to enforce the contract by specific performance or injunction.
  - 3. If the qualified historical property under an active Mills Act contract is destroyed by earthquake, fire, flood, or other natural disaster such that in the opinion of the building official more than 60% of the original fabric of the building or structure must be replaced, the Mills Act contract may be cancelled, in accordance with the cancellation provisions of the Mills Act, because the authenticity, integrity, value and/or importance of the building structure will have been destroyed. If the qualified historical property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City Council to frustrate the purpose of the Mills Act contract, then the contract may be cancelled in accordance with the cancellation provisions of the Mills Act. No cancellation fee pursuant to Government Code Section 50286 shall be imposed if a Mills Act contract is cancelled pursuant to this subsection.
- J. The City Manager or designee may adopt written administrative regulations that are consistent with and further the requirements of this chapter.
- K. Enforcement. Enforcement of this chapter and Mills Act contracts shall be as allowed by Government Code Sections 50280—50290 and as provided by the terms of the Mills Act contract recorded on the property.

(Ord. CS-438 § 6, 2022)