



# ZONING ORDINANCE

**APPROVED BY THE CITY COUNCIL**

**OCTOBER 13, 1998**

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# CITY OF HERCULES

## ZONING ORDINANCE

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**MAP: Land Use and Zoning**

# ARTICLE I: GENERAL PROVISIONS

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## CHAPTER 1: TITLE, COMPONENTS AND PURPOSES

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### **1.100 Title and Enactment**

The Title shall be known as the "City of Hercules Zoning Ordinance" hereinafter known as the "Zoning Ordinance."

### **1.200 Components**

The Zoning Ordinance is composed of the following components:

1. Regulations, known as the zoning regulations, establishing classes of zoning districts governing the use and development of land, placement and sizing of structures and improvements, and procedures for development application, review and appeal.
2. A map or set of maps, known as the Zoning Map, which delineates boundaries of zoning districts within the City of Hercules

A copy of the zoning regulations and map together with a record of all adopted amendments shall be kept on file with the City Clerk and shall constitute the original record of the Zoning Ordinance. A copy of the zoning regulations and map shall also be kept on file with the Community Development Director.

### **1.300 Purpose**

The overall purpose of the Zoning Ordinance is to promote the public health safety and welfare and general prosperity with the aim of preserving a wholesome, serviceable and attractive community. More specifically, the purpose of the Zoning Ordinance to:

1. Preserve and enhance the community's quality of life with well-balanced growth and development.

2. Enhance and create a community with a wide range of choices, services, and amenities.
3. Accommodate expansion of development into vacant or underdeveloped lands and lands subject to redevelopment.
4. Provide a set of regulations and procedures to review and process land use and development applications in an open, fair and equitable manner.
5. Facilitate attractive, functional and safe development within the City for a variety of uses, which may at times be combined on a site.
6. Minimize adverse environmental effects and fiscal consequences to the community.

#### **1.400 Authority and General Plan Consistency Organization**

The Zoning Ordinance is the primary tool for implementing the goals, objectives, policies and standards of the Hercules General Plan, pursuant to the mandated provisions of the State Planning and Zoning Law (Government Code Section 65000 et seq.) and other applicable State and local requirements.

The land use zoning districts contained within the Zoning Ordinance are consistent with and implement the land use designations of the General Plan as shown in Section 5.200. Overlay districts follow the adopted Land Use Map and the policies and standards of the General Plan related to these overlay regulations. In addition, the purposes, performance standards and development regulations of the zoning and overlay districts incorporate General Plan policies and standards to implement the General Plan and require that all development within the boundaries of the City be consistent with the General Plan.

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## **CHAPTER 2: ORGANIZATION, APPLICABILITY AND INTERPRETATION**

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### **2.100 Organization**

Structure of Regulations. The zoning regulations are divided into five articles:

Article I	General Provisions
Article II	Zone District Regulations
Article III	Property Development and Use Regulations
Article IV	Administration
Article V	Definitions

Land Use and Property Development Regulations. Regulations of land use and property development are specified within each zoning district contained in Article II and within Article III. The process of reviewing zoning permits and administering the Zoning Ordinance is contained within Article IV.

### **2.200 Applicability of Zoning Ordinance**

The Zoning Ordinance shall apply to all property, whether owned by private persons, firms, corporations or organizations, the United States of America or any of its agencies, the State of California or any of its agencies or political subdivisions, any city or county, including the City of Hercules or any of its agencies, or any authority or district organized under the laws of the State of California.

### **2.300 Administration of Zoning Ordinance**

The Community Development Director or the city official acting in such capacity shall administer the Zoning Ordinance. The Planning Commission and City Council shall participate in the application review process as set forth in Article IV.

## **2.400 Rules for Interpretation**

The provisions of the Zoning Ordinance shall be interpreted as setting forth standards and procedures for the promotion of the public health, safety, comfort, convenience, and general welfare of the City of Hercules. The Zoning Ordinance implements the General Plan. The General Plan shall have precedence in the event that any conflict between the two documents should arise. Where conflicts occur between the provisions of the Zoning Ordinance and the Building Code or other regulations of the City, the more restrictive shall apply. Where conflicts occur between the provisions of the Zoning Ordinance, the most recently adopted shall apply; if the provisions were adopted on the same date, the most restrictive shall apply. Where uncertainty exists regarding the interpretation of any provision of the Zoning Ordinance or its application to a particular site or situation, the Community Development Director shall determine the intent and application of the provision.

Whenever any uncertainty exists as to the boundaries of any district shown upon the Official Zoning Map the following provisions shall apply:

1. Where boundaries are indicated as approximately following the centerline of streets, alleys, lot lines, or flood control channels, such lines shall be interpreted to be such boundaries.
2. In the case of unsubdivided property or where a zone boundary divides a lot, the location of such boundaries, unless indicated by dimensions or legal descriptions, shall be determined by use of the scale appearing on the Zoning Map.
3. Where further uncertainty exists, the Community Development Director shall determine the location of the boundary in question, giving due consideration to the location indicated on the Zoning Map and the objectives of the Zoning Ordinance and the purposes set forth in the district regulations.

In addition to the provisions of the Municipal Code, the following rules shall apply to interpreting the requirements of the Zoning Ordinance:

1. The following conjunctions shall be interpreted as follows unless the context of the language clearly indicates a contrary interpretation.
  - A. "And" indicates that all connected words, phrases or provisions shall apply.
  - B. "Or" indicates that the connected words, phrases or provisions apply singly or may apply in combination depending on the context.
  - C. "Either ... or" indicates that the connected words, phrases or provisions apply singly but not in combination.
2. When a conflict arises between the regulations of different zoning districts, overlays, development standards, performance standards or other provisions, the following shall apply provided that such interpretation is not contrary to the objectives and policies of the General Plan.
  - A. Any guidance for priority within the regulations in question such as " the most recently amended regulation shall prevail" shall receive 1st preference in resolving an apparent conflict.
  - B. The more restrictive requirement shall receive 2nd preference.

- C. District specific standards shall receive preference over citywide standards as a 3rd preference.
- 3. If there is a conflict between the text and a diagram or figure, the text shall prevail.
- 4. All references to days are calendar days unless otherwise indicated. If a time deadline falls on a weekend or holiday, the deadline shall be extended to the next working day of the City.

An interpretation of the zoning regulations or provisions and zoning district boundaries by the Community Development Director may be appealed to the Planning Commission and City Council as provided in Chapter 44.

## **2.500 Severability**

If any Article, Chapter, Section, sentence, clause phrase, figure or table of the Zoning Ordinance is declared invalid by a court of competent jurisdiction, the validity of the remaining portions of the Zoning Ordinance shall not be affected.

# ARTICLE II: ZONE DISTRICT REGULATIONS

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## CHAPTER 5 APPLICATION OF ZONE DISTRICT REGULATIONS

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### **5.100 Purpose**

The purpose of this Article and Chapter is to:

1. Encourage, classify, regulate, and designate the highest and best location and use of buildings, structures, and land to serve the needs of residences, commerce, industry, public and other land uses in appropriate places.
2. Regulate and limit the height, size, density and placement of buildings and other structures,
3. Regulate and determine the size and extent of setbacks and yards, landscaped areas and usable open spaces associated with a development or use.
4. Facilitate adequate provisions for community infrastructure such as transportation, water, sewage, drainage, parks, schools, open spaces and other public requirements.
5. Lessen congestion on streets and provide for alternative means of transportation such as transit, bicycle and pedestrian facilities.
6. Provide for a variety of specialized, mixed use districts within appropriate areas of the community.

### **5.200 Zone Districts Established**

The following Zone Districts are hereby established as listed below along with the zoning map symbol and the General Plan land use designation that is being implemented by the Zoning District.

<b>Zoning Districts</b>	<b>Zoning Symbol</b>	<b>General Plan Land Use Designation</b>
<b>Residential Districts</b>		
Residential Single Family Estate	RS-E	Single Family - Estate
Residential Single Family Low Density	RS-L	Single Family - Low Density
Residential Multi-Family Low Density	RM-L	Multi-Family - Low Density
Residential Multi-Family Medium Density	RM-M	Multi-Family - Medium Density
Residential Multi-Family High Density	RM-H	Multi-Family - High Density
<b>Mobile Home Park</b>	P-M-H	
<b>Commercial Districts</b>		
General Commercial	CG	General Commercial
Community Commercial	CC	Community Commercial
Recreation Commercial	CR	Recreation Commercial
<b>Industrial Districts</b>		
Industrial	I	Industrial
<b>Public and Quasi Public Districts</b>		
Public/Quasi-Public - City	P/QP-C	Public - City
Public/Quasi-Public - Open Space	P/QP-O	Public - Open Space
Public/Quasi-Public - Parks	P/QP-P	Public - Parks
Public/Quasi-Public - Schools	P/QP-S	Public - Schools
<b>Mixed Use Districts</b>		
Commercial Public	CP	Commercial Public
Historic Town Center	HTC	Historic Town Center
Industrial Residential	IR	Industrial - Residential
Planned Commercial Industrial	PC-I	Planned Commercial - Industrial
Planned Commercial Residential	PC-R	Planned Commercial - Residential
Planned Office/R&D	PO/RD	Planned Office/R&D
Waterfront Commercial	WC	Waterfront Commercial
<b>Overlay and Combining Districts</b>		
Historic Overlay District	HDO	
Special Flood Hazard Area	FH	
Special Study Areas	SSA	Special Study Areas 1 and 2
Refugio Creek Overlay District	RCO	
School-Park Overlay District	S-P-O	School-Park Overlay District

## **5.210 Zoning Maps**

The Zoning Map is hereby made a part of this ordinance. The "Zoning Map" of the City of Hercules as adopted and attached sets forth the location of all Zone Districts within the City. All property within the City is placed in zone districts as indicated on the zoning map, and no property shall be used except in accordance with zoning designations on the zoning map and the provisions of this ordinance. Overlay Districts are at times designated on the Zoning map or are located by definition within the text, or may be applied upon approval of an application.

All zone changes and amendments to the Zoning Map as set forth in Chapter 51 shall be noted on the map with the date of the zone change or amendment and reference to the implementing ordinance.

## **5.220 Vacation of Public Street or Alley**

Where a public street or alley or any portion of the same is officially abandoned, the area comprising such vacated street shall acquire the zoning district classification of the adjacent property to which it reverts.

## **5.300 Allowable Land Uses**

Allowable land uses within a zoning district are classified by general land uses rather than extensive lists of specific land uses. The zoning district Land Use Regulations table lists general land uses and uses common to it that may be appropriate as permitted or conditional uses within the zoning district. In most cases, permitted uses will require an administrative use permit as designated within the Land Use Regulations table. In addition, prohibited uses may be identified where such uses may be appropriate within a broad land use category, but are inappropriate for a specific zoning district in the context of the specific purposes of the district and its allowed uses.

The conformance and appropriateness of a specifically proposed use shall be determined by the Community Development Director. When a use is not specifically listed in a classification, the use may be permitted if the Community Development Director determines that the use is similar to others listed in a classification.

In determining conformity, appropriateness and similarity, the Community Development Director shall use the following standards:

1. The proposed use meets the intent of and is consistent with the General Plan description of the land use classification; and is consistent with General Plan goals, objectives, policies and standards.

2. The proposed use meets the stated purpose and general intent of the zoning district in which it is proposed.
3. The proposed use is consistent with or shares common characteristics with and is not of greater intensity or density and will not generate greater environmental impact than uses listed in the zoning district in which it is proposed.
4. The proposed use meets specific standards for similar uses allowed within a zoning district.
5. The proposed use can meet the performance standards for the zoning district along with the general performance standards of the City set forth in Chapter 31.
6. The proposed use does not adversely affect the public health, safety or general welfare of the community nor constitute a public nuisance.

The Community Development Director may determine that a specific use does not meet conformance and appropriateness standards, whether or not named within the uses of a zoning district, if its characteristics are substantially incompatible or impacts substantially greater than the uses typical to the zoning district. An appeal of the decision of the Community Development Director may be made to the Planning Commission and City Council as per Chapter 44. An appeal of a decision regarding allowable uses must be made in writing within 10 working days of the decision. In reviewing an appeal, the Planning Commission and City Council shall use the criteria set forth above.

Any new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a Zoning Ordinance text amendment if approved by City Council as provided in Chapter 51.

### **5.310 Addition of Allowed Uses**

Upon application or on its own initiative, the Council may add a use to the list of permitted uses prescribed within each zoning district if the Council makes the following findings:

- (A) That the use will be an appropriate addition to the list of permitted uses because the use has the same basic characteristics as the uses permitted in the district.
- (B) That the use reasonably can be expected to conform with the required conditions prescribed for the district.
- (C) That the use will not be detrimental to the public health, safety or general welfare.
- (D) That the use will not adversely affect the land use character of any district in which it is proposed to be permitted.
- (E) That the use will not create more vehicular or rail traffic than the volume normally created by any of the uses permitted in the district.
- (F) That the use will not create more odor, dust, dirt, smoke, noise vibration illumination, glare, unsightliness or any other objectionable influence than the amount normally created by any of the uses permitted in the district.

- (G) That the use will not create any greater hazard of fire or explosion than the hazards normally created by any of the uses permitted in the district.

When a use has been added to a list of permitted uses in accordance with the procedure prescribed in this section, the use shall be deemed to be listed as a permitted use in the appropriate section and shall be added to the text of that section of this ordinance when it is next published with the notation of the date when the use was added to the list.

### **5.320 Conformity with District Regulations**

No site or structure shall be used or designated for uses for any purpose or in any manner other than in conformity with the regulations for the district in which the site or structure is located, or, in the case of a planned development, in conformity with the regulations prescribed in Chapter 48. No structure shall be erected and no existing structure or use shall be moved, altered or enlarged except in conformity with the regulations for the district in which the structure or use is located, or, in the case of a planned development, in conformity with the regulations prescribed in Chapter 48. No yard or other open space surrounding any structure or use shall be used, encroached upon or reduced in any manner except in conformity with the regulations for the district in which the yard or open space is located, or, in the case of a planned development, in conformity with the regulations prescribed in Chapter 48. No site held in one ownership at the time of the adoption of this ordinance or at any time thereafter shall be reduced in any manner below the minimum area, frontage, width or depth prescribed for the district in which the site is located.

### **5.330 Use of Nonconforming Sites**

Except as otherwise provided in this section, a site shown on a duly approved and recorded subdivision map or for which a deed or valid contract of sale was recorded prior to the adoption of this ordinance and which had a legal area, frontage, width and depth at the time that the subdivision map, deed or contract of sale was recorded, but which now has an area, frontage, width or depth less than the minimum prescribed for the zoning district of the site may be used for any permitted use. However, such a site shall be subject to all other regulations for the district in which the site is located, or, in the case of a planned development, in conformity with the regulations prescribed in Chapter 48. Two or more adjoining vacant sites, which are in the same ownership as of the date of adoption of this ordinance or subsequent thereto, with continuous frontage and each having an area, width or frontage less than the minimum prescribed for the zoning district of the sites shall be subject to all regulations for their zoning district(s) including minimum area, width and frontage requirements, as if the sites constituted a single parcel of real property.

### **5.340 Accessory Uses**

Uses and structures that are subordinate and incidental to the principal use or structure on a site. The range of uses and structures allowed as accessory uses are identified in the Definitions, Chapter 60.200. Accessory structures may require an administrative use permit

and may have conditions limiting use as determined by the land use regulations for each zoning district.

### **5.350 Temporary Uses**

Temporary uses and structures are of limited duration. Examples of temporary uses regulated by the Zoning Ordinance include animal shows, Christmas tree sales, circuses and carnivals, commercial video/filming and production, outdoor retail sales, farmers market, personal property sales, religious assembly on a temporary site, signage, street fairs, non-recurring swap meets and flea markets, and trade fairs. Administrative use permits are required in all cases. Nonrecurring garage sales of personal property within residentially zoned and developed areas are exempt from use permit requirements as are City sponsored or public events on City property, school sponsored events on school property and church sponsored events on church property. Non-recurring shall mean events that are limited in duration to 48 hours and are conducted by a sponsor no more than 3 times in a calendar year

### **5.400 Regulation of Property Development Standards**

Property development standards are set forth in each zoning district and some overlay districts. Property development standards regulate the development of structures within a property including site area, unit and floor area density, lot size, lot dimensions, setbacks and yards, site coverage, usable open space, height, and references to parking, signage, refuse storage areas, mechanical equipment screening and nonconforming structures. In most cases the standards identify a minimum and/or maximum requirement.

Densities are usually identified as gross densities with a minimum and maximum range with a typical density. The goal of the typical density is to achieve an overall growth target set by the City in its General Plan. However, the density of a property is allowed to vary within the range according to factors such as topography, economic, neighborhood compatibility, provision of affordable housing, market conditions and the capability of a proposed development to further specific goals, policies and standards of the General Plan.

In some cases, property development regulations may vary or be determined through the approval of a Planned Development Plan, Chapter 48. In these cases, the property regulations adopted as part of the Planned Development Plan would determine the standards for property development from that point until the Planned Development Plan is rescinded, expires or is amended. Further definition and application of property development standards are presented in Chapter 30.

### **5.500 Review of Plans and General Conditions**

Plan review requirements and general application conditions are specified for each zoning district. Applications for administrative or conditional use permits are required for most uses and the development of most structures. In addition there may be application conditions specific to a zoning district that must be met before an application is complete. These conditions may include design review and additional studies and plans, Planned

Development applications, etc. The applications and plans submitted for a development or use also need to address general and specific performance standards.

### **5.600 Development and Performance Standards**

General development and performance standards for development within the City are identified in Article III. In addition, specific performance standards for a zoning district may be required as identified within the performance standards section of each zoning district. All allowed uses are to meet the required performance standards.

### **5.700 Zoning Clearance Procedure**

Zoning clearance shall be implemented through use permit application, development plan and design review. The primary goal of the administrative use permit is to provide a review and record keeping mechanism for development and uses within the City in addition to setting forth time periods and minor conditions of approval. Where a particular kind of development does not require a use permit of any kind such as limited accessory structures in some districts, zoning clearance will be met through review of any required building permits.

All building permits will be reviewed by the Community Development Director or Chief Building Official to verify that appropriate property regulations, performance standards and conditions of approval are met. A certificate of occupancy is not to be issued until such verification is recorded following the final building permit site inspection.

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## **CHAPTER 6**

### **RESIDENTIAL DISTRICTS**

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#### **6.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100, the specific purposes of the residential districts are to:

1. Reserve appropriately located areas for family living at a reasonable range of population densities consistent with the General Plan and sound standards of public health and safety.
2. Ensure adequate light, air, privacy, and yard/open space for each dwelling unit and protect residents from public safety hazards and other harmful environmental effects.
3. Preserve as many of the desirable characteristics of single family residential districts as possible while allowing for associated residential uses such as daycare, rooming and boarding, home occupations, second residential units to the extent that substantial adverse impacts are not caused to adjacent residences.
4. Promote safe and well-designed neighborhoods and encourage new residential development to have an internal circulation system, including pedestrian walkways, bikeways, and access to transit facilities. Ensure provision of public services and facilities to support existing and planned residential densities.
5. Reserve appropriate areas for multi-family dwellings that may be located and designed to be compatible with adjacent land uses and residences.
6. Encourage development of innovative types of housing, including co-housing, congregate care facilities, and other types of housing that may provide low cost alternatives to typical market-rate housing.
7. Encourage provision of affordable housing units, especially for single persons, single parents, elderly and young families. Provide well-designed, well-built housing units for low- and moderate-income households in mixed-density developments, including Planned Developments (PDs), avoiding a concentration in any limited area.
8. Provide additional affordable senior citizen housing. Encourage provision of senior housing by considering density bonuses up to general plan maximum where senior projects are desirable and compatible with special senior needs.
9. Allow for public and quasi-public land uses to complement residential development within close access such as schools, churches and daycare facilities provided that substantial

adverse impacts such as traffic congestion, increased noise (ambient or episodic) or full use of available onstreet parking, or other similar impacts are not caused on nearby residences.

The additional purposes of each residential zoning district are:

RS-E Residential Single Family Estate. To provide sites for estate homes on larger lots to be developed with custom built and individually designed homes with a gross density of 1 or 2 units per acre and a minimum parcel size of one half acre. Specific densities are assigned on the Zoning Map.

RS-L Residential Single Family Low Density. To provide areas for single family housing on smaller lots that will generally be developed as part of a larger planned subdivision where a limited number of models of varied exterior designs are built in a random pattern on individual lots with a gross density of 2 to 7 units per acre and a minimum parcel size of 6,000 square feet unless a smaller lot size is allowed by an approved planned development (PD).

RM-L Residential Multi-Family Low Density. To provide sites for low density multi-family housing such as townhouses, condominiums and apartments, and medium density single family housing that incorporate good design and amenities with a gross density up to 12 units per acre (*midrange density of 9 units per acre*). The minimum parcel size for multi-family housing is 3 acres. The minimum lot size for single family housing is 4,000 square feet unless a smaller lot size is allowed by an approved planned development (PD).

RM-M Residential Multi-Family Medium Density. To provide sites for medium density multi-family housing such as townhouses, condominiums and apartments that incorporate good design and amenities with a gross density of 12 to 30 units per acre (*midrange density of 20 units per acre*) and a minimum parcel size of 5 acres.

RM-H Residential Multi-Family High Density. To provide sites for high density multi-family housing, typically located near public transit centers, adequate streets, shopping centers or other high activity areas and that incorporate good design and amenities with a gross density of 30 to 55 units per acre (*midrange density of 42 units per acre*) and a minimum parcel size of 15 acres.

## **6.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated for residential use within this Chapter.

1. All new and expanded residential development shall apply for an administrative or conditional use permit. Administrative use permit review of new single family homes, additions and remodels shall be limited to conformance with development regulations specified or referenced within this Chapter.

2. All new and expanded development except for additions and remodels shall also be subject to Chapter 42, Design Review.
3. Major residential subdivisions and multifamily projects of 10 units or more shall require a Planned Development Plan as per Chapter 48.

### **6.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Residential streets shall be designed in relation to the needed capacity and the adjoining housing patterns while discouraging through traffic on local streets.
2. Existing residential structures of architectural or historic significance are to be restored and maintained.
3. New residential areas shall be designed to avoid conflict with major streets or thoroughfares, and should provide access to transit facilities to encourage safe and convenient alternatives to the private auto.
4. Multi-family residential land shall be developed with a balance of open space, landscaping, and recreational amenities and should be easily accessible to commercial and recreational areas and public transportation.
5. Upon reinstatement of the Inclusionary Housing Ordinance, new residential development shall include a minimum 10% of the total number of units for affordable housing. No in-lieu fees will be accepted by the City unless the developer can establish extraordinary circumstances for not providing affordable housing or unless an agreement pre-dating the adoption of the 1996 General Plan Amendment provides otherwise.

A density bonus up to 35 % over the maximum general plan designation may be provided, along with the waiver of fees and the relaxation of development standards, in exchange for low income or senior housing provided, as per Section 65915 of the California Government Code and Sections 30.420 through 30.470 (Residential Density Bonus) of the Hercules Zoning Ordinance. In order to encourage the development of lower income housing units, the waiver of fees and the relaxation of development standards may be considered by the City in return for commitments to provide lower income housing.

6. Affordable senior housing projects with density bonuses up to general plan maximum are allowed where desirable and compatible with special senior needs. Such projects shall only be allowed where the size of the structure and style of architecture are compatible with the surrounding neighborhood.

7. The use of solar systems, both active and passive designs is encouraged in new residential development.

## **6.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the residential zoning districts are identified in Table 6-1 below. The following uses may be permitted in the designated residential zoning districts subject to compliance with Chapter 49 and approval by the Community Development Director. Use permits, administrative or conditional, are required for all new and expanded residential development.

Single story detached accessory structures under 8 feet tall and 120 square feet total area for the site are exempt from use permit requirements in the (RS-E, RS-L and RM-L) districts. Minor utilities such as public street lighting and traffic signals, electrical distribution lines, telephone lines, cable lines, and underground water, sewer and drainage mains and pipes that are necessary to support legally established uses are exempt from use permit requirements in all residential districts.

## **6.500 Property Development Regulations**

The development regulations presented in Table 6-2 establish basic site and design requirements for residential zoning districts. All regulation standards are minimum amounts unless otherwise stated.

**Table 6.1 Land Use Regulations: Residential District**

	<u>RS-E</u>	<u>RS-L</u>	<u>RM-L</u>	<u>RM-M</u>	<u>RM-H</u>	<u>See Also</u>
<b>Residential</b>						
Single Family Home	A	A	C	C	-	
Duet (Single Family Attached)	-	-	A	A	-	
Duplex	-	-	A	A	-	
Multifamily Dwelling	-	-	C	C	C	
Townhouse/Condominium	-	-	C	C	C	
Mobile Home	A	A	A	A	-	
Accessory Uses and Structures	A <sup>(1)</sup>	A <sup>(1)</sup>	A <sup>(1)</sup>	A	A	
Guest HouseA	A	A	A	C	-	
Rooming and Boarding Houses (4 or less people)	A	A	A	C	-	
Rooming and Boarding Houses (5 or more people)	-	-	C	C	-	
Small Family Daycare Homes (8 or less children)	A	A	A	A	A	Section 35.260
Large Family Daycare Homes (7 to 14 children)	A	A	A	A	A	Section 35.260
Second Residential Unit	DR	DR	-	-	-	Section 35.320
Senior Housing	C	C	C	C	C	
Emergency Shelter	-	-	-	-	-	
Single-Room Occupancy Units	-	-	-	-	-	
Supportive Housing (Apartment Type)	-	-	-	C	C	
Supportive Housing (Residential Care Facility Small Type)	A	A	A	A	-	
Supportive Housing (Residential Care Facility Large Type)	-	-	-	C	C	
Residential Care Facility (6 or fewer residents)	A	A	A	A	-	
Residential Care Facility (7+ residents)	-	-	-	C	C	
Transitional Housing (Apartment Type)	-	-	-	C	C	
Transitional Housing (Residential Care Facility Small Type)	A	A	A	A	-	
Transitional Housing (Residential Care Facility Large Type)	-	-	-	C	C	
<b>Commercial Uses</b>						
Home Occupation	A	A	A	A	A	
Bed and Breakfast Inns	C	C	C	C	-	
<b>Public and Quasi Public Uses</b>						
Clubs and Lodges	-	-	C	C	C	
Libraries, Museums and Galleries	-	-	C	C	C	
Park and Recreation Facilities	A	A	A	A	A	
Public Safety Facilities	A	A	A	A	A	
Religious Assembly	C	C	C	C	C	
Schools, Public or Private	C	C	C	C	-	
Utility Facilities	C	C	C	C	-	

**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

DR Design Review Required

- Use Not Allowed

<sup>(1)</sup> Single story detached accessory structures under 120 square feet total on site are exempt from use permit requirements.

**Table 6.2 Property Development Regulations: Residential District**

	<u>RS-E</u>	<u>RS-L</u>	<u>RM-L</u>	<u>RM-M</u>	<u>RM-H</u>	<u>See Also</u>
Site Area (acres)	-	-	3	5	15	
Density (Units/Acre)						
Range	1 to 2 <sup>(1)</sup>	2 to 7	up to 12	12 to 30	30 to 55	
Midrange	-	-	9	20	42	
Lot Size (sq ft)	1/2 acre <sup>(1)</sup>	6,000 <sup>(2)</sup>	3,000 <sup>(2, 3)</sup>	3,000 <sup>(2)</sup>	3,000 <sup>(2)</sup>	
Lot Frontage (ft)	45	30	[ 200 for multi-family, 30 for other]			
Lot Depth (ft)	200 <sup>(4)</sup>	100	[ 200 for multi-family, 80 for other]			
Lot Width (ft)	100	60 <sup>(5)</sup>	[ 200 for multi-family, 35 <sup>(5)</sup> for other]			
Setbacks						
Front (ft)	20	20	15	15	15	
Rear (ft)	25	15	15	15	15	
Side (ft)	15	5	15 <sup>(6)</sup>	15 <sup>(6)</sup>	15 <sup>(6)</sup>	
Corner Side (ft)	20	15	15	15	15	
Maximum Site Coverage	20%	50%	60%	60%	60%	
Usable Open Space Per Dwelling Unit (sq ft)	-	-	1,000	300	300	Section 30.800
Building Height (ft)	35	35	45 <sup>(7)</sup>	60	90	
Parking						Chapter 32

**Key to Land Use Regulations**

- (1) Maximum density and minimum lot size as designated on zoning map for 1 or 2 units per acre density and corresponding 1 acre or 0.5 acre minimum lot size.
- (2) Minimum lot size unless a smaller lot size is allowed by an approved Planned Development Plan.
- (3) Minimum lot size for single family housing is 4,000 sq. ft. unless a smaller lot size is allowed by an approved Planned Development Plan.
- (4) Minimum lot depth unless area is designated for 2 units per acre, then 150 ft minimum depth applies.
- (5) Minimum lot width for corner lots, add 10 feet.
- (6) Minimum side setback unless smaller setback is allowed by an approved Planned Development Plan.
- (7) Maximum height for single family housing and duets/duplexes is 35 feet

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## **CHAPTER 7**

### **P-M-H MOBILE HOME PARK DISTRICT**

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#### **7.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the Mobile Home Park district are to:

1. Reserve appropriately located areas for mobile home parks.
2. Provide for reasonable densities consistent with sound standards of public health and safety.
3. Assure adequate light, air, privacy and open space for each mobile home coach.
4. Provide for adequate open space, landscaped areas, and community recreation.
5. Establish standards for mobile home park traffic circulation and parking facilities.

#### **7.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated for mobile home park use within this Chapter.

1. All new and expanded residential development shall apply for an administrative or conditional use permit. Administrative use permit review of new mobile homes, additions and remodels shall be limited to conformance with development regulations specified or referenced within this Chapter.
2. All new and expanded development except for additions and remodels shall also be subject to Chapter 42, Design Review.
3. Mobile home parks shall require a Planned Development Plan as per Chapter 48.

## **7.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Residential streets shall be designed in relation to the needed capacity and the adjoining housing patterns while discouraging through traffic on local streets.
2. New residential areas shall be designed to avoid conflict with major streets or thoroughfares, and should provide access to transit facilities to encourage safe and convenient alternatives to the private auto.
3. Mobile home parks shall be developed with a balance of open space, landscaping, and recreational amenities and should be easily accessible to commercial and recreational areas and public transportation.
4. Each mobile home shall be equipped with skirting, or provided with a support pad which is recessed to give the appearance of the mobile home being located on grade.
5. A common recreation area which should include a recreation building shall be provided within the park for the use of all residents and their guests. A total of 200 square feet of common recreation area shall be provided for each mobile home space.
6. Landscaping and Screening:
  - A. The exterior boundaries of the mobile home park shall appear similar to planned residential developments and shall be compatible in design with any neighboring residential areas, and shall be screened by a decorative wall or fence with a minimum 5 foot wide landscaped area provided along the interior of the wall or fence.
  - B. A 10 foot landscaped area between any adjoining public street or property and the screening wall or fence shall be provided.
  - C. One tree shall be provided for each mobile home coach in addition to landscaping in common recreation areas or landscaped buffers.
  - D. All areas not used for access, parking, circulation, structures, and services shall be completely and permanently landscaped and the entire site shall be maintained in good condition.
7. No sign, outdoor advertising structure, or display of any character shall be permitted except as prescribed in the provisions regulating signs.

## 7.400 Land Use Regulations

All new and expanded development and uses that are allowed in the mobile home park district are identified in Table 7.1 below. The following uses may be allowed subject to compliance with Chapter 49 and approval by the Community Development Director. Use permits, administrative or conditional, are required for all new and expanded mobile home park development.

Single story detached accessory structures under 100 square feet and 10 feet tall are exempt from use permit requirements in the mobile home park district. Minor utilities such as public street lighting and traffic signals, electrical distribution lines, telephone lines, cable lines, and underground water, sewer and drainage mains and pipes that are necessary to support legally established uses are exempt from use permit requirements.

**Table 7.1 Land Use Regulations: PMH Mobile Home Park District**

	<u>PMH</u>	<u>See Also</u>
<b>Residential Uses</b>		
Mobile Home Park	C	
Mobile/Manufactured Home	A	
Small Family Daycare Home (8 or less children)	A	Section 35.260
Large Family Daycare Home (7 to 14 children)	A	Section 35.260
Caretaker and Employee Units	A	
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>	

**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

- Use Not Allowed

<sup>(1)</sup> Facility or use is directly related to the primary use of site.

## 7.500 Property Development Regulations

The development regulations presented in Table 7.2 establish basic site and design requirements for residential zoning districts. All regulation standards are minimum amounts unless otherwise stated.

**Table 7.2 Property Development Regulations: PMH Mobile Home Park District**

	<u>PMH</u>	<u>See Also</u>
Site Area (ac)	20	
Density (units/acre)	7	
Lot Size (sq ft)	(PDP)	
Lot Frontage (ft)	(PDP)	
Lot Depth (ft)	(PDP)	
Setbacks <sup>(1)</sup>		
Front (ft)	15	
Rear (ft)	15	
Side (ft)	15	
Corner Side (ft)	15	
Distance between units	10	
Maximum Site Coverage	70%	
Landscaping Minimum	(PDP)	
Building Height	30 feet	
Parking		Chapter 32
Common recreation area/Usable open space	200 sq ft per unit	

**Key to Land Use Regulations**

<sup>(1)</sup> Minimum setbacks unless lesser setbacks are approved as part of a Planned Development Plan.

(PDP) As per an approved Planned Development Plan.

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## CHAPTER 8 COMMERCIAL DISTRICTS

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### **8.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the commercial districts are to:

1. Reserve appropriately located areas for a full range of retail commercial, service commercial and professional and administrative offices consistent with the General Plan.
2. Provide an opportunity for retail stores and offices to concentrate for the convenience of the public in a mutually beneficial relationship to each other and to provide commodities and services that will meet the needs of the community and neighborhood areas they serve.
3. Give favorable consideration to new retail development that would generate substantial new sales, for businesses that would provide substantial employment, high growth technical businesses (particularly bio-tech, flex office and incubator uses), health care services, restaurants and innovative mixed use development proposals. Encourage uses that bring additional revenues (retail sales, property tax) either directly or indirectly to the City.
4. Create a strong and successful focus or center for business and activities that would provide services, shopping opportunities which would attract employees, clients, and patrons from a regional area, while not disturbing existing residential and community oriented areas. Where appropriate, allow limited commercial uses in residential areas to promote access to services.
5. Encourage local and regional commercial uses that can benefit from substantial regional traffic on I-80, SR-4, and San Pablo Avenue.
6. Promote development of a regional commercial recreation center or complex.
7. Expand the range of recreational activities and opportunities available in the community and allow for a mix of private commercial and public/semi-public recreation and support uses that contribute to a full service recreational facility within a property or project.
8. Provide sites for public and quasi-public uses needed to complement commercial development.

The additional purposes of each commercial zoning district are:

CG General Commercial. To permit a wide variety of commercial uses that will attract clientele from both Hercules and adjacent communities as well as those using I-80 and Highway 4. The character of the buildings will typically be suburban in nature and one to two stories in height, with a FAR of 0.20 to 1.00 (*typical FAR of 0.30*). Higher heights may be allowed provided that such heights conforms to the overall character of the development and does not adversely impact surrounding development.

CC Community Commercial. To accommodate commercial development including retail, office, and service uses that serve residents and employees within the City with a FAR of 0.20 to 1.00 (*typical FAR of 0.25*). Generally the location of these areas lack direct access and visibility from regional routes effectively excluding businesses that require patronage from a regional market

CR Recreational Commercial. To allow properties to be developed and used for recreational activities that are conducted as a business with a FAR of 0.20 to 0.40 (*typical FAR of 0.25*). Recreational Commercial sites can vary widely in size according to use from less than 1 acre (batting cages) to more than 100 acres (golf course). However, the site is to be of sufficient size to accommodate the recreational facilities and activities without impacting surrounding properties.

## **8.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated for commercial use within this Chapter.

1. All new and expanded commercial development shall apply for an administrative or conditional use permit and shall be subject to Chapter 42, Design Review.
2. General Commercial and Community Commercial projects of 10 acres or more and all Recreational Commercial projects shall require a Planned Development Plan as per Chapter 48.
3. A lighting and fencing plan is to be prepared as part of the Planned Development Plan for Recreational Commercial projects to minimize night lighting and recreational activity impacts on adjacent properties, especially those with residential uses.
4. New and expanded recreational commercial facilities and activities that are expected to generate significant noise levels shall have a noise management plan approved as part of the Planned Development Plan or the use permit.

### **8.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. The planning and development of commercial areas shall minimize the effects on existing residential areas.
2. Provide pathways and bicycle racks or storage facilities to encourage pedestrian and bicycle travel for home to work and home to local shopping trips.
3. Adequate fencing is to be provided and maintained to reasonably contain recreational activities and equipment within the property.
4. Noise from recreational activities and equipment should be controlled through facility design and operations to meet community noise standards, especially in areas with adjacent residential uses.

### **8.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the commercial zoning districts are identified in Table 8.1 below. The following uses may be permitted in the designated commercial zoning districts subject to compliance with Chapter 49 and approval by the Community Development Director. Use permits, administrative or conditional, are required for all new and expanded commercial development.

### **8.500 Property Development Regulations**

The property development regulations presented in Table 8.2 establish basic site and design requirements for commercial zoning districts. All regulation standards are minimum amounts unless otherwise stated.

**Table 8.1 Land Use Regulations: Commercial District**

	<u>CG</u>	<u>CC</u>	<u>CR</u>
<b>Commercial Uses</b>			
Retail Sales			
Auto, Mobile Home, Equipment Sales/Rental	C	C	-
Auto Fuel and Service, Carwash, Mini-marts	C	C	-
Building Material Sales	C	C	-
Convenience stores	C	C	-
Drive-in and Drive-through Sales and Services	A	C	-
Dry Cleaners and Laundries	C	C	-
Furniture, Furnishings and Hardware Stores	C	C	-
Grocery and/or Liquor	C	C	-
Mail Order Sales and Vending	A	A	-
Outdoor Retail Sales and Services			
Permanent	C	C	C <sup>(1)</sup>
Temporary	A	A	A <sup>(1)</sup>
Recreation and Entertainment	C	C	C <sup>(1)</sup>
Restaurants, Delicatessens and Bars	A	A	C <sup>(1)</sup>
With liquor service	C	C	C <sup>(1)</sup>
Retail Stores			
2,000 sq ft or less	A	A	A <sup>(1)</sup>
More than 2,000 sq ft	C	C	C <sup>(1)</sup>
Shopping Centers	C	C	-
Recreational Facilities			
Athletic Clubs	A	A	A
Clubhouse	-	-	A
Batting Cages	C	C	A
Tennis Facility	C	C	A
Golf Course/Driving Range	-	-	C
Other Commercial Athletic Facilities	C	C	C
Services and Offices			
Amusement Centers/Arcades	C	C	C <sup>(1)</sup>
Ambulance and Emergency Services	A	C	-
Business Support Services	A	A	-
Hotels, Motels, and Inns	C	C	C <sup>(1)</sup>
Mortuaries, Columbariums and Cemeteries	C	C	-
Medical			
Medical and Dental Clinics and Services	A	A	-
Hospitals and Laboratories	C	C	-
Veterinary Clinics and Hospitals	C	C	-
Offices and Banks			
2,000 sq ft or less	A	A	A <sup>(1)</sup>
More than 2,000 sq ft	A	C	C <sup>(1)</sup>
Personal Services	A	A	A <sup>(1)</sup>

**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

- Use Not Allowed

<sup>(1)</sup> Facility or use is directly related to the primary recreational commercial use of site.

**Table 8.1 Land Use Regulations: Commercial District (Continued)**

	<u>CG</u>	<u>CC</u>	<u>CR</u>
<b>Commercial Uses (cont'd)</b>			
Repair and Maintenance	A	A	A <sup>(1)</sup>
Vehicle Repair and Maintenance	C	C	-
Video/Media Rentals	C	C	-
Warehouses and Storage Facilities	C <sup>(2)</sup>	C <sup>(2)</sup>	A <sup>(1)</sup>
Wholesale Sales	C	C	-
<b>Residential Uses</b>			
Caretaker and Employee Housing	A	A	A
Residential Care Facility (7 or more residents)	C	C	-
Senior Congregate Care	C	C	-
Senior Housing	C	C	-
Supportive Housing (Residential Care Facility Large Type)	C	C	-
Transitional Housing (Residential Care Facility Large Type)	C	C	-
<b>Public and Quasi Public Uses</b>			
Clubs and Lodges	C	C	C
Daycare Facilities (for employees and visitors)	A	A	A
Daycare, General	C	C	-
Government Offices	A	A	-
Libraries, Museums and Galleries	C	C	C <sup>(1)</sup>
Park and Recreation Facilities	A	A	-
Public Safety Facilities	A	A	-
Religious Assembly	C	C	-
Schools, Public or Private	C	C	-
Urgent Medical Care	A	C	-
Utility Facilities	C	C	-
<b>Accessory Uses and Structures</b>	A	A	A <sup>(1)</sup>

**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

- Use Not Allowed

(1) Facility or use is directly related to the primary recreational commercial use of site.

(2) Facility or use is directly related to the primary commercial use of site.

**Table 8.2 Property Development Regulations: Commercial District**

	<b>CG</b>	<b>CC</b>	<b>CR</b>	<b>See Also</b>
Site Area (sf)	-	-	20,000	
Density (FAR) Range	0.20 to 1.00	0.20 to 1.00	0.20 to 0.40	
Typical	0.30	0.25	0.25	
Lot Size (sq ft)	10,000	10,000	20,000	
Lot Frontage (ft)	100	100	100	
Lot Depth (ft)	100	100	-	
Setbacks <sup>(1)</sup>				
Front (ft)	20	20	20	
Rear (ft)	0 <sup>(2)</sup>	0 <sup>(2)</sup>	0 <sup>(2)</sup>	
Side (ft)	5	5	15	
Corner Side (ft)	10	10	15	
Landscaping Minimum	10%	10%	20%	
Building Height	[ 3 stories or 35 feet ]			
Parking				Chapter 32
Signage				Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> Minimum setbacks unless lesser setbacks are approved as part of a Planned Development Plan.
- <sup>(2)</sup> Minimum rear lot setback shall be 20 feet when adjacent to existing residences or residentially zoned area.

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## CHAPTER 9 INDUSTRIAL DISTRICT

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### 9.100 Specific Purposes

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the Industrial district are to:

1. Reserve appropriately located areas for heavy and light industrial uses consistent with the General Plan and the character of Hercules.
2. Provide an opportunity for industrial uses to concentrate for the efficiency of larger industries and to allow for buffers from sensitive residential and public uses in a manner that does not expose residents to significant environmental risk.
3. Strengthen the City's economic base and provide for economic diversity, employment and an adequate daytime population within the City.
4. Allow for new light industrial uses related to evolving technologies, research & development, communications, and information processing.

The additional purposes of the Industrial zoning district are:

I Industrial. To permit a limited range of heavy industry that is associated with historic heavy industrial uses with the City and to permit a variety of light industrial uses with emphasis on encouraging uses and facilities related to the development, production, and support of evolving technologies. New industrial development is typically to be one to two stories in height, with a FAR of 0.30 to 0.50 (*typical FAR of 0.40*).

### 9.200 Review of Plans and General Conditions

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated for industrial use within this Chapter.

1. All new, expanded and relocated industrial development shall apply for an administrative or conditional use permit, and shall be subject to Chapter 42, Design Review.

2. Industrial projects of 10 acres or more shall require a Planned Development Plan as per Chapter 48.

### **9.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. The planning and development of industrial areas shall minimize the effects on existing residential areas.
2. New industrial uses that may reasonably be expected to generate substantial odor, dust, noise, vibration, water quality, air quality, public safety, or toxic and hazardous material impacts are prohibited. Existing heavy industrial uses that generate such impacts shall be required to reduce impact levels as a condition for expansion, relocation or change of use.
3. A hazardous materials management plan to regulate use of hazardous materials within the facility and to provide for the storage and disposal of small amounts of hazardous wastes that may be generated is to be prepared and submitted as part of the use permit application.

### **9.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the Industrial zoning district are identified in Table 9.1 below. These uses may be permitted in the Industrial zoning district subject to compliance with Chapter 49 and approval by the Community Development Director. The Industrial use classifications use very general categories which may allow a wide variety of heavy, light, and R&D industrial uses subject to the ability to meet industrial and citywide performance standards. Use permits, administrative or conditional, are required for all new and expanded industrial development.

### **9.500 Property Development Regulations**

The property development regulations presented in Table 9.2 establish basic site and design requirements for the Industrial zoning district. All regulation standards are minimum amounts unless otherwise stated.

**Table 9.1 Land Use Regulations: Industrial District**

	<u>I</u>
<b>Industrial Uses</b>	
Business Industrial Services	A
Heavy Manufacturing	C
Light Manufacturing	A
Refineries	C
Research and Development	C
Warehouses, Distribution and Storage Facilities	A
<b>Commercial Uses</b>	
Retail Sales	
Auto, Mobile Home, and Parts Sales	C
Auto Fuel, Service and Mini-marts	C
Building Material Sales	C
Equipment Sales and Rentals	C
Onsite Sale of Manufactured Product	A
Restaurants and Delicatessens	C
Services and Offices	
Ambulance and Emergency Services	A
Storage and Mini Storage	C
Vehicle Repair, and Maintenance	A
Vehicle Body Shops and Painting	C
<b>Residential Uses</b>	
Caretaker and Employee Housing	A
<b>Public and Quasi Public Uses</b>	
Daycare Facilities	C
(for employees and visitors)	
Government Offices	C
Park and Recreation Facilities	A
Public Safety Facilities	A
Urgent Medical Care	C
Utility Facilities	C
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary use of site.

**Table 9.2 Property Development Regulations: Industrial District**

	<b><u>I</u></b>	<b><u>See Also</u></b>
Site Area (sf )	20,000	
Density (FAR)		
Range	0.30 to 0.50	
Typical	0.40	
Lot Size (sq ft)	20,000	
Lot Frontage (ft)	100	
Lot Depth (ft)	100	
Setbacks <sup>(1)</sup>		
Front (ft)	25 <sup>(2)</sup>	
Rear (ft)	20 <sup>(2)</sup>	
Side (ft)	20 <sup>(2)</sup>	
Corner Side (ft)	25 <sup>(2)</sup>	
Maximum Site Coverage	50%	
Landscaping Minimum	10%	
Building Height	35 feet	
Parking		Chapter 32
Signage		Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> Minimum setbacks unless lesser setbacks are approved as part of a Planned Development Plan.
- <sup>(2)</sup> Minimum setbacks shall be 50 feet front, 100 feet side, 100 feet rear, and 20 feet for parking areas when adjacent to existing residences or residentially zoned area.

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## CHAPTER 10 PUBLIC/QUASI PUBLIC DISTRICT

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### 10.100 Specific Purposes

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the Public/Quasi Public Districts are to:

1. Allow for public and quasi-public uses in the Public designations of Park, Open Space, Public-City, and Public-School specified on the General Plan Land Use Designations map.
2. Develop and maintain trail systems, open space, and other public amenities that benefit the quality of life in the community.
3. Provide open spaces, recreational trails and buffer zones along the Bay.
4. Designate existing school sites and reserve appropriate park sites adjacent to school sites.
5. Designate existing City offices and facilities and reserve sites for future development and expansion of municipal facilities.
6. Designate existing park areas and reserve sites and expansion areas for future parks and public recreation areas.
7. Designate and preserve public open spaces and open space areas dedicated through the development of existing and future projects.
8. Promote the development of a low- and moderate-income senior apartment project on a City-owned site.

The additional purposes of the Public/Quasi-Public zoning districts are:

P/QP-C Public/Quasi-Public - City. To permit an appropriate range of local governmental and quasi-public land uses and services within the City. City of Hercules governmental offices, public safety facilities and infrastructure/utility facilities are expected to be the main uses. Senior housing may also be allowed on an appropriate publicly owned site. New development is typically to be one to two stories in height, with a FAR of 0.30 to 1.00 (*typical FAR of 0.40*).

P/QP-O Public/Quasi-Public - Open Space. To designate and preserve public open spaces within the City. Most of these open spaces are dedicated to open space use as a result of past residential development. This designation is also appropriate for future open space dedications within the hills, along the Bay, within sensitive habitat areas such as wetlands, and along the Refugio Creek corridor. Development would not typically be allowed within this area except for recreation facilities, caretaker housing and accessory structures directly related to the use and maintenance of an open space area. Any developed facilities allowed by use permit in P/QP-O zone shall meet P/QP-P regulations.

P/QP-P Public/Quasi-Public - Park. To designate and permit public park and recreation areas within the City. The parks are improved and natural areas with facilities for active and passive recreation use. Other public and quasi-public uses associated and compatible with recreational use of a park may be allowed by use permit as noted in Table 10.1. New park facility development is typically to be one to two stories in height, with a FAR of 0.10 to 0.40 (*typical FAR of 0.25*).

P/QP-S Public/Quasi-Public - School. To designate and reserve sites for schools within the City. The designated school sites include existing and proposed public schools. School land uses include school buildings, "portables", athletic facilities and associated utilities. Other public and quasi-public uses associated and compatible with school operations may be allowed by use permit as noted in Table 10.1. New school facility development is typically to be one to two stories in height, with a FAR of 0.20 to 1.00 (*typical FAR of 0.40*).

## **10.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated for public/quasi-public uses within this Chapter.

1. All new and expanded development shall be subject to Chapter 42, Design Review.
2. All new and expanded public and quasi-public development shall apply for an administrative or conditional use permit.
3. Public and quasi-public development projects of 5 acres or more shall require a Planned Development Plan as per Chapter 48. Open space areas to be maintained in open space without development of facilities other than trails and paths are not required to submit a Planned Development Plan.

### **10.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. An open space buffer zone to protect tidal habitat is to be along the Bay when designing a bay access trail linkage between Pinole and Rodeo. Public access and pedestrian pathways shall be limited within the buffer zone, and when possible, located along the edges of the buffer zone. Bicycles shall be encouraged to stay on bike paths through the use of signage and fencing.
2. The City will practice water conservation in management of parks and requirements for landscape design development.
3. No critical facility or school shall be permitted in areas subject to very strong ground shaking or ground failure until an evaluation of alternative sites with reduced earthquake and flood hazards is completed. An alternative site feasibility assessment shall include a consideration of sites in areas with lesser earthquake (and flood) hazards in addition to considerations of service area, accessibility, and economic considerations. If the alternative site feasibility study for a critical facility or school were to indicate that other less hazardous sites are not available for the critical facility, then geotechnical studies and structural design processes for the facility would be conducted in compliance with State of California requirements and recommendations of the Seismic Safety Commission.

For the other types of public quasi-public facilities, the alternative site feasibility assessment will be an optional requirement of the City (an alternatives site evaluation may be required under CEQA). A rigorous geotechnical evaluation and structural design process will be required to ensure that the proposed structures perform in major earthquakes without creating a life safety hazard to occupants or people in surrounding areas.

### **10.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the Public/Quasi-Public zoning districts are identified in Table 10.1 below. These uses may be permitted in the Public/Quasi-Public zoning districts subject to compliance with Chapter 49 and approval by the Community Development Director. Open space areas with natural areas and passive use on lawn areas and trails are permitted without being subject to use permit approval.

**Table 10.1 Land Use Regulations: Public Quasi-Public Districts**

	<u>P/QP-C</u>	<u>P/QP-O</u>	<u>P/QP-P</u>	<u>P/QP-S</u>
<b>Public and Quasi Public Uses</b>				
Clubs and Lodges	C <sup>(1)</sup>	-	C <sup>(1)</sup>	C <sup>(1)</sup>
Daycare Facilities (for employees, visitors and students)	A	-	A	A
Government/Public Offices	A	-	A	A
Libraries, Museums and Galleries	C	-	C	A
Hospitals	C	-	-	-
Park and Recreation Facilities <sup>(2)</sup>	A	C	A	C
Public Safety Facilities	A	-	-	C
Religious Assembly	C	-	-	C
Schools, Public or Private	C	-	-	C
Urgent Medical Care	A	-	-	-
Utility Facilities	C	-	-	-
<b>Commercial Uses</b>				
Retail Sales				
Sales of Merchandise Related to Use	A	-	A	A
Restaurants and Delicatessens	C <sup>(1)</sup>	-	C <sup>(1)</sup>	C <sup>(1)</sup>
Services and Offices				
Ambulance and Emergency Services	C	-	-	-
<b>Residential Uses</b>				
Caretaker and Employee Housing	A <sup>(1)</sup>	C <sup>(1)</sup>	C <sup>(1)</sup>	A <sup>(1)</sup>
Senior Housing	C	-	-	-
<b>Accessory Uses and Structures</b>				
	A <sup>(1)</sup>	A <sup>(1)</sup>	A <sup>(1)</sup>	A <sup>(1)</sup>

**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

- Use Not Allowed

<sup>(1)</sup> Facility or use is directly related to the primary use of site.

<sup>(2)</sup> Open space areas with natural areas and passive use on lawn areas and trails are permitted without being subject to use permit approval.

**10.500 Property Development Regulations**

The property development regulations presented in Table 10.2 establish basic site and design requirements for the Public/Quasi-Public zoning districts. All regulation standards are minimum amounts unless otherwise stated.

**Table 10.2 Property Development Regulations: Public Quasi-Public Districts**

	<u>P/QP-C</u>	<u>P/QP-O<sup>(1)</sup></u>	<u>P/QP-P</u>	<u>P/QP-S</u>	<u>See Also</u>
Site Area (sf)	-	-	-	-	
Density (FAR) Range	0.30 to 1.00	- 0.10 to 0.40	0.20 to 1.00		
Typical	0.40	-	0.25	0.40	
Lot Size (sq ft)	-	-	-	-	
Lot Frontage (ft)	100	-	-	200	
Lot Depth (ft)	100	-	-	200	
Setbacks <sup>(2)</sup>					
Front (ft)	20	-	20	30	
Rear (ft)	20	-	20	20	
Side (ft)	10	-	10	20	
Corner Side (ft)	20	-	20	20	
Maximum Site Coverage	50%	-	20%	60%	
Landscaping Minimum	20%	-	30%	20%	
Building Height (ft)	35	-	20	35	
Parking					Chapter 32
Signage					Chapter 34

**Key to Land Use Regulations**

<sup>(1)</sup> Developed facilities allowed by use permit in P/QP-O zone shall meet P/QP-P regulations.

<sup>(2)</sup> Minimum setbacks unless lesser setbacks are approved as part of a Planned Development Plan.

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## **CHAPTER 11**

### **CP COMMERCIAL PUBLIC MIXED USE DISTRICT**

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#### **11.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the CP Commercial Public Mixed Use District are to:

1. To encourage development of multiple, interrelated uses at transit stations or transfer centers by allowing public transit and related uses to combine with general commercial uses in an integrated mixed use development.
2. To provide transit users with opportunities to reduce vehicle travel through the provision of goods and services at or near to transit stations.
3. To promote transit use through the provision of attractive and convenient multiple use transit stations or centers.
4. To promote regional employment opportunities based on access to regional transit facilities.
5. Work with BART to develop both short-term and long-term transit facility uses on the BART site in Hercules including commercial-retail uses or transit rail line extensions.

#### **11.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated CP Commercial Public.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48, Planned Development.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit.
3. The transit and commercial structures are to be located and designed as a unified development with an emphasis on pedestrian access to and from the transit station component of the development.

4. The site and facilities are to be designed to provide attractive frontages along adjacent public highway and street right of ways, especially the designated scenic route of San Pablo Avenue.

### **11.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Design: Transit facilities and other structures shall be designed with a architectural theme that is consistent with intense use of the site and surrounding development within the City.
2. Light and Glare: Night lighting shall be located and designed to provide adequate visibility and security within the site while minimizing glare on adjacent streets and properties.
3. Landscaping: Street trees are to be provided along all public street or highway frontages.

### **11.400 Land Use Regulations**

All new and expanded development allowed in the CP Commercial Public area is identified below. The following uses may be permitted in the Commercial Public Mixed Use District subject a conditional or administrative use permit and compliance with Chapter 49.

Other uses that can be shown to be support mass transit, benefit from the availability of mass transit, provide goods and services to transit users, or contribute to creating a full service transit oriented commercial public facility may be allowed within the CP Commercial Public district subject to approval of a Conditional Use Permit.

### **11.500 Property Development Regulations**

The property development regulations presented in Table 11.1 establish basic site and design requirements for the CP Commercial Public zoning district. All regulation standards are minimum amounts unless otherwise stated.

**Table 11.1 Land Use Regulations: CP Commercial Public Mixed Use District**

	<u>CP</u>
<b>Public and Quasi Public Uses</b>	
Transit Facilities	
BART Stations	C
Transit Transfer Stations	C
Transit Malls	C
Transit Offices and Support Facilities	C
Daycare Facilities	A
(for employees, visitors and passengers)	
Government Offices	A
Libraries, Museums and Galleries	A
Park and Recreation Facilities	A
Public Safety Facilities	A
Utility Facilities	C
<b>Commercial Uses</b>	
Retail Stores	
2,000 sq ft or less	A
More than 2,000 sq ft	C
Grocery and Liquor	C
Outdoor Retail Sales and Services	
Permanent	C
Temporary	A
Recreation and Entertainment	C
Restaurants, Delicatessens and Bars	A
With Liquor Service	C
Services and Offices	
Banks and Other Financial Services	A
Business and Personal Services	A
Business and Professional Offices	A
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

**Table 11.2 Property Development Regulations: CP Commercial Public Mixed Use District**

	<u>CP</u>	<u>See Also</u>
Site Area (sf )	-	
Density (FAR)		
Range	0.10 to 1.00 <sup>(1)</sup>	
Typical	0.30	
Lot Size (sq ft)	-	
Lot Frontage (ft)	(PDP)	
Lot Depth (ft)	(PDP)	
Setbacks		
Front (ft)	20 <sup>(2)</sup>	
Rear (ft)	20 <sup>(2)</sup>	
Side (ft)	20 <sup>(2)</sup>	
Corner Side (ft)	20 <sup>(2)</sup>	
Maximum Site Coverage	(PDP)	
Landscaping Minimum	10%	
Building Height	50 feet	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> In addition parking structure(s) with up to a 3.00 FAR for the parking area is allowed.
- <sup>(2)</sup> Lesser setbacks may be accepted as part of an approved Planned Development Plan
- (PDP) As per an approved Planned Development Plan.

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## CHAPTER 12

### HTC HISTORIC TOWN CENTER DISTRICT

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#### 12.100 Specific Purposes

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the HTC Historic Town Center District are to:

1. Preserve the historic design and character of the area's buildings and allow the reuse of existing structures, where appropriate, such as the Clubhouse which is to be retained as a community center.
2. Allow the addition of new buildings while maintaining the architectural quality of the area.
3. Promote the development of Railroad Avenue into the "Main Street" of the Historic Town Center district.
4. Provide for a variety of professional, administrative and personal service offices as well as retail businesses that support the offices and provide services and goods to visitors of the adjacent waterfront area.
5. Allow for multi-family dwellings in areas separated from Railroad Avenue by existing or planned buildings if compatible with adjacent existing and planned development.
6. Incorporate visual and physical access to the Bay shoreline within project designs.
7. Establish view corridors and viewpoints to protect and promote views to the Bay.

The additional purposes of the Historical Town Center zoning district are:

HTC Historic Town Center. To permit a wide range of office and administrative uses along with supporting retail commercial uses while retaining the historic character of the area. To also allow for multifamily residential uses if compatible with existing and planned development. New development is typically to be one to three stories in height, with a FAR of 0.15 to 0.40 (*typical FAR of 0.20*) and a residential density of up to 17 units per acre with no more than 40 units to be developed within the district.

## **12.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated HTC Historic Town Center.

1. All new and expanded commercial and office development shall be subject to Chapter 42, Design Review, and if over 1 acre shall be subject to Chapter 48, Planned Development.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit. Open space areas with natural areas and passive use on lawn areas and trails are permitted without being subject to use permit approval.
3. All new and expanded residential development shall be subject to Chapter 42, Design Review and to Chapter 48, Planned Development.

## **12.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Design guidelines addressing building architecture, historic design styles and elevations, and compatible fencing, landscaping, lighting, and accessory structures shall be prepared prior to approval of new and expanded development within this district. All new and expanded development shall comply with the adopted design guidelines for the site.
2. Light and Glare: Structures should use non reflective surfaces, and night lighting is to be designed to minimize glare within the Historic District.
3. Pedestrian Trail: Public access along the existing pedestrian trail shall be maintained.
4. Soils and Geology: Where possible, development of buildings over areas of Bay Mud should be avoided. Development shall meet all requirements of geology and soils reports.
5. Noise: Predrilling shall be required for driving piles in the historic area.

## **12.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the HTC Historic Town Center zoning district are identified in Table 12.1 below. These uses may be permitted in the HTC Historic Town Center zoning district subject to compliance with Chapter 49 and approval by the Community Development Director.

## 12.500 Property Development Regulations

The property development regulations presented in Table 12.2 establish basic site and design requirements for the HTC Historic Town Center zoning district. All regulation standards are minimum amounts unless otherwise stated.

**Table 12.1 Land Use Regulations: HTC Historic Town Center**

	<u>HTC</u>	<u>See also</u>
<b>Commercial Uses</b>		
Retail Stores		
2,000 sq ft or less	A	
More than 2,000 sq ft	C	
Grocery and/or Liquor	C	
Home Occupation	A	
Bed and Breakfast Inn/Hotel	C	
Outdoor Retail Sales and Services		
Permanent	C	
Temporary	A	
Recreation and Entertainment	C	
Restaurants, Delicatessens and Bars	A	
With Liquor Service	C	
Services and Offices		
Banks and Other Financial Services	A	
Business and Personal Services	A	
Business and Professional Offices	A	
<b>Residential Uses</b>		
Caretaker, Guest and Employee Housing	A	
Multifamily Dwelling	A	
Townhouse/Condominium	A	
Planned Unit Development	A	
Rooming and Boarding Houses	C	
Small Family Daycare Home (8 or less children)	A	Section 35.260
Large Family Daycare Home (7 to 14 children)	A	Section 35.260
Senior Housing	C	
Single-Room Occupancy Units	C	
Supportive Housing (Apartment Type)	A	
Transitional Housing (Apartment Type)	A	
<b>Public and Quasi Public Uses</b>		
Daycare Facilities (for employees, visitors and passengers)	A	
Government Offices	A	
Libraries, Museums and Galleries	A	
Park and Recreation Facilities	A	
Public Safety Facilities	C	
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>	

### Key to Land Use Regulations

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

**Table 12.2 Property Development Regulations: HTC Historic Town Center**

	<u>HTC</u>	<u>See Also</u>
Site Area (sf)	-	
Density (FAR) <sup>(1)</sup>		
Range	0.15 to 0.40	
Typical	0.20	
Density (du/ac)	17 <sup>(1)</sup>	
Lot Size (sq ft)	5,000 <sup>(2)</sup>	
Lot Frontage (ft)	50 <sup>(2)</sup>	
Lot Depth (ft)	100 <sup>(2)</sup>	
Setbacks		
Front (ft)	10 <sup>(3)</sup>	
Rear (ft)	20 <sup>(3)</sup>	
Side (ft)	5 <sup>(3)</sup>	
Corner Side (ft)	10 <sup>(3)</sup>	
Maximum Site Coverage	40%	
Landscaping Minimum	10%	
Building Height (ft)	35	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> FAR does not apply to residential development, density subject to 40 unit maximum within HTC District.
  - <sup>(2)</sup> Lesser lot size and dimensions may be accepted in an approved Planned Development Plan.
  - <sup>(3)</sup> Lesser setbacks may be accepted in an approved Planned Development Plan.
- (PDP) Or as per an approved Planned Development Plan.

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## **CHAPTER 13**

### **I-R INDUSTRIAL RESIDENTIAL MIXED USE DISTRICT**

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#### **13.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the I-R Industrial Residential Mixed Use District are to:

1. Create the opportunity for an integrated mixture of residential space and workspace in the same structure. The residential space, generally located above the workspace such as a loft, is to provide a living area for persons employed in the work space.
2. Provide lower cost, leasable or owner occupied space for start-up companies, craft workshops, cottage industries, or other businesses that require less support services or amenities than R & D or office uses and are not of an intense industrial nature incompatible with shared residential use.
3. Provide an attractive, lower cost alternative for small scale point of sale enterprises with low traffic generation such as mail order businesses.
4. Create an additional alternative and incentive for the adaptive reuse of industrial, warehouse and office buildings.
5. Attract residents interested in establishing smaller scale start-up and cottage industries in a live-work facility.
6. Allow small scale and lower intensity industrial uses that are generally compatible with the air quality, noise, vibration, and safety standards associated with residential use.

#### **13.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated I-R Industrial Residential.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48, Planned Development.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit.

3. Adequate parking shall be provided onsite that takes into account the different peak parking demand periods of residential and employment activities.
4. The facility should be designed to use parking areas, garages and landscaping as buffers for noise, light and glare.
5. A hazardous materials management plan for the facility is to be prepared as part of the Master Development Plan to regulate use of hazardous materials within the facility and to provide for the storage and disposal of small amounts of hazardous wastes that may be generated.
6. Standards for the generation of noise, vibration and odors within the live-work areas of the facility and procedures to ensure compliance are to be prepared as part of the Master Development Plan.
7. On premises sales of goods not produced within the live work units is not permitted unless such goods are an incidental and essential complement to the goods produced within the unit.
8. Work or employment within a live-work unit shall be limited to persons living within the unit and not more than one person not living within the unit.

### **13.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. **Live-work Area:** A minimum of 600 square feet of living area including bathroom, kitchen and sleeping area is to be provided within each live-work unit. Residential space within a live-work unit is not to exceed 1,500 square feet, unless so specified in the Master Development Plan. Not more than 50% of the floor area of each live-work unit shall be devoted to living area.
2. **Usable Open Space:** A minimum of fifty (50) square feet of private or common usable open space shall be provide for every live-work unit. This may be provided on outdoor landscaped areas open to private or common access, or as decks, balconies, porches, or rooftop open space. The open spaces shall be designed and oriented to minimize wind exposure and maximize sun exposure.
3. **Ventilation:** Live-work units are to have an adequate ventilation system to serve the range of uses that could be allowed. Each live-work unit is to have at least one standard size window that can be opened to the outside.

4. Noise Insulation: Live-work units are to have adequate noise insulation and are to attenuate noise levels to 50 dBA or better within the living area of the unit from the noise levels generated by range of uses that could be allowed in adjacent units.
5. Hazardous Materials: Small amounts of hazardous materials may be allowed for use within a live-work unit, as specified in the use permit, if such use does not impact the health or safety of the live-work resident or other residents within or adjacent to the building. All hazardous materials must comply with use permit specifications and be stored and disposed of according to building regulations and applicable City, State and Federal Laws.
6. Safety: Live-work units and buildings must comply with any additional requirements imposed by the Building, Fire, Planning, Police, and Public Works Departments intended to protect public health, safety and welfare.

### **13.400 Land Use Regulations**

All new and expanded development and uses that are allowed in I-R Industrial Residential Mixed Use District are identified in Table 13.1 below. These uses may be permitted in I-R Industrial Residential Mixed Use District subject to compliance with Chapter 49 and approval by the Community Development Director. Table 13.1 also lists inappropriate uses that may be generally thought to be possible within a light industrial district, but which have incompatible characteristics with the purposes and allowed uses of the I-R District.

Other uses of an industrial or commercial nature that generate low volumes of traffic, can benefit from a live-work arrangement, and can be shown to be compatible with the allowed live-work industrial uses may be allowed pending approval of a conditional use permit.

### **13.500 Property Development Regulations**

The property development regulations presented in Table 13.2 establish basic site and design requirements for the I-R Industrial Residential Mixed Use District. All regulation standards are minimum amounts unless otherwise stated.

**Table 13.1 Land Use Regulations: I-R Industrial Residential Mixed Use District**

	<b><u>I-R</u></b>
<b>Industrial Uses</b>	
Artist studios	A
Arts and crafts fabrication	A
"Cottage" or "start-up" industries	A
General industrial uses	-
Hazardous material manufacture, storage and sales	-
Small scale warehousing for mail order	A
<b>Commercial Uses</b>	
Animal sales/services	-
Automotive repair and painting	-
General commercial uses requiring on-premise sales	-
Gasoline or other flammable liquid/gas storage and sales	-
Home Occupation	A
Sale of materials and products made onsite	A
<b>Residential Uses</b>	
Caretaker and Manager Housing	A
Live-work units	A
<b>Public and Quasi Public Uses</b>	
Daycare Facilities (for residents and employees)	A
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

- Use Not Allowed

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

**Table 13.2 Property Development Regulations: I-R Industrial Residential Mixed Use District**

	<u>I-R</u>	<u>See Also</u>
Site Area (sf )	-	
Density (FAR) <sup>(1)</sup>	0.50	
Density (du/ac)	25	
Lot Size (sq ft)	5,000 <sup>(2)</sup>	
Lot Frontage (ft)	50 <sup>(2)</sup>	
Lot Depth (ft)	100 <sup>(2)</sup>	
Setbacks		
Front (ft)	10 <sup>(3)</sup>	
Rear (ft)	20 <sup>(3)</sup>	
Side (ft)	5 <sup>(3)</sup>	
Corner Side (ft)	10 <sup>(3)</sup>	
Maximum Site Coverage	50%	
Landscaping Minimum	10%	
Usable Open Space (sq ft/unit)	50	
Building Height (ft)	40	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> FAR does not apply to residential development.
  - <sup>(2)</sup> Lesser lot size and dimensions may be accepted in an approved Planned Development Plan.
  - <sup>(3)</sup> Lesser setbacks may be accepted in an approved Planned Development Plan.
- (PDP) Or as per an approved Planned Development Plan.

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## **CHAPTER 14**

### **PC-I PLANNED COMMERCIAL INDUSTRIAL MIXED USE DISTRICT**

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#### **14.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the PC-I Planned Commercial Industrial Mixed Use District are to:

1. Accommodate commercial or industrial uses on properties adjacent to and visible from I-80 and State Route 4 in a manner that preserves visibility from these highways.
2. Provide attractive site planning and architectural guidelines for development within these highly visible areas of the City.
3. Allow warehouse, distribution and wholesales uses within this district if they directly serve or are essential to businesses in Hercules.
4. Allow for new light industrial uses related to R & D, manufacturing, and business industrial services.

#### **14.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated PC-I Planned Commercial Industrial.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48, Planned Development.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit. The Planned Development Plan for properties in this district shall also include provisions for sewer capacity and other infrastructure, access to public streets, adequate parking, architectural guidelines or controls, and landscaping.
3. A hazardous materials management plan for the facility is to be prepared as part of the Planned Development Plan to regulate use of hazardous materials within the facility and to provide for the storage and disposal of small amounts of hazardous wastes that may be generated.

### **14.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Design: Structures shall be designed with an attractive architectural theme for the allowed commercial, office and light industrial development that will be viewed at the gateway to the City. Properties within the zoning district are to be developed for light industry or commercial and office use which is to be reflected by the site plan and architectural design theme.
2. Public Health and Safety: New industrial uses that may reasonably be expected to generate substantial odor, dust, noise, vibration, water quality, air quality, public safety, or toxic and hazardous material impacts are prohibited. Existing heavy industrial uses that generate such impacts shall be required to reduce impact levels as a condition for expansion or change of use.

### **14.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the PC-I Planned Commercial Industrial Mixed Use District are identified in Table 14.1 below. These uses may be subject to compliance with Chapter 49 and approval by the Community Development Director. Warehouse, distribution and wholesales uses within this district may only be allowed if they directly serve or are essential to businesses in Hercules.

Other uses of an industrial or commercial nature that generate low volumes of traffic, and can be shown to be compatible with permitted uses may be allowed pending approval of a conditional use permit.

### **14.500 Property Development Regulations**

The property development regulations presented in Table 14.2 establish basic site and design requirements for the PC-I Planned Commercial Industrial Mixed Use District. All regulation standards are minimum amounts unless otherwise stated.

**Table 14.1 Land Use Regulations: PC-I Planned Commercial Industrial Mixed Use District**

	<u><b>PC-I</b></u>
<b>Industrial Uses</b>	
Business Industrial Services	A
Light Manufacturing	A
Research and Development	C
Warehouses, Distribution and Storage Facilities	C
<b>Commercial Uses</b>	
Recreation and Entertainment	A
Retail Sales	
Retail Stores	
2,000 sq ft or less	A
More than 2,000 sq ft	A
Restaurants and Delicatessens	A
Shopping Centers	C
Services and Offices	
Athletic Clubs	A
Business Services	A
Offices and Banks	A
Wholesale Sales	C
<b>Public and Quasi Public Uses</b>	
Daycare Facilities	A
(for employees and visitors)	
Government Offices	A
Libraries, Museums and Galleries	A
Public Safety Facilities	A
Urgent Medical Care	C
Utility Facilities	C
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

**Table 14.2 Property Development Regulations: PC-I Planned Commercial Industrial Mixed Use District**

	<u>PC-I</u>	<u>See Also</u>
Site Area (sf )	-	
Density (FAR)		
Range	0.25 to 0.50	
Typical	0.30	
Lot Size (sq ft)	5,000 <sup>(1)</sup>	
Lot Frontage (ft)	50 <sup>(1)</sup>	
Lot Depth (ft)	100 <sup>(1)</sup>	
Setbacks		
Front (ft)	20 <sup>(2)</sup>	
Rear (ft)	20 <sup>(2)</sup>	
Side (ft)	10 <sup>(2)</sup>	
Corner Side (ft)	20 <sup>(2)</sup>	
Maximum Site Coverage	50%	
Landscaping Minimum	10%	
Building Height (ft)	35	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> Lesser lot size and dimensions may be accepted in an approved Planned Development Plan.
- <sup>(2)</sup> Lesser setbacks may be accepted in an approved Planned Development Plan.
- (PDP) Or as per an approved Planned Development Plan.

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## **CHAPTER 15**

### **PC-R PLANNED COMMERCIAL RESIDENTIAL MIXED USE DISTRICT**

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#### **15.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the PC-R Planned Commercial Residential Mixed Use District are to:

1. Provide the opportunity to accommodate both residential and commercial uses in a well planned, mixed use development.
2. Provide the opportunity for an integrated mixture of residential and commercial employment generating uses within the same structure or site.
3. Allow lower cost live-work opportunities for start-up commercial enterprises and other smaller scale point of sale enterprises that are compatible with the residential and commercial uses within the building or site.
4. Provide the opportunity for upper floor residential over ground floor commercial uses.
5. Encourage mixed-use development that could minimize vehicle use.

#### **15.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated PC-R Planned Commercial Residential.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48, Planned Development.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit. Subdivision or partial development of any properties within this district shall not be approved until a Planned Development Plan for full development of the property has been reviewed and approved.

3. Commercial structures and uses are to be located and designed as a unified development, which may resemble a shopping center, a shopping mall, or a traditional downtown shopping street ("Main Street").
4. Development is to be carefully planned to insure that benefits of mixed use development are fully realized and the potential negative impacts of one use on another are minimized.
5. As an incentive to develop commercial and residential uses within the same building or site, the allowed residential development density of 40 units per acre may be added to the allowed non-residential density of 0.20 to 4.0 FAR.
6. A mixed use commercial and residential development is to provide a balance of open space, landscaping, recreation, and transit access.
7. Adequate parking shall be provided onsite that takes into account the different peak parking demand periods of residential and employment activities.
8. The facility should be designed to use parking areas, garages and landscaping as buffers for noise, light and glare.

### **15.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

- A. Live-work Area: A minimum of 600 square feet of living area including bathroom, kitchen and sleeping area is to be provided within each live-work unit.
- B. Usable Open Space: A minimum of fifty (50) square feet of private or common usable open space shall be provide for every live-work unit. A minimum of one hundred (100) square feet of private or common usable open space shall be provided for every residential unit. This may be provided on outdoor landscaped areas open to private or common access, or as decks, balconies, porches, recreation facilities, or rooftop open space. The open spaces shall be designed and oriented to minimize wind exposure and maximize sun exposure.
- C. Ventilation: Live-work units are to have an adequate ventilation system to serve the range of uses that could be allowed. Each live-work unit is to have at least one standard size window that can be opened to the outside.
- D. Noise Insulation: Residential and live-work units are to have adequate noise insulation and are to attenuate noise levels to 50 dBA or better within the living area of the unit from the noise levels generated by range of uses that could be allowed in adjacent units and buildings.

- E. Light and Glare: Night lighting shall be located and designed to minimize glare on the residential uses within and adjacent to the site.

### **15.400 Land Use Regulations**

All new and expanded development and uses that are allowed in PC-R Planned Commercial Residential Mixed Use District are identified in Table 15.1 below. These uses may subject to compliance with Chapter 49 and approval by the Community Development Director.

Other uses of a commercial nature that can benefit from a live-work arrangement, or that can be shown to be compatible with the commercial and residential uses; and commercial uses that provide needed goods and services to nearby residential uses and that can be shown to be compatible with the residential uses in close proximity, or contribute to creating a functional residential neighborhood that has convenient access to commercial facilities may be allowed pending approval of a conditional use permit.

### **15.500 Property Development Regulations**

The property development regulations presented in Table 15.2 establish basic site and design requirements for the in PC-R Planned Commercial Residential Mixed Use District. All regulation standards are minimum amounts unless otherwise stated.

**Table 15.1 Land Use Regulations: PC-R Planned Commercial Residential Mixed Use District**

	<u>PC-R</u>	<u>See Also</u>
<b>Commercial Uses</b>		
Home Occupation	A	
Recreation and Entertainment	C	
Retail Sales		
Outdoor Sales	C	
Retail Stores		
2,000 sq ft or less	A	
More than 2,000 sq ft	C	
Restaurants and Delicatessens	A	
With Liquor Service	C	
Shopping Centers	C	
Services and Offices		
Athletic Clubs	C	
Business Services	A	
Hotel	C	
Offices and Banks	A	
Personal Services	A	
<b>Residential Uses</b>		
Caretaker, Manager and Employee Housing	A	
Small Family Daycare Home (8 or less children)	A	Section 35.260
Large Family Daycare Home (7 to 14 children)	A	Section 35.260
Live-work units	A	
Multifamily Dwellings	A	
Townhouse/Condominiums	A	
Planned Unit Development	A	
Supportive Housing (Apartment Type)	A	
Transitional Housing (Apartment Type)	A	
<b>Public and Quasi Public Uses</b>		
Daycare Facilities (for employees and visitors)	A	
Government Offices	A	
Libraries, Museums and Galleries	A	
Public Safety Facilities	A	
Urgent Medical Care	C	
Utility Facilities	C	
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>	

**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

**Table 15.2 Property Development Regulations: PC-R Planned Commercial Residential Mixed Use District**

	<u>PC-R</u>	<u>See Also</u>
Site Area (sf)	-	
Density (FAR) <sup>(1)</sup>		
Range	0.20 to 4.0	
Typical	2.0	
Density (du/ac)	40 <sup>(5)</sup>	
Lot Size (sq ft)	(PDP)	
Lot Frontage (ft)	(PDP)	
Lot Depth (ft)	(PDP)	
Setbacks		
Front (ft)	10 <sup>(2)</sup>	
Rear (ft)	10 <sup>(2)</sup>	
Side (ft)	0 <sup>(2)</sup>	
Corner Side (ft)	10 <sup>(2)</sup>	
Maximum Site Coverage	(PDP)	
Landscaping Minimum	10%	
Usable Open Space (sq ft/unit)	50/100 <sup>(3)</sup>	Section 15.300
Building Height (ft)	40/50/65 <sup>(4)</sup>	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

- <sup>(1)</sup> FAR does not apply to residential development.
  - <sup>(2)</sup> Lesser setbacks may be accepted in an approved Planned Development Plan.
  - <sup>(3)</sup> 50 square feet/unit for live-work, 100 square feet/unit for residential
  - <sup>(4)</sup> 50 feet height allowed for combined commercial and residential uses within a structure; for major frontages along Sycamore Avenue and San Pablo Avenue, a maximum height of 65 feet is allowed only if approved in a PDP adopted pursuant to Chapter 48.
  - <sup>(5)</sup> A maximum density of 80 units per acre is permitted for the Town Centrale project on Sycamore Avenue as an approved Planned Development Plan.
- (PDP) As per an approved Planned Development Plan.

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**CHAPTER 16**  
**PO/RD PLANNED OFFICE-RESEARCH & DEVELOPMENT**  
**MIXED USE DISTRICT**

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**16.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the PO/RD Planned Office-Research & Development Mixed Use District are to:

1. Provide areas of adequate size and access to support a wide variety of employment oriented business and enterprise complexes.
2. Provide attractive site planning and architectural guidelines for development.
3. Allow warehouse, distribution and wholesales uses within this district if they directly serve or are essential to businesses in Hercules.
4. Allow for new light industrial uses related to R & D, manufacturing, and business industrial services.

**16.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated PO/RD Planned Office-Research & Development.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48, Planned Development. Subdivision or partial development of any properties within this district shall not be approved until a Planned Development Plan for full development of the property has been reviewed and approved.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit. The Planned Development Plan for properties in this district shall also include provisions for sewer capacity and other infrastructure, access to public streets, adequate parking, architectural guidelines or controls, and landscaping.
3. A hazardous materials management plan for the facility is to be prepared as part of the Planned Development Plan to regulate use of hazardous materials within the facility and to provide for the storage and disposal of small amounts of hazardous wastes that may be

generated. An emergency response program is required to be part of the management plan

### **16.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Design: Structures shall be designed with an attractive architectural theme for the allowed commercial, research and development, administrative office and light industrial development.
2. Public Health and Safety: New industrial uses that may reasonably be expected to generate substantial odor, dust, noise, vibration, water quality, air quality, public safety, or toxic and hazardous material impacts are prohibited.

### **16.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the PO/RD Planned Office-Research & Development Mixed Use District are identified in Table 16.1 below. These uses may be subject to compliance with Chapter 49 and approval by the Community Development Director.

The predominant uses in this district shall include research and development, administrative offices and light manufacturing. Office and retail service establishments serving nearby businesses and their employees. Warehouse, distribution and wholesales uses within this district may only be allowed if they directly serve or are essential to businesses in Hercules. Other uses of an industrial or commercial nature that generate low volumes of traffic, and can be shown to be compatible with permitted uses may be allowed pending approval of a conditional use permit.

### **16.500 Property Development Regulations**

The property development regulations presented in Table 16.2 establish basic site and design requirements for the PO/RD Planned Office-Research & Development Mixed Use District. All regulation standards are minimum amounts unless otherwise stated.

**Table 16.1 Land Use Regulations: PO/RD Planned Office-Research & Development Mixed Use District**

	<u>PO/RD</u>
<b>Industrial Uses</b>	
Business Industrial Services	A
Light Manufacturing	A
Research and Development	C
Warehouses, Distribution and Storage Facilities	C
<b>Commercial Uses<sup>(1)</sup></b>	
Hotels and Motels	C
Retail Sales	
Retail Stores	
2,000 sq ft or less	A
More than 2,000 sq ft	C
Restaurants and Delicatessens	A
Services and Offices	
Athletic Clubs	C
Business Services	A
Offices and Banks	A
<b>Residential Uses</b>	
Emergency Shelter	A
<b>Public and Quasi Public Uses</b>	
Daycare Facilities	A
(for employees and visitors)	
Government Offices	A
Libraries, Museums and Galleries	A
Public Safety Facilities	A
Urgent Medical Care	C
Utility Facilities	C
<b>Accessory Uses and Structures</b>	A <sup>(2)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

(1) Retail commercial, office and service uses are to serve nearby business and their employees.

(2) Facility or use is directly related to the primary uses of site.

**Table 16.2 Property Development Regulations: PO/RD Planned Office-Research & Development Mixed Use District**

	<u>PO/RD</u>	<u>See Also</u>
Site Area (sf)	-	
Density (FAR)		
Range	0.25 to 1.00	
Typical	0.30	
Lot Size (sq ft)	10,000 <sup>(1)</sup>	
Lot Frontage (ft)	100 <sup>(1)</sup>	
Lot Depth (ft)	100 <sup>(1)</sup>	
Setbacks		
Front (ft)	30 <sup>(2)</sup>	
Rear (ft)	20 <sup>(2)</sup>	
Side (ft)	10 <sup>(2)</sup>	
Corner Side (ft)	20 <sup>(2)</sup>	
Maximum Site Coverage	50%	
Landscaping Minimum	10%	
Building Height (ft)	35	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

<sup>(1)</sup> Lesser lot size and dimensions may be accepted in an approved Planned Development Plan.

<sup>(2)</sup> Lesser setbacks may be accepted in an approved Planned Development Plan, but minimum setbacks shall be 50 feet front, 100 feet side, 100 feet rear, and 20 feet for parking areas when adjacent to existing residences or residentially zoned area.

(PDP) Or as per an approved Planned Development Plan.

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## **CHAPTER 17**

### **WC WATERFRONT COMMERCIAL DISTRICT**

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#### **17.100 Specific Purposes**

In addition to the general purposes listed in Chapter 5.100 the specific purposes of the WC Waterfront Commercial District are to:

1. Reserve designated waterfront areas for a mix of commercial, public, recreation and open space uses that are consistent with the General Plan and preserve and enhance the characteristic meeting of land and water.
2. Create an attractive destination point for public access to and along the waterfront for residents of the City and surrounding communities.
3. Provide for appropriate waterfront related private and public/semi-public uses on Hercules Point and the Hercules waterfront.
4. Provide goods and services for visitors to public recreation and access areas along the waterfront.
5. Ensure that the appearance and effects of commercial buildings preserve and enhance the enjoyment of the waterfront's scenic setting, open views, and natural habitats.
6. Protect sensitive habitats of the shoreline area while providing trails and access points along the shoreline.
7. Provide for shoreline use and waterfront development consistent with the McAteer-Petris Act and the Bay Plan.

#### **17.200 Review of Plans and General Conditions**

Plans for all new and expanded development and uses shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas designated WC, Waterfront Commercial.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48, Planned Development Plans. Subdivision or partial development of any properties within this district shall not be approved until a Planned Development Plan for full development of the property has been reviewed and approved. Other uses that can be

shown to support visitor recreation and access within the Waterfront Commercial Area or along the adjacent waterfront areas may be approved with a conditional use permit.

2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit.
3. A shoreline access and management plan for the property is to be prepared as part of the Planned Development Plan to identify sensitive shoreline areas, buffer areas, a trail and access system, signage, and access area maintenance.
4. An erosion control plan is to be prepared as part of the Planned Development Plan to control sediment drainage to salt marshes and other wetlands, sensitive habitats, and natural drainage

### **17.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met. In addition, the following specific performance standards shall be met:

1. Design: Structures shall be designed with an attractive architectural theme consistent with the waterfront character of the site. In general, buildings should be designed and located so that lower, one story heights are along the edge of the waterfront development with higher building heights allowed to step back from the waterfront.
2. Shoreline Habitat Vegetation: Provide a reasonable buffer between development and adjacent salt and mud flat areas. Revegetation in special habitat areas and buffers should be of a native and approved nonnative species requiring no irrigation and little management.
3. Visual: Structures and landscaping are to be located and designed to protect existing view corridors and create additional view corridors of the Bay and shoreline within the Planned Development Plan area.
4. Light and Glare: Waterfront structures should use nonreflective surfaces, and night lighting is to be designed to minimize glare on access and habitat areas.
5. Shoreline Access Design: Public access along the shoreline is to be provided through a shoreline trail and vertical access points within the project. Shoreline access design is to conform to the guidelines and standards contained in the San Francisco Bay Conservation and Development Commission (BCDC) publication Public Access Design Guidelines.
6. Soils and Geology: Where possible, development of buildings over areas of Bay Mud should be avoided. Development shall meet all requirements of geology and soils reports.
7. Noise: Predrilling shall be required for driving piles in the waterfront area.

## **17.400 Land Use Regulations**

All new and expanded development and uses that are allowed in the WC Waterfront Commercial are identified in Table 17.1 below. These uses may be allowed subject to compliance with Chapter 49 and approval by the Community Development Director.

The predominant uses in this district shall include recreational uses and commercial uses that provide goods and services for visitors to public access areas. Waterfront recreation development could include a marina, fishing pier, water transportation, boat yard and maintenance, and boat launching facilities. Other such uses that can be shown to be support visitor recreation and access within the Waterfront Commercial Area or along the adjacent waterfront areas may be allowed pending approval of a conditional use permit.

## **17.500 Property Development Regulations**

The property development regulations presented in Table 17.2 establish basic site and design requirements for the WC Waterfront Commercial District. All regulation standards are minimum amounts unless otherwise stated.

**Table 17.1 Land Use Regulations: WC Waterfront Commercial District**

	<u>WC</u>
<b>Commercial Uses</b>	
Bed and breakfast inn/hotel	C
Boat sales, service and repair	C
Recreation and Entertainment	C
Retail Sales	
Outdoor Sales	C
Retail Stores	
2,000 sq ft or less	A
More than 2,000 sq ft	C
Restaurants and Delicatessens	A
With Liquor Service	C
Services and Offices	
Boat rental	A
Offices <sup>(1)</sup> and Banks	A
Recreation Services and Instruction	A
Recreational equipment rental and repair	A
<b>Residential Uses</b>	
Caretaker and Manager Housing	A
<b>Public and Quasi Public Uses</b>	
Clubs and Lodges (Yacht Club)	C
Daycare Facilities	A
(for employees and visitors)	
Government Offices	A <sup>(1)</sup>
Libraries, Museums and Galleries	A
Marina and Boat Launching Facilities	C
Public Pier	C
Public Safety Facilities	A
Transportation Facilities (Train and Ferry)	C
Utility Facilities	C
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

**Table 17.2 Property Development Regulations: WC Waterfront Commercial District**

	<u>WC</u>	<u>See Also</u>
Site Area (sf )	-	
Density (FAR)		
Range	0.15 to 0.30	
Typical	0.20	
Lot Size (sq ft)	(PDP)	
Lot Frontage (ft)	(PDP)	
Lot Depth (ft)	(PDP)	
Setbacks		
Front (ft)	10 <sup>(1)</sup>	
Rear (ft)	20 <sup>(1)</sup>	
Side (ft)	10 <sup>(1)</sup>	
Corner Side (ft)	10 <sup>(1)</sup>	
Maximum Site Coverage	30%	
Landscaping Minimum	20%	
Building Height (ft)	25	
Parking	(PDP)	Chapter 32
Signage	(PDP)	Chapter 34

**Key to Land Use Regulations**

<sup>(1)</sup> Lesser lot size and dimensions may be accepted in an approved Planned Development Plan.  
(PDP) Or as per an approved Planned Development Plan.

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## CHAPTER 18

### NTC NEW TOWN CENTER DISTRICT

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#### **18.100 Specific Purposes**

The specific purposes of the proposed NTC zone are listed as follows:

1. Create a transit-oriented town center consisting of a relatively dense pattern of building in the center of town and a mix of residential, commercial, office, and public and quasi-public uses.
2. Create an interconnected network of pedestrian-oriented streets, blocks, and publicly accessible open spaces.
3. Establish commercial and retail development in the area around Sycamore and San Pablo Avenues and along SR 4.
4. Create a vibrant, urbanized place for shopping, working, and living at the core of Hercules.
5. Create a mix of neighborhood-serving retail and commercial uses around one or more new town squares.
6. Develop according to principles of transit-oriented development and urban design identified in the Central Hercules Plan Regulating Code (see Chapter 28 of the Zoning Ordinance).
7. Encourage development that promotes walking, biking, and transit use.
8. Provide transit users with opportunities to reduce vehicular travel by creating opportunities to purchase goods and services at or near transit stations.
9. Promote transit by providing attractive and convenient multiple-use transit stations or centers.
10. Promote regional employment opportunities based on access to regional transit facilities.
11. Work with transit agencies to develop both short-term and long-term transit facility uses in Hercules.

12. Create central gathering places where residents of Hercules can meet, shop, and socialize.

### **18.200 Review of Plans and General Conditions**

General conditions would apply to all new and expanded development in the NTC zone, subject to sections of the Zoning Ordinance, including: Chapter 42—Design Review; Chapter 48—Planned Development Plans; and Chapter 49—Specific Plans, or another process approved by the Community Development Director. Additionally, as stated above, new and expanded development must have a finding of consistency with the general planning and design intent of the Central Hercules Plan (CHP) Regulating Code (Chapter 28 of the Zoning Ordinance) and complement its character.

Furthermore, all development proposals within the NTC zone would be reviewed for:

1. Careful planning to avoid potential negative impacts of one use on another;
2. Easy and convenient access by foot and bike to transit facilities;
3. A balance of open space, landscaping, recreation, and transit access;
4. Adequate parking while also allowing for parking reductions for shared parking arrangements;
5. Buffers for noise, light, and glare;
6. Unified development with an emphasis on pedestrian access to and from transit component(s) of the development; and
7. Attractive frontages along public highways and street rights-of-way.

### **18.300 Performance Standards**

In addition to the General Conditions described above, all new and expanded development would be subject to general performance standards specified in Chapter 31 of the Zoning Ordinance in addition to the following specific performance standards, including:

1. Design/architectural theme;
2. Street connectivity for vehicles and pedestrians;
3. Maximum block length;
4. Light and glare prevention/reduction;

5. Landscaping;
6. Usable open space minimums;
7. Integrated open space network;
8. Noise insulation/attenuation; and
9. Design & location of parking facilities.

**18.400 Land Use Regulations**

Because the NTC is intended to be a mixed-use district, any use proposed use would require a land use permit as identified in Table 18.1 (Land Use Regulations: NTC District). These uses may be allowed/permitted subject to approval of: either an administrative use permit (A), or a conditional use permit (C) AND demonstration of compliance with Chapter 48 of the Zoning Ordinance.

Other uses may be allowed within the NTC zone subject to approval of a CUP that can be shown to support mass transit, benefit from the availability of mass transit, provide goods and services to transit users, or contribute to creating a full service transit-oriented commercial public facility. Because the emphasis of the NTC zone is on mixed use, multiple combinations of uses would be allowed as identified in Table 18.1).

<b>Table 18.1 Land Use Regulations: NTC District</b>	
	<u><b>NTC</b></u>
<b>Commercial Uses</b>	
Recreational Facilities	
Athletic Clubs	A
Other Commercial Athletic Facilities	C
Retail Sales	
Convenience Stores	C
Dry Cleaners and Laundries	C
Furniture, Furnishings, and Hardware Stores	C
Grocery and Liquor	C
Outdoor Retail Sales and Services	
Permanent	C
Temporary	A
Recreation and Entertainment	C
Restaurant, Delicatessen, and Bar	A
With Liquor Service	C
Retail Stores	
2,000 sq. ft. or less	A
More than 2,000 sq. ft.	C
Services and Offices	

**Table 18.1 Land Use Regulations: NTC District (Continued)**

	<u>NTC</u>
Business Support Services	A
Hotels, Motels, Inns	C
Medical	
Medical and Dental Clinics and Services	A
Offices and Banks	
2,000 sq. ft. or less	A
More than 2,000 sq. ft.	C
Personal Services	A
Video/Media Rentals	C
<b>Public and Quasi Public Uses</b>	
Daycare Facilities	A
(for employees, residents, visitors, and passengers)	
General Daycare	C
Government Offices	A
Libraries, Museums and Galleries	C
Park and Recreational Facilities	A
Public Safety Facilities	A
Transit Facilities	
BART Stations	C
Transit Transfer Stations	C
Transit Malls	C
Transit Offices and Support Facilities	C
Utility Facilities	C
<b>Residential Uses</b>	
Caretaker, Guest, and Employee Housing	A
Multifamily Dwelling	A
Townhouse/Condominium	A
Planned Unit Development	A
Supportive Housing (Apartment Type)	A
Transitional Housing (Apartment Type)	A
<b>Accessory Uses and Structures</b>	A <sup>(1)</sup>

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**Key to Land Use Regulations**

A Administrative Use Permit Required

C Conditional Use Permit Required

<sup>(1)</sup> Facility or use is directly related to the primary uses of site.

## 18.500 Property Development Regulations in the NTC District

Table 18.2 (Property Development Regulations: NTC District) below identifies the property development regulations for the NTC zone. These regulations establish the basic site and design requirements.

**Table 18.2 Property Development Regulations: NTC New Town Center District**

	<u>NTC</u>	<u>See Also</u>
Site Area	—	
Residential Density (units/acre)		
Range	30–75 DUA	
Midrange	60 DUA	
Commercial Density (FAR)		
Range	0.10 to 2.00	
Typical	1.00	
Lot Size	—	
Lot Frontage	(PDP)*	
Lot Depth	(PDP)*	
Setbacks		
Front (ft.)	0 ft.	
Rear (ft.)	15 ft. adjacent to residential 10 ft. adjacent to any other use	
Side (ft.)	0 ft.	
Corner Side (ft)	0 ft.	
Maximum Site Coverage	(PDP)*	
Landscaping Minimum	(PDP)*	
Building Height		
Minimum	20 ft or 2 stories, whichever is greater	
Maximum	85 ft	
Parking	(PDP)*	Chapter 32
Signage	(PDP)*	

**Key to Land Use Regulations**

\*(PDP) Or as per an approved Planned Development Plan.

## **18.600 Relationship of the NTC Zone to the Central Hercules Plan Regulating Code**

The CHP Regulating Code includes a section regarding the “mandatory” or “permissive” application of the standards. This flexible option allows properties to be developed in strict accord with the underlying zoning or follow the design standards and provisions of the CHP. The proposed NTC land use designation and zone establish land use and development standards that will be applied to the development of properties in that area, and by adoption of the proposed Ordinance would supersede the “permissive” option of the CHP for those properties within the NTC area. Therefore, all development in the NTC would be subject to the standards in the NTC zone, including:

1. Administrative or Conditional Use permits established in the land use regulations, below; and
2. The property development standards/regulations described below that generally would be subject to the Planned Development Plan review and approval established in Chapter 48 of the Zoning Ordinance.

Additional findings still would be required that the proposed plan: a) is consistent with the general planning and design intent of the CHP Regulating Code, and b) complements the character of the planning and design in the balance of the area covered by the CHP Regulating Code.

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## **CHAPTER 20**

### **H HISTORIC OVERLAY DISTRICT**

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#### **20.100 Purposes**

The purposes of the H Historical Overlay District are to identify the areas and buildings of the City which possess a unique historical character, and to preserve, enhance, promote and expand the cultural and historical identities, characters and environments of such areas and buildings through the process of review of exterior architectural and other significant features of buildings and other structures proposed to be erected, relocated, improved or demolished. The Historical Overlay District includes lands designated HTC Historic Town Center by the General Plan, lands presently zoned Historical Overlay District, and additional lands that may be zoned for the overlay district as outlined in section 20.200.

#### **20.200 Establishment; Findings Required**

- A. The establishment of an H District may be initiated by an application or consent of all of the owners of the property within the proposed H District, by motion of the Planning Commission or by motion of the City Council. An H District shall be established only in conjunction with other districts. An H designation shall overlay whatever other district designation is applicable to the area or buildings for which an H District is established; the boundaries of an H District may or may not coincide with other district boundaries.
- B. The provisions of this Article shall apply in an H district, which district shall also be subject to other provisions of this Chapter, including the provisions applicable to the particular district or districts which the H District designation overlays; provided, that where a conflict between the regulations in this Chapter and those in other provisions of the Zoning Ordinance occurs, the regulations in this Chapter shall prevail.
- C. No H District shall be established unless the City Council makes the following findings:
  - 1. That the area of buildings for which an H District designation is proposed has a unique historical character and identity.
  - 2. That the historical character, identity and environment of the area or buildings for which an H District designation is proposed would be

preserved and enhanced to the benefit of such area or buildings and the City as a whole by the application of the regulations and review procedures set forth in this Article.

- D. Whenever an H District is established, any subsequent application to change any district which the H District overlays shall not be construed to be an application to eliminate the H District designation for the area covered by the application unless such intent to eliminate the H District designation is expressly stated to be part of the application.

### **20.300 Regulations Applicable to Buildings**

Buildings of similar historical and cultural significance as the buildings existing in the H District may be erected therein or relocated to the H District from another site: no other buildings shall be erected in or relocated to an H District. No building erected or existing in or relocated to an H District shall be altered, enlarged or rebuilt so as to affect the exterior of such building (except to the extent construction work is required to make relocated buildings usable) nor demolished without prior approval of the City Council or the Historical Architectural Review Board.

### **20.400 Historical Architectural Review Board**

The Planning Commission shall serve as the Historical Architectural Review Board. As such Board, it is authorized to review for approval proposed alterations, enlargements or rebuilding affecting the exterior of buildings in the H District, whether newly erected, existing or relocated, the landscaping associated with such buildings, site plans and the proposed erection, relocation or demolition of buildings in the H District. The homeowners association in which the property is located shall review proposed site development standards and projects and shall make a recommendation in writing to be submitted as part of the project application prior to review by the Historical Architectural Review Board.

Historical Architectural Review Board shall consider the recommendation of the homeowners association and the appropriateness of the proposed standards for the exterior architectural features of proposed buildings and structures such as building materials, color schemes, historical styles, signs, landscaping and other exterior fixtures prior to making a recommendation on a project.

## **20.500 Standards and Guides to Applicants**

The City shall prepare standards for site development, signs, landscaping and exterior architectural features including, but not limited to, building materials, color schemes and historical styles. In addition to written standards, photographs and/or drawings illustrating acceptable features, bibliographies listing standard reference works, and such other reference materials as may be suitable may be included as part of such standards. The standards shall provide adequate guidance for evaluating subsequent development applications and construction submittals.

## **20.600 Applications and Submittals**

Applications shall be filed with the Community Development Department on the appropriate City form. In any proceeding for the designation of additional H District areas, whether upon the Commission's or Council's own motion or by application of property owners, photos and drawings to scale shall be submitted to indicate the following:

- A. The siting of all structures on the subject site.
- B. Use of walls or fencing for screening purposes.
- C. The proposed appearance including colors and building materials of all exterior elevations of the buildings, structures or signs under consideration.
- D. Landscaping and/or fencing of yards and setback areas and use of landscaping and/or walls for screening purposes.
- E. The character of the buildings on either side of the subject site.

## **20.700 Planning Commission Hearing, Notice and Action**

Whenever an application is received for the designation of an H District or the Commission or Council proposes the establishment of an H District on their own motion, the Planning Commission shall hold a public hearing thereon not less than thirty (30) days nor more than sixty (60) days after all supporting material as required by 20.600 is on file with the secretary of the Planning Commission and is available for public inspection.

Not less than ten (10) days nor more than twenty (20) days prior to the date of the public hearing, the secretary of the Planning Commission shall give written notice thereof by mailing, postage prepaid, a notice of the time and place of the hearing to each person whose name appears in the last equalized assessment roll of Contra Costa County, or as known to the secretary of the Planning Commission, as owning property within the proposed H District or as owning property within three hundred (300) feet of the exterior boundaries of the proposed H District at the address shown on said assessment roll or as known to said secretary of the Planning Commission. Notice of the public hearing shall also be given by posting three (3) or more copies, appropriately spaced, of such notice of hearing on or adjacent to the property proposed to be included in the H District not less

than ten (10) days prior to the date of the hearing and by publication of such notice of hearing at least once in a newspaper of general circulation circulated in the City of Hercules not less than ten (10) days prior to the date of the hearing. Failure of any person to receive such notice shall not invalidate any proceedings taken with respect to the establishment of the H District.

At the public hearing the Commission shall review and consider the proposal for establishment of the H District and all supporting material therefor and shall receive all pertinent evidence. Each hearing shall be open to the public and all persons present shall be given an opportunity to be heard. Any hearing may be continued from time to time.

Within thirty (30) days following the conclusion of the public hearing, the Planning Commission shall transmit a report and recommendation to the City Council. Such report and recommendation shall include a statement of its reasons why such district should or should not be established, one copy of the application or motion of the Commission or Council proposing establishment of the District, the scale drawing of the site and all other data filed therewith, the minutes of the public hearing and the report of the Community Development Director.

#### **20.800 Council Hearing, Notice and Action**

The City Council shall set the matter for public hearing within thirty (30) days after receipt of the report and recommendation of the Planning Commission. The time, notice and conduct of the hearing shall be the same as for the hearing by the Planning Commission as provided in Section 20.700.

The Council may approve, deny or condition its approval, based on specific findings as to whether the proposal conforms to the adopted standards; in order to approve or conditionally approve, the Council must also make the findings required by 20.200. Any conditions of approval imposed by the Council shall be specific and shall set forth the manner in which the conditions achieve conformity with the standards.

#### **20.900 Change of Zoning Map**

If the H District is established, an appropriate change shall be made on the zoning map, with a notation of the date and number of the ordinance amending the map.

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## **CHAPTER 21**

### **F SPECIAL FLOOD HAZARD AREA OVERLAY DISTRICT**

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#### **21.100 Purposes**

The purposes of the F Special Flood Hazard Area Overlay District are to:

1. Promote the health, safety, and welfare, and to minimize public and private loss as a result of flood hazards.
2. To designate the special flood hazard area subject to the regulations of the Municipal Code, Title 10, Chapter 7, Flood Damage Prevention Ordinance.
3. To provide guidelines in combining the regulations for the land use zoning district designation of a property as determined by the Zoning Map in conjunction with Flood Damage Prevention Ordinance of the Municipal Code (Title 10, Chapter 7).

#### **21.200 Establishment and Application**

The Special Flood Hazard Area Overlay District is established by definition as the area of land designated by the Federal Emergency Management Agency (FEMA) within the 100 year flood plain as delineated within the Flood Insurance Rate Map (FIRM).

1. The Special Flood Hazard Area Overlay District is established in conjunction with other zoning districts designated for a property; the boundaries of the overlay may or may not coincide with other zoning district boundaries.
2. The regulations of this overlay in conjunction with the regulations of the Flood Damage Prevention Ordinance shall add to the regulations of whatever other zoning district designation or overlay district is applicable to the area or buildings within the overlay boundary, provided, that where a conflict between the flood regulations referenced in this Chapter and the regulations in other land use zoning districts occurs, the provisions of the Flood Damage Prevention Ordinance of the Municipal Code (Title 10, Chapter 7) shall prevail.

### **21.300 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met along with the specific performance standards required for the land use and other overlay districts designated for the property. In addition, the following specific performance standards shall be met:

1. The portion of the Special Flood Hazard Area Overlay District within the Refugio Creek basin west of San Pablo Avenue shall not be developed until flood control improvements are made to eliminate flood hazards to proposed development areas.
2. Other specific performance standards as set forth in the Flood Damage Prevention Ordinance.

### **21.400 Review of Plans and General Conditions**

Plans for all new and expanded development and uses within the overlay area shall be submitted to the Community Development Director as per Section 40.300 and the City Engineer as per the Flood Damage Prevention Ordinance. The following general conditions shall apply to all areas within the Special Flood Hazard Area Overlay District.

1. All new and expanded development shall be subject to the plan review and permit conditions of the land use zoning district designated for the property along with applications and permits required within Flood Damage Prevention Ordinance.
2. All new and expanded uses within the Special Flood Hazard Area Overlay District shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit.

### **21.500 Land Use Regulations**

The following uses may be permitted in any land use district zoning designation combined with the F Special Flood Hazard Area Overlay District subject to conditional use permit approval as per Chapter 49.

1. Uses permitted by the land use zoning district designation subject to the regulations of the Flood Damage Prevention Ordinance.
2. Improvement of new and existing structures subject to the regulations of the Flood Damage Prevention Ordinance.

3. Public parks, trails, open space and recreational development subject to the regulations of the Flood Damage Prevention Ordinance.
4. Filling of land, construction of levees or dikes or other flood structures designed to protect property from flooding subject to the regulations of the Flood Damage Prevention Ordinance.

### **21.600 Property Development Regulations**

The property development regulations within the Special Flood Hazard Area Overlay District are as per the regulations of the land use zoning district and other overlay districts designated for a property subject to the regulations of the Flood Damage Prevention Ordinance.

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## **CHAPTER 22**

### **REFUGIO CREEK OVERLAY DISTRICT**

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#### **22.100 Purposes**

The purposes of the Refugio Creek Overlay District are to:

1. Establish a 50-foot setback between development and the "top of bank" of the creek corridors of Refugio Creek and its tributaries as a transition area between the flood prone riparian habitats and development.
2. Preserve the wooded tree-lined character of the proposed hiking/biking trail along Refugio Creek west of I-80 through retention of existing vegetation and/or planting of replacement trees and other vegetation.
3. Protect wetland and riparian communities from degradation due to development, and implement the habitat protection and flood mitigation measures associated with the General Plan Land Use Element.

#### **22.200 Establishment and Application**

The Refugio Creek Overlay District is established by definition as the area of land within the 50 foot setback from either side of the top of bank of Refugio Creek and its tributaries. The overlay encompasses the creek corridor and the setback area extending outward from the top of bank.

1. The Refugio Creek Overlay District is established in conjunction with other zoning districts designated for a property; the boundaries of the overlay may or may not coincide with other zoning district boundaries.
2. The overlay shall add to the regulations of whatever other zoning district designation or overlay district is applicable to the area or buildings within the overlay boundary, provided, that where a conflict between the regulations in this Chapter and those in other provisions of the Zoning Ordinance occurs, the more restrictive regulation shall prevail.

### **22.300 Review of Plans and General Conditions**

Plans for all new and expanded development and uses within the overlay area shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas within the Refugio Creek Overlay District.

1. All new and expanded development shall be subject to Chapter 42, Design Review and Chapter 48 Planned Development.
2. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit.

### **22.400 Performance Standards and Land Use Regulations**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met along with the specific performance standards required for the land use and other overlay districts designated for the property. In addition, the following specific performance standards shall be met:

1. Require a minimum 50-foot setback between development and the "top of bank" of the lower Refugio Creek and Rodeo Creek corridors, except that the setback may be reduced for the west branch of Refugio Creek if the 50-foot setback proves infeasible.
2. Design of flood control improvements along Refugio Creek should be done in a manner to function as a transition area between land uses.
3. No structures are allowed within the overlay area except for necessary flood control and drainage facilities, bridges/road approaches, gravel or other previously surfaced maintenance roads, and recreational trails and paths. Whenever possible, these facilities shall be located and designed to not encroach upon the natural riparian and wetland habitat of the overlay area.
4. The overlay setback area may be included as part of any enhancements required by regulatory agencies or proposed by the developer. Riparian areas which are culverted or underground will be excluded from the setback buffer requirement.
5. The City shall require project proponents to design construction footprints to avoid any wetlands and buffer zones around the wetlands in the overlay area as determined by the Regional Water Quality Control Board (RWQCB), California Department of Fish and Game (CDFG) and/or the Army Corps of Engineers (COE). If avoidance is not possible, projects shall be redesigned so as to impact the least amount of wetlands. Any areas that are classified as wetlands and will be

affected by project development shall be recreated either on or off site in accordance with RWQCB, CDFG and COE requirements.

6. If flood control improvements are required along Refugio Creek, the City shall work with the COE to create a flood control area wide enough to provide for establishment within the flood control area of native vegetation to provide for wildlife habitat. There shall be a transition area between proposed land uses and the natural community within the overlay area.

## **22.500 Property Development Regulations**

The property development regulations within the Refugio Creek Overlay District are per the performance criteria set forth in this Chapter and Section 31.300 in combination with the regulations of the land use zoning district and other overlay districts designated for a property, provided, that where a conflict between the regulations in this Chapter and those in other provisions of the Zoning Ordinance occurs, the more restrictive regulation shall prevail.

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## **CHAPTER 23**

### **SCHOOL-PARK OVERLAY DISTRICT**

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#### **23.100 Purposes**

The purposes of the School-Park Overlay District are to:

1. Create an "Overlay District" consisting of undeveloped parcels west of San Pablo Avenue for the purpose of developing a centrally located elementary school/neighborhood park site. Parcel B, the McLeod property, is excluded from consideration because it is not centrally located.
2. Ensure that new development funds its share of costs associated with the provision of park facilities by attaching project-specific mitigation as conditions of approval.
3. Ensure that adequate school capacity is available to serve the demand generated by new development within the School-Park Overlay District.

#### **23.200 Establishment and Application**

The School-Park Overlay District is established for the area and properties designated within the General Plan for this district.

1. The School-Park Overlay District is established in conjunction with other zoning districts designated for a property; the boundaries of the overlay may or may not coincide with other zoning district boundaries.
2. The overlay shall add to the performance standards of whatever other zoning district designation or overlay district is applicable to the area or buildings within the overlay boundary.

#### **23.300 Review of Plans and General Conditions**

Plans for all new and expanded development and uses within the overlay area shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas within the School-Park Overlay District.

1. All new and expanded development shall be subject to Chapter 48 Planned Development. In addition, all new and expanded development shall be required to be subject to the plan review and permit conditions of the land use zoning district and other overlay districts designated for the property.

### **23.400 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met along with the specific performance standards required for the land use and other overlay districts designated for the property. In addition, the following specific performance standards shall be met:

1. Adequate capacity to serve new and expanded development within the overlay district that increases demand for school facilities shall be required. Adequate school capacity to serve a proposed project must either be available as certified by the school district, or improvements that provide adequate capacity as certified by the school district must be completed prior to issuance of a certificate of occupancy.
2. If adequate school capacity is not available, the project applicant may undertake one or more of the following actions to assist the development of adequate school capacity to serve the project:
  - a. Voluntarily make cash payments to the school district to provide improvements.
  - b. With the approval of the school district, provide or construct school facilities to improve capacity.
  - c. Dedicate or donate land for school capacity improvements.
  - d. Establish a funding district that can finance school capacity improvements.
  - e. Payment of adequate school impact fees or supplemental City development fees to be used for school improvements.

### **23.500 Land Use and Property Development Regulations**

The property development regulations within the School-Park Overlay District are per performance criteria set forth in this Chapter in combination with the regulations of the land use zoning district and other overlay districts designated for a property, provided, that where a conflict between the regulations in this Chapter and those in other provisions of the Zoning Ordinance occurs, the more restrictive regulation shall prevail.

Land uses allowed within the overlay district are per the land use zoning district and other overlay districts designated for a property.

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## **CHAPTER 24**

### **SPECIAL STUDY AREA OVERLAY DISTRICT**

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#### **24.100 Purposes**

The purposes of the Special Study Area Overlay District are to:

1. Designate the Hercules Properties, Inc. parcels as a "special study area" since these parcels contain the following characteristics:
  - Historic significance and existing historic buildings.
  - Opportunities for commuter rail station and transportation facilities such as other rail oriented transit, water taxi/ferry station and marina.
  - Drainage and hydrology issues.
  - Bay frontage location.
  - Diversity of land uses.
  - Significant coordination with adjacent properties needed due to diversity of land uses and complex infrastructure requirements.
2. Strongly encourage cooperation and joint planning by and among owners of parcels within the Special Study Area Overlay District during the land use planning and entitlement process. This effort would include such items as master hydrology and circulation plans, joint studies and cooperative infrastructure development.

#### **24.200 Establishment and Application**

The Special Study Area Overlay District is established for the area and properties designated within the General Plan as Special Study Area No. 1 and Special Study Area No. 2.

1. The Special Study Area Overlay District is established in conjunction with other zoning districts designated for a property; the boundaries of the overlay may or may not coincide with other zoning district boundaries.
2. The overlay shall add to the requirements of whatever other zoning district designation or overlay district is applicable to the area or buildings within the overlay boundary.

### **24.300 Review of Plans and General Conditions**

Plans for all new and expanded development and uses within the overlay area shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas within the Special Study Area Overlay District.

1. Combined or separate planned development plans for Special Study Area No. 1 and Special Study Area No. 2 shall be submitted to the Community Development Department and adopted by the City prior to approval of any use permits or building permits within these areas.
2. All new and expanded development shall be subject to the plan review and permit conditions of the land use zoning district designated for the property.

### **24.400 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met along with the specific performance standards required for the land use and other overlay districts designated for the property. In addition, the following specific performance standards shall be met:

1. Prior to approval of a Planned Development Plan for the Hercules Properties Inc. property that is currently being remediated, the City shall obtain copies of closure reports prepared by Cal-EPA certifying that the property has been remediated and poses no threats to public health.

### **24.500 Land Use Regulations**

The following uses may be permitted in the Special Study Area Overlay District

1. Uses permitted by the land use zoning district designations and other overlay districts.
2. All residential property within the "southern slope" Planned Development will be either Single-Family Medium Density (7-12 units per acre) or Multi-Family Low Density (7-12 units per acre); a combination of product types is acceptable within the stated density range.

### **24.600 Property Development Regulations**

The property development regulations within the Special Study Area Overlay District are as per performance criteria set forth in this Chapter in combination with the regulations of the land use zoning district and other overlay districts designated for a property, provided, that where a conflict between the regulations in this Chapter and those in other provisions of the Zoning Ordinance occurs, the more restrictive regulation shall prevail.

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## **CHAPTER 25**

### **SCENIC ROAD AND HIGHWAY OVERLAY DISTRICT**

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#### **25.100 Purposes**

The purposes of the Scenic Road and Highway Overlay District are to:

1. Implement the scenic road and highway designations of the General Plan.
2. Review proposed development within view of designated scenic routes in the City in terms of their visual impact.
3. Encourage aesthetically attractive architecture and design of new or expanded structures within the Scenic Road and Highway Overlay District through including provisions for clustering, reducing visual impact of building mass and glare, maintaining important scenic view corridors through the site, and avoiding use of designs and materials that are inconsistent with the visual quality of a scenic corridor.
4. Encourage attractive landscaping of development projects that is consistent with the existing terrain and landscaping of the scenic road or highway, softens the visual mass of building frontages and parking areas, provides attractive usable open space areas within the project, and meets the water conservation requirements of the City.
5. Encourage attractive and low profile signage fitting into the design theme of the buildings and landscape.

#### **25.200 Establishment and Application**

The Scenic Road and Highway Overlay District is established for the area and properties with frontages along the scenic roads and highways designated in the General Plan.

1. The Scenic Road and Highway Overlay District shall apply to the corridor of a road or highway designated as scenic within the General Plan which shall include the road or highway right-of-way and the land within 200 feet of both sides of the right-of-way limits.
2. The Scenic Road and Highway Overlay District is established in conjunction with other zoning districts designated for a property; the boundaries of the overlay may or may not coincide with other zoning district boundaries.

3. The overlay shall add to the requirements of whatever other zoning district designation or overlay district is applicable to the area or buildings within the overlay boundary.

### **25.300 Review of Plans and General Conditions**

Plans for all new and expanded development and uses within the overlay area shall be submitted to the Community Development Director as per Section 40.300. The following general conditions shall apply to all areas within the Scenic Road and Highway Overlay District.

1. All new and expanded development shall be subject to Chapter 42, Design Review. In addition, all new and expanded development shall be subject to the plan review and permit conditions of the land use zoning district designated for the property.
2. All new and expanded development shall be subject to Chapter 48, Planned Development. All new and expanded uses shall be consistent with an adopted Planned Development Plan for the property and shall require an administrative or conditional use permit.

### **25.400 Performance Standards**

The standard performance standards for development specified in Chapter 31 of the Zoning Ordinance shall be met along with the specific performance standards required for the land use and other overlay districts designated for the property. In addition, the following specific performance standards shall be met:

1. The architecture and design of new or expanded structures within the Scenic Road and Highway Overlay District shall be aesthetically attractive. The qualities and design elements that are desirable for development within the scenic corridor include:
  - a. Clustered structures with a common plaza or other open space entry feature.
  - b. Articulated elevations to reduce the visual impact of building mass and bulk
  - c. Visually interesting window treatments with nonreflective glass
  - d. Pitched roofs with overhangs and multiple roof planes
  - e. Richness of surface and texture for walls, roofs and other building features
  - f. Protection of significant views through or over the site through building location and design.
  - g. Prominent access driveways

Design elements to avoid or minimize include:

- a. Large, blank or unarticulated stucco and concrete block walls

- b. Square, boxy structures
  - c. Reflective surfaces of glass, metal or other materials
  - d. Metal siding on the main facade or other walls highly visible from the scenic road or highway
  - e. Plastic or vertical wood siding
  - f. Unpainted walls of concrete block or other "hard" materials
  - g. Mix of unrelated architectural styles within a site and between adjacent or nearby sites within the scenic corridor.
  - h. Accessory structures and outdoor storage, loading and equipment areas that are visible from the scenic road or highway.
2. Landscaping:  
Landscaping within the Scenic Road and Highway Overlay District shall be aesthetically attractive. The qualities and design elements that are desirable for landscaping and hardscapes within the scenic corridor include:
- a. Landscaped front and side yards with groundcover and trees that soften building edges and complement the landscape design theme within the scenic road right-of-way and adjacent or nearby sites
  - b. Landscaped and screened parking areas
  - c. Plaza or other open space entry feature including landscaped common areas
- Design elements to avoid or minimize include:
- a. Disjointed and unscreened parking areas.
  - b. Incompatible landscape themes and overuse of high water demanding exotic plants.
  - c. Landscaping that may grow to block scenic views from the road or highway.
3. Signage:  
A sign plan is required for all new or expanded development within the Scenic Road and Highway Overlay District. Signage should be attractive and low profile, fitting into the design theme of the buildings and landscape. Large, out of scale, flashy colored signs are discouraged.

## **25.500 Land Use Regulations**

The following uses may be permitted in the Scenic Road and Highway Overlay District.

- 1. Uses permitted by the land use zoning district designations and other overlay districts for the property.

## **25.600 Property Development Regulations**

The property development regulations within the Scenic Road and Highway Overlay District are as per performance criteria set forth in this Chapter in combination with the regulations of the land use zoning district and other overlay districts designated for a property, provided, that where a conflict between the regulations in this Chapter and those in other provisions of the Zoning Ordinance occurs, the more restrictive regulation shall prevail.

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CHAPTER 26  
**ZONING REGULATIONS AND DEVELOPMENT  
STANDARDS FOR THE NEW PACIFIC PROPERTIES  
SPECIFIC PLAN AREA**

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**26.100 Purposes**

The purposes of the establishment of Zoning Regulations and Development Standards for the New Pacific Properties Specific Plan area are to:

1. Promote redevelopment of the Pacific Refinery site into a new, predominately residential neighborhood;
2. Guide residential and commercial development within this community, thereby creating a high quality product and environment, establishing a strong tax base for the City, and instilling new vitality into a blighted area.

**26.200 Zoning Regulations and Development Standards:  
Establishment and Application**

The zoning regulations and development standards for the New Pacific Properties Specific Plan area are established as set forth in Chapter 4 of the New Pacific Properties Specific Plan, as adopted by the City Council of the City by Resolution No. 00-42 on April 11, 2000.

**Zoning Maps.** City staff is hereby directed to prepare revised City zoning maps consistent with the zoning designations set forth in this Ordinance. The Hercules Zoning Map shall designate the area as “New Pacific Properties Specific Plan.”

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## **CHAPTER 27**

# **ZONING REGULATIONS AND DEVELOPMENT STANDARDS FOR THE WATERFRONT DISTRICT MASTER PLAN**

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### **27.100 Purpose**

The purposes of the establishment of the Waterfront District Master Plan and subsequent Sub-District Amendments as the Regulating and Design Codes for the Hercules Village, Refugio Neighborhood, Historic Town Center (including the Railroad Live/Work areas) Transit Village, and Hercules Point Sub-Districts are to:

1. Recognize and preserve the historic character of the existing Hercules Powder Company town site and allow reuse of existing structures, where appropriate;
2. Allow the construction of new buildings while maintaining the architectural quality of the District;
3. Provide a network of public spaces that have access to views to Hercules Point and San Pablo Bay;
4. Provide access along the Bay shoreline that does not degrade its existing natural resources;
5. Provide a location for a commuter rail station with adjacent mixed-use development;
6. Provide for a variety of professional, administrative and personal service offices, as well as retail businesses that support the offices and provide services and goods to visitors to the waterfront area;
7. Provide the opportunity to accommodate both residential and commercial uses in a well-planned, mixed-use development;
8. Provide public spaces and facilities that offer a balance of open space, landscaping, recreation space, transit access and shared parking facilities.
9. Allow lower cost live-work opportunities for start-up businesses that are compatible with the residential and commercial uses within the District;
10. Provide the opportunity for upper floor residential uses over ground floor commercial uses;

11. Provide for careful design review of proposed buildings to ensure that the benefits of mixed-use development are fully realized and the potential negative impacts of one use upon another are minimized.

### **27.200 Establishment and Application.**

The zoning regulations and development standards for the first phase of the “Hercules Village” for the “Waterfront District Master Plan” were adopted on September 12, 2000 by Ordinance No. 357. The zoning regulations and development standards for the second phase of the “Refugio Neighborhood” and third phase of the “Railroad Live/Work” project were adopted by Ordinances 378 and 379 on November 26, 2002, respectively. The zoning regulations and development standards for the Historic Town Center (excluding the Railroad Live/Work project), Transit Village, and Hercules Point were adopted via the Waterfront Now Initiative ordinance in 2008.

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**CHAPTER 28**  
**CENTRAL HERCULES PLAN REGULATING CODE**

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**Please refer to the document entitled “Central Hercules Plan Regulating Code”**

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## **CHAPTER 29**

# **ZONING REGULATIONS AND DEVELOPMENT STANDARDS FOR SYCAMORE CROSSING**

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### **29.100 Purposes**

The purposes of the establishment of Zoning Regulations and Development Standards for the Sycamore Crossing area are to:

1. Provide a location for a downtown district that accommodates residential, retail, and commercial uses in a well-planned, mixed-use development;
2. Provide for a variety of professional, administrative, and personal service offices, as well as locally-serving retail businesses that support the offices and provide services and goods to residents and visitors to the downtown area;
3. Guide development within this community, thereby creating a high quality product and environment, establishing a strong tax base for the City, and instilling new vitality into a blighted and underutilized area;
4. Allow the construction of new buildings that establish and adhere to a high architectural quality;
5. Provide access along the Ohlone Creek (west branch of Refugio Creek) while restoring and protecting the riparian corridor and related natural resources;
6. Provide public spaces and facilities that offer a balance of open space, landscaping, recreation space, transit access, and shared parking facilities;
7. Allow lower cost live-work opportunities for start-up businesses that are compatible with the residential and commercial uses within Sycamore Crossing;
8. Provide the opportunity for a vertical mix of uses, including upper-floor residential uses over ground-floor commercial uses;
9. Provide for careful design review of proposed buildings to ensure that the benefits of mixed-use development are fully realized and the potential negative impacts of one use upon another are minimized.

## **29.200 Establishment and Application**

The zoning regulations and development standards for Sycamore Crossing are established as set forth in the Initial Planned Development Plan, as adopted by the City Council by Resolution No. 459 on June 22, 2010.

# **ARTICLE III: PROPERTY DEVELOPMENT AND USE REGULATIONS**

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## **CHAPTER 30 PROPERTY DEVELOPMENT STANDARDS**

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### **30.100 Purpose and Applicability**

The purpose of this Article and Chapter is to provide land use, development regulations and standards that are generally applicable to sites throughout the City. Unless noted otherwise, these standards are intended to be applied within all zoning and overlay districts.

Specific development standards or performance standards required within particular zoning and overlay districts are required in addition to the general standards required within Article III. If there is a conflict between regulations and standards specified for a particular zoning district and the general standards contained within this Ordinance, the district specific regulations and standards shall be applied.

All development permits, design review approvals, planned development plans, use permits and other zoning approvals, as conditioned, shall be consistent with the regulations and standards contained within this Article. The Community Development Director along with the Building Official and City Engineer shall review all building permit plans and improvement plans for compliance with this Article prior to approval of such plans. Prior to issuance of a certificate of occupancy, projects shall be inspected by the Community Development Director along with the City Engineer to verify that the standards of this Article and any required conditions of approval have been adequately met.

### **30.200 Setbacks and Yards**

The yard space provided about any structure as a yard or setback in compliance with the regulations for the district in which the property it is located shall not be allowed to provide a yard space for any other structure. Required yard spaces and setbacks are identified within the property development regulations of each zoning district and some overlay districts.

### **30.210 Setback and Yard Measurement**

Setbacks and yards shall be measured as the minimum horizontal distance from the property line of the site to a line parallel with the front, side or rear face of a building.

### **30.220 Allowed Projections into Setbacks and Yards**

Architectural features including bay windows, sills, canopies, chimneys, cornices and eaves may extend into a required side yard or a space between structures not more than 24 inches and may extend into a required front or rear yard not more than 3 feet.

Open, unenclosed, uncovered balconies, porches, platforms, stairways, and landing places, no part of which is more than 4 feet above the surface of the ground, may extend into a required side yard or space between structures not more than 3 feet and may extend into a required front or rear yard not more than 6 feet.

Fire escapes may project into rear and interior side yards or spaces between buildings not more than 3 feet.

Fences, walls, hedges, walks, driveways and retaining walls may occupy any required yard or other open space, subject to the limitations prescribed in this chapter.

No structure or projection may intrude into a public utility easement.

### **30.300 Coverage and Floor Area Ratio (FAR)**

The amount of site coverage and FAR allowed for a building or buildings within a zoning district or overlay district is identified within the property development regulations of the district.

### **30.310 Coverage and Floor Area Ratio Measurement**

The percent of the site area covered by structures shall be measured by dividing the total horizontal area covered by structures open or enclosed, by the total horizontal area within the property lines of the site.

The floor area ratio of a site shall be measured by dividing the total usable floor area of structures on the site, excluding areas used exclusively for vehicle parking and circulation, by the total horizontal area within the property lines of the site.

### **30.320 Coverage and Floor Area Ratio Exemptions**

The City may consider allowing development agreements that will provide additional community parks and recreation facilities, such as ballfields and other areas for organized recreation, in exchange for allowing development at greater than the "typical" FAR, as specified in the property development regulations of some zoning districts.

### **30.400 Residential Density**

The residential density allowed within residential and mixed use zoning districts is identified within the property development regulations of the district. New development shall not exceed maximum allowed residential densities unless there are specific regulations allowing density bonuses that are granted for a project by the City Council. The midrange density specified within the residential zoning districts is meant to be a general guide for the average density expected across the community for all property within that particular zoning district.

The density of residential development allowed on any parcel within the City should take into account site specific considerations including but not limited to, topography, economics, neighborhood compatibility, provision of affordable housing, and market conditions along with the capability of a proposed development project to further the specific goals, policies and objectives of the General Plan.

### **30.410 Residential Density Calculation**

Residential density is calculated as a gross density for all residential units within a property or planned development plan area. Gross density is calculated by dividing the total number of units by the total area of the site including roads, open spaces and public facilities. The minimum lot size represents the maximum net density for single family attached and detached homes.

### **30.420 Residential Density Bonuses - Purpose and Applicability**

1. Sections 30.420 through 30.470 are intended to implement the housing element of the general plan and the requirements of California Government Code Sections 65915 through 65918, offering incentives for the development of affordable housing. Where regulations are not specifically addressed in these sections or where there are conflicts between these provisions and the provisions of California Government Code Sections 65915 through 65918, the provisions of the California Government Code, as they may be amended over time, shall apply.
2. Housing developments are eligible for a density bonus as provided in California Government Code Section 65915 and these provisions, when the applicant for the housing development agrees or proposes at least one of the following:
  - A. Construct:
    - 1) Ten percent of the total units affordable to lower-income households at affordable rent or affordable housing cost; or
    - 2) Five percent of the total units affordable to very low-income households at affordable rent or affordable housing cost; or

3) Ten percent of the total units proposed in a common interest development for sale to moderate-income households, provided that all units in the development are offered to the public for purchase; or

4) A senior citizen housing development.

B. Donate land in accordance with California Government Code Section 65915.

3. In addition to meeting the requirements of 30.420(1), housing developments which include a child care facility in accordance with California Government Code Section 65915 are entitled to an additional density bonus.
4. An applicant may also submit a proposal for specific incentives or concessions to be granted in conjunction with the density bonus, as provided in Section 30.440.
5. The granting of a density bonus, incentive, or concession, in and of itself, shall not require a general plan amendment, zone change, or other discretionary approval and shall be reviewed concurrently with the review of the housing development.
6. To qualify for a density bonus, a senior housing development is not required to provide affordable units; however, the entire development must be reserved for qualified senior persons pursuant to Section 51.3 of the California Civil Code. Also, any senior housing development for which a density bonus is requested and approved must have a minimum of 35 units.

### **30.430 Residential Density Bonuses - Calculation**

1. Housing developments that meet the criteria in Section 30.420(1) are eligible for a maximum density bonus as set forth in Table 30.1.
2. The calculation of a density bonus in compliance with this subsection that results in fractional units shall be rounded up to the next whole number, as required by state law. For purposes of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.

**Table 30.1 Maximum Density Bonus Calculations  
Based on Government Code Section 65915**

<b>Unit Type</b>	<b>Minimum % Affordable Units in Category</b>	<b>Base Density Bonus Granted<sup>1</sup></b>	<b>Additional Bonus for each 1% of Affordable Units Provided</b>	<b>% Affordable Units Required for Maximum 35% Bonus</b>
Very Low-Income Units	5%	20%	2.5%	11%
Low-Income Units	10%	20%	1.5%	20%
Moderate-Income Units	10%	5%	1.0%	40%
Senior Housing	See Section 30.420 (6).	20%	n/a	n/a
Land Donation (for very low income housing) <sup>3</sup>	10%	15%	1.0%	30%
Condominium Conversion (moderate income) <sup>3</sup>	33%	25%	n/a	n/a
Condominium Conversion (lower income) <sup>3</sup>	15%	25%	n/a	n/a
Child Care Facility <sup>4</sup>	n/a	Sq. Ft. in Day Care Facility	n/a	n/a

Notes:

1. A density bonus may be selected from only one category, except that density bonuses for land donation may be combined with others, up to a maximum of 35 percent, and an additional square foot bonus may be granted for a child care facility as provided in California Government Code Section 65915(h).
2. The donation of land must conform to the requirements of California Government Code Section 65915(g).
3. The conversion of condominiums must conform to the requirements of California Government Code Section 65915.5.
4. The provision of child day care facilities must conform to the requirements of California Government Code Section 65915(h).

**30.440 Residential Density Bonuses - Incentives and Concessions.**

1. A housing development is eligible for incentives and concessions as shown in Table 30.2. Incentives and concessions must be selected from only one category (very low-, low-, or moderate-income). No incentives or concessions are available for land donation or for a senior citizen housing development that is not affordable. Condominium conversions and day care centers may have one incentive/concession or a density bonus, at the City's option, but not both.

<b>Table 30.2 Incentives and Concessions Calculations Based on Government Code Section 65915</b>		
<b>Unit Type</b>	<b>Percent of Affordable Units</b>	<b>Number of Concessions/ Incentives</b>
Very Low-Income Units	5% or greater	1
	10% or greater	2
	15% or greater	3
Low-Income Units	10% or greater	1
	20% or greater	2
	30% or greater	3
Moderate-Income Units	10% or greater	1
	20% or greater	2
	30% or greater	3

2. For purposes of this section, permissible concessions and incentives include but are not limited to:
  - A. A modification of development standards or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code that would otherwise be required, including but not limited to a reduction in setback requirements, lot coverage, landscape coverage, or number of parking spaces, such that the reduction or modification results in identifiable, financially sufficient, and actual cost reductions.
  - B. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development, and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located;
  - C. Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable financially sufficient and actual cost reductions.
3. A housing development which requests incentives or concessions must show that the requested concessions are required to provide for affordable rents or affordable housing costs, as applicable. The Director shall determine the type and detail of documentation that must be provided.

4. If the housing development is eligible for a density bonus as provided in Section 30.420, upon request of the applicant, the maximum off-street parking standards that can be applied, inclusive of handicapped and guest parking, are indicated in Table 30.3. These may include tandem and uncovered parking spaces.

<b>Table 30.3 Off-Street Parking Standards for Density Bonus Projects</b>	
<b>Number of Bedrooms</b>	<b>Maximum Number of Off-street Parking Spaces Required per Unit</b>
0-1	1
2-3	2
4+	2.5

5. 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 by the City, or the waiver of fees or dedication requirements. The City, at its sole discretion, may choose to provide such direct financial incentives.
6. An applicant may submit to the City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria outlined in Section 30.420 at the densities or with the concessions or incentives permitted under section 30.440. A proposal for the waiver or reduction of development standards shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled. The applicant shall bear the burden of demonstrating that the development standards that are requested to be waived will have the effect of physically precluding the construction of the housing development with the density bonuses and incentives.
7. The City Council shall grant the concession or incentive requested by the applicant unless the Council makes a written finding, based upon substantial evidence, of either of the following:
  - A. The concession or incentive is not required to provide for affordable housing costs, as defined in California Health and Safety Code Section 50052.5, or for rents for the targeted units to be set in compliance with Government Code Section 65915(c); or
  - B. The concession or incentive would have a specific adverse impact, as defined by California Government Code Section 65589.5(d)(2), upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

### **30.450 Residential Density Bonuses – General Requirements**

1. Affordable for-sale and rental low- and very low-income units must remain affordable to low- or very low-income households, as applicable, for 55 years or for a longer period of time if required by a construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
2. The affordable dwelling units and land dedication that qualify a housing development for a density bonus may also be used to meet the inclusionary housing provisions of the City's Inclusionary Housing requirements (Municipal Code Title 10, Chapter 19), to the extent that the Inclusionary Housing requirements are applicable and/or operable, provided that the affordable units and land dedication comply with the requirements of both the Density Bonus Ordinance (Title 10, Chapter 1, Section 30.420 - 30.470), and the Inclusionary Housing Ordinance (Title 10, Chapter 19) as it may apply regarding the required number of affordable units, required level of affordability, and term of affordability so as to provide the greatest affordability to the most households for the longest term.
3. The designated units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finished quality.
4. If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the City.
5. A master regulatory agreement shall be made between the developer and the City which indicates the household type, number, location, size and construction scheduling of all affordable units, and such information as shall be required by the City for the purpose of determining the developer's compliance with this chapter. The regulatory 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 any building permits, and shall be binding on all future owners and successors in interest.
6. The City may establish fees associated with the setting up and monitoring of affordable units.
7. For rental affordable very low- and low-income units:
  - A. The owner shall obtain and maintain on file certifications by each household. Certification shall be obtained immediately prior to initial occupancy by each household and annually thereafter, in the form provided by the City or its designee. The owner shall obtain updated forms for each household on request by the City, but in no event less frequently than once a year. The owner shall maintain complete, accurate, and current records pertaining to the housing development, and will permit any duly authorized representative of the City to inspect the records pertaining to the affordable units and occupants of these units.

- B. The owner shall submit an annual report to the City, on a form provided by the City. The report shall include for each affordable unit the rent, income, and family size of the household occupying the unit.
  - C. The owner shall provide to the City any additional information required by the City to ensure the long-term affordability of the affordable units by eligible households.
8. For any application submitted or processed after January 1, 2015, an applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units (as defined by California Government Code Section 65915[c][3][B]), and either of the following applies:
- (A) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in Zoning Ordinance Section 30.420(2).
  - (B) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

**30.460 Residential Density Bonuses – Application Requirements**

- 1. An applicant may submit a preliminary proposal for housing development pursuant to Sections 30.420 through 30.470 prior to the submittal of any formal application.
- 2. All requests pursuant to Sections 30.420 through 30.470 shall be submitted to the City concurrently with the application for the first discretionary permit or other permit required for the housing development and shall be processed concurrently with the discretionary application following the review process as set forth for permits in Chapter 40 and Chapter 42 – Design Review (when applicable) of the Hercules Zoning Ordinance. The applicant shall provide additional information as specified in Sections 30.420 through 30.470, specifically:
  - A. Provide a written statement specifying the desired density increase, incentives and any waivers requested; proposed rent schedules and/or sales prices; and the type, location, size, and construction scheduling of all dwelling units;
  - B. Submit a project financial report (pro forma) demonstrating that the requested incentives will result in identifiable, financially sufficient, and actual cost

reductions to the housing development and they are required to provide for affordable rents or affordable housing costs, as applicable. The pro forma shall include the capital costs, operating expenses, return on investment, loan-to-value ratio and the debt coverage ratio including the contribution(s) provided by any applicable subsidy program(s), as required;

- C. An appraisal report indicating the value of the density bonus and of the incentive(s)/concession(s);
- D. A use of funds statement identifying the financial gaps for the housing development with the affordable housing units. The analysis shall show how the funding gap relates to the incentive(s)/concession(s);
- E. For any requested waiver of a development standard, evidence that the development standard for which the waiver is requested will have the effect of physically precluding the construction of the housing development with the density bonus and incentives requested;
- F. If a mixed-use building or project is proposed as an incentive, evidence that non-residential land uses will reduce the cost of the housing development and that the non-residential land uses are compatible with the development and the existing or planned development in the area;
- G. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and evidence that each of the requirements included in California Government Code Section 65915(g) can be met.
- H. If a density bonus or incentive is requested for a child care facility, evidence that all of the requirements in California Government Code Section 65915(h) can be met.
- I. Any other information requested by the Community Development Director, or their designee to determine if the required findings can be made.

### **30.470 Residential Density Bonuses – Findings**

- 1. Before approving an application that includes a request for a density bonus, incentive, parking reduction, and/or waiver pursuant Sections 30.420 through 30.470, the decision-making body shall make all of the following findings, as applicable:
  - A. That the residential project is eligible for the density bonus and any incentives, parking reductions, or waivers requested.
  - B. That any requested incentive will result in identifiable, financially sufficient, and actual cost reductions based upon the financial analysis and documentation provided.

- C. That there are sufficient provisions to guarantee that the units will remain affordable for the required time period.
  - D. If the density bonus is based all or in part on donation of land, a finding that all the requirements included in California Government Code Section 65915(g) have been met.
  - E. If the density bonus, concession, or incentive is based all or in part on the inclusion of a child care facility, a finding that all the requirements included in California Government Code Section 65915(h) have been met.
  - F. If the concession or incentive includes mixed-use development, a finding that all the requirements included in California Government Code Section 65915(k)(2) have been met.
  - G. If a waiver is requested, a finding that the development standards for which the waiver is requested would have the effect of physically precluding the construction of the housing development with the density bonus and incentives permitted.
2. If the findings required by subsection (1) of this Section cannot be made, the City Council may deny an application for a concession, incentive, or waiver only if it makes one of the following written findings, supported by substantial evidence:
- A. The concession, incentive, or waiver is not required to provide for affordable housing; or
  - B. The concession, incentive, or waiver would have a specific, adverse impact upon public health or safety or the physical environment or on real property 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 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 Development was deemed complete; or
  - C. The concession, incentive, or waiver is contrary to state or federal law.
3. If the findings required by subsection (1) of this section can be made, the decision-making body may deny an application for a density bonus or incentive that is based on the provision of child care only if it makes a written finding, based on substantial evidence, that adequate child care facilities are already available in the city.

### **30.500 Height Limits**

Required height limits are identified within the property development regulations of each zoning district and some overlay districts.

### **30.510 Height Measurement**

The height of a structure shall be measured vertically from the average elevation of the surface of the ground covered by the structure to the highest point of the structure or to the wall coping of a flat roof or to the deck line of a mansard roof. Heights of a fence or wall shall be measured according to the requirements of Section 36.610.

### **30.520 Height Limitation Exceptions**

1. Towers, spires, cupolas, chimneys, water tanks, flagpoles, monuments, radio and television aerials, fire towers, windmills or other energy generating devices, and similar structures, and necessary mechanical appurtenances covering not more than 10% of the ground area covered by the structure, may be erected to a height not more than 25 feet above the height limit prescribed by the regulations for the district in which the site is located subject to design review as provided in Chapter 42 and subject to securing a use permit in each case.
2. Utility poles and utility towers installed by public utility shall not be subject to height limits prescribed in the district regulations.

### **30.600 Fences, Walls and Hedges**

Walls, fences and hedges are permitted in all zoning districts and may be placed within required yard areas subject to the regulations and performance standards of the district and applicable overlay districts.

### **30.610 Fence, Wall and Hedge Height**

1. The maximum height for a fence, wall or hedge in a required rear or side yard is six feet. The maximum height for a fence, wall or hedge in a required front yard and along the street side yard of a corner lot within 20 feet of the front property line is three feet.
2. The height of a fence, wall or hedge shall be measured from the highest natural ground level immediately adjoining the fence wall or hedge to the its highest point above the ground.
3. A fence wall or hedge greater than 6 feet in height may be allowed in the following conditions subject to first securing design review approval as per Chapter 42.
  - A. A fence, wall or hedge up to 12 feet in height may be permitted around public recreation areas such as tennis courts, badminton courts, basketball or volleyball courts and similar play areas provided that all parts of a fence or wall over 6 feet

in height are made of open wire construction of galvanized steel or other corrosion resistant material, and that the fence, wall or hedge is not within any required front yard.

- B. School play areas may be fenced to the street line provided that the fence is made of open wire construction and does not exceed 10 feet in height along rear and side lot lines and does not exceed 6 feet in height along any street line.
  - C. A fence, wall or hedge that is not constructed within any required rear, side or front yard and which is a continuation of a building wall may be higher than 6 feet when it is an extension of the roof of the primary building and does not exceed in height the building wall of which it is an extension.
  - D. A security fence, wall or hedge exceeding 6 feet in height around industrial or manufacturing establishments or other uses may be allowed where required for security purposes in any zoning district other than Residential and Community Commercial
  - E. Where residential properties abut a railroad right-of-way, fences of solid board or similar materials may be constructed to a height not to exceed 8 feet in the side or rear yards abutting the railroad right-of-way.
4. Where a commercial or industrial site adjoins a Residential District, a solid fence or wall, a vinecovered chain-link fence with slats, or a compact evergreen hedge, not less than 6 feet nor more than 8 feet in height shall be located on the property line adjoining the Residential District. However, the fence, wall or hedge shall not exceed 3 feet in height when it is adjacent to a required front yard in a Residential District.
5. Screening consisting of a solid fence or wall, a vine-covered chain-link fence with slats, or a compact evergreen hedge (with solid gates where necessary), not less than 6 feet in height shall be required for the following uses:
- A. Commercial and industrial uses within commercial, industrial, and mixed use districts that are not conducted entirely within a completely enclosed structure where the Commission or Council finds that screening is necessary to a substantial and detrimental effect on property values in the area.
  - B. Open storage of materials and equipment within commercial, industrial, and mixed use districts. No materials or equipment shall be stored outside without such screening and to a height no greater than that of the fence, wall or hedge.
  - C. Loading facilities equipment within commercial, and mixed use districts. Such facilities shall be screened from view from public rights of way.
6. A fence or wall may be constructed on the rear property line of a lot that has frontage on two public streets (with a rear yard adjacent to a public street which is approximately

parallel to the front yard street) where the rear yard has restricted access due to a legally dedicated reserve strip. The rear fence or wall, not exceeding 6 feet in height, shall be constructed of masonry or similar type construction or a compact evergreen hedge (with solid gates where necessary). The property owner shall install an irrigation system and landscaping approved by the Director of Public Works within the reserve strip as a condition of issuance of the fence or wall permit. The irrigation system and planting in the reserve strip will then be maintained by the City of Hercules. This provision does not alter the requirements for lower fencing at intersections as provided in subsection 7 of this section.

7. No fence, wall or hedge which obstructs the visibility of and from vehicles approaching the intersection of a state highway, public road or street with another state highway, public road or street shall be constructed, grown, maintained or permitted higher than 3 feet above the curb grade within 35 feet of the intersection of curb lines or in the case of rounded corners, 35 feet from the point on the curb closest to the center of the intersection. If there are no curbs, the edge of the right-of-way shall be used for the reference points.
8. Prohibited Fences: The following type fences are prohibited and hereby declared to be a nuisance constituting an unsafe and unlawful condition subject to abatement.
  - A. Barbed wire fences within 4 feet of any sidewalk.
  - B. Wire fences less than 3 feet in height and within 3 feet of any public sidewalk.

### **30.700 Landscaped Areas**

Landscaping is an essential component of the overall design and aesthetics of a project. Landscaping along major regional streets and highways should soften the appearance of traffic and parking along these routes, while allowing view corridors to retail and other businesses.

Landscaping plans should implement effective water conservation, use of drought-resistant landscaping and irrigation with reclaimed wastewater. Native plants are to be used in landscaping.

Plantings that serve to screen views of residential development, or that help to maintain a natural-appearing landscape, shall be retained to the extent feasible. Such plants could be thinned selectively if thinning would improve view corridors. If specific trees are to be removed, such as eucalyptus trees, replace with trees, preferably native species that will provide suitable screening while retaining important view corridors.

1. The landscaping and irrigation requirements listed in this section shall apply to all proposed development or construction at undeveloped parcels, or as determined by the Community Development Director, which shall include but not be limited to the following developments:
  - A. Common areas and landscape easements of all single-family subdivisions.

- B. All new single-family residential estate lots.
- C. Common areas at multifamily residences, including apartment and condominiums and duets.
- D. Model homes.
- E. Commercial, industrial and mixed use projects.
- F. Public buildings, grounds and facilities.
- G. The reconstruction or rehabilitation of the common areas and landscape easements at residential projects and non-residential buildings, projects or developments where either:
  - 1) The value of the reconstruction or rehabilitation exceeds 25% of the current assessed value of the building, project or development; or
  - 2) The area of the landscaping affected by the reconstruction or rehabilitation exceeds 25% of the landscaped area.

The requirements do not apply to that portion of a site, or to projects or development using reclaimed water or well water, or additions or modifications to existing single-family residences, nor to portions of site area irrigating edible crops, or not receiving irrigation.

- 2. Landscaping and irrigation shall be installed and maintained according to the approved plan. All water in the common areas of a development project used ornamentally, such as ponds, lakes and fountains, shall be supplied, operated and maintained with alternative sources of water if they are available. The landscaping and irrigation plan shall implement the following standards:
  - A. Plant Selection: At least 75% of the plants proposed in non-turf areas shall be well-suited to the climate of the region and require minimal water once established. Up to 25% of the plants may be of a non-drought tolerant variety as long as they are grouped together and can be irrigated separately.
  - B. Turf Area and Water Surface Area Limitations: The combined turf area and/or water surface area (i.e. pools, ponds and fountains) shall be limited to 25% of the irrigated areas. Exceptions may be granted by the Planning Commission when using drought-tolerant turfgrasses (i.e. with a water requirement less than or equal to Tall Fescue). Turf area and/or water surface area limitation does not apply to public parks, golf courses, cemeteries, school recreation areas, and on-site private recreational facilities. No turf shall be allowed in:
    - 1) Median strips.

2) Areas less than 8 feet wide.

C. Soil Conditioning and Mulching.

1) Scarify soil compacted by grading prior to planting.

2) A minimum of 6 cubic yards of nitrified soil conditioner per 1,000 square feet shall be incorporated into the top 6 inches of soil.

3) A minimum of 2 inches of mulch shall be added in non-turf areas to the soil surface after planting. Non-porous material shall not be placed under the mulch.

4) Soil tests showing soil type, soil depth, uniformity and pH shall be submitted with landscape plans. Soil will be amended according to report recommendations.

5) Grading shall be minimized to avoid disturbance. Top soil shall be stockpiled and shall be reapplied during final grading.

6) Use low-nitrogen, slow release fertilizer for lawns and shrubs.

D. Irrigation.

1) Sprinklers and sprays shall not be used in areas less than 8 feet wide.

2) Sprinkler heads with a precipitation rate of .85 inches per hour or less shall be used on slopes exceeding 15% or on slopes exceeding 10% within 10 feet of hardscapes to minimize runoff.

3) Valves and circuits shall be separated based on water use.

4) Drip or bubbler irrigation systems are required for trees. Bubblers shall be used that do not exceed 1.5 gallons per minute per device.

5) Sprinkler heads must have matched precipitation rates within each control valve circuit.

6) Popup sprinklers in lawn areas shall have at least a 4 inch popup height.

7) Check valves are required where elevation differences may cause low head drainage.

8) Sprinkler head spacing shall be designed for head-to-head coverage. The system should be designed for minimum runoff and overspray onto non-irrigated areas.

9) Electrical controllers shall be set to water between 5:00 p.m. and 10:00 a.m.

- 10) All irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers must have multiple cycle start capacity and a flexible calendar program.
  - 11) All irrigation systems shall be equipped with rain shutoff devices.
  - 12) Plans shall include a water budget that includes:
    - a. Estimated annual water use (in gallons).
    - b. Irrigated area (in square feet).
    - c. A monthly irrigation schedule for the plant establishment period and the following year. This irrigation schedule will include the following information for each valve.
      - (1) Plant type.
      - (2) Precipitation rate.
      - (3) Run times in minutes per day.
      - (4) Number of watering days per week (turfgrasses should be irrigated a maximum of once every three days).
- E. Minor modifications to approved plans (including changes proposed by individual homeowners to approved plans for single-family subdivisions) which meet the requirements of this Section may be approved by the Community Development Director as per Chapter 46.
  - F. Minor exceptions from the requirements of this section may be approved as part of the design review process; provided that the Planning Commission finds the landscape and irrigation plans meet the intent these requirements. See Chapter 45.
3. Maintenance Of Landscaped Areas: Landscaping provided in compliance with the above shall be planted with materials suitable for screening or ornamenting the site, whichever is appropriate, and plant materials shall be watered, weeded, pruned, fertilized, sprayed or otherwise maintained as needed or required by the Planning Commission. Landscaping shall be replaced as necessary to provide the approved and required screening or ornamentation of the site.

## **30.800 Open Space**

### **1. Usable Open Space**

Usable open space is required within several zoning districts to serve residents, visitors and employees of a project or property. Usable open is distinct from required landscaped areas in that the open space is to be specifically designed for use rather than aesthetics. Where usable open space is required within a zoning district, it shall be in addition to any landscaping requirement and public parks requirement. Usable open space may be provided in the form of small play areas, plazas, balconies, decks, usable yard areas, open space trails, or other similar spaces. The minimum usable open space area is 50 square feet of contiguous area not less than 5 feet wide in any location. Open space trails shall not provide more than 50% of the usable open space requirement of a project.

### **2. Open Space for Public and Conservation Uses.**

Public and conservation oriented open spaces provide public access to natural, scenic and historic areas; protect sensitive environmental areas, and provide protection and buffers from safety hazards. These open spaces offer amenities that benefit the quality of life in the community; preserve existing natural topography, ridgelines and valleys where feasible and desirable; preserve foraging habitat for wildlife; and provide for wetlands mitigation, flood control improvements and riparian corridors.

Open spaces should be planned for a buffer of irrigated landscaping and/or plowed area maintained between open spaces and developed areas, fire access trails in major open spaces to allow fire equipment to penetrate, use of fire resistant plant materials in open space landscaping, and containment of potential fires where natural vegetation exists in open spaces.

- A. Wetlands mitigation, flood control improvements and riparian corridors should not be used in the calculation of required park space, parks, or recreational areas. However, the City may accept such areas in the calculation of required park space if they are accessible to the general public for use and enjoyment.
- B. Areas that could provide habitat for sensitive species shall be surveyed by qualified biologists provided by project sponsors prior to project design. Surveys in sensitive areas shall be conducted prior to any development. Sensitive areas within the study area includes eucalyptus groves, freshwater wetlands and adjacent trees, open grasslands, ponds and creeks. If any sensitive species are present, coordination with the CDFG will be required for mitigation of impacts and redesigning of the project footprint to avoid any sensitive species or sensitive habitat. If avoidance is unavailable, coordination with the CDFG will be required for relocation of these species and for determining replacement of habitat.
- C. As much open space as possible within sites proposed for development shall be retained as informal open space for wildlife habitat, rather than as formal, landscaped parks or grounds. Wildlife areas shall be revegetated with native or

non-native grassland and native species of shrubs requiring no irrigation and little management beyond the first year after planting. Wildlife habitat shall be consolidated into "preserves" that are as large as possible. Habitats on adjoining parcels shall be as contiguous as possible, to create wildlife corridors. Wildlife open space shall be placed adjacent to other wildlife habitat, to preserve the greatest ecological value.

- D. Appropriate buffer zones along the Bay shall be established in consultation with CDFG, BCDC, East Bay Regional Park District, and the Corps of Engineers to protect tidal habitat when designing a bay access trail linkage between Pinole and Rodeo. Public access and pedestrian pathways shall be limited within the buffer zone, and when possible, located along the edges of the buffer zone. Signage and fencing shall be designed to encourage bicycles to stay on the bike paths.
- E. Public access to wildlife habitat shall be minimized by placing trails close to buildings so as to provide the largest area of habitat possible with the least amount of impact from the public. Trails, if any, shall be placed close to buildings so as not to disturb wildlife nesting/denning areas.
- F. Open space areas shall be designed into the footprint of proposed projects and shall be located adjacent to existing open space areas, providing a larger continuous area for wildlife to use.
- G. Open space areas, if disturbed during construction, shall be landscaped with native species.

### **30.900 Public Facilities**

All discretionary land use approvals shall be conditioned upon payment of fees or construction of facilities necessary to serve all public infrastructure needs generated by the new development. Public infrastructure shall include, but not be limited to the following: local and regional transportation improvements; parks and recreation facilities; open space; wastewater collection, treatment and disposal capacity; drainage and flood control facilities; schools; and utilities.

New public infrastructure facilities and other associated improvements shall be designed and constructed according to the procedures and standards of the City.

### **30.910 Access, Circulation and Streets**

All structures and uses shall have adequate access to public streets. Access can be provided by means of accessible frontage along public streets or permanent public, private or reciprocal easements that provide adequate access to public streets.

Street rights-of-way and improvements are to be dedicated by projects as necessary to provide adequate internal circulation and external access. New residential areas shall be designed to avoid conflict with major streets or thoroughfares, to have access to transit facilities, and to encourage safe and convenient alternatives to the private automobile.

Developers of new residential areas are encouraged to work with transit agencies in the design and location of bus stops, turnouts, pavement materials and the timing of development in relation to transit service needs. To promote safe and well-designed neighborhoods, new residential development is to have an internal circulation system, including pedestrian walkways, bikeways, and access to transit facilities.

New streets, paths and sidewalks are to be designed and constructed according to the procedures and standards of the Director of Public Works. See Standard Drawings and Design Policy for Public Works.

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## **CHAPTER 31**

### **PERFORMANCE STANDARDS**

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#### **31.100 Purpose**

The purpose of this Chapter is to set forth performance standards for development and uses for specific zoning districts and general performance standards that are applied for all zoning districts. These standards are intended to produce an attractive and safe community environment consistent with the goals, policies and standards of the General Plan.

#### **31.200 Applicability**

The performance standards of Section 31.300 apply to all uses and development that require Zoning Ordinance permits and approvals. In some cases, the performance standards refer to specific properties within the City. No permit shall be approved unless applicable performance standards are met.

#### **31.300 Performance Standards**

##### 1. Archaeological Resources

If previously unknown subsurface cultural resources are discovered during excavation activities, excavation shall be temporarily halted and an archaeologist consulted as to the importance of the resources. Should the archaeologist determine that the resources are important, the project sponsor would follow the procedure described below. The program shall be conducted under the guidance of Appendix K of the CEQA Guidelines.

- A. Prior to development on Parcels 1, 2, 3, 4, A, C and I (as identified in the Land Use and Circulation Element EIR (1996)), an attempt shall be made through a combination of archival research and in-field testing to identify areas that may have been used by Native American populations. Areas containing prehistoric deposits will be mapped; evaluation of their significance will be required only in those areas where future development might affect the resources.
- B. Prior to excavation and construction in areas of known archaeological sensitivity, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, and other cultural materials from the project site.
- C. The project sponsor shall identify a qualified archaeologist prior to any demolition, excavation, or construction in areas of known archaeological

sensitivity. The City shall approve the project sponsor's selection for a qualified archaeologist. The archaeologist shall have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

- D. Reasonable time would be allowed for the qualified archaeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction shall not be allowed in the immediate vicinity of the find; however, those activities may continue in other areas of the project site.
- E. If any find were determined to be significant by the qualified archaeologist, representatives of the project sponsor or construction contractor and the City, the qualified archaeologist, and a representative of the Native American community (if the discover is an aboriginal burial) should meet to determine the appropriate course of action.
- F. All cultural materials recovered as part of the monitoring program shall be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.

2. Combustibles and Explosives

The use, handling, storage and transportation of combustibles and explosives shall comply with the Uniform Fire Code, the Hazardous Waste Management Plan Element of the General Plan, the Nuisance Abatement Ordinance (Title 4, Chapter 10 of the Municipal Code) and other applicable laws.

3. Dust and Dirt

All uses and development shall be conducted to minimize dust and dirt emissions beyond the project site or property. In addition to complying with the Grading Ordinance (Title 7, Chapter 2 of the Municipal Code), compliance with the following standards shall be required:

- A. Property owners, developers and contractors shall be responsible for dust control measures (such as watering graded areas daily) and the immediate clean-up of any materials spilled on city streets as a result of grading, construction or hauling operations.
- B. Dust and dirt shall be controlled so that it is not carried by air, water or other means to adjacent or nearby properties.

4. Environmental Resources and Constraints

- A. Development proposals shall be reviewed in terms of natural features in the vicinity that have aesthetic significance. This may include open space or

vegetation that serves as a view corridor or has important visual attributes. Development proposals shall be sited to ensure that these features are retained or replaced to the extent feasible, resulting in minimal view impairment.

- B. The City shall require project proponents to design facilities to prevent degradation of riparian and wetland communities from urban pollutants in storm runoff.
- C. The City shall require project proponents to design construction footprints to avoid any wetlands and CDFG and or COE approved buffer zones around the wetlands in the project area. If avoidance is not possible projects shall be redesigned so as to impact the least amount of wetlands. Any areas that are classified as wetlands and will be affected by project development shall be recreated either on or off site in accordance with CDFG and COE requirements. A project sponsor shall be required to obtain a Streambed Alteration Agreement from CDFG and/or a Section 404 Corps permit prior to any development or discharge of fill within any wetland or creek.

The small marshland westerly of the Southern Pacific Railroad, adjacent to the waterfront park, should be preserved in its natural state. The only improvement to this area would be an elevated walkway for observation of shorebirds and other wildlife.

- D. Design of building footprints along any riparian corridors shall be outside the CDFG and/or COE approved buffer zone. Sensitive riparian habitats shall be marked by a qualified biologist to deter any destruction by equipment during construction.
- F. Development along any riparian corridor shall incorporate measures to avoid impacts during construction, including:
  - 1) Construction of any access bridge shall be limited to the bridge footprint area only.
  - 2) Parking of large equipment shall be on the upland grassland area or on the paved street. Construction workers cars shall have designated parking areas.
  - 3) Basins for oil leaks from the equipment shall be installed if equipment is parked on-site over night.
- G. Development shall be set back from Refugio Creek as required by Chapter 22, Refugio Creek Overlay District. West of I-80, the existing low flow channel will be improved to contain 100 year flood flows. The drainage facility shall be designed as a multi-use open space corridor and landscaped to have a natural appearance and enhance wildlife habitat. Designs which reduce water velocity and erosion are encouraged.
- H. As much open space as possible within sites proposed for development shall be retained as informal open space for wildlife habitat, rather than as formal,

landscaped parks or grounds. Wildlife areas shall be re-vegetated with native or non-native grassland and native species of shrubs requiring no irrigation and little management beyond the first year after planting.

- 1) The extensive side hill in the southeast portion of the City has large areas of dense coyote brush interspersed with live oaks and buckeye and should be left in its natural state except for trails, outlooks and other limited recreational improvements.
- 2) The oak groves in canyon bottom and side hills shall be preserved in their natural state where possible. Special care should be taken in construction operations to minimize damage to this valuable natural resource.
- 3) The grass covered hilltops and slopes that are interspersed with residential areas in the easterly portion of the City should be preserved in a natural state as much as practical due to its habitat value for many species of raptors.

#### 5. Erosion and Runoff Control

- A Runoff increase calculations are required for each proposed development project. The calculations shall identify runoff for the parcel at full build-out as measured against estimates of existing runoff in order to ensure that no flooding will result.
- B. Installation of sedimentation and grease basins in the storm drain system in parking lots in accordance with NPDES regulations (Title 5, Chapter 8 of the Municipal Code), is required to minimize pollution downstream from sedimentation. Property owners shall maintain the basins annually, or as required by NPDES regulations. Parking lots shall be swept periodically to decrease the amount of debris that could potentially contaminate the riparian or wetland habitat.
- C. Development projects shall prepare and implement a set of best management practices (BMP's) to reduce impacts to water quality. Such practices may include, but are not limited to:
  - 1) stormwater retention or detention structures;
  - 2) oil and water separators; and
  - 3) sediment traps.

#### 6. Geology and Soils

Projects proposed in areas subject to very strong earthquake ground shaking or ground failure shall conduct geotechnical studies and structural design evaluations for all critical facilities, schools, high-population facilities (such as shopping malls) and industries using or generating significant amounts of hazardous materials. If the alternative site feasibility study for a critical facility or school were to indicate that other less hazardous sites are

not available for the critical facility, then geotechnical studies and structural design processes for the facility would be conducted in compliance with State of California requirements and recommendations of the Seismic Safety Commission. These should include detailed studies of the geologic materials at the site, seismic event response evaluations to identify design criteria, foundation design criteria and dynamic method analyses of proposed structures, and others.

For the other types of facilities, the alternative site feasibility assessment is an optional requirement, however an alternative site evaluation may be required under CEQA. A rigorous geotechnical evaluation and structural design process shall be required to ensure that the proposed structures perform in major earthquakes without creating a life safety hazard to occupants or people in surrounding areas.

All development and construction projects shall be consistent with the following standards along with the requirements of the Grading Ordinance.

- A. Development and construction shall minimize the potential for creating new landslides or reactivating old ones.
- B. Improperly compacted existing fills and backfills should be excavated from areas to be filled.
- C. All areas to be graded should be stripped of vegetation and the top few inches of highly organic topsoil.
- D. Organic topsoil should be stripped, stockpiled and used for landscaping.
- E. Lower valley areas where bay mud deposits are exposed or are blanketed by shallow thicknesses of poorly compacted fill will require detailed studies prior to site grading.
- F. Sidehill "sliver" cuts and fills should be avoided.
- G. Special consideration should be given to slope stability in the steep hillside areas.
- H. Steep sideslopes should be left in their natural condition where possible.
- I. Setbacks should be determined based on detailed soils investigations in individual cases opposite landslide prone slopes to reduce the potential for slide damage to improvements.
- J. Expansive soils should be considered in the design of road pavement sections.
- K. Site planning should consider the potential of differential settlement where compressible soils exist.
- L. Areas underlain by soft bay mud will require further detailed soils investigations.

- M. Slopes should be planted as soon as possible after completion of construction to develop a protective organic mat.
  - N. Dense pockets of brush and trees located on steep slopes should be left intact where possible to prevent potential landsliding.
  - O. The sides of the stream channel in portions of Refugio Valley should be improved to protect erosion induced slumping. Care should be taken to maintain the natural appearance of the water-course in open space areas.
7. Hazardous and Toxic Materials
- A. The use, handling, storage and transportation of hazardous and toxic materials shall comply with the Uniform Fire Code, the Hazardous Waste Management Plan Element of the General Plan, and other applicable laws.
  - B. The project applicant for each potentially contaminated location within the City, shall have the site inspected by a Registered Environmental Assessor (i.e. a professional environmental scientist or engineer registered as an REA in California) for the presence of hazardous materials and wastes.
8. Historic Resources

Renovations, additions and other changes to historic buildings within the HTC Historic Town Center District and the Historic Overlay District shall conform to the requirements of these districts in addition to the requirements set forth below. Historic buildings that are outside the above zoning districts shall conform to the requirements set forth below.

- A. Prior to development on Parcels 1 and C as identified in the Land Use and Circulation Element EIR (1996), an updated architectural evaluation of the remaining Hercules Powder Company buildings shall be prepared. The elements of architectural evaluation program should include:
  - 1) An architectural evaluation of remaining company buildings by a qualified architectural historian.
  - 2) A determination of whether the remaining buildings are eligible for listing in the National Register of Historic Places.
  - 3) On the basis of the above findings, the City should take action to commit the eligible buildings to permanent conservation by having them listed in the National Register of Historic Places. Adaptive reuse of listed buildings, including historically sensitive restoration is encouraged as a means of preserving eligible structures. Restoration and renovation of buildings should be performed in accordance with the "Secretary of the Interior's Standards for the Treatment of Historic Properties." The standards serve as guidelines for rehabilitation, restoration, preservation, retaining and preserving historic character of the property.

- 4) If the above findings show that a building is not eligible for the National Register of Historic Places, then a Phase II evaluation shall identify historic resources on a parcel, and recommend appropriate mitigation measures to be incorporated into the project design using widely accepted standards for historic resources management, such as the *Secretary of the Interior's Guidelines for Rehabilitation* and the State Historic Building Code.

9. Light and Glare

The light and glare potential of uses and new development shall be attenuated on a parcel specific basis, applying the following measures so that glare shall not be visible beyond property line of the use or development.

- A. Screening of parking areas by using vegetation or trees. This will reduce the amount of glare generated from painted and chrome automobile surfaces and prevent expanses of stationary and moving automobiles.
- B. Hooded lights for nighttime illumination should be used for parking areas, shipping and receiving docks and industrial development. Hooded lights direct the light beam towards the ground where dark pavement will not reflect light and cause spillage into neighboring uses.
- C. Nonreflective windows should be used for research and development, and office park developments.

10. Mechanical Equipment Screening

- A. All exterior mechanical equipment, except within the I Industrial District and as specified in subsection B below, shall be screened from all sides. Equipment to be screened includes, but is not limited to electrical, heating, air conditioning, refrigeration, plumbing, and ductwork.
- B. Utility meters shall be screened from view from public rights-of way. Meters within a corner front yard or in a side yard adjacent to street shall be enclosed in subsurface vaults.
- C. The screening shall be of materials that blend with the building design and any adjacent landscaping.

11. Noise

- A. New residential development projects shall meet acceptable exterior noise level standards. The noise contour map on file at City Hall shall be used to screen projects to determine if acoustical studies will be required. The "normally acceptable" noise standards for new land uses established in Land Use Compatibility for Community Exterior Noise Environments shown in Table 6 shall be modified by the following:

- 1) The maximum acceptable noise levels in residential areas is a  $L_{dn}$  of 60 dBA. This level shall guide the design and location of future development, and is a goal for the reduction of noise in existing development. A 60 dBA  $L_{dn}$  goal will be applied where outdoor use is a major consideration (e.g., backyards in single-family housing developments and recreation areas in multi-family housing projects). The outdoor standard will not normally be applied to small decks associated with apartments and condominiums, but these will be evaluated on a case-by-case basis. Where the City determines that providing a  $L_{dn}$  of 60 dBA or lower cannot be achieved after the application of feasible mitigations, a  $L_{dn}$  of 65 dBA may be permitted at the small decks at the discretion of the City Council.
  - 2) Indoor noise level shall not exceed a  $L_{dn}$  of 45 dBA in new housing units. If the noise source is a railroad, then the outdoor noise exposure criterion should be 70 dBA  $L_{dn}$  for future development.
  - 3) Noise levels in new residential development exposed to an exterior  $L_{dn}$  of 60 dBA or greater shall be limited to a maximum instantaneous noise level in bedrooms of 50 dBA. Maximum instantaneous noise levels in all other habitable rooms should not exceed 55 dBA. The typical repetitive maximum instantaneous noise level at each site would be determined by noise monitoring. Examples would include truck passbys on busy streets, train passbys and train warning whistles.
  - 4) Appropriate interior noise levels in commercial, industrial, and office buildings are a function of the use of space and shall be evaluated on a case-by-case basis. Interior noise levels in offices generally should be maintained at 45 dBA  $L_{eq}$  (hourly average) or less.
  - 5) For non-transportation related noise sources, outdoor noise levels within a residential property should not exceed the limits in Table 76 of the Noise Element of the General Plan. Interior noise levels shall be 15 decibels lower than those shown in Table 7.
- B. New non-residential land development projects shall meet acceptable exterior noise level standards set forth in Table 6 of the Noise Element of the General Plan. The noise contour map on file at City Hall shall be used to screen projects to determine if acoustical studies will be required.
- C. Noise created by commercial or industrial sources associated with new projects or developments shall be controlled so as not to exceed the noise level standards set forth in Table 7 of the Noise Element of the General Plan as measured at any affected residential land use.
- D. Control the level of noise at noise-sensitive land uses generated by construction activities through implementation of the following measures:

- 1) For construction near noise-sensitive areas, as determined by the Community Development Department, require that noisy construction activities (including truck traffic) be scheduled for periods, according to construction permit to limit impact on adjacent residents or other sensitive receptors.
  - 2) Require a construction schedule that minimizes potential cumulative construction noise impacts and accommodates particularly noise-sensitive periods for nearby land uses (e.g., for schools, churches, etc.)
  - 3) Where feasible, require that holes for driven piles be pre-drilled to reduce the level and duration of noise impacts.
  - 4) Where feasible, construct temporary solid noise barriers between source and sensitive receptor(s) to reduce offsite propagation of construction noise. This measure could reduce construction noise by up to 5 decibels.
  - 5) Require internal combustion engines used for construction purposes to be equipped with a properly operating muffler of a type recommended by the manufacturer. Also, require impact tools to be shielded per manufacturer's specifications.
- E. Noise Attenuation Techniques: Where noise levels exceed community noise standards for a proposed land use, one or more of the following techniques may be required to reduce the noise to acceptable level.
- 1) Proper site planning to reduce noise impacts should be investigated for a project. By taking advantage of the natural shape and contours of the site, it is often possible to arrange the buildings and other uses in a manner which will reduce and possibly eliminate noise impact. Site planning techniques include:
    - a) Increasing the distance between the noise sources and the receiver.
    - b) Placing non-noise sensitive structures such as parking lots, maintenance facilities and utility areas between the source and the receiver.
    - c) Using non-noise sensitive structures such as garages to shield noise-sensitive areas.
    - d) Orienting buildings to shield outdoor spaces from a noise source.
  - 2) Architectural Layout: In many cases, noise reduction requirements can be met by giving attention to layout of noise-sensitive spaces. Bedrooms, for example, will be considerably quieter if placed on the side of the house facing away from the freeway. Similarly, balconies facing freeways should be avoided. Quiet outdoor spaces can be provided next to a noisy highway by creating a U-shaped development which faces away from the highway.
  - 3) Noise Barriers: To be effective, a noise barrier must be massive enough to prevent significant noise transmission through it and high enough to shield the

receiver from the noise source. The minimum acceptable surface weight for a noise barrier is 4 lbs./sq. ft. (equivalent to 3/4-inch plywood) and the barrier must be carefully constructed so that there are no cracks or openings. To be effective, a barrier must interrupt the line-of-sight between the noise source and the receiver.

12. Odor

No use, except within the I Industrial District and the P/QP-C Public/Quasi Public City District shall emit any obnoxious odor or fumes. Uses within the I Industrial District and the P/QP-C Public/Quasi Public-City District shall minimize emittance of any obnoxious odor or fumes to the extent feasible.

13. Pipelines and Pipeline Right-of-Way

Consistent with pipeline operators' standards, no buildings or other structures that could impede access shall be installed in any pipeline right-of-way. Prior to the start of construction on any parcel that includes or is bordered by a pipeline or pipeline right-of-way or easement, the Rodeo-Hercules Fire Protection District and the operators of affected pipelines shall be consulted regarding the adequacy of safety procedures for pipeline accidents. Developers of residential projects adjacent or nearby to pipelines shall notify new homeowners of the presence of the pipeline through a notice in the recorded deed.

14. Storage

- A. There shall be no visible exterior storage of equipment; supplies; motor vehicles, trailers, boats, or their component parts; and refuse, garbage, junk or their receptacles except as allowed within the Zoning Ordinance, Municipal Code and other laws.
- B. All allowed exterior storage, except within the I Industrial District, shall be screened by landscaping, fences, walls or hedges as per Section 30.600.

15. Tree Removal

Tree removal regulations within the City are set forth in Title 4, Chapter 15 of the Municipal Code

16. Undergrounding Utilities

All utility distribution facilities (including but not limited to electric, communication and cable TV lines), including utility service laterals and equipment, installed in and for the purpose of supplying service to any building or property shall be placed underground, except as follows:

- A. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and risers from concealed ducts.
- B. Poles supporting street lights.

Undergrounding shall be in compliance with Title 10, Chapter 6, Utility Undergrounding

17. Vibration

No vibration associated with any use shall be discernible beyond the property line of the use. Vibration within a property shall be controlled so that it does not constitute an annoyance or nuisance to other uses within the site.

18. View Corridors

Development shall preserve important view corridors, where feasible. The attributes of the view corridor that characterize its significance as seen from roadways, pedestrian paths or other public vantage points shall be identified and preserved to avoid view obstruction. Buildings shall be sited so as to minimize view obstruction from sensitive viewpoints. The following views, from publicly accessible viewpoints, shall be preserved to the maximum extent feasible.

- A. Upper drainage views from higher elevations of the Sycamore site adjacent to City Hall easterly up the floor of Franklin Canyon.
- B. Lower drainage views from Hercules Point north across open water to Lone Tree Point and beyond to Solano and Napa Counties.
- C. Lower drainage ridge views from the promontory of San Pablo Bay, Lone Tree Point, Franklin Canyon and the Refugio Creek floodplain.
- D. San Pablo Avenue views of specimen oak tree stands and, where feasible, of eucalyptus groves.
- E. Views of San Pablo Bay and the Hills of Marin, Sonoma and Napa Counties, and inland of the Briones Hills, that are available from various elevation points on undeveloped properties west of I-80 and from the shoreline areas along the Bay.
- F. Views from the former Hercules Powder Company offices on the promontory to the west, north and east.

19. Water Conservation

- A. Use of drought-resistant landscaping is required in new developments. Installation of low-flush toilets and other low-flow plumbing fixtures is required for new residential and commercial development.

- B. Installation of dual plumbing systems in large developments to accommodate future use of reclaimed wastewater for non-domestic purposes such as landscape irrigation, commercial and industrial process uses and toilet flushing in non-residential buildings is encouraged.

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## **CHAPTER 32**

### **OFF-STREET PARKING AND LOADING FACILITIES**

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#### **32.100 Purpose**

The purpose of this chapter is to:

1. Provide safely accessible, aesthetically attractive, well landscaped, screened and maintained off-street parking facilities.
2. Alleviate or prevent traffic congestion and shortage of curb spaces, off-street parking and loading facilities for new land uses and major alterations and enlargements of existing land uses.
3. Provide for adequate off-street parking and loading area design to assure their usefulness, protect the public safety and, where appropriate, insulate surrounding land uses from their impact.

#### **32.200 Applicability**

All new uses, new structures, and major alterations or expansions of existing uses and structures shall provide offstreet parking and loading facilities as per Table 32-1 and Table 32-2 of this chapter. No certificate of occupancy shall be issued until the parking facilities required in this chapter are provided. A use permit may be revoked if, at any time, adequate parking facilities are not provided and available for use as required.

1. No existing use of land or structure shall be considered a non-conforming use or a non-conforming structure solely because of the lack of off-street parking facilities or off-street loading facilities prescribed in this chapter, provided that facilities being used for off-street parking and off-street loading shall not be reduced in capacity to less than the number of spaces or berths required or reduced in area to less than the minimum standards.
2. No off-street parking facility or offstreet loading facility provided for a use of land or structure shall be reduced in capacity or in area without sufficient additional capacity or additional area being provided to comply with the regulations of this Article.
3. Off-street parking facilities and offstreet loading facilities shall be provided for a major alteration or enlargement of a site or structure which would increase the number of parking spaces required by 10% or more over existing levels of use or supply. The number of parking spaces or loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the

alteration or enlargement, unless the preexisting number is greater than the number required, in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the major alteration or enlargement.

4. Off-street parking spaces or offstreet loading berths provided for a use of land or a structure shall not be used to provide for required off-street parking spaces or off-street loading berths for another use or a structure on another site, unless an easement or joint use agreement is recorded in the office of the County Recorder designating the off-street parking facility or the off-street loading facility with legal descriptions of both sites, and certifying that the off-street parking facility or the off-street loading facility shall not be used for any other purpose unless the restriction is removed by resolution of the Planning Commission. No certificate of occupancy shall be issued until a certified copy of the recorded easement or joint use agreement has been filed with the Building Official.

Upon submission of satisfactory evidence that other off-street parking facilities or off-street loading facilities have been provided in compliance with the requirements of this Article or that the use has ceased or the structure has been removed or altered so as no longer to require the off-street parking facility or the off-street loading facility, the Planning Commission may by resolution remove the restriction.

### **32.300 Parking Standards**

#### **1. Parking Spaces Required**

The minimum number of parking spaces that shall be provided for a development or use is set forth in Table 32-1. If a use is not specified in Table 32-1, the same number of off-street parking spaces shall be provided as are required for the most similar specified use. The Planning Commission may require a greater number of parking spaces than the minimum specified in Table 32-1 in order to accommodate the parking demands of specific projects and uses.

For a use which operates on 2 or more shifts and the number of required off-street parking spaces is determined by the number of employees, the required off-street parking spaces shall be based upon the number of employees on the largest shift.

Off-street parking facilities requirements may be provided by the permanent allocation of the prescribed number of spaces for each use in a common parking facility as long as the total number of spaces provided shall not be less than the sum of the individual requirements. An executed and recorded copy of an agreement or joint use easement for the joint use of a common parking facility shall be filed with the application for a certificate of occupancy.

#### **2. Calculation of Parking Spaces**

The number of parking spaces required is calculated by determining the total size of the facility (such as dwelling units, seats, employees or 1,000 square feet of floor area, etc.) and multiplying this number by the number of spaces required per unit as shown in Table 32-1. If a fractional number of parking spaces result, one parking space shall be provided

for a fraction of 1/2 space or more. No parking space shall be required for a fraction of less than 1/2 space.

If more than one use is located on a site or within a building, the number of parking spaces provided shall be equal to the sum of the requirements prescribed in this Table 32-1 for each use. However, if the development is a shopping center then all uses that share common walls or roofs will be calculated on a shopping center use basis. If there are separate pads with free standing buildings, their parking requirements shall be calculated as individual uses and added to the other shopping center parking requirements.

3. Handicapped Spaces

Handicapped spaces shall be provided as part of the required offstreet parking spaces according to the standards set forth in Table 32-2.

4. Parking Space and Parking Lot Design Standards

Off-street parking facilities provided in compliance with subsection 1 above shall meet the following standards:

A. Each standard parking space shall be not less than 18 feet in length and 9 feet in width, exclusive of aisles and access drives. Each compact parking space shall be not less than 16 feet in length and 8 feet in width, exclusive of aisles and access drives.

(1) Not more than 40% percent of parking for a non-residential project may be designated as compact parking;

(2) At a residential project, up to 35% of parking may be designated as compact parking;

(3) The minimum length of a standard and compact space may include a maximum overhang into adjoining landscaping of 18 inches;

(4) Where a fence, wall or supports for a carport adjoin the length of a parking space, the width of that space shall be increased by 2 feet in addition to the width required by this section.

B. Entrances into parking spaces located in a garage or carport shall have an overhead clearance of not less than 7 feet with a horizontal clearance of not less than 8 feet for per parking space.

**Table 32-1**  
**Off-Street Parking and Loading Requirements**

USE	PARKING SPACES	LOADING SPACES	COMMENT - PARKING
<b>Residential</b>			
Single family	2.0 per unit	None	2 spaces in garage, 1 additional space required for 5+ bedrooms
Second residential unit	1.0 per unit	None	
Multi-family	1.5 per unit + 0.5 per unit guest parking	1.0 per 25 units &	1 space/unit in garage or carport
Mobile home park	2.25 per unit	1.0 per additional	2 tandem spaces allowed
Senior housing	0.5 per unit + 1.0/employee	100 units	
Emergency Shelter	1.0 per 5 beds	1.0 per facility	
Single-Room Occupancy Units	0.5 per unit plus 1 space per employee on the largest shift		
<b>Commercial Lodging</b>			
Hotel/motel	1.2 per guest room	1.0 after 5,000 sf GFA	1.5 per room if restaurant part of hotel/motel
Lodge/club or 1.0 per 2 beds	1.0 per guest room 200,000 sf GFA	& 1.0 per additional shall be provided	Whichever amount is more
<b>Public/Quasi Public</b>			
Public, government and utility offices and buildings	1.0 per employee	1.0 after 5,000 sf GFA & 1.0 per additional 200,000 sf GFA	Additional spaces provided for visitors as Commission requires
Parks, playgrounds & public recreation facilities	1.0 per employee		Additional spaces provided for visitors as Commission requires
General public assembly	0.25 per seat	1.0 after 5,000 sf GFA	According to permitted occupancy
Church	0.5 per seat	1.0 after 5,000 sf GFA	According to permitted occupancy
Libraries, museums & art galleries	1.0 per employee	1.0 after 5,000 sf GFA	Additional spaces provided for visitors as Commission requires
Day care center	1.0 per employee + 0.1 per student	None	
Elementary and middle schools	1.0 per employee	1.0 per 100,000 sf GFA	Additional spaces provided for visitors as Commission requires
High School	1.0 per employee + 0.25 per student of driving age	1.0 per 100,000 sf GFA visitors	Additional spaces provided for as Commission requires
Colleges & instructional schools	1.0 per employee + 0.6 per student	1.0 per 100,000 sf GFA	Employees for schools include teachers, administrators and all other personnel
<b>Medical treatment</b>			
Hospitals	2.0 per bed	1.0 per 100,000 sf GFA & 1.0 per additional 200,000 sf GFA	Or 0.4 / employee + 0.33 per / bed + 0.2 / outpatient treatment + 0.25 / physician whichever requires more
Convalescent/nursing care	0.3 per bed	1.0 per facility	
Medical and dental offices	5.0 per 1,000 sq ft	1.0 after 5,000 sf GFA	Except area used for storage only

**Table 32-1 (Continued)**  
**Off-Street Parking and Loading Requirements**

USE	PARKING SPACES	LOADING SPACES	COMMENT - PARKING
<b>Business Offices</b>			
Professional offices	3.0 per 1,000 sq ft	1.0 after 5,000 sf GFA & 1.0 per additional 200,000 sf GFA	Lawyer, engineer, accountant, and other professional consulting
General Offices	4.0 per 1,000 sq ft		Includes insurance, finance, real estate and personal services
<b>Commercial</b>			
Banks	5.0 per 1,000 sf GFA	1.0 per facility	Not in a shopping center
Convenience retail	4.0 per 1,000 sf GFA	1.0 per 50,000 sf GFA with 1.0 required after 5,000 sf GFA	Not in a shopping center
Retail stores/sales	3.5 per 1,000 sf GFA		Not in a shopping center
Services and repair	2.5 per 1,000 sf GFA		Not in a shopping center
Wholesale & large hard goods stores/sales	2.5 per 1,000 sf GFA 100,000 sf GFA	1.0 per 50,000 sf GFA & 1.0 per additional	Not in a shopping center
Shopping centers			
< 100,000 sf	4.0 per 1,000 sf GLA	2.0 per 100,000 sf GLA	
100,000 to 500,000 sf	4.5 per 1,000 sf GLA	& 1.0 per additional	
> 500,000 sq ft	5.0 per 1,000 sf GLA	100,000 sf GLA	
Fitness center/gym	7.0 per 1,000 sf GFA	1.0 per facility as Commission requires	Additional spaces provided
Theaters	0.33 per seat	1.0 per facility	According to permitted occupancy
<b>Restaurants</b>			
Regional/national	20.0 per 1,000 sf GLA	1.0 per facility	
Local/family	10.0 per 1,000 sf GLA	1.0 per facility	
Fast food	17.0 per 1,000 sf GLA	1.0 per facility	
Storage areas for commercial uses	1.0 per 1,000 sf GFA	As per main use	Area within a commercial use designated for storage only
<b>Industrial</b>			
General Industrial	1.5 per 1,000 sf GFA	2.0 per 50,000 sf GFA & 1.0 per additional 100,000 sf GFA	Additional spaces provided as Commission requires
Industrial park/R&D	2.0 per 1,000 sf GFA		
<b>Other uses</b>			
Mortuary	0.25 per seat	1.0 per 5,000 sf GFA occupancy	According to permitted
Unspecified	1.0 per employee	As per Commission	Additional spaces provided as Commission requires

**Table 32-2  
Handicapped Parking Requirements**

<b>USE</b>	<b>PARKING SPACES</b>	<b>MINIMUM</b>
Office	0.2 spaces per 10,000 sf GFA	1.0
Bank	1.0 space per facility	1.0 Unless additional spaces needed
Industrial	-	Spaces to be provided to handicapped employees.
Restaurant	0.3 spaces per 1,000 sf GFA	1.0
Retail and Service Commercial	0.75 spaces per 10,000 sf GFA	1.0
Shopping Center	0.85 spaces per 10,000 sf GLA	1.0
Other Uses	1.0 space per facility	1.0 Unless additional spaces needed

**Table 32-3  
Parking Lot Row and Aisle Dimensions**

	<b>Distance from Curb</b>			<b>Aisle Width (feet)</b>
	<b>Angle of Parking (degrees)</b>	<b>Compact Car Row (feet)</b>	<b>Standard Car Row (feet)</b>	
	90	16	18	25
	60	18	20	18
	45	16	18	12
	30	14	16	10

- C. Aisles and access drives for access, turning and maneuvering of vehicles at public and private parking areas shall be provided in conformance with the following standards:
  - (1) Access drives providing for vehicular traffic in one direction and access drives to parking facilities for single-family dwellings shall have a width of not less than 10 feet, except as may be required by the Rodeo Fire Protection District for emergency access;
  - (2) Access drives provided for vehicular traffic in 2 directions shall have a width of not less than 20 feet;
  - (3) A one-way access drive providing access to 10 or more parking spaces shall have a width of not less than 20 feet;
  - (4) Aisles providing access to parking shall conform to the standard set forth in Table 32-3.
  - (5) Aisles providing access to parking angles other than those specified in this Chapter shall have such dimensions as may be prescribed by the Planning Commission.
- D. No off-street parking area shall be designed or laid out so as to require the operator of a vehicle to drive upon any portion of a street in order to drive or maneuver from one aisle of the off-street parking area to another aisle.
- E. Each parking space shall be accessible from a street or alley
- F. Entrances and exits shall be provided at locations approved by the City Engineer.
- G. The parking area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water. Pavement shall conform with either of the following minimum standards:
  - (1) Asphalt paving: 2 inches of asphalted concrete on 4 inches of aggregate base material or equal as determined by the City Engineer
  - (2) Concrete paving: 4 inches of Portland Cement Concrete on 3 inches of aggregate base material or equal as determined by the City Engineer.
- H. Bumper rails or curbs shall be provided where needed for safety or to protect property.
- I. If the parking area is illuminated, lighting shall be deflected away from abutting streets and residential sites so as to cause no dangerous or annoying glare.
- J. No access drive shall be located closer than 2 feet to any property line and no access drive or parking area shall be located closer than 3 feet to any wall of a

main structure, except in a commercial or industrial district where no access drive or parking area shall be located closer than 5 feet to any property line which adjoins a residential district nor closer than 5 feet to any property line which adjoins a street.

- K. Parking in setback areas shall not be located in a required front yard, in a required side yard adjoining a street on a corner site, or in a required rear yard on a double frontage lot. Parking areas, including parking spaces located in a carport, which are located in a front yard, in a side yard adjoining a street on a corner site, or in a rear yard on a double frontage lot shall be screened from view from public rights-of-way by a wall, hedge or fence not less than 4 feet in height. The Community Development Director may determine on a case-by-case basis that tandem parking is not feasible and therefore not permissible. That determination may be based upon specific site or regional topographical conditions, or on fire and life safety conditions, or on evidence that tandem parking is not permitted in existing residential subdivisions elsewhere in the City.
- L. No repair work or servicing of vehicles shall be conducted on a parking area.
- M. Off-street parking spaces located in a garage or carport shall comply with the following standards:
  - (1) A parking space located in a single garage or carport shall be not less than 20 feet in length and 10 feet in width:
  - (2) Parking space located in a garage or carport for more than one car shall be not less than 20 feet in length and shall have a minimum width of 10 feet for the first space and 9 feet for each additional space.
- N. Off-street parking facilities shall be located on the same site as the use for which the spaces are required or on an adjoining site or a site separated only by an alley from the use for which the spaces are required.
- O. The pavement of an off-street parking facility shall be striped with paint or otherwise marked to delineate the boundaries of each area intended to be used as a parking space.

## **32.400 Loading Standards**

### **1. Loading Spaces Required**

The minimum number of loading spaces that shall be provided for a development or use is set forth in Table 32.1. If a use is not specified in Table 32.1, the same number of loading spaces shall be provided as are required for the most similar specified use. Required loading spaces for medical facilities are in addition to any ambulance spaces that are to be provided. Off-street loading berths in addition to those prescribed in this section shall be provided if the Planning Commission finds that such additional berths are

necessary to assure that trucks will not be loaded, unloaded or stored on public streets. A finding of the Planning Commission shall be based on an investigation of the anticipated frequency of truck pick-ups and deliveries, and of the truck storage requirements of the use.

2. Calculation of Loading Spaces

The number of loading spaces required is calculated by dividing the total amount of a use unit in terms of the noted of measure, by the amount required for each parking space. If a fractional number of parking spaces is required, one loading space shall be provided for a fraction of 1/2 space or more, and no loading space shall be required for a fraction of less than 1/2 space. If more than one use is located on a site or within a building, the number of loading spaces provided shall be equal to the sum of the requirements prescribed in this Section for each use.

3. Loading Space Design Standards

Off-street loading facilities provided in compliance with subsection 1 above shall meet the following standards:

- A. Each loading berth shall be not less than 45 feet in length and 12 feet in width and shall have an overhead clearance of not less than 14 feet except that for mortuaries, cemeteries, columbariums and crematories, a loading berth used exclusively for hearses shall be not less than 24 feet in length and 10 feet in width and shall have an overhead clearance of not less than 8 feet.
- B. Sufficient room for turning and maneuvering vehicles shall be provided on the site so it is not necessary for any vehicle to back onto the site from a public street.
- C. Each loading berth shall be accessible from a street or alley.
- D. Entrances and exits shall be provided at locations approved by the City Engineer.
- E. The loading area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water. Pavement shall conform with either of the following minimum standards:
  - (1) Asphalt paving: 2 inches of asphaltic concrete on 4 inches of aggregate base material or equal as determined by the City Engineer.
  - (2) Concrete paving: 4 inches of Portland Cement concrete on 3 inches of aggregate base material or equal as determined by the City Engineer.
- F. Bumper rails or curbs shall be provided where needed for safety or to protect property

- G. If the loading area is illuminated lighting shall be deflected away from abutting streets and residential sites so as to cause no dangerous or annoying glare.
- H. A loading area shall not be located in a required front side or rear yard in any district. A loading area located outside of a building shall be screened from public view by a solid wall or fence, a vine-covered chain-link fence with slats or a compact evergreen hedge, (with solid gates where necessary), not less than 6 feet in height.
- I. No repair work or servicing of vehicles shall be conducted in a loading area
- J. Off-street loading facilities shall be located on the same site with the use for which the berths are required or on an adjoining site.
- K. The pavement of an off-street loading facility shall be striped with paint or otherwise marked to delineate the boundaries of each area intended to be used as a loading space.

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**CHAPTER 33**  
**TREE REMOVAL**

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**See Title 4, Chapter 15 of the Hercules Municipal Code**

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## **CHAPTER 34**

### **SIGN REGULATIONS**

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#### **34.100 Purpose and Applicability**

The purpose of this Chapter is to:

- A. Provide for the orderly construction, location, placement, size and maintenance of signs, outdoor advertising structures, and displays of any character, and to safeguard the general public from the hazards caused by dangerously and improperly located and maintained signs.
- B. Promote and protect the public health, safety and welfare by regulating outdoor signs of all types. The specific goals are to protect property values; enhance and protect the physical appearance of the community; to reduce sign or advertising distractions and obstructions, and to ensure that new signs are compatible in design and scale with their surroundings.

Except as otherwise provided in this chapter, it is unlawful for any person to construct, erect, enlarge, alter, or relocate within the city any sign as defined in this chapter, without first obtaining a sign permit for a sign or planned sign program, subject to design review approval, and a building permit.

#### **34.101 General Provisions**

#### **34.102 Director Approval Required**

The Director of Community Development is authorized to approve, conditionally approve, or deny Sign Permits and Sign Programs, except where Planning Commission action is required above, or when a referral to the Planning Commission is made in accordance with applicable sections of the Zoning Ordinance. Any application for a Sign Permit or Sign Program approval requiring action by the Director shall be acted upon within 30 days of submittal.

#### **34.103 Planning Commission Approval Required**

The Planning Commission shall hold a public hearing as specified in the Zoning Ordinance, review the application based on the criteria of this chapter, and take action under the following circumstances:

- A. The sign(s) does not conform to an established design policy adopted by the Planning Commission and/or City Council in accordance with this section.

- B. The sign is a freeway-oriented, freestanding pylon sign.
- C. The approval of Sign Permit or Sign Program or requires approval of a Sign Variance.

### **34.200 Legal Conforming Signs**

Any sign that legally exists as of the effective date of this ordinance shall be considered a legal conforming sign.

- A. Any legal conforming sign may be altered to reflect a change in use or occupancy advertised on the sign, provided that sign has the same fixtures, similar materials, similar colors, and similarly styled lettering and provided the sign face is not enlarged as determined by the Community Development Director.
- B. New signage may be proposed for a site that contains legal conforming signage, provided that all new signage is in compliance with this chapter. The Planning Commission may approve waivers to signage for a site that contains legal conforming signage, if such waivers are consistent with this chapter. Such waivers may be made only if the signage plan for the entire site furthers the purpose of this chapter by reducing visual clutter or otherwise improves the aesthetic appearance of the signage on the site by bringing the overall site into closer compliance with the requirements of this chapter. A legally installed sign which does not comply with this chapter may continue to be used and ordinary maintenance and repairs may be made to the legally conforming sign provided the structure is not moved, enlarged, or structurally altered. A legal conforming sign may not be replaced with one which is nonconforming.

### **34.204 Termination of Business/Removal of Sign.**

Any sign face that identifies or advertises a business must be removed within 30 days after the termination of that business from that site. After a period of ninety (90) days of the termination of the business if the sign is not reused by another business occupying the same site, all mountings, brackets, poles, sign faces and other signage material must be removed.

### **34.205 Notice, Removal, Liens, and Sinking Fund**

- A. Notice and Removal. The Chief Building Official shall remove or cause to be removed any abandoned, dangerous, defective, illegal, prohibited, not maintained, or nonconforming sign subject to removal under the provisions of this chapter, which has not been removed within the time period specified in this chapter, or any other sign maintained in violation of the provisions of this chapter. The Chief Building Official shall prepare a notice which shall describe the sign and specify the violation involved and shall state that if the sign is not removed or the violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section.

For signs described under provisions of this chapter, the notice shall be mailed or given to the occupant of the property or other employee or, the owner of the sign, or representative upon which the sign is located. If known, the notice may also be mailed or delivered to the owner of the sign and the occupant of the property.

- B. Emergency Removal. Notwithstanding the above provisions of this section, in cases of emergency, the Chief Building Official may cause the immediate removal of a hazardous, dangerous or defective sign, without notice.
- C. Cost of Lien. Any sign removed by the Chief Building Official pursuant to the provisions of this section shall become the property of the City of Hercules, and may be disposed of in any manner deemed appropriate by the City. The cost of removal of the sign shall be considered a debt to the City by the owner of the sign and owner of the property, and may be recovered by the City by a lien against the property or any other remedy prescribed by law.
- D. Sinking Fund. The project sponsor of a proposed sign shall be required to provide proof of the establishment of a sinking fund to cover the cost of removing the sign if it is abandoned. The word “abandoned” shall mean a sign that has not been operational for a consecutive ninety (90) day period, except where non-operation is the result of maintenance or renovation activity pursuant to valid city permits. The sinking fund shall be established within a two-year period, at a financial institution approved by the city’s Finance Department. The sinking fund payment shall be determined by the Finance Director and shall be adequate to defray expenses associated with the removal of the sign. The minimum amount for a sinking fund for any type of sign shall be three-hundred dollars (\$300.00). The maximum amount for a sinking fund for a sign shall be three-thousand dollars (\$3,000.00)

### **34.206 Liability for Damages**

The provisions of this chapter shall not be construed as relieving or limiting in any way the responsibility or liability of any person erecting or owning any sign, for personal injury or property damage resulting from the placement of such sign, or resulting from the negligence or willful acts of such person, its agents, employees, or workmen, in the construction, maintenance, repair, or removal of any sign erected in accordance with a permit issued under this chapter; nor shall it be construed as imposing upon the City or its officers or employees any responsibility or liability by reason of the approval of any signs, materials, or devices under the provisions of this chapter.

### **34.207 Enforcement**

- A. Permit Revocation. The Planning Commission is authorized and empowered to revoke any sign permit issued by the Community Development Director upon failure of the holder thereof to comply with any provisions of this chapter. The City Council is authorized and empowered to revoke any sign permit issued by

the Planning Commission upon failure of the holder thereof to comply with any provisions of this chapter.

- B. **Public Nuisance.** In the event any person should erect, alter, relocate or maintain a sign in violation of the provisions of this chapter, the same is declared a public nuisance and, in addition to any other remedies available, including but not limited to administrative citations and civil penalties, the City Attorney is authorized to bring and prosecute an action in a court of competent jurisdiction to enjoin such person from continuing such violation.

### **34.208 Calculation of Size of Sign, Sign Area and Height**

- A. **Within or on Structures.** When the graphic representation of the sign occurs on a sign board, the size of the sign shall be calculated by the square footage of the sign board. For illuminated signs, all portions of the sign which are illuminated shall be included in the square footage. In other cases where lettering is attached to a structure and no sign board is utilized, the square footage of the sign shall be calculated by drawing a rectangle around all portions of the lettering; the square footage of the sign shall be the area of the rectangle.
- B. The sign area of wall-mounted and freestanding pylon and ground-mounted monument type signs shall be calculated as follows:
  - 1. The area of a wall sign comprised of individual channel-type letters, numerals, symbols, or other similar components painted on or attached flat against the wall of a building, where such individual components are without integrated background definitions and are not within a circumscribed frame area, the total area of the sign shall be measured by the area enclosed by four (4) vertical and horizontal straight lines containing each word or symbol.
  - 2. Where a freestanding, monument, or pylon-supported sign has two (2) faces, the area of both faces shall be included in determining the area of the sign. Sign height shall be measured as the vertical distance from grade adjacent to the sign footing, to the top of the sign, including the support structure and any design elements.
- C. The regulations and limitations of this Section are intended to be maximum dimensions permitted. The Community Development Director or Planning Commission may require a sign or sign program be reduced to less than the maximum area or height allowable if such a requirement is found to be necessary to comply with the purposes of this chapter.

### **34.300 District Sign Regulations**

The following subsections set forth sign regulations according to zoning district classifications. Signage within a specific zoning district shall conform to the sign requirements for that zoning district.

#### **34.301 Residential District Sign Regulations**

The maximum area, height and location of signs allowed in residential districts and for residential uses shall be as follows:

1. One nameplate not to exceed 2 square feet in area indicating the name of the occupant of a single family dwelling. The nameplate shall be located not closer than 10 feet to any property line, and shall not exceed 6 feet in height.
2. One nameplate not to exceed one square foot in area pertaining to a home occupation. Such nameplate shall be non-illuminated and shall be located flat against the wall of the dwelling.
3. One identification sign pertaining to a multi-family dwelling with an area not to exceed 2 square feet for each dwelling unit or 20 square feet, whichever is less. The sign shall be located on the site of the multi-family dwelling, shall not be located in or face into any interior side yard or any rear yard, and if attached to a building shall not project more than 6 inches into a required front yard or a required side yard adjoining a street. A detached sign located not closer than 5 feet to any portion of a building, or to any property line adjoining a street, shall be located not closer than 20 feet to any other property line and shall not exceed 4 feet in height.
4. Identification signs pertaining to a conditional use with an aggregate area not to exceed one square foot for each 8 feet of frontage of the site. Such signs shall be located on the site of the conditional use, shall not be located in or face into any interior side yard or any rear yard, and if attached to a building shall not project more than 6 inches into a required front yard or a required side yard adjoining a street. Detached signs located in any front yard or any side yard adjoining a street shall be located not closer than 5 feet to any portion of a building, and shall not exceed 6 feet in height.
5. No sign attached to a building shall project above the eave line or parapet line. No sign shall have any moving parts or be constructed of any reflective material. No illuminated sign shall be directly lighted, or flash on or off, but may be indirectly lighted or may have semi-direct or diffused lighting.

### 34.302 Non-Residential Districts Sign Regulations

The non-residential zoning districts include the following:

- A. All commercial districts including the General Commercial, Community Commercial, Recreational Commercial, and the Commercial Public Mixed Use District.
- B. All industrial districts including the Planned Commercial Industrial Mixed use District and the Planned Office/Research and Development District.
  - 1. All non-residential zoning district signs are required to be calculated with the following formula, unless stated otherwise
  - 2. Wall-Mounted Signs: 1 square foot of sign face for every lineal foot of storefront space leased, owned or rented by the business tenant.
  - 3. Ground-Mounted Monument Sign: 1 square foot of sign face for every 4 lineal feet of street frontage. Maximum height: 6 Feet.
- C. The Commercial-Residential and the Industrial-Residential Mixed Use Districts shall comply with the following:
  - 1. Live Work-Restricted Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot for every 10 lineal feet of building storefront space leased, owned or rented by the business tenant.
  - 2. Live Work-Limited Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot of sign for every 8 lineal feet of building storefront space leased, owned or rented by the business tenant.
  - 3. Live Work-Open Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot of sign for every 6 lineal feet of building storefront space leased, owned or rented by the business tenant.
  - 4. Mixed Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot of sign for every 5 lineal feet of building storefront space leased, owned or rented by the business tenant.
- D. Only businesses within the boundaries of the property shall be permitted to advertise on any freestanding pylon, ground-mounted monument or wall-mounted sign.

- E. No sign attached to a building shall project above the eave line or parapet line. No illuminated sign shall be directly lighted, or flash on or off, but may be indirectly lighted or may have semi-direct or diffused lighting.

### **34.303 Signs Subject to Review**

The following signs, as defined, require review by the Community Development Director in accordance with the provisions of this chapter. Signs associated with projects subject to design review permits shall be reviewed as part of that process; however, such signs also require a sign permit from the Community Development Director. The Community Development Director may not waive any provisions of this *chapter*. Signs proposed for properties within the Central Hercules Plan shall be subject to the provisions of the Central Hercules Plan Regulating Code, as well as the provisions of this chapter.

- A. Permits for signs subject to review under Section 34.301 and 34.302 shall be acted upon within thirty (30) days of the submission of a complete Sign Permit application. Applications for sign permits must contain a scale drawing indicating the dimensions, materials, coloring, graphic content, lighting source, mounting hardware and site location. In addition, such application shall include photographs of signs found on properties located on each side of the structure.
- B. The Community Development Director may approve, deny or approve with conditions the any permit application for signs under Sections 34.301 and 34.302 of this chapter.
- C. All reviewing authorities shall review all signs and their locations within a site and placement on a structure in accordance with Sections 34.302 of this chapter.
- D. No sign shall exceed 100 square feet in sign area, except for wall signs on structures greater than 30,000 square feet in floor area. Structures greater than 30,000 square feet in floor area may not exceed 250 square feet in sign area.
- E. **Awning Signs.** An awning sign is a covering which is (or appears to be) made of cloth or canvas that is either permanently attached to a building or can be raised or retracted or fixed to a position against the building when not in use. Awnings on structures in the Central Hercules Plan shall be reviewed in accordance with all provisions of the Central Hercules Plan Regulating Code. The sign face of an awning sign may not exceed 25% of the area of the plane of the awning on which the sign face appears. No material or signage may hang from an awning.
- F. **Marquee Signs.** A marquee is a sign used for the advertisement of a movie or theatrical event. Marquee signs are permitted for theaters only and must be wall signs, subject to the requirements for wall signs.
- G. **Monument Sign.** A monument sign is mounted directly on the ground. The size of the face of a monument sign shall not exceed 32 square feet. The maximum

height of the sign shall not exceed 6 feet. Only one monument sign per six-hundred feet of lot frontage is permitted.

- H. Freestanding Pylon Sign. A freestanding pylon sign is a sign in which is attached to columns erected directly into the ground. Only one freestanding pylon sign per one-thousand feet of lot frontage is permitted. The height of a pylon sign is measured from the top of the sign to the ground.
1. New freestanding pylon signs are prohibited to be constructed in the City of Hercules unless previously approved through a development agreement. (The effective date passage of this ordinance by City Council).
  2. A legally installed freestanding pylon sign may continue to be used and ordinary maintenance and repairs may be made to the legally conforming sign provided the structure is not moved, enlarged, or structurally altered. Existing freestanding pylon signs will not be permitted to be enlarged, expanded or allowed any additional sign panels or tenants to be constructed within their existing sign area. Existing sign panels on legally-constructed and permitted freestanding pylon signs are permitted to be replaced when new businesses replace existing businesses shown on current signage panels provided the Planning Commission determines that the new business is a major tenant.
  3. If a freestanding pylon sign is proposed to be constructed, the pylon sign must be for commercial developments intended to serve a market area that extends beyond the City limits of Hercules (as determined by the Planning Commission), freestanding pylon signs may be permitted to be constructed provided, that all of the following conditions are met:
    - a. The sign shall be supported by a minimum of two supports, located at or near the exterior edge of the sign face, or the sign shall be constructed as a monolith (with no open area between the message area and the ground upon which the sign is located). Signs supported by a single pole, column, or pylon shall not be permitted.
    - b. At signs which contain open area below the message area (i.e. between the supports), the height of the open area shall be at least equal to the height of the message area.
    - c. The width of the sign, measured across the maximum width of the sign structure, shall be no less than 25% of the maximum height of the sign structure.
    - d. The colors and/or materials of the sign and the supporting structure shall be compatible with the exterior of the shopping center or buildings for which the sign provides identification. The design of the freestanding sign should reflect the architectural design of the buildings within the shopping center.

- e. The sign shall identify the shopping center or businesses (where a single business is not part of a larger center or development) and the name of the shopping center or business shall be prominently displayed in the sign message area. Individual tenants/owners may be identified on the sign providing the name of the center shall be clearly legible to the “target” audience, as determined by the Planning Commission. The freestanding pylon sign shall be limited to a maximum of three (3) major tenants as determined by the Planning Commission.
  - f. Where the center/business adjoins a public street, the sign and the supporting structure shall be located no less than a distance equal to the maximum sign height from the nearest edge of the public street sidewalk (or curb, if there is no sidewalk), and the sign and supporting structure shall be located no closer than 20 feet from any other property line at the perimeter of the center/business site. This distance shall be measured from the closest point on the property line to the portion of the sign or sign structure that is closest to the property line.
  - g. The maximum height of the sign shall not exceed 35 feet.
  - h. Only one freestanding sign shall be allowed at any shopping center.
  - i. Substantial landscaping shall be installed at the base of the sign to reduce the apparent sign height. In particular, the full-grown height of the planting adjoining the sign shall be about one-third (1/3) of the sign height. The minimum required landscape area shall be equal to the square footage of all visible sides of the sign faces including and counting the sign panels, and the outside edges of the borders around the sign panels. Both sides of the sign faces shall be used to calculate the square footage of the sign.
- I. Projecting Signs/Blade Signs. A projecting or blade sign is one which is attached to a wall at an angle. Where a projecting sign projects over a sidewalk, it must clear the ground by at least eight (8) feet. Any use which contains a projecting sign may not contain a freestanding pylon sign. Projecting signs may not be placed above the first story of a structure unless it is advertising a use that occurs above the first floor. In cases where a projecting sign occurs above the first story of a structure, it may not be placed higher than the midpoint of the second story.
- J. Subdivision Sales Signs, On-Site. On-site subdivision sales signs shall comply with the following regulations:
- a. A maximum of two advertising signs, with a maximum area of 24 square feet and a maximum height of 6 feet for each sign; or
  - b. A maximum of four directional signs, with a maximum area of 16 square feet and a maximum height of 6 feet for each sign; or

- c. One sign for each model in the project, with a maximum area of 8 square feet and a maximum height of 4 feet for each sign.
- K. Subdivision Sales Signs, Off-Site. Off-site subdivision sales signs shall comply with the following regulations:
  - a. The maximum number of signs shall be four per project.
  - b. The maximum height shall be 6 feet.
  - c. Setbacks shall be provided as follows: 15 feet from property line, 300 feet from other authorized off-site subdivision sales signs, and 100 feet from occupied residential structures.
  - d. All sign bases and support structures shall be boxed or enclosed in a decorative base.
- L. Wall Signs. A wall sign is one which is applied, painted or affixed flush to the exterior of a structure. No wall sign shall protrude beyond the roof line or cornice structure of a building, and shall not cover windows, doors or architectural detailing of the building to which it is affixed.
- M. Religious Institution Sign. A religious institution sign must be for the use of a religious institution, must occur on the same parcel as the religious institution, and may have a changeable copy sign. A religious institution sign shall be either a wall or monument sign in accordance with the requirements for those signs.
- N. Changeable Copy Signs. Changeable copy signs are prohibited except for religious institutions, bulletin boards and community signs.
- O. Directory Signs. A Directory Sign is one which advertises more than one use or establishment. A directory sign may be mounted to the ground, one or more poles, walls, or may project from a wall at an angle. A directory sign may advertise or identify only uses which exist within the same lot or uses which exist in any group of structures which share a common point of access from the public way. Only one directory sign per five-hundred feet of lot frontage is permitted. Directory Signs are permitted only in subsection 1, 2, or 3 below:
  1. Community Commercial zoning district along Sycamore Avenue.
  2. General Commercial zoning district along San Pablo Avenue.
  3. General Commercial zoning district along Willow Avenue.
- P. Advertising Messages Incorporated Into Approved Signage. Permanent advertising messages or business information (such as signage indicating business hours, signage which indicates which types of bank machine cards are accepted, or other similar message) shall be considered a sign subject to review, unless that

message is in a sign not subject to a permit. When reviewing such signage, other signs on the site shall also be considered.

Q. Gasoline Sales Canopy Signs. Gas station canopy signs shall not extend beyond the edges of the canopy and shall comply with one of the two following alternative provisions:

1. No sign shall exceed 15% of the square footage of the side of the canopy upon which it is located. No side shall contain more than one sign.
2. The total area of signs on a gas station canopy shall not exceed 9% of the total square footage of all signs of the canopy. No canopy shall have more than two signs located on it. Both signs may be located on the same side of the canopy.

R. Master Sign Programs.

1. General Requirements. A Master Sign Program is required when a sign(s) is requested for:
  - a. A building or grouping of buildings which contains six (6) or more business or office uses, or
  - b. Community uses that request more than two identification signs. No permit shall be issued for an individual sign requiring a permit on a site with six (6) or more existing or proposed business spaces unless, and until, a master sign program for the property on which the sign will be erected has been approved by the Design Review Committee.
2. Required Information. A Master Sign Program shall contain the following information:
  - a. An accurate plot plan of the lot, at such a scale as the Planning Division may require.
  - b. Location of buildings, parking lots, driveways and landscaped areas on the lot.
  - c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot included in the plan.
  - d. An accurate indication of the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
  - e. Color scheme.
  - f. Lettering or graphic style.

- g. Materials.
  - h. Sign dimensions.
  - i. Provisions for leasing information.
3. Window Signs. A Master Sign Program including window signs shall indicate the areas of the windows to be covered by window signs and the general type of the window signs permitted (e.g. paper affixed to window, painted, neon, etched on glass). (See 34.500J for permitted coverage.)
  4. Freestanding Pylon Signs. The Master Sign Program shall address shared or common usage of freestanding pylon signs.
  5. Other Provisions. Master Sign Programs may contain regulations as the Design Review Committee may reasonably determine are necessary to assure the Program's compliance with the requirements of this Chapter.
  6. Procedures. A Master Sign Program shall be a condition of approval of any planned development, design review, use permit or other application required by the City, and shall be processed prior to installation of any signs. Any sign which conforms to an approved sign program may be approved by the Director of Community Development. Approval of a Master Sign Program does not waive the permit requirements for individual signs.
  7. Amendment. A Master Sign Program may be amended by filing a new Master Sign Program that conforms to all requirements of this Chapter.
  8. Binding Effect. After approval of a Master Sign Program, no signs shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same ways as any provision in this Chapter. The Master Sign Program shall be attached to the lease agreements for all leaseable space within the project. In case of any conflict between the provisions of such a plan with any other provisions herein, this Section shall control.

### **34.500 Signs Not Requiring A Permit**

The following signs are permitted as indicated in the following subsections, and require no permit.

- A. **Bulletin Boards.** One bulletin board not to exceed 20 square feet in area shall be permitted, serving only to identify and announce the services and activities of a park, public or parochial school, library, church, community center or other similar or community facility or institution. The bulletin board shall be located on the site of the community facility or institution, shall be located not closer than 5

feet to any portion of a building, shall be located not closer than 10 feet to any property line adjoining a street, shall be located not closer than 20 feet to any other property line and shall not exceed 6 feet in height.

- B. **Real Estate Sign.** A real estate sign is a temporary sign advertising the lease or sale of land, space or structure. A real estate sign may not exceed 6 square feet for the sale of a residential structure. For all other uses and vacant land, the sign may not exceed 24 square feet. Real Estate Signs must be removed within ten days of the sale or lease of the property. This real estate sign shall not be located on City of Hercules rights-of-way, landscaped medians or parkways.
- C. **Temporary Off-Site Residential Real Estate Open House/Directional Signs.** Portable off-site residential real estate signs within any residential zone which is intended to provide directional assistance for an “open house” shall be:
1. “A-frame” in design. “Stick signs” are strictly prohibited.
  2. Allowed only for residential real estate developments that are located within the City of Hercules.
  3. Limited to one sign for each direction at any intersection for each real estate company regardless of the number of listings located in that direction.
  4. Limited to a maximum total of three temporary off-site residential real estate signs at the corners of major arterial/collector streets and intersections; provided motorist visibility is not obstructed. Signs on secondary or residential streets and intersections shall be limited to a maximum total of-two temporary off-site residential real estate signs at the corners of the intersection; provided, motorist visibility is not obstructed.
  5. Designed to include directional arrows on each sign.
  6. Limited to 30 inches in height and 6.25 square feet in sign face area.
  7. Signs may be placed on private property only after first obtaining permission from the property owner.
  8. Signs may not be placed in the public right-of-way. Signing is prohibited in the center divider, any landscaped median, sidewalk, and/or traffic islands of public streets, bicycle paths or public walking trails. The A-frame, real estate open house signs shall be placed behind the sidewalk if the sidewalk is adjacent to the curb, or in the landscaped parkway if the parkway is adjacent to the curb. Signs shall not be placed on fences, utility poles or walls, or taped to traffic lights or light standards.
  9. No signs shall be posted within sixteen (16) feet from the curb returns on all intersections.

10. Signs may be displayed only on weekends from 9:00 a.m. to 5:00 p.m., and broker's touring days between 8:00 a.m. and 1:00 p.m., during the period when the property is available for public showing. Signs shall be removed after each day of showing.
  11. Violations. All signs in violation are subject to seizure by the City of Hercules. (Note: These signs will be removed and stored at the City of Hercules Corporation Yard for a maximum of ten (10) days. After ten (10) days, the City will dispose of the sign if not claimed. Signs may be retrieved by contacting the Public Works Department and paying a seventy-five (\$75.00) dollar retrieval fee per sign.
  12. No balloons or attachments are permitted on the A-frame real estate open house signs.
  13. No commercial, retail, industrial, "dot-com" related business or advertising shall be permitted in the landscaped medians, City rights-of-way, sidewalks, traffic signals, public utility poles, or light standards.
- C. **Contractor Signs.** A contractor's sign is a temporary sign erected during the construction phase of a project only, not to exceed 24 square feet. Such sign must be removed upon the issuance of a Certificate of Occupancy, where one is required. Contractor Signs may also be used during home improvement or renovation projects that are not subject to a Certificate of Occupancy, but must be removed after the work has been completed.
- G. **Signs for Garage or Yard Sales.** Lawn, yard or garage sale signs are prohibited on any state or city public property or right-of-way, or on utility poles. No sign for garage or yard sales shall be posted more than 24 hours before and after the event. Garage or yard sale signs are limited to a maximum of four (4) square feet.
- H. **Special Events or Notice Signs.** Special Events or Notice Signs are temporary signs, such as banner, pennants, wind socks, posters or flags, displayed on a non-residential property for decorative or festive purposes to announce festivals, elections, or special events. Such signs may not interfere with pedestrian or vehicular traffic. No individual building occupant may utilize the provisions of this section for more than 30 days within a calendar year. Prior to displaying any Special Event or Notice Sign or Signs, the building occupant shall submit written notification to the Community Development Director of the installation and removal dates.
- I. **Special Signs and Non-Commercial Holiday Decorations.** Non-commercial holiday decorations, signs on products or product containers, public information and safety signs, historic markers, signs required by local, state or federal law, and non-commercial messages placed on lawful signs shall be exempt from the regulations of this chapter.

- J. **Temporary Signs** for Special Events. Temporary signs and banners for promotional or seasonal events of civic, charitable, educational, religious, or service organizations are allowed when displayed on the location of the subject activity. They shall be placed no sooner than 14 days prior to the event and removed no later than seven days after the event. Such signs or banners shall not exceed 32 square feet.
- K. **Warning Signs.** “No trespassing”, “no dumping”, or other warning signs are allowed that do not exceed 4 square feet per sign.
- L. **Window Signs.** Window signs are allowed provided that they are placed on the inside of the window, and occupy no more than 25% of the glassed area of all windows, and is at least 3 feet from the window frame of an exterior window and the majority of the interior is visible from the outside of the building.
- M. **Household Signs.** Signs that display street numbers, last names and personal names given to residential structures shall not require a permit.

### **34.600 Specific Regulations for Temporary and Miscellaneous Signs**

The following section establishes regulations for the maximum number, location, maximum area, maximum height and/or special regulations for all signs of a temporary nature that are allowed in the City of Hercules.

- A. **Banners.**
  - 1. Temporary (for a period of not more than 30 days per calendar year) promotional banners including “grand opening”, “under new management” and seasonal or other special event advertisements, may be placed on any business, excluding fast food restaurants and automobile and open lot vehicle dealers, a total of 30 days per calendar year. The maximum size of all banners on-site shall not exceed 36 square feet combined. No more than two banners may be used for any promotion. A banner shall only be affixed to a building, and shall not be placed on or above a roof.
  - 2. Fast food restaurants and automobile and open lot vehicle dealers may display banners year round, in accordance with the following restrictions:
    - a. Up to two (2) banners, with a maximum aggregate area of 36 square feet, may be displayed.
    - b. The banner shall only be attached to and displayed below the eave of the roof line of the subject building.
    - c. The length of the banner may not exceed 40% of the length of the building elevation on which it is displayed.

Permanent and Seasonal Decorations. Permanent and seasonal ornaments of a decorative nature shall comply with the following regulations:

3. The number of decorations allowed shall be determined at the time of Sign Permit issuance.
  4. The decoration shall contain no commercial copy (e.g. business name, product, etc.)
- B. Construction Signs. One “under construction” sign is allowed per construction site. The sign shall not exceed forty (40) square feet in area and ten (10) feet in height. The sign may identify the project developer, project participants, and/or future occupants.
- C. On-Site Directional Signs. Where appurtenant to a permitted or conditionally permitted use, on-site directional signs may be placed subject to the following regulations:
1. Maximum area of a directional sign shall be four square feet.
  2. Maximum height shall be five feet.
  3. Directional signs shall have no commercial message or copy.
- D. Inflatable Signs. Inflatable balloons, objects or signs are not permitted to be displayed on any commercial or industrial or mixed use zoned building. Temporary seasonal businesses, such as Christmas tree lots may display an inflatable object associated with the holiday for one period *not to exceed 30 days*. Amusement parks and amusement destinations may be permitted to display temporary inflatable balloon objects that do not exceed the height of the project building(s) for a period of not more than 30 days per calendar year. Amusement parks and amusement destinations may display on a temporary basis two inflatable signs or characters, a maximum of 15 feet tall at each major entry to the facility. For the purposes of this subsection, a major entry is an entry from a public road providing direct public access to the site. All inflatables shall be affixed to the ground, and shall not be attached to, or displayed on or above any structure.
- E. Political Campaign Signs. Political Campaign Signs are allowed to be displayed only on prescribed locations identified and adopted through legislation by the City Council.

## **34.700 Prohibited Signs**

The following signs are prohibited by this Section:

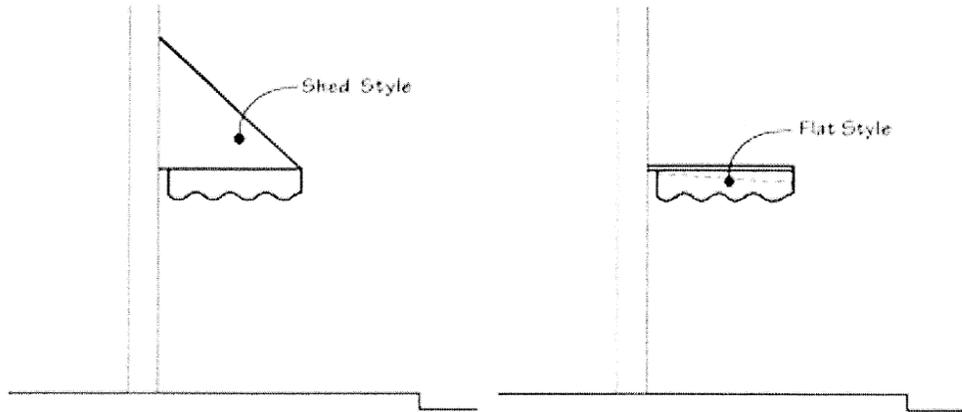
- A. Abandoned signs. Any sign which is unused for more than 90 consecutive days shall be deemed abandoned and shall be removed. Individual tenant signs in multi-tenant shopping centers may remain unused for a longer period provided all advertising copy is removed and a blank sign face is maintained. For the purposes of this Section, “unused” shall mean the absence of copy or advertising message, or a sign which advertising a business or activity no longer located at the subject site.
- B. Signs that simulate, by virtue of size, shape, color, lettering, or design, a traffic sign or signal, or signs with characters or graphics that interfere with, mislead, or confuse the pedestrian or motorist are prohibited.
- C. Portable signs, sandwich board, “A-frame”, or movable freestanding signs, including signs placed on parked vehicles or trailers, except where specifically authorized in the Municipal Code.
- D. Any sign erected in or extending into the public right-of-way, except signs in the commercial, industrial, planned office/research and development zoning districts, and properties in the Central Hercules Plan where mixed commercial-residential land uses are developed and improved, and where the applicant has received an encroachment permit from the Public Works Department, and publicly owned signs for directional purposes.
- E. Any roof-mounted sign that projects above the roof or parapet of a building is prohibited. The Planning Commission shall be authorized to grant approval where the sign is designed as part of the building’s architecture, such as a blade sign on a theater façade or a sign integrated into a raised building’s parapet.
- F. Any structure that advertises an off-site business or activity, product, or service (such as a billboard) is prohibited with the exception of off-site residential subdivision advertising signs that comply with the regulations established by this Section.
- G. Animated signs that use blinking lights, audible sounds, human or animal generated movements. This restriction does not apply to electronic message signs and time and temperature signs.
- H. Banners, streamers and pennants are prohibited except where specifically authorized by this chapter.
- I. Inflatable balloons, objects or signs are not permitted to be displayed on any commercial or industrial or mixed use zoned building except where specifically authorized by this chapter.

# 34.800 Examples of Signs: Permitted and Prohibited

## PERMITTED SIGNS

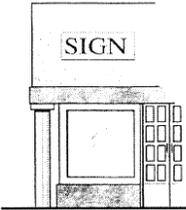
### EXAMPLES OF SIGN TYPES

#### AWNING SIGNS

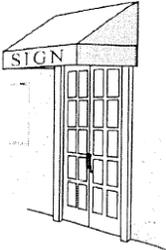


# PERMITTED SIGNS

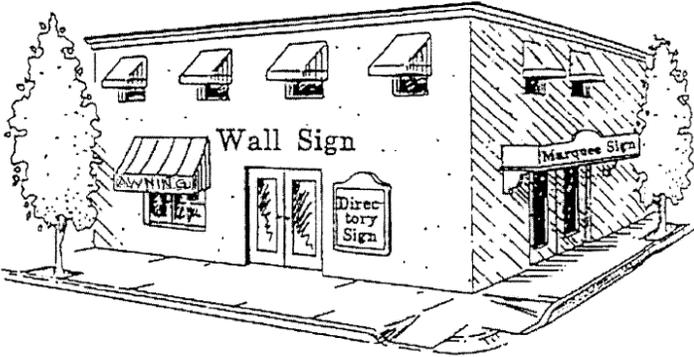
## WALL SIGN



Wall

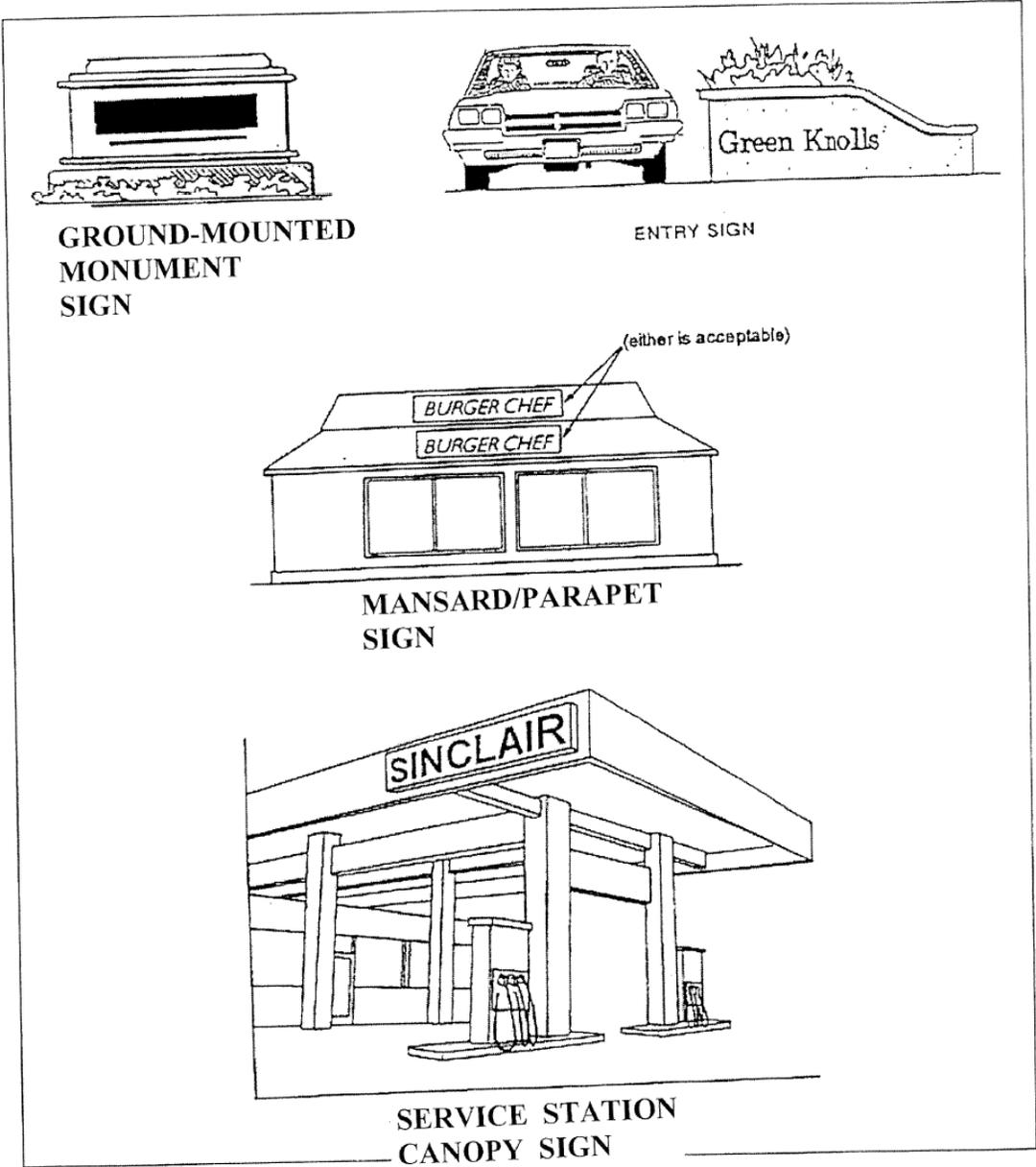


Awning

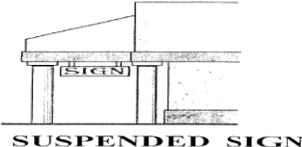


# PERMITTED SIGNS

## PERMITTED SIGNS

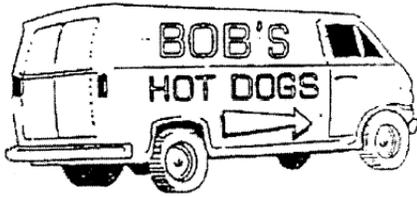


**PERMITTED SIGNS**



**FOR SALE BY OWNER SIGNS**

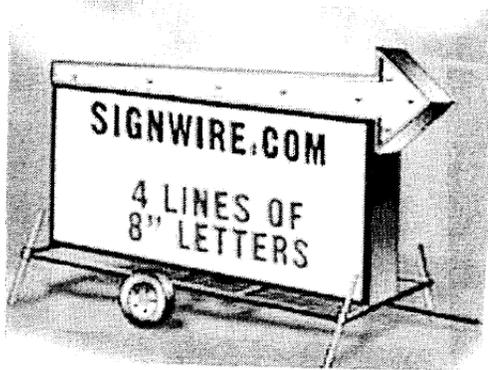
**EXAMPLES OF SIGN TYPES  
PROHIBITED SIGNS**



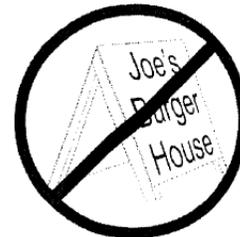
**ANY ON-SITE OR OFF-SITE  
TEMPORARY OR PERMANENT  
SIGNS ON UNREGISTERED  
OR INOPERABLE VEHICLES  
USED AS BUSINESS SIGNS**



**PORTABLE A-FRAME/  
SANDWICH BOARD**

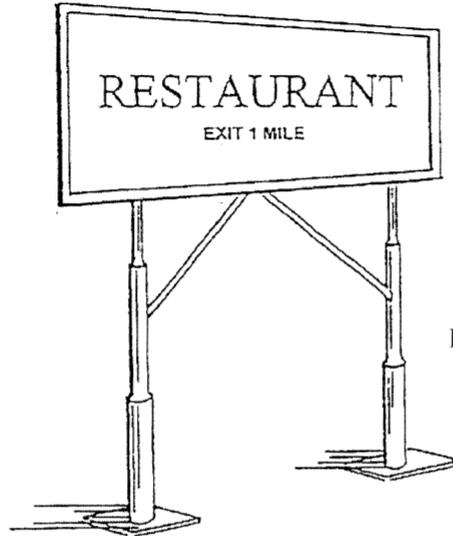


**PORTABLE - ROADSIDE/SIDEWALK SIGNS**



*Portable Sidewalk  
Sign*

**OFF-PREMISE FREESTANDING  
(BILLBOARD) SIGN**

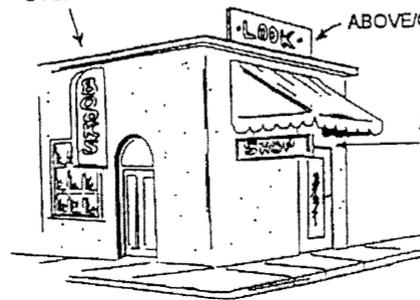


**BILLBOARD SIGN**



**ABOVE/ON ROOF SIGN**

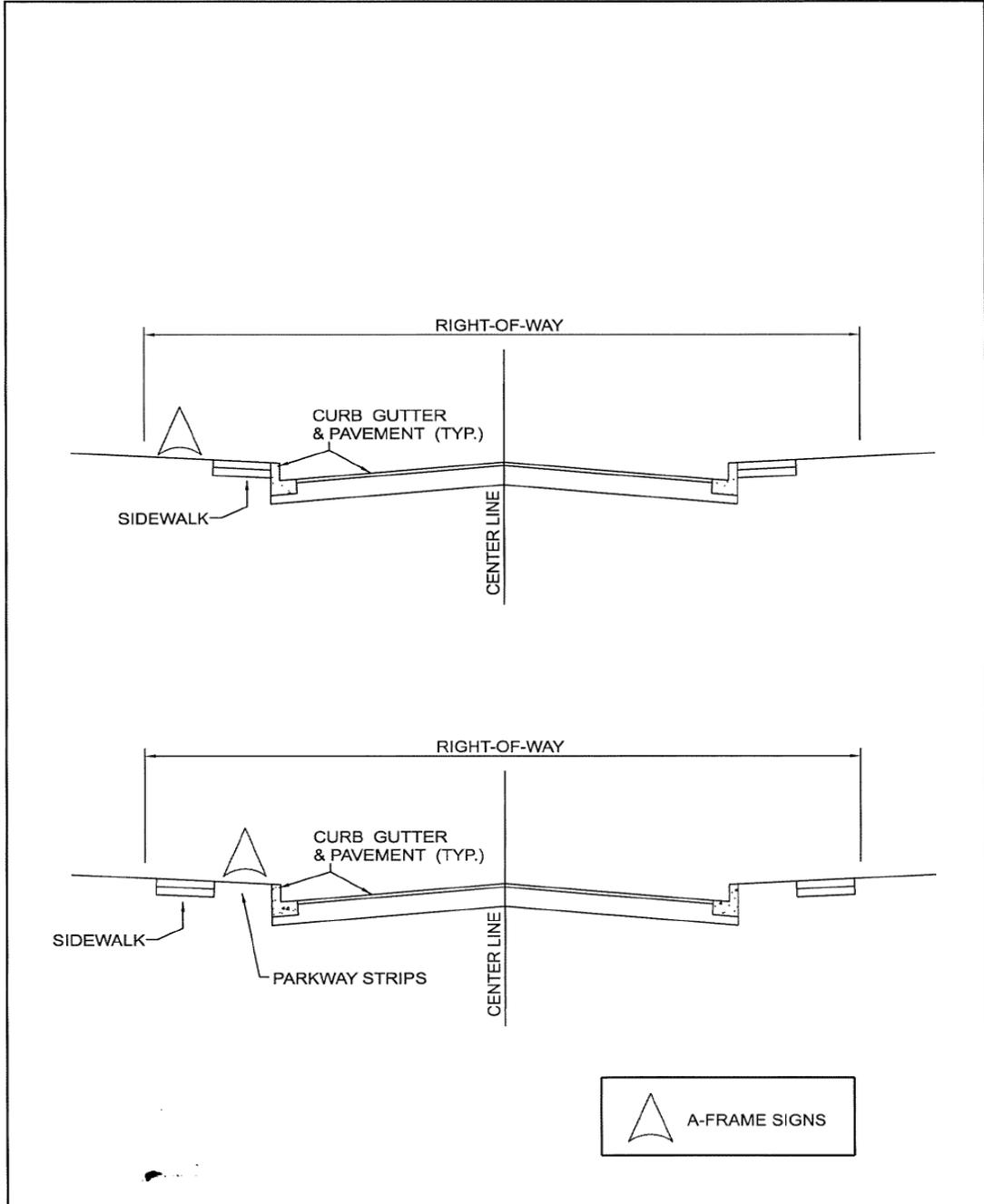
ANY SIGN PROJECTING OUT  
OVER 12 INCHES



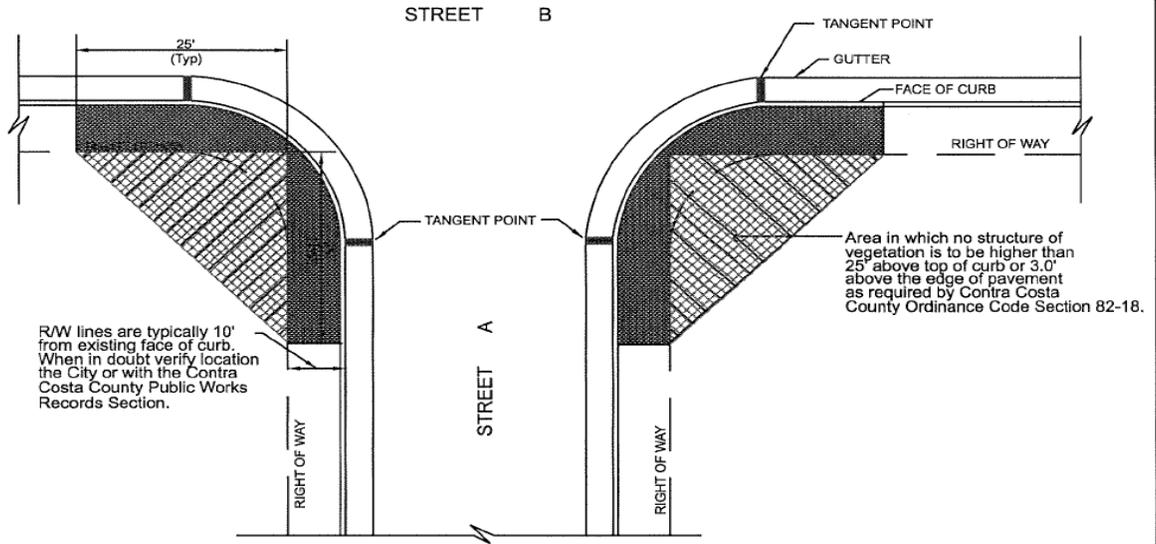
ABOVE/ON ROOF SIGN

ANY SIGN HANGING BELOW  
BOTTOM OF CANOPY

REQUIRED CLEARANCE AT INTERSECTIONS



TYPICAL STREET INTERSECTION



REQUIRED CLEARANCE AT INTERSECTIONS

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## **CHAPTER 35**

### **SPECIFIC LAND USE REQUIREMENTS**

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#### **35.100 Purpose and Applicability**

The purpose of this Chapter is to provide land use and development regulations for specific uses that will then be applicable to sites throughout the City. Unless noted otherwise, these standards are intended to be applied within all zoning and overlay districts.

#### **35.200 Specific Use Standards**

Zoning and overlay district development standards or performance standards in Article II will take precedence over the specific use requirements within this chapter. If there is a conflict between regulations and standards specified for a particular zoning district and the specific use standards contained within this chapter, the district specific regulations and standards shall be applied.

#### **35.210 Accessory Structures and Uses**

Accessory buildings are generally allowed in all zoning districts subject to the requirement that the use of the structure be subordinate and incidental to the principal use or structure on the site. Accessory structures may require an administrative use permit and may have conditions limiting use as determined by the land use regulations for each zoning district.

Accessory structures may be either attached to and have a common wall with the main structure on a site, or may be freestanding (i.e., not attached to the main structure). For the purposes of this Chapter, an accessory structure that is connected to the main structure by a breezeway, gazebo, shade structure, deck, or other combustible material (as that term is used in the uniform building code) shall be treated as an attached accessory structure.

1. No accessory structure shall encroach into front and side yards except as noted below.
2. No accessory structure shall be used as living quarters unless specifically allowed in this code.
3. Freestanding accessory structures located in the front half of a site shall provide the same front and side yards as required for the main structure, and, in the residential districts, shall be connected to the main structure by a breezeway not less than 6 feet in width and not more than 12 feet in height.

4. A freestanding accessory structure shall be located at least 5 feet from all side and rear property lines. Structures made with wood or other combustible material (for example, decks, gazebos and similar construction) may not be located in the 5 foot setback.
5. On a corner lot, a freestanding accessory structure shall be located at least 10 feet from the side property line adjoining the street, except that garages and carports with access from the street adjoining the side yard shall be located at least 20 feet from this side property line.
6. On a lot where the rear yard faces a public street, a freestanding accessory structure shall not be located in the rear yard setback required for the main structure.
7. The maximum height of an attached accessory structure shall be as specified for the main structure, and for a freestanding accessory structure the maximum height shall be 15 feet, except that within 10 feet of a property line, no part of the structure shall exceed 8 feet.
8. In the RS-L district, freestanding accessory structures shall cover not more than 30% of the required rear yard, unless there remains a portion of the rear yard or a side yard which has an area of not less than 20% of the site, and that the least dimension of such yard shall be at least 15 feet
9. Special Situations: The Community Development Director in consultation with the Director of Public Works and the Chief of the Rodeo-Hercules Fire Protection District (or their designated representatives) shall have the authority to approve exceptions to these regulations in the following cases. In reviewing these situations, the Community Development Director may impose any conditions needed to fulfill the intent of this subsection. Any determination may be appealed to the Planning Commission.
  - A. For a structure built out of noncombustible materials, including a spa (but not including a gazebo or any other wood structure), the 5 foot setback may be reduced, provided that the Community Development Director finds that the proposed structures will not significantly increase the fire hazard.
10. Detached and attached accessory structures under 120 square feet total for the property that meet all requirements of this section are exempt from use permit requirements. However, accessory structures with permanent foundations shall require design review through the Community Development Director. Accessory structures that are freestanding without permanent foundations such as prefabricated storage sheds do not require a use permit or design review as long as all criteria of this section are met.
11. Before approving the proposed design plans for an accessory structure with a reduced setback (as allowed by this section), pursuant to Chapter 42 Design Review, the Community Development Director shall notify the owners of parcels within 150 feet, and on the same side of the street as, the site of the proposed accessory structure that construction of an accessory structure has been proposed. If any written protest to the proposed structure is received within 15 calendar days of the mailing of such notice, the Director shall take no action regarding the structure and shall refer the matter to the Planning Commission for a public design review hearing and action.

### **35.220 Adult Entertainment Businesses**

Adult oriented entertainment businesses, because of their nature, are recognized as having objectionable operational characteristics and objectionable appearance, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent areas. Regulation of the location and appearance of these businesses is necessary to insure that their adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary purpose of this section is to prevent the concentration or clustering of these businesses in any one area and to provide for their satisfactory aesthetic appearance.

1. Definitions: Unless otherwise specifically provided, or required by the context, the following terms have the meanings set forth for the purposes of this section.
  - A. "Adult oriented entertainment businesses" are defined as any businesses operated at a fixed location by whatever name, which appeal to prurient interest, sexual titillations, sexual appetites, sexual fantasies, or sexual curiosities. Such adult oriented businesses shall include, but not be limited to, those businesses:
    - 1) Which predominantly exhibit, offer for sale, or engage in the sale or distribution of publications, personal services, films, devices, products, or materials, which appeal to a prurient interest or sexual appetite of the purchaser or user;
    - 2) Which engage in the showing of motion pictures in which sexual activity including, but not limited to, intercourse, sodomy, oral copulation, masturbation, bestiality, or any other form of sexual gratification, is the primary and recurring theme;
    - 3) Which engage in the presentation of live adult entertainment in which the actors or performers simulate or engage in sexual activity, including, but not limited, intercourse, sodomy, oral copulation, masturbation, bestiality, or suggestive body movements connoting such acts, with or without another actor patron or spectator, such showing appealing to a prurient interest or sexual appetite of the spectator;
    - 4) Which provide dating or escort services;
    - 5) Which specialize in providing models who pose for photographing, drawing, or other representative renditions, which modeling appeals to a prurient interest or sexual appetite;
    - 6) Which engage in encounter, rap, or counseling services which appeal to a prurient interest or sexual appetite;
    - 7) Which engage in providing nude, bottomless or topless dance partners;

- 8) Which use nude bottomless or topless entertainers, or use nude, bottomless or topless employees to attend to or service tables bars, or patrons, or which allow nude, bottomless or topless entertainers or employees to be seen by members of the public or patrons of the business;
- 9) Which engage in providing sauna baths, waterbaths, showers, steam rooms or steam baths, or any other body cleansing or toning arrangement wherein an attendant, clothed or nude, accompanies the customer for the purpose of talking, touching or appealing to the customer's prurient interest or sexual appetite:
- 10) Which engage in the reading of, or providing of tapes or records for listening to, erotic literature that appeals to the prurient interest or sexual fantasies of customers.
- 11) In addition, massage parlors and masseurs are regulated by Title 4, Chapter 9 of the Municipal Code.

B. The "establishment" of an adult entertainment business means and includes any of the following

- 1) The opening or commencement of any such business as a new business;
- 2) The conversion of an existing business whether or not an adult oriented entertainment business to any of the adult oriented entertainment businesses defined in this Article;
- 3) The addition of any of the adult oriented entertainment businesses defined in this Article to any other existing adult oriented entertainment business; or
- 4) The relocation of any such business.

2. Adult oriented entertainment businesses may be allowed only in the CG General Commercial District of the City of Hercules subject to approval of a conditional use permit.
3. No adult oriented entertainment business shall be established at any location which is:
  - A. Within 300 feet of the boundary of a residential zoning district or mixed use residential zoning district.
  - B. Within a radius of 1,000 feet of any other adult oriented entertainment business.
  - C. Within a radius of 1,000 feet of any public park, public school, public library, religious institution or any other public building.
4. The distance between any 2 adult oriented entertainment businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior

structural wall of each business. The distance between any adult oriented entertainment business and any religious institution, public school, public park, public building or any area zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment business to the closest property line of the religious institution, school, public park, public building or area zoned for residential use.

5. All buildings, structures, signs, displays, marquees, exterior surfaces, facades, housing, containing, identifying or advertising adult oriented entertainment businesses shall be subject to the provisions of Design Review, Chapter 42.
6. Hours of Operation: No adult oriented entertainment business shall be kept open for business between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day.

### **35.230 Animal Raising and Keeping**

Animal raising and keeping is regulated through the Contra Costa County Animal Control Ordinance No. 80-97, as amended which has been adopted by reference. See Appendix A.

### **35.240 Antennae and Satellite Dishes (“Receive Only”)**

Regulations concerning the installation of antennas to receive satellite-delivered signals, "receive-only" antennas, are reasonably necessary to preserve and protect the natural beauty and visual character of the City of Hercules while insuring that satellite antennas and other types of dish antennas are compatible to surrounding sites and structures and are placed with due regard to the aesthetic qualities of the natural terrain; the landscaping and the exterior appearance of the structures and other improvements.

1. The term satellite "receive-only" antenna means any antenna used for or designed for receiving electronic signals transmitted from orbiting earth satellites.
2. Satellite Installation: Satellite receive-only antennas instated in any zoning district shall comply with the following general criteria
  - A. A setback equal to the height of the satellite receive-only antenna or the setback which applied to the principal structure whichever is greater, shall be maintained between any property line and any part of the antenna In addition, installation shall be prohibited between any street and principal building on the site, except as provided in subsection B of this Section.
  - B. In any case where a lot backs up to a public right-of-way or private street, a setback of 15 feet shall be maintained between rear property line and any portion of the antenna.
  - C. Maximum height of the satellite receive-only antenna shall be 15 feet measured from ground level immediately under the antenna to the highest point of the antenna or any appurtenance attached thereto.

- D. All wires and/or cables necessary for the operation of the satellite receive only antenna or reception of the signal shall be placed underground excepting those wires or cables attached flush with the surface of the building.
- E. Satellite receive-only antennas installed with the use of guy wires shall be prohibited.
- F. Highly reflective surfaces or colors shall not be used on any such antenna
- G. Additional attention and evaluation may be needed to assure that satellite receive-only antennas proposed for property located in hillside areas are installed in locations which are the least visible from areas off-site.
- H. No more than one antenna shall be instated on any parcel.
- I. Installation of satellite receive-only antennas shall be prohibited on the roof of any structure, except that a satellite antenna not to exceed 8 feet in diameter may be installed where the applicant has applied for and received a conditional use permit. In addition to the findings set forth in 49.300, the Planning Commission shall find that there is no reasonably feasible alternative to placement of the satellite receive-only antenna on the roof of the structure.
- J. Prior to application for a conditional use permit, the applicant shall provide technical data or studies as may be required by the Community Development Director to establish that installation of a satellite dish on the ground would substantially prevent reception of electronic signals transmitted from orbiting earth satellites, and that there are no reasonably feasible corrective measures available to the applicant which would enable the reception of satellite signals by an antenna placed on the ground.
- K. No building permit shall be issued to erect a satellite receive-only antenna on any parcel of land unless the size, color, placement, positioning and screening of the antenna shall have been first approved through design review by the Planning Commission. The purpose of design review shall be to minimize the visual impact of the antenna on the neighborhood in which it is located. This may be accomplished by screening an antenna from sight, by blending the antenna with its background, or by other appropriate means which do not unreasonably impair the function of the antenna.
- L. Landscaping or solid screening shall be installed around the base of any ground-mounted satellite receive-only antenna, as directed by the Planning Commission. Landscaping shall be required to screen any structural aspects, except when the antenna is located in such a manner that it is not visible from public streets, public areas of the development or adjacent properties.
- M. The Planning Commission may delegate responsibility for review and approval of installation of a satellite receive-only antenna to the Community Development Director. If the Planning Commission delegates responsibility for review and

approval to the Community Development Director, any decision rendered by the Community Development Director may be appealed to the Planning Commission.

- N. No satellite receive-only antenna shall be erected in any parcel of land until a building permit for such antenna has been secured from the Building Department.

### **35.250 Bed and Breakfast Inns**

Bed and breakfast inns are allowed within residential districts and the HTC - Historic Town Center District and WC- Waterfront Commercial subject to approval of a conditional use permit.

1. A bed and breakfast inn within a residentially zoned area shall be operated by the property owner living on the premises. A bed and breakfast inn within the WC or HTC districts shall be operated by a property owner or manager living on the premises.
2. No more than 3 guest rooms shall be rented for lodging within a residentially zoned district. No more than 6 guest rooms shall be rented for lodging within WC or HTC districts.
3. Bed and breakfast inns shall conform to all applicable development and performance standards and shall be compatible in design with adjacent buildings.
4. All alterations or additions to buildings intended for or in use as bed and breakfast inns shall receive design review approval as per Chapter 42.

### **35.258 Emergency Shelters**

An emergency shelter located within a zoning district in which it is allowed shall comply with all development and performance standards of that zoning district, as well as the following performance and design standards:

1. Emergency shelters are limited to a maximum of 30 beds/persons facility. The California Building Code defines minimum sizes based on included private amenities.
2. Occupancy by an individual or family may not exceed 180 days in any 365-day period unless the management plan provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.
3. A waiting area shall be provided which contains a minimum of 10 square feet per bed provided at the facility. The waiting area shall be in a location not adjacent to the public right-of-way, shall be visually screened from public view, and if located outside, shall provide consideration for shade/rain conditions.
4. On-site management and on-site security shall be provided during all hours during which the emergency shelter is in operation.

5. An Emergency Shelter Operations/Management Plan shall be prepared and shall be subject to the review and approval of the Community Development Director, or their designee. Such plan shall include provisions for staff training, neighborhood outreach, adequate security measures to protect shelter residents and surrounding uses, screening of clients to ensure compatibility with proposed services provided, counseling (particularly for assisting in finding permanent housing and a source of income), training and treatment programs for clients, drug and alcohol dependency referrals, and an exit strategy.
6. The facility may provide the following services in designated areas separate from sleeping areas:
  - A. A counseling center for job placement, education, health care, legal, or mental health services
  - B. Laundry facilities to serve the clients at the shelter
  - C. Central cooking and dining area(s)
  - D. Client storage area (for the overnight storage of bicycles and personal items)
  - E. Play/recreational areas for family shelters
7. An emergency shelter shall not be located within 300 feet of another emergency shelter, as measured from property line to property line.

### **35.260 Family Day Care Homes**

Family day care homes are permitted by use permit according to the size of the facility. A small family day care home with a maximum attendance of 6 or less children (with special allowances to allow up to 8 children) is considered a residential use of the property and shall be permitted by a nondiscretionary administrative use permit without imposition of any fees or taxes as per Section 1597.45 of the Health and Safety Code.

A large family day care home for 7 to 12 children (with special allowances to allow up to 14 children) requires an administrative use permit as consistent with Section 1597.46 of the Health and Safety Code. The permit shall expire 2 years after the date of issuance or if the day care operator's State license expires or is revoked. The facility shall meet the following standards, the standards for Family Day Care Homes pursuant to Section 1596.70 et seq. of the Health and Safety Code, and other applicable State requirements.

1. All family day care homes shall comply with the property development and performance standards for the zoning district in which it is located and the citywide standards set forth in Article III.
2. A large family day care home shall not be located within 300 feet of another large family day care home property line.

3. Outdoor play areas shall be provided in the rear or side yards for all large family day care homes and shall be enclosed by a solid hedge, wall or fence 6 feet high. All outdoor play areas shall be separated from driveways, streets and parking areas.
4. Large family day care homes shall provide adequate onsite parking as per Chapter 33.
5. Large family day care homes shall provide adequate areas for the safe pick-up and drop-off of children. These areas shall be off-street in a driveway, turnaround, or parking area.
6. A large family day care home within a residentially zoned area may operate up to 14 hours per day with outdoor activities limited to daylight hours between 8:00 am and 8:00 p.m. in order to limit noise impacts to neighboring residents.
7. All family day care homes shall obtain necessary State licenses and shall be operated in conformance with all applicable state and local regulations. If there are any conflicts between local standards within the Zoning Ordinance and State requirements for day care facilities, the State requirements shall take precedence.

### **35.270 Home Occupations**

Home occupations standards are intended to establish regulations for all occupations to be conducted within a dwelling unit. All home occupations shall require an administrative use permit to be issued by the Community Development Director or designee. The following specific rules and regulations shall apply in combination with the zoning district regulations established in Article II.

1. The home occupation shall be compatible with and secondary to the use of the premises as a residential dwelling unit. The area devoted to a home occupation shall occupy no more than one room or the equivalent of 20 percent of the gross floor area of the dwelling unit, whichever is greater;
2. Home occupations conducted within a garage shall not eliminate or change the use of required off-street parking spaces;
3. Employment shall be restricted to the dwelling unit residents except where the Community Development Director allows one non-resident employee, provided the following findings can be made:
  - A. The employee works under the direction of the dwelling resident and is not an independent or separate business enterprise;
  - B. The employee is necessary to the performance of the home occupation;
  - C. The employee would not require the use of the required parking for the residence or create on-street parking problems in the neighborhood;

- D. The average residential neighbor would not be aware of the existence of the home occupation, under normal circumstances;
- 4. No exterior operation of any home occupation is permitted;
- 5. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is normal to the surrounding area, and shall not involve the use of vehicles with 6 or more wheels for service, pickup or delivery.
- 6. Articles offered for sale in a home occupation shall be limited to those produced on the premises, except where the person conducting the home occupation serves as an agent or intermediary between off-site suppliers and off-site customers, in which case all articles, except for samples, shall be received, stored and sold directly to customers, at off-premise locations;
- 7. No outside display or window shall display material or products; no outside sign or window sign shall advertise or otherwise identify the home occupation except for one non-moving and non-illuminated sign attached to the residence with a display surface of not more than one square foot on any face. No commercial or passenger vehicle carrying any sign advertising or identifying the home occupation shall be regularly parked on any portion of the lot where such sign is visible or at or near any lot line of the lot containing the home occupation;
- 8. No home occupation shall be permitted which involves:
  - A. The assembly of employees, workers, subcontractors or equipment for offsite work.
  - B. The storage of equipment, vehicles, or supplies outside of the dwelling or any accessory structure.
  - C. The care, treatment, or boarding of animals for profit.
  - D. The operation of any service or sales of goods that noticeably increases vehicle traffic in the neighborhood.
  - E. The teaching of organized classes totaling four or more persons at any one time.
  - F. The repair, service, or rehabilitation of more than one vehicle at a time including storage and parking on the lot or street as consistent with requirements on vehicle repair as Section 4-10.03 (t) & (v) of the Municipal Code.
  - G. The storage of toxic or hazardous materials.
- 9. No home occupation shall create noise, odor, electrical disturbances, dust, vibrations, fumes, or smoke readily discernible at the exterior boundaries of the parcel on which it is situated.

10. No raw materials, intermediate or finished materials, by-products, appliances or tools of the home occupation shall be stored outdoors.
11. The home occupation shall dispose of all waste materials or by-products on a regular, timely basis in conformance with applicable garbage collection, fire protection and public health regulations.
12. The home occupation shall not use more than one motor vehicle which shall not exceed  $\frac{3}{4}$  ton in size, shall be owned and operated by the resident of the dwelling, and shall be parked in an adequate offstreet parking area.

### **35.280 Mini-Storage Facilities**

Mini-storage facilities that are allowed in specific zoning districts are subject to conditional use permit and design review approval. The following standards apply to mini-storage facilities.

1. The minimum site area shall be 40,000 square feet.
2. All structures shall be set back 25 feet from the street or highway right-of-way.
3. The site shall be completely enclosed with a solid masonry wall 6 feet high with a gated entrance. The gate shall be maintained in working order and shall be closed when not in use. The wall shall meet all applicable setback requirements for walls including Section 30.600. The area between the wall and public streets and sidewalks shall be planted with permanently maintained landscaping as per Section 30.700. The design of the wall and gate shall be compatible with surrounding structures and walls.
4. The area of the site within the walls shall be entirely paved with adequate drainage improvements to minimize ponding, increased flows onto neighboring properties, and other drainage impacts.
5. Adequate parking and circulation shall be provided within the site. Aisles between buildings shall be a minimum of 25 feet wide. A minimum of 2 visitor spaces plus one parking space per employee shall be provided in the vicinity of the facility office. In addition, one space per 10 storage units shall be provided or informal parking areas may be provided adjacent to the storage units as long as adequate circulation is maintained.
6. Onsite lighting shall be directed away from neighboring properties and public right-of-ways in a manner to minimize external visibility and glare.
7. All storage within the facility shall be within fully enclosed structures. No toxic or hazardous materials shall be stored within the facility. The facility shall not be used to conduct business other than storage operations.
8. No storage facility shall be used for human or animal habitation. No storage facility shall be used to cultivate, grow or keep live plants.

9. Each storage facility shall provide a trash receptacle or dumpster within the site for the use of its renters. The trash receptacle shall be of adequate size and capacity to accommodate the trash that is generated.
10. Residential quarters for the manager or caretaker may be located within the mini-storage project site.

### **35.290 Outdoor Retail Sales**

Outdoor sales of services and merchandise may be allowed in commercial districts and commercial mixed use districts subject to approval of an administrative or conditional use permit. Permanent or ongoing outdoor sales uses require a conditional use permit. Temporary outdoor sales uses may be approved with an administrative use permit. See Sections 49.200 and 60.200 for definition and description of temporary uses.

1. Outdoor sales hours of operation shall be limited by the use permit conditions.
2. Permanent outdoor sales shall be permitted on private property only. Temporary outdoor sales may be allowed on public or private property subject to use permit approval. All outdoor sales facilities shall visibly display a valid business license and use permit at the sales site.
3. Outdoor sales vendors shall not operate:
  - A. At any location which obstructs access to any building or facility used by the public including doors and emergency exits such that space for pedestrian passage is restricted to less than 4 feet.
  - B. Within 10 feet of any handicap access ramp or parking space, pedestrian crosswalk or fire hydrant.
  - C. Within a parking lot space, access aisle or parking lot landscaping.
  - D. Within a public right-of-way or sidewalk unless it is for a special event approved by the City, or it is on a sidewalk using portable facilities and leaving adequate width of a minimum of 4 feet for the passage of pedestrians.
  - E. At a location or in a manner that adversely impacts traffic and pedestrian safety.
4. Outdoor sales vendors shall maintain their facilities and sales location in a clean and hazard free condition, failure to do so shall be cause for revocation of the use permit. A garbage container shall be provided within the location for use by customers. This container shall be emptied periodically as needed to maintain adequate capacity for use without flowing over.

5. No amplified music, speech or sounds shall be used within the sales location to promote the outdoor sales operation.
6. No outdoor sales vendor shall be allowed to sell food or beverages at a location for more than 15 minutes unless a written agreement allowing the vendor and its customers the right to use sanitary facilities within 100 feet of the location is submitted to the Community Development Director prior to use permit approval. The agreement shall remain in force during all periods of operation. Failure to provide adequate sanitary facilities at all times shall be cause for revocation of the use permit.
7. No advertising signs are allowed outside the permitted location of the outdoor sales use.

### **35.310 Recycling Centers: Mobile Recycling Units and Reverse Vending Machines**

The operation of mobile recycling units and reverse vending machines may be permitted as a conditional use on private property located in a Commercial District if the facilities are certified as a recycling location pursuant to the California Beverage Container Recycling and Litter Reduction Act ("Act"), Public Resources Code Section 14500. These uses are subject to a use permit with conditions that are not inconsistent with Public Resources Code Sections 14570 and 14571.

1. Definitions:
  - A. "Convenience zone" means as defined in Public Resources Code Section 14509.4.
  - B. "Mobile recycling unit" means as defined in Government Code Section 66787.6.
  - C. "Recycling center" means as defined in Public Resources Code Section 14520.
  - D. "Reverse vending machine" means as defined in Government Code Section 66787.6.
2. The operator of the mobile recycling unit, reverse vending machine, or recycling center shall submit written certification from the property owner granting permission to operate on that property prior to approval of a conditional use permit.
3. The City may deny a conditional use permit upon specific findings made that the operation will have a detrimental effect on public health, safety or general welfare. Where application is made for installation of a reverse vending machine as an accessory use to an existing business an administrative use permit shall be required.
4. All applications are subject to design review, Chapter 42. Signs required by the Act shall not be included in sign limitations and computations established for commercial districts as set forth in Chapter 34.

### **35.320 Second Residential Units**

This section is intended to implement the General Plan policies which encourages second residential units on owner occupied, single family residential parcels; and is also intended to address the State's second residential unit provisions as set forth in Government Code Section 65852.1 et seq. Second residential units are commonly referred to as mother-in-law-units, granny-flats and accessory-apartments. An efficiency unit and manufactured home as respectively defined in Sections 17958.1 and 18007 of the Health and Safety Code are also considered second residential units under State law.

All second residential units are required to secure use permit and design review approval. Second residential units are allowed by administrative use permit approval in single family residential zoning districts and in other districts where there is one conforming use single family residence on the parcel.

1. A second residential unit shall consist of complete independent living facilities for one or more persons including permanent provisions for sleeping, living, eating, cooking, and sanitation. The second residential unit shall include independent heating and cooling controls; its own kitchen with sink and standard built-in or freestanding appliances, its own bathroom with bath or shower, and a separate exterior entrance.
2. A maximum of one second residential unit may be allowed on a lot containing one larger single family, owner occupied dwelling. No second residential units are allowed on lots having more than one residential unit, or on lots where the existing residential unit is a nonconforming use. The second residential unit is not intended for sale and may be rented.
3. No more than one dwelling unit on a single family residential with a second residential dwelling unit parcel may be rented or leased at one time.
4. The total floor space for a second residential unit shall contain adequate area to provide the required facilities listed in subsection 1, but not exceed 30% of the existing living area and if detached shall not exceed 800 square feet. Living area is defined as the interior habitable area of a dwelling unit including habitable basements and attics, but does not include a garage or any accessory structure.
5. The second residential unit may either be within the living area of the existing dwelling, attached to the existing dwelling, or detached from the existing dwelling.
6. A second residential unit shall conform to the applicable standards and requirements of the zoning district in which it is to be located. Requirements for building height, setbacks, yards and similar design standards that apply to the single family dwelling unit shall apply to the second residential unit.
7. A minimum of one off-street parking space shall be provided for each second residential unit in addition to the offstreet parking spaces required for the residence(s) on the site.

### **35.330 Service Stations**

Service stations may be permitted as a conditional use, subject to securing a use permit in each case, in any Commercial District, subject to the following conditions:

1. All operations except the sale of gasoline and washing of automobiles shall be conducted in a building enclosed on at least 3 sides.
2. No gasoline pump island shall be located closer than 30 feet to any property line.
3. There shall be no rental of trailers, hand tools, garden tools, power tools and other similar equipment as an incidental part of the service station operation.
4. No major automobile repairs such as engine overhaul, transmission and differential repair, body and fender work and other repairs of a similar nature shall be performed.

### **35.332 Single-Room Occupancy (SRO)**

A single-room occupancy (SRO) building located within a zoning district in which it is allowed shall comply with all development and performance standards of that zoning district, as well as the following performance and design standards:

1. No individual SRO unit shall exceed 300 square feet in size.
2. Units of 225 square feet or smaller in size may not be occupied by more than one person. No more than two persons shall occupy any unit which is greater than 250 square feet.
3. Full or partial kitchens and bathrooms shall be provided in every SRO project. Such facilities may be included within each unit or provided in a commonly accessible area. A complete kitchen facility available for residents shall be provided on each floor of the structure, if each individual unit is not provided with a minimum of a refrigerator and a microwave oven. If a full bathroom facility is not provided in each unit, common bathroom facilities shall be provided in accordance with the California Building Code for congregate residences with at least one full bathroom per floor.
4. Private, secured storage space of not less than 50 cubic feet per resident shall be provided. Storage space may be provided in private closet(s) accessible from individual SRO units; as individually locked areas accessible from a common room; and/or within a separate on-site storage structure. Where storage space is provided within a separate structure, such structure shall provide for separate, locking storage spaces for each SRO unit and shall be of sufficient construction to protect stored items from weather.
5. A minimum of 10 square feet for each unit or a total of 250 square feet, whichever is greater, shall be provided for a common area. All common area shall be within the structure. Dining rooms, meeting rooms, recreational rooms, or other similar areas approved by the Community Development Director, or their designee may be considered

common areas. Shared bathrooms, laundries, hallways, the main lobby, vending areas, and kitchens shall not be considered as common areas.

6. An on-site management office or manager's unit shall be provided.
7. All SRO projects shall have one controlled entryway into a main lobby area. For SROs with more than 12 units, the lobby area shall include a front desk with facilities for a receptionist to monitor activity in the lobby.
8. An SRO Operations/Management Plan shall be prepared and shall be subject to the review and approval of the Community Development Director, or their designee. The management plan shall include provisions for operational management, rental procedures and rates, maintenance plans, residency and guest rules and procedures, security procedures and staffing needs, including job descriptions. The management plan shall include a provision for an on-site manager for any SRO with 12 or more units.

### **35.340 Vehicle Repair in Residential Areas**

See Title 4, Chapter 11 of Municipal Code

# ARTICLE IV: ADMINISTRATION

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## CHAPTER 40 ADMINISTRATION, APPLICATIONS AND FEES

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### **40.100 Purpose and Applicability**

The purposes of this Article and Chapter are to:

1. Describe the procedures and requirements for the filing of applications for permits, discretionary approvals and amendments.
2. Ensure that each new or expanded use of a site or development of a structure complies with the Zoning Ordinance.
3. Describe procedures and responsibilities for application review and action.

### **40.200 Administrative Responsibility**

The Community Development Director shall be responsible for the review and processing of applications and appeals related to permits and other administrative actions identified within the Zoning Ordinance, unless another official of the City is specifically identified by the Zoning Ordinance.

### **40.300 Application Filing**

An application shall be filed with the Community Development Director on a form provided for the type of permit or approval sought by the applicant, and shall include a signed statement that the applicant is the property owner or an agent authorized by the owner. The required number of copies of submittal materials shall be determined by the Community Development Director. The application shall be accompanied by all fees, plans, maps, studies and other materials required within the Zoning Ordinance along with any additional information required by the application form and the Community Development Director.

The Community Development Director shall review the application for completeness and shall accept the application as final or mail a written notification of application incompleteness to the applicant within 30 days of application submittal and acceptance. The notification shall identify all information needed to complete the application along with additional information that may be needed to perform an environmental review of the proposed project. Resubmittals of incomplete applications shall be reviewed by the Community Development Director and the applicant shall

be mailed written notification of completeness within 30 days of resubmittal of application materials.

At the time of filing an application, the Community Development Director shall inform the applicant that he may make a written request to receive notice of any proposal within the City to adopt or amend any of the following:

1. General Plan
2. Specific Plan
3. Zoning Ordinance
4. Rule or regulation affecting the following the issuance of development permits
5. Ordinance affecting building permits or grading permits

A fee may be charged to the applicant for this notification as part of the application fee.

#### **40.400 Pre-Application Conference**

An applicant may request a pre-application conference with the Community Development Director prior to formal submittal of an application. Projects that require multiple applications are strongly encouraged to request a pre-application conference. The pre-application conference is intended to provide the applicant with preliminary information regarding applicable policies, plans, regulations, and procedures related to the proposed project along with preliminary staff comments on the project including possible alternatives and modifications.

#### **40.500 Multiple Applications**

An applicant for a project which would require the filing of more than one application may file all applications concurrently. Processing and environmental review may proceed concurrently and the final actions on the project may proceed sequentially as required in this article and State law.

#### **40.600 Fees and Deposits**

A schedule of fees for permits, discretionary approvals, amendments and other matters pertaining to the Zoning Ordinance shall be established by resolution of the City Council. It is the intent of the fees to reimburse the City for its costs in reviewing and acting upon an application. Fees may be established with a base level that may be increased at an hourly rate to cover staff time spent on an application and/or increased to cover the cost of consultants required to evaluate or assist an application. Deposits may be required to cover estimated staff time and consultant costs. Until all fees and deposits required with the application have been paid in full and the applicant has entered into a cost recovery agreement with the City, the application will not be accepted and review shall not commence. The City is not required to continue processing any application

unless fees and any deposits are paid in full. Failure to pay the applicable fees and deposits is grounds for denial or revocation of an application.

#### **40.700 Mailing Lists and Address Labels**

All applications subject to discretionary review by the Community Development Director, Planning Commission or City Council shall be accompanied by a mailing list and address labels of all property owners within 300 feet of the exterior property lines of the project site, certified by the applicant.

#### **40.800 Environmental Review**

All proposed projects and applications are subject to environmental review under the California Environmental Quality Act (CEQA) unless exempt under CEQA statutes and guidelines. Projects and applications that are subject to CEQA environmental review will be the subject of a negative declaration, mitigated negative declaration or environmental impact report as required by CEQA and as set forth in the CEQA Guidelines fore the City of Hercules. An initial study prepared by the Community Development Director shall determine the form of environmental review appropriate for a project or application. The environmental review determination of the Community Development Director may be appealed to the City Council. A written appeal must be submitted to the Community Development Director within 10 working days of the date of environmental review determination as per Section 44.700.

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## **CHAPTER 41**

### **CERTIFICATES OF OCCUPANCY**

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#### **41.100 Purpose**

To ensure that new or expanded uses of a structure or site and new structures or alterations of existing structures comply with all applicable provisions of the Zoning Ordinance and other applicable regulations of the City, and to provide the City with a record of each new or expanded use of a structure or site.

#### **41.200 Requirements**

A certificate of occupancy is required before any structure or site may be occupied or used. No structure that is erected, moved, altered, or enlarged shall be occupied or used; and no site shall be initially occupied or used until a certificate of occupancy is issued by the Building Official.

#### **41.300 Application Process**

Application for a certificate of occupancy shall be filed with the Building Official prior to the erection, moving, alteration or enlargement of any structure and prior to the commencement of a new use or a change of use of any structure or site.

#### **41.400 Issuance**

The Building Official shall issue a certificate of occupancy upon receipt of written notice that the structure or site is ready for occupancy or use and after he has inspected the structure or site, provided that the structure or site and the intended use thereof conform with the regulations for the district in which it is located and all other applicable provisions of the Zoning Ordinance including conditions of approval that may be required for the property, structure or use.

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## **CHAPTER 42**

### **DESIGN REVIEW**

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#### **42.100 Purpose**

The purposes of the Design Review Chapter are to:

1. Improve the general standards of orderly development of the City through design review of individual buildings, structures, and their environs.
2. To improve and augment the controls related to planning and building in order to promote development that is in the best interests of the public health, safety and welfare of the City.
3. Establish standards and policies that will promote and enhance good design, site relationships, and other aesthetic considerations in the City.
4. Preserve and enhance property values and the visual character of the community.

#### **42.200 Projects Subject to Design Review Approval**

Prior to the issuance of any permit for the erection, construction, or exterior alteration of any public or private building, fence, structure or sign, the applicant shall secure approval of the proposed design from the Planning Commission; except that approval of a proposed design for additions to single-family homes, accessory structures of single-family homes or fences shall be approved by the Community Development Director.

#### **42.300 Applications and Required Data**

An application for Design Review shall be filed with the Community Development Director as per Chapter 40, Administration, Applications and Fees. Applications for design review shall be submitted in writing upon the form provided by the Planning Department. A design review application may be filed in conjunction with applications for a tentative subdivision map, environmental impact documents, Zoning Ordinance permits and approvals, and other permits that may be required for the project. The design review application and the data and information required shall be known as the design review plan.

The application shall contain the name and address of the applicant, the owner of the land and his signed approval for submittal of the application as per Section 40.300, a description of the property involved, street address, reasons for filing of the application, a description of the project to be undertaken and other information that may be required by the Community Development Director.

If any of the data required by this Section has already been submitted by the applicant in conjunction with an application for approval of a tentative subdivision map, with environmental impact documents, with an application for a permit pursuant to the Zoning Ordinance, or such other permit application, such data need not be submitted again with the design review application.

The application shall be accompanied by copies, in a quantity required by Community Development Director, of site plans, diagrams, photographs, materials or other presentation material as may be necessary for complete design review of the proposed project. Plans shall be drawn to scale of a size as required by the Community Development Director and shall indicate the following data where applicable:

1. Site Plan.
  - a. Property lines.
  - b. Existing features on the site and offsite features within fifty (50) feet of the site boundaries, including structures, roads, trees, plant life, streambeds, rock outcroppings, or other significant natural features.
  - c. Proposed buildings with dimensions.
  - d. Proposed roads, walks and paths.
  - e. A grading plan showing finished grade on the site and adjoining sites at the property lines in comparison with the existing grade.
  - f. Location, number of spaces, dimensions of off-street parking.
  - g. Pedestrian, vehicular and service ingress and egress, driveway widths.
  - h. Setbacks.
  - i. Street dedications and improvements.
  - j. Location, height and design of all fences or walls.
  - k. Open space use and landscaped areas.
  
2. Building Design.
  - a. All elevations of each building and composite elevation from street if multiple buildings are proposed.
  - b. Color renderings, if necessary.
  - c. Perspective drawings to show relationship after development of the building(s) to off-site features.
  - d. The types and finishes of all the materials to be applied to the exterior surfaces of the proposed structures, walls or additions.
  - e. The natural colors of the materials to be applied and the colors of any paint or manufactured product on the exterior of the structure, walls or addition.
  - f. The lighting to be applied to the exterior wall surfaces or to be used for walkways, drives and parking lots, and the light cast by the building's interior, its signs, etc., which is visible from adjacent or neighboring properties.
  - g. All identifications and direction signs and graphics visible from the exterior of a proposed structure.
  - h. All art work, sculpture, fountains and other ornamental or decorative features visible from surrounding properties.
  - i. All provisions for and design of the following appurtenances if visible from the exterior:
    1. Utility lines, meters and boxes.

2. Refuse, storage and pickup areas.
  3. Stairs and ramps.
  4. Flues, chimneys and exhaust fans.
  5. Sun shades, awnings and louvers.
  6. Balconies.
  7. Mechanical equipment visible from the exterior.
  8. Penthouses.
  9. Loading docks.
  10. Downspouts.
  11. Antennas.
3. Landscaping and Irrigation: Landscaping and irrigation plans shall document conformance with the landscaping standards specified in Section 30.800. Landscape plans shall indicate the total landscaped area, the area and percentage of drought resistant plantings, and the area and percentage of non-drought resistant plantings.
  4. Environmental Form: A completed Environmental Information Form and a written statement which outlines the proposed mitigation measures for potential site development problems such as flooding, access, geologic/seismic hazards, and noise.
  5. Additional Data. Other data that may be required to permit the Planning Commission to make the required findings.

#### **42.400 Action on Design Review Applications**

A design review application is subject to review and action by either the Community Development Director or the Planning Commission as per Section 42.200.

1. Applications Subject to Community Development Director Approval.

Community Development Director Review and Action. After determining that an application for design review approval is complete, the Community Development Director shall review the application and shall either approve, approve with conditions or deny the application within 10 working days after the application has been found complete. All actions of the Community Development Director shall take effect after expiration of the 14 day appeal period. Any action by the Community Development Director may be appealed to the Planning Commission as per Section 44.600. Such appeal shall be heard at the next available meeting of the Planning Commission.

Referral to Planning Commission. When, in the opinion of the Community Development Director, an application for an addition to a single-family home or an accessory structure to a single-family home is of a size, importance or unique nature such that he judges it to be a significant design issue, the Community Development Director may place the application before the Planning Commission for determination as set forth in Subsection 2 of this Section.

2. Applications Subject to Planning Commission Approval.

Initial Review and Comment by Community Development Director. After determining that an application for design review approval is complete, the Community Development Director shall review the application and prepare and send written comments on the proposed plans to the applicant. The preliminary comments shall be sent to the applicant no later than 10 working days after the application is determined to be complete. Thereafter the applicant shall prepare and submit revised plans, if necessary, responding to the director's comments.

Planning Commission Review and Action. Upon receipt of a complete submittal of revised plans, the Community Development Director shall schedule review of the application by the Planning Commission at the next available Planning Commission meeting. Prior to the Planning Commission meeting or hearing, the Community Development Director shall submit written comments to the Commission regarding the application. The Planning Commission may approve, approve with conditions, or deny an application. In order to approve an application (with or without conditions) the Planning Commission must make the findings stated in Section 42.400.

## **42.500 Required Findings**

The Planning Commission shall make the following findings prior to approving a design review plan:

1. The approval of the design review plan is in compliance with all provisions of this Chapter, pertinent provisions of Zoning Ordinance and applicable zoning and land use regulations, including but not limited to the Hercules General Plan as amended and any specific plan.
2. The approval of the design review plan is in the best interests of the public health, safety, and general welfare.
3. General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development.
4. General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements have been incorporated in order to insure the compatibility of this development with its design concept and the character of adjacent buildings.
5. General landscape considerations, including the location, type, size, color, texture and coverage of plant materials at the time of planting and after a 5 year growth period, provision for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to insure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public.

## **42.600 Hearings and Appeals**

The procedures for hearings and appeals are specified in Chapter 44, Hearings and Appeals. The Council may call up for review any design review decision of the Planning Commission. The determination to call up for review shall be made by the Council at the meeting where the notice of decision is presented to it. If a design review decision is called up for review by the Council, the Council shall hear and determine the matter in the same manner as an appeal.

## **42.700 Duration of Design Review Approval**

1. Except for vesting tentative maps approved under Title 10, Chapter 2, Article 3.1 of the Municipal Code and development agreements approved under Title 10, Chapter 8 of the Municipal Code, approved design review plans shall expire 1 year from the date of approval unless prior to the expiration a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion.
2. A design review plan approved in conjunction with approval of a vesting tentative maps or development agreement shall expire concurrently with the expiration of the vesting tentative map or according to the terms of development agreement.
3. Design review approval may be renewed for a maximum of 1 additional year beyond the original date of expiration, provided that a request for such renewal is submitted to the Planning Department before the date of expiration. The Planning Commission may grant or deny a request for renewal which may be appealed to the City Council.

## **42.800 Modification and Revocation**

1. A design review approval may be modified through submittal of an application for minor modification as per Chapter 46. Any minor modifications must meet the required findings of this chapter. A proposed modification that does not meet minor modification criteria shall be treated as a new application subject to the application, findings public hearing requirements of this chapter.
2. A design review approval may be revoked by the Planning Commission as per Section 44.800 if the development does not comply with adopted conditions of approval or other regulations of the Zoning Ordinance.

## **42.900 Enforcement of Requirements**

1. Upon final review and approval of a project, all changes, conditions or modifications required by the Community Development Director, Planning Commission or City Council shall be incorporated into the working drawings prior to issuance of a building permit. The Community Development Director shall certify whether the corrected plans incorporate all requirements prior to issuance of a building permit. No certificate of occupancy shall be issued until the project construction complies with all approved plans and requirements.

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## **CHAPTER 43 ENFORCEMENT**

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### **43.100 Permits, Certificates and Licenses**

All officials, departments and employees of the City of Hercules vested with the authority or duty to issue permits, certificates or licenses shall comply with the provisions of the Zoning Ordinance and shall issue no permit, certificate or license which conflicts with the provisions of this Ordinance. Any permit, certificate or license issued in conflict with the provisions of this Ordinance shall be void.

### **43.200 Enforcement Responsibility**

The Community Development Director shall be the official responsible for the enforcement of the Zoning Ordinance. In the discharge of this duty the Community Development Director or his agents shall have the right to enter on any site or to enter any structure for the purpose of investigation and inspection provided that the right of entry shall be exercised only at reasonable hours, and that in no case shall any structure be entered in the absence of the owner or tenant without written permission, or a written order of a court of competent jurisdiction. The Community Development Director may serve notice requiring the removal of any structure or use in violation of this Ordinance on the owner or his authorized agent, on a tenant, or on an architect, builder, contractor or other person who commits or participates in any violation. The Community Development Director may call upon the City Attorney to institute necessary legal proceedings to enforce the provisions of this Chapter and the City Attorney is hereby authorized to institute appropriate actions to that end. The Community Development Director may call upon the Chief of Police and his authorized agents and the Building Official and his authorized agents to assist in the enforcement of this Ordinance.

### **43.300 Abatement of Violations Constituting a Public Nuisance**

Any structure erected, moved, altered, enlarged or maintained and any use of a site contrary to the provisions of this the Zoning Ordinance shall be and is hereby declared to be unlawful and a public nuisance to be abated as provided in Section 4-10 of the Municipal Code.

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## **CHAPTER 44**

### **HEARINGS, APPEALS AND JUDICIAL REVIEW**

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#### **44.100 Purpose**

To specify standard procedures for hearings before the Planning Commission and City Council and appeals of any requirement, decision or determination made by the Community Development Director and Planning Commission

#### **44.200 Application Processing and Hearing Notice**

Upon submittal of a complete application(s), the application(s) shall be reviewed and processed consistent with the provisions of the California Government Code Section 65090 et seq.

When a provision of the Zoning Ordinance requires or results in a public hearing, notice shall be given in all of the following ways:

1. Written notice of the hearing shall be mailed or delivered to the owner or his agent and the applicant not less than 10 days prior to the public hearing.
2. Written notice of the hearing shall be mailed or delivered to each local agency expected to provide public facilities or services to the project and whose ability to provide facilities or services may be significantly affected not less than 10 days prior to the public hearing.
3. Written notice of the hearing shall be mailed or delivered to all property owners within 300 feet of the property subject to the hearing not less than 10 days prior to the public hearing. The list of owners within 300 ft along with adequate mailing labels to notice the required public hearings shall be prepared by the applicant and shall accompany the application using for this purpose the last known name and address of owners as shown the current tax assessors records.

If the number of property owners to be notified exceeds 1000, the City may in lieu of mailing notices provide notice by placing a display advertisement of at least one-eighth page in length in at least one newspaper of general circulation within the City and post notice of the hearing not less than 10 days prior to the public hearing in at least three public places within the boundary of the City including one area directly affected by the proceeding.

The public notice shall include the date, time, and place of public hearing, the name of hearing body, a general explanation of the matter to be considered, and a general description in text or diagram of the location of the property subject to the hearing. The notice should also include a statement that any interested person is invited to appear to address or object to the application in question and a statement of appeal procedures and time limits.

#### **44.300 Hearing Procedure**

Hearings shall be held at the time, date and place for which notice has been given in compliance with Section 44.200. Summary minutes of the hearing or an audio tape shall be prepared and made part of the application file. During a public hearing a staff report on the application may be made followed by questions from the commission or council. The applicant may then provide testimony followed by testimony from the public including representatives of public agencies. The commission or council may establish reasonable limits on the number of speakers and time allotted for testimony. Upon request, the applicant shall be allowed to respond to the public testimony and answer questions from the commission or council. Upon close of the public hearing, the commission or council shall reach a decision, making findings including those required in the Zoning Ordinance in support of the action.

Any hearing may be continued provided that prior to the adjournment or recess of the hearing, a clear announcement is made regarding the continued hearing and specifying the date, time and place to which the hearing will be continued, subject to limitations provided by law, and in such case no further notice need be given.

#### **44.400 Notice of Decision**

The Community Development Director shall prepare a notice of decision for actions on zoning applications by the Community Development Director, Planning Commission and City Council. The decision shall include findings, any conditions of approval (including date of effect) as needed to mitigate any impacts and protect the health, safety and welfare of the community, and the appeal period allowed by the Zoning Ordinance. The notice of decision shall be posted within a public area of City Hall and mailed by the Community Development Director to the applicant at the address on the application within 10 working days of the decision.

#### **44.410 Effective Date**

Decisions made by the Community Development Director, Commission and Council are effective upon expiration of any appeal period specified by the Zoning Ordinance, and commencement of any effective date adopted within the decision.

#### **44.500 Review by Council**

The Council, through majority vote, may call up for review any decision of the Community Development Director or Planning Commission. The determination to call up for review shall be made by the Council at the meeting at which the notice of decision is presented to it, and the Council shall specify the issues to be reviewed. The Council shall hear and determine a decision that is called up for review in the same manner as an appeal.

## **44.600 Filing of Appeals**

Any discretionary decision made by the Community Development Director where such decision is not designated as final by the Zoning Ordinance may be appealed to the Planning Commission by the applicant or any person affected by a determination or decision. An appeal requires filing a written appeal with the Community Development Director within 10 working days of the mailing or posting of the notice of decision.

Any determination or decision made by the Planning Commission may be appealed to the City Council by the applicant or any person affected by a determination or decision. An appeal requires filing a written appeal with Community Development Director within 10 working days of the mailing or posting of the notice of decision

The written appeal shall include the name and address of the person filing the appeal, the decision that is being appealed, a description of the grounds upon which the appeal is based, and applicable filing fees.

## **44.610 Appeal Procedure and Hearings**

The appeal shall suspend the effective date of the contested action until the appeal is decided by the Planning Commission or City Council. The appeal shall be heard by the Planning Commission or City Council at the next available hearing. The Planning Commission may refer the matter back to the Community Development Director for further consideration and the Council may refer the matter back to the Planning Commission for further consideration, in which case the referral shall be investigated as advisable and conclusions reported back to the Commission or Council.

Notice of an appeal hearing shall be given in the same manner as a public hearing per Section 44.200. Appeal hearings shall be conducted in the same manner as public hearings per Section 44.300.

An appeal to the Commission or Council may be reversed, affirmed in whole or in part, or modified with determinations and conditions as the facts warrant. Any action on appeal shall be consistent the General Plan and with the required standards, regulations and findings of the Zoning Ordinance. Decisions made by the Council on appeal shall be final and conclusive.

## **44.700 Reapplication**

Following the denial of a application for a permit, variance, amendment or other zoning approval or the revocation of a permit or zoning approval, no application for the same or substantially the same permit, variance, amendment or other zoning approval shall be filed within 1 year of the date of denial or revocation. The Community Development Director shall determine whether a new application is the same or substantially the same as previously denied or revoked approval, and the decision of the Community Development Director may be appealed to the Planning Commission.

#### **44.800 Revocation**

A land use or zoning approval granted pursuant to the Zoning Ordinance may be revoked if the use or development does not comply with adopted conditions of approval or other regulations of the Zoning Ordinance.

1. An approval granted by the Community Development Director may be revoked by the Community Development Director if the use or development does not comply with adopted conditions of approval or other regulations of the Zoning Ordinance. The Community Development Director shall review the project in accordance with the procedures prescribed in Chapter 44, and if not satisfied that the use or development is in compliance, may revoke the land use or zoning approval or take such action as may be necessary to assure compliance with the conditions of approval and Zoning Ordinance regulations. If the original approval action by the Community Development Director was appealable under the Zoning Ordinance, then the revocation action may be appealed to the Planning Commission.
2. An approval granted by the Planning Commission may be revoked by the Planning Commission if the use or development does not comply with adopted conditions of approval or other regulations of the Zoning Ordinance. The Planning Commission shall hold a public hearing in accordance with the procedures prescribed in Chapter 44, and if not satisfied that the use or development is in compliance, may revoke the land use or zoning approval or take such action as may be necessary to assure compliance with the conditions of approval and Zoning Ordinance regulations. The Planning Commission action may be appealed to the City Council.
3. An approval granted by the City Council may be revoked by the City Council if the use or development does not comply with adopted conditions of approval or other regulations of the Zoning Ordinance. The City Council shall hold a public hearing in accordance with the procedure prescribed in Chapter 44, and if not satisfied that the use or development is in compliance, may revoke the land use or zoning approval or take such action as may be necessary to assure compliance with the conditions of approval and Zoning Ordinance regulations. The case may, at the discretion of the City Council, be submitted to the Planning Commission for its comment prior to City Council review and action.

#### **44.900 Judicial Review**

1. Any proceeding to contest a land use or zoning approval granted pursuant to the Zoning Ordinance where State law fails to specify a statute of limitations must be commenced and service effected within 120 days of the approval.
2. A land use or zoning approval granted pursuant to the Zoning Ordinance that is made subject to one or more conditions shall be revoked and shall cease to be valid along with all rights or privileges that were granted with the approval, notwithstanding any other provisions of this Title to the contrary, whenever a final judgment of a court of competent jurisdiction declares one or more of such conditions to be void or ineffective, or enjoins or otherwise prohibits the enforcement or operation of one or more of such conditions.

3. Judicial review of any planned development plans approved pursuant to Chapter 48 shall be pursuant to Code of Civil Procedure Section 1085. It is expressly declared that approval of a planned development plan is intended to be legislative in action.

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## **CHAPTER 45 MINOR EXCEPTIONS**

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### **45.100 Purpose**

The purposes of the minor exceptions chapter are to:

1. Allow minor exceptions and adjustments in cases where unusual circumstances occur that would create a practical difficulty that does not generally occur on other properties with similar conditions and zoning designations.
2. Allow minor exceptions and adjustments in cases where the objectives and goals of the General Plan and the Zoning Ordinance may be better attained than strict application of the regulations and standards of the Zoning Ordinance.
3. Ensure that minor adjustments that are approved are subject to conditions that will not result in a grant of special privilege inconsistent with the limitations on other properties with similar conditions and zoning designations.

### **45.200 Application**

An application for a minor exception shall be filed with the Community Development Director as per Chapter 40, Administration, Applications and Fees.

### **45.300 Applicability**

The Community Development Director may approve a minor exception up to a maximum 10% variation from the following Development Regulations and Standards:

1. Lot Dimensions
2. Setbacks
3. Structure Heights
4. Site Area
5. Parking
6. Landscaping

After determining that an application is complete, the Community Development Director shall review the application and shall either approve, approve with conditions or deny the application.

Any minor exception request that exceeds the 10% limitation shall require the filing of a variance application as per Chapter 50. Minor exceptions that are not granted by the Community Development Director or through appeal may be resubmitted through a variance application, if appropriate.

#### **45.400 Required Findings**

The Community Development Director shall make the minor exception determination or decision in writing and shall address the findings listed below. The Community Development Director or on appeal the Planning Commission or City Council may approve a minor exception or modify an approved minor exception, with or without conditions only if all the following findings are made:

1. That strict interpretation and application of the specified regulation would result in practical difficulty inconsistent with the purposes and intent of the Zoning Ordinance and General Plan while the exception allows for a site plan or development that better meets the purposes and intent of the Zoning Ordinance and General Plan.
2. That the granting of the minor exception will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located.
3. That the granting of the minor exception will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

#### **45.500 Hearings and Appeals**

The Community Development Director shall make a determination regarding a minor exception application within 10 working days of notification to the applicant that the application is complete. A public hearing is not required for a minor exception unless an appeal is filed. The procedures for appeals and subsequent hearings are as per Chapter 44, Hearings and Appeals.

#### **45.600 Duration of Minor Exception Approval**

1. Except for vesting tentative maps approved under Title 10, Chapter 2, Article 3.1 of the Municipal Code and development agreements approved under Title 10, Chapter 8 of the Municipal Code, approval of minor exceptions shall expire 1 year from the date of approval unless prior to the expiration a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion.
2. A minor exception approved in conjunction with approval of a vesting tentative map or development agreement shall expire concurrently with the expiration of the vesting tentative map or according to the terms of development agreement.
3. Minor exceptions may be renewed for a maximum of 1 additional year beyond the original date of expiration, provided that a request for such renewal is submitted to the Planning Department before the date of expiration in subsection 1 or 2 of this Section. The Planning Commission may grant or deny a request for renewal, and such action may be appealed to the City Council.

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## **CHAPTER 46**

### **MINOR MODIFICATIONS**

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#### **46.100 Purposes**

The purposes of the minor modifications chapter are to:

1. Provide a procedure to allow minor changes to an existing approval or permit while ensuring that no additional impacts or expansion of structures or uses will occur.
2. Allow administrative approval of minor modifications that meet the requirements of this chapter.

#### **46.200 Application**

An application for a minor modification shall be filed with the Community Development Director as per Chapter 40, Administration, Applications and Fees. Any modification request that exceeds the limitations of this chapter shall require the filing of a new or modified application for the permit or approval to be modified.

#### **46.300 Applicability**

The Community Development Director may approve a minor modification to an existing approval or permit for only the specific site development considerations listed below:

1. Onsite parking and loading configuration and layout without reduction of spaces. The circulation and landscaping for parking and loading areas as long as the modification does not affect the overall design theme of the site.
2. Placement and height of walls, fences and structures as long as the heights are not increased.
3. Minor modification of architectural features and detailing including colors that do not 1) substantially alter the design theme of the building, and 2) increase by more than 5% its approved size or height while staying within the size and height limitations of the zoning district(s) of the property.
4. A reduction in the density, size and height of a development project provided that 1) the overall design and character of the development are not substantially altered, and 2) minimum densities, if designated within the zoning district(s) or approval, are met.
5. Landscaping including plant species that do not substantially alter the approved landscape design theme of the project.

#### **46.400 Hearings and Appeals**

The Community Development Director shall make a determination regarding a minor modification application within 10 working days of notification to the applicant that the application is complete. A public hearing is not required for a minor modification unless an appeal is filed. The procedures for appeals and subsequent hearings are as per Chapter 44, Hearings and Appeals.

#### **46.500 Duration of Minor Modification Approval**

A minor modification to a use permit, planned development plan, or other discretionary permit approved by the City shall expire at the date of expiration for the use permit, planned development plan, or other discretionary permit unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion.

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## **CHAPTER 47**

### **NON-CONFORMING USES, STRUCTURES AND SIGNS**

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#### **47.100 Purposes**

The purposes of the Non-Conforming Uses, Structures and Signs Chapter are to:

1. Limit the number and extent of nonconforming uses which were lawfully established and maintained prior to the adoption of this Zoning Ordinance, but which no longer conform with the zoning regulations, by prohibiting their enlargement and their re-establishment after abandonment and by prohibiting the alteration of the structures they occupy and their restoration after destruction.
2. Limit the number and extent of non-conforming structures by prohibiting their being moved, altered or enlarged increasing the discrepancy between existing conditions and the standards of the Zoning Ordinance and by prohibiting their restoration after destruction.
3. Limit the number and extent of non-conforming signs by prohibiting their being moved, altered or enlarged so as to increase the discrepancy between existing conditions and the standards of the Zoning Ordinance and by prohibiting their restoration after destruction.
4. To establish criteria permitting the use and maintenance of non-conforming uses, structures and signs with the ultimate goal of having uses, structures, and signs within the community conform to zoning regulations either through elimination or alteration.

#### **47.200 Continuation and Maintenance**

A use lawfully occupying a structure or a site on the effective date of the Zoning Ordinance or its amendments which does not conform with the use regulations for the district in which the use is located shall be deemed to be a legal non-conforming use and may be continued, except as otherwise provided in this Article.

A structure lawfully occupying a site on the effective date of the Zoning Ordinance or its amendments which does not conform with the standards of coverage, setbacks, FAR, height of structures, distances between structures or usable open space prescribed in the regulations for the district in which the structure is located shall be considered a legal non-conforming structure and may be used and maintained, except as otherwise provided in this Article.

Routine maintenance and repairs may be performed on a structure or site, the use of which is non-conforming, and on a non-conforming structure. Unsafe structures may be restored to a safe condition, except as otherwise provided in Section 47.600.

A sign lawfully displayed on the effective date of the Zoning Ordinance or its amendments which does not conform with the standards of size, location or illumination prescribed in the regulations for the district in which the sign is located shall be deemed to be a non-conforming sign and may be displayed and maintained, except as otherwise provided in this Chapter.

#### **47.300 Alterations and Additions to Non-Conforming Uses**

No non-conforming use shall be expanded or extended in such a way as to displace any conforming use occupying a structure or site, or in such a way as to occupy any part of any structure or site which it did not occupy on the effective date of the ordinance which caused it to become a nonconforming use.

No structure, the use of which is non-conforming or partially non-conforming shall be moved, altered or enlarged unless required by law, or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use.

#### **47.310 Alterations and Additions to Non-Conforming Structures**

No non-conforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and standards of coverage, setbacks, FAR, height of structures, distances between structures or usable open space prescribed in the regulations for the district in which the structure is located.

#### **47.320 Alterations and Additions to Non-Conforming Signs**

No non-conforming sign shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and the standards of size, location or illumination prescribed in the regulations for the district in which the sign is located.

#### **47.400 Change of Use**

The nonconforming use of a structure or site shall not be changed to another non-conforming use.

#### **47.500 Abandonment of Nonconforming Use**

Whenever a non-conforming use has been abandoned, discontinued or changed to a conforming use for a continuous period of 6 months, the nonconforming use shall not be re-established.

The use of the structure or site thereafter shall be in conformity with the regulations for the district in which it is located.

#### **47.600 Restoration of a Damaged Structure**

Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with standards of coverage, setbacks, FAR, height of structures, distances between structures or usable open space prescribed in the

regulations for the district in which the structure is located, is destroyed by fire or other calamity or by act of God to the extent of fifty percent (50%) or less, the structure may be restored up to its original size, placement and density and the non-conforming use may be resumed, provided that restoration is started within 6 months and diligently pursued to completion.

Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, setbacks, FAR, height of structures, distances between structures or usable open space prescribed in the regulations for the district in which it is located, shall be destroyed by fire or other calamity or by act of God to a the extent of greater than fifty percent (50%), or shall be voluntarily razed or shall be required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the district in which it is located, and the non-conforming use shall not be resumed.

The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the estimated cost of duplicating the entire structure as it existed. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Official.

#### **47.700 Elimination of Non-Conforming Uses and Signs**

1. The following non-conforming uses and signs shall be discontinued and removed from their sites within 3 years from the effective date of this ordinance:
  - A. A nonconforming use which does not occupy a structure.
  - B. A non-conforming use occupying a structure having an assessed valuation of less than five hundred dollars (\$500).
  - C. A non-conforming sign or outdoor advertising structure.
2. Uses permitted only in the Commercial or Industrial Districts which are located in a Residential District and uses permitted only in an Industrial District which are located in a Commercial District shall be discontinued and removed from their sites in not less than 5 years from the effective date of this ordinance.
3. A non-conforming wall, fence or hedge shall be removed or altered to comply with the district regulations within 6 months from the effective date of this ordinance.

#### **47.800 Elimination of Nonconforming Structures**

A structure having an assessed valuation of less than five hundred dollars (\$500), which does not comply with the standards of coverage, setbacks, FAR, height of structures, distances between structures or usable open space prescribed in the regulations for the district in which the structure is located shall be removed from-its site within 3 years from the effective date of this ordinance. However, if the structure is altered to comply with the above standards, this provision shall not apply.

**47.900 Time Use, Structure or Sign becomes Non-Conforming.**

Whenever a use, structure or sign becomes non-conforming because of a change of zoning district boundaries or a change of regulations for the district in which the site is located, the period of time prescribed in for the elimination of the use or the removal of the structure or sign shall be computed from the effective date of the change of district or regulations.

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## **CHAPTER 48**

### **PLANNED DEVELOPMENT PLANS**

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#### **48.100 Purpose**

The purpose of the planned development plan is to:

1. Regulate new development by establishing a coherent and complete plan that describes all proposed uses, improvements to be included within the development.
2. Ensure that the intent of the General Plan and the provisions of this Ordinance are met.
3. Establish a review process for development and/or subdivision within specified zoning districts of a combination of different dwelling types and/or a variety of land uses which complement each other and harmonize with existing and proposed land uses in the vicinity.
4. Provide for well-planned developments that conform with the purposes of the zoning ordinance although they deviate in certain respects from district regulations.
5. Encourage and promote safe and well-designed neighborhoods and mixed use developments with pedestrian walkways, bikeways, and access to transit facilities.
6. Require proposed new development with potential conflicts to integrate mitigation measures within the project design.

The planned development plan will consist of an assembly of the project description with supporting tables and figures, plans, maps, conditions of approval, mitigation monitoring plan, and all adopted resolutions and ordinances associated with the project. The following specific rules and regulations established in this chapter shall apply to all planned development plans.

#### **48.200 Application and Applicability**

A planned development plan shall be prepared for developments and subdivisions within zoning districts specified in Article II of the Zoning Ordinance. Development design may deviate from the standards of a zoning district to the extent that the planned development plan is consistent with the intent of the General Plan and Zoning Ordinance, and a minor exception is granted for the deviation. A planned development plan shall include only uses and densities permitted in the zoning district in which the planned development plan is located.

All proposals for subdivision or development within zoning districts requiring planned development plans shall be required to submit a planned development plan application concurrently with other applications. There are three potential stages in the review process which

are outlined below and include the following: 1) conceptual; 2) initial; and 3) final. The final stage includes design review as established in Chapter 42 of this Ordinance.

The final planned development plan encompasses the detailed building, landscaping, signage, and exterior lighting design of the project. Final planned development plans shall consist of both use permit and design review approval along with sufficient plans and exhibits to document all project features and conditions. The final planned development plan and design review must be approved prior to building permit issuance.

### **48.300 Conceptual Planned Development Plan**

The conceptual planned development plan is an optional procedure intended to provide an opportunity for discussion and informal review of a proposed subdivision or development that requires a planned development plan. This process provides a forum to discuss the overall direction for the proposed project thereby enabling the landowner or developer to use the comments on the project prior to making a formal application. Conceptual planned development plans are generally recommended for projects that are large, complex, or may be subject to controversy. No environmental review is required for this process.

The following information shall be submitted for proposed conceptual planned development plans for subdivisions or developments. The information is to be submitted on site plan maps with accompanying text and tables. Site plan maps are to include an accurate land survey base.

- 1 Existing uses and densities and planned uses and densities in surrounding area according to the General Plan;
- 2 Proposed project land uses;
- 3 Circulation and access design for the entire tract or parcel of land;
- 4 Configuration and subdivision into sub-parcels or individual lots;
- 5 Existing utility services or easements;
- 6 Improvements necessary for the proposed subdivision or development;
- 7 Existing and proposed parks, playgrounds, view corridors or other common open space;
- 8 Existing natural features on a site, i.e. large healthy trees, drainages;
- 9 Provisions for pedestrian and bicycle paths/access; and
- 10 Off-street parking areas and capacities.

In addition to 1-10 above, the following shall be addressed for all residential uses:

- 11 Whether or not the Density Bonus will be utilized, and if so, the number of affordable housing units to be provided;
- 12 Total number of dwelling units; and
- 13 Potential housing types, such as single-family house or multi-family buildings.

In addition to 1-10 above, the following shall be addressed for all commercial uses:

- 14 Potential commercial uses and related total square footage; and
- 15 Conceptual designs of the structures indicating mass, height, shape and articulation.

The conceptual stage shall include meetings with the City staff and may include meetings with the Planning Commission and City Council; however, no formal action shall be required. This

review shall not be construed as an official endorsement of any proposed uses, precise location of uses, or configurations of parcels. Following the conceptual stage, an owner or developer shall submit a formal application for an initial planned development plan along with other subdivision and development applications.

#### **48.400 Initial Planned Development Plan**

The initial planned development plan focuses on the review of the project's subdivision plan and/or site development plan. It is evaluated and approved in conjunction with other basic subdivision and development applications. The initial planned development plan is intended to establish a comprehensive set of documents and conditions of approval which will regulate the subdivision or development whether it occurs in phases by a single owner or developer, or in smaller increments by separate owners or developers. The initial planned development plan is subject to environmental review and requires that the City Council to make findings according to criteria outlined in Section 48.600 below.

The initial and final planned development plan stages shall be required for subdivision of an entire tract or parcel into individual lots where it is the intention of the landowner or developer to build all or a portion of the proposed development. However, an initial master development plan only may be granted when a landowner or developer applies only for the subdivision of a parcel into sub-parcels and there are few required site improvements subject to design review. Final planned development plans would be required of subsequent owners prior to development of the site.

An initial planned development plan and final planned development plan may be reviewed concurrently at the request of the applicant.

No improvements to the land shall commence or be approved until the City Council has approved the initial planned development plan. The approved subdivision or development shall be subject to all conditions imposed upon it, and shall not be exempted from other Ordinance provisions unless specified within the conditions of approval. All improvements shall be in accordance with the approved or amended initial planned development plan. No building construction shall commence without an approved final planned development plan.

All initial planned development plans shall be prepared and endorsed by a licensed civil engineer or licensed land surveyor. The following information is to be submitted on the initial planned development plan map with accompanying text and tables.

- 1 A engineer's survey map of the property, including the 100 feet surrounding the property, showing the property boundary, existing features such as trees, drainages, buildings or structures, streets, easements, utilities, land uses, and ownerships;
- 2 Proposed land uses on the site, existing uses and future uses in surrounding area according to the General Plan;
- 3 Proposed circulation and access design for the entire tract or parcel of land including all existing and proposed street or alley rights-of-way including location, type, width, utilities, drainage, grading and landscaping areas, bicycle and pedestrian paths, fire and emergency access;

- 4 Proposed sub-parcels or individual lots including lot lines, numbering, areas, dimensions, setback requirements, building footprints and FAR's;
- 5 Existing and proposed parks, view corridors or other common open space including location, dimensions and landscaping;
- 6 Off-street parking areas and capacities, parking space locations and size types, and loading spaces;
- 7 Proposed timing schedule for subdivision or development improvements;
- 8 A tabulation including the following: the total number of acres in the proposed subdivision or development; total area of proposed and existing streets and right of ways; the area and percentage of the gross site area designated for each use; and include the following where applicable: the total gross square footage of commercial uses, non-private open space, parks, public or semi-public community buildings and facilities;
- 9 A completed Environmental Information Form and a written statement which outlines the proposed mitigation measures for potential site development problems such as flooding, access, seismic hazards, noise; and
- 10 Any additional information as may be required by the Community Development Director.

In addition to 1-10 above, the following shall be addressed for all residential uses:

- 11 Total number of dwelling units;
- 12 If the density bonus is granted; the number and location of affordable units required;
- 13 If the density bonus is not utilized; the in-lieu fee required; and
- 14 The average density per net acre and per gross acre;

In addition to 1-10 above, the following shall be addressed for all commercial uses:

- 15 Proposed uses, related total square footage, and floor area ratio (FAR);
- 16 A statement of intended commercial uses; and
- 17 A market analysis of proposed commercial uses, if deemed necessary.

## **48.500 Final Planned Development Plan**

The final planned development plan is intended to establish a set of documents and conditions of approval for the detailed design of buildings and other improvements on the site which will then regulate the development whether it occurs in phases by a single owner or developer, or in increments by separate owners or developers. The final stage is subject to environmental review as necessary and requires the City Council to make findings according to criteria outlined in Section 48.600 below. The final stage includes the process for design review as outlined in Chapter 42 of this Ordinance. All development is subject to final design review approval prior to issuance of building permits

All final planned development plans shall be prepared and endorsed by a licensed architect, civil engineer, and/or landscape architect. The following information is to be submitted on the final master development plan map with accompanying architectural drawings, landscaped plans, text and tables. The final master development plan should be produced on a map delineating sub-parcels or individual lots, including identification numbers, lot area and dimensions, or a final subdivision map.

1. Building design including schematic floor and roof plans, elevations, massing, height, materials, color and other information as needed to describe architectural character;
2. Detailed site improvement designs, including grading, building footprints, circulation and access, offstreet parking configuration, drainage, utilities, easements, landscaping identifying plant species for buildings, open spaces, and street frontages. A separate design review approval shall be required for all buildings not included in item 1 above;
3. A tabulation including the following: the total number of acres in the proposed subdivision or development; total area of proposed and existing streets and right of ways, open spaces, and landscaped areas; the area and percentage of the gross site area designated for each use; and the total gross square footage of all building types including FAR calculations;
4. Information necessary for evaluation and assignment of fire zone designations, including proposed use and occupancy, type of construction, building height and area of each building or structure, and proposed distances between buildings and structures and distances to property lines.
5. Exterior lighting plans
6. Signage plans
7. A schedule outlining proposed construction and timing of future construction; and
8. Any additional drawings or related information as may be deemed necessary by the Community Development Director.

In addition to 1-8 above, the following shall be addressed for all residential uses:

9. The types of housing models and their location;
10. When a density bonus has been granted, the timing for the construction of the affordable housing units;

In addition to 1-8 above, the following shall be addressed for all commercial uses:

11. The types of commercial buildings and their location;

## **48.600 Required Findings**

The City Council may grant a planned development plan permit, or modify an approved planned development plan with or without conditions only if all the following findings are made:

1. That the proposed use and densities are consistent with the General Plan
2. That the streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned development.
3. That any exceptions from standard ordinance requirements are warranted by the design and amenities incorporated in the final planned development plan and approved through the minor exception process.
4. That the area surrounding the project site can be planned and zoned in coordination and substantial compatibility with the proposed development;
5. That existing or proposed utility services are adequate for the development densities proposed.

## **48.700 Hearings and Appeals**

The procedures for hearings and appeals are as per Chapter 44, Hearings and Appeals.

A planned development plan application along with the Community Development Director's report shall be submitted to the Planning Commission for review. The Planning Commission shall forward its recommendation to the City Council for final action.

If the planned development plan includes a proposed subdivision, the proceedings for the review of the tentative subdivision map may be undertaken concurrently with the proceedings with respect to the planned development plan.

## **48.800 Duration of Planned Development Plan Approval**

1. Except for vesting tentative maps approved under Title 10, Chapter 2, Article 3.1 of the Municipal Code and development agreements approved under Title 10, Chapter 8 of the Municipal Code, a planned development plan shall expire 2 years from the date of approval unless prior to the expiration a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion.
2. A planned development plan approved in conjunction with the approval of a vesting tentative map or development agreement shall expire concurrently with expiration of the vesting tentative map or according to the terms of development agreement.
3. Planned development plans that are approved may be renewed for a maximum of 1 additional year beyond the original date of expiration, provided that a request for such renewal is submitted to the Planning Department before the date of expiration in subsection 1 or 2 of this Section. The Planning Commission may grant or deny a request for renewal, and such action shall be referred to, or may be appealed to the City Council.

## **48.900 Modification and Revocation**

1. A planned development plan may be modified through submittal of an application for minor modification as per Chapter 46. Any minor modifications must meet the required finding of this chapter. A proposed modification that does not meet minor modification criteria shall be treated as a new application subject to the application, findings and public hearing requirements of this chapter.
2. A planned development plan may be revoked by the City Council as per Section 44.800 if the development does not comply with adopted conditions of approval or other regulations of the Zoning Ordinance.

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## **CHAPTER 49**

### **SPECIFIC PLANS**

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#### **49.100 Purpose**

The purpose of the specific plans chapter is to:

1. Provide for detailed planning of a specific area consisting of single or multiple ownerships in a manner that implements the General Plan.
2. Provide a planning process for areas that may be annexed.
3. Establish a process for preparing and adopting specific plans in conformance with State requirements under Section 65450 et seq. of the Government Code.

#### **49.200 Application and Applicability**

The Community Development Director shall initiate the preparation of a specific plan either upon direction of the City Council or upon request of landowner if such request is approved by the City Council.

1. The Community Development Director may impose a specific plan fee upon persons seeking development approvals that are required to be consistent with an adopted specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred for environmental documentation as per Section 21000 et seq. of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated in accordance with the applicant's relative benefit derived from the specific plan.
2. The Community Development Director may require a person who requests adoption, amendment, or repeal of a specific plan to deposit with the planning agency an amount equal to the estimated cost of preparing the plan, amendment, or repeal prior to its preparation by the planning agency.

#### **49.300 Content of the Specific Plan**

A specific plan shall include text and a diagram or diagrams which specify all of the following in detail as per Sections 65451 and 65452 of the Government Code

1. The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
2. The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy,

and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

3. Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
4. A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs 1, 2 and 3.
5. The specific plan shall include a statement of the relationship of the specific plan to the general plan.
6. The specific plan may address any other subjects which in the judgment of Community Development Director are necessary or desirable for implementation of the general plan.

#### **49.400 Hearings, Adoption and Appeals**

A specific plan shall be reviewed and adopted in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance. No specific plan may be adopted unless the proposed plan is consistent with the general plan. The procedures for hearings and appeals are as per Chapter 44, Hearings and Appeals.

#### **49.500 Required Finding**

The City Council may adopt or amend a specific plan only if the following finding is made:

1. The proposed specific plan text and diagrams implement and is consistent with the General Plan.

#### **49.600 Amendment and Repeal**

A specific plan shall be amended in the same manner as a general plan, except that a specific plan amendment may be adopted by resolution or by ordinance consistent with the manner of adoption of the specific plan and may be amended as often as deemed necessary by the legislative body. No specific plan may be amended unless the proposed plan amendment is consistent with the general plan.

A specific plan may be repealed in the same manner as it is required to be amended.

#### **49.700 Specific Plan Consistency Requirements**

No local public works project, tentative map, parcel map, other development entitlement may be approved, adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan.

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## **CHAPTER 50 USE PERMITS**

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### **50.100 Purpose**

The purposes of the use permits chapter are to:

1. Provide a zoning compliance review and recording procedure for uses within the community.
2. Ensure that initiation or re-establishment of legally permitted uses comply with all standards and requirements of the zoning ordinance.
3. Provide the flexibility necessary to achieve the purposes of the General Plan and the zoning ordinance, in certain districts conditional uses are permitted, subject to the granting of a conditional use permit.
4. Provide for special consideration of conditional uses so that they may be located, constructed and operated in accord with the purposes of the General Plan and the Zoning Ordinance.

### **50.200 Application and Applicability**

Use permits include administrative use permits, conditional use permits and temporary use permits as described below. A use permit may be revocable, or may be granted for a limited time period. The granting of a use permit shall not exempt the applicant from complying with the requirements of the Building Code nor any other applicable requirements of this code or any other local, state, or federal requirements.

1. **Administrative Use Permits:** These permits are issued by the Community Development Director for uses that are generally permitted within a district and usually are of low impact to the community and environment. Conditions of approval, mandatory review periods, and expiration periods may be required at the discretion of the Community Development Director. In granting conditional approval, the Director may impose requirements and conditions with respect to location, siting, construction, maintenance, operation, duration, and overall development as deemed reasonable and necessary for the protection of adjacent properties and the public interest. If an administrative use permit denied by the Community Development is appealed to the Planning Commission, it shall become a conditional use permit if approved. The Community Development Director may refer any administrative use permit application to the Planning Commission for review as a conditional use permit.

2. Conditional Use Permits: These permits are issued by the Planning Commission for conditional uses allowed within a district. The conditional use permits will usually include conditions of approval, mandatory review periods, and expiration periods as required at the discretion of the Planning Commission. In granting conditional approval, the Planning Commission may impose requirements and conditions with respect to location, siting, construction, maintenance, operation, duration, and overall development as deemed reasonable and necessary for the protection of adjacent properties and the public interest.
3. Temporary Use Permits: These permits are issued by the Community Development Director for uses or activities with a proposed duration of no more than 30 days in any one calendar year. Use permits may be issued by the Planning Commission for conditional uses with a duration of 31 days or longer in any one calendar year. Conditions of approval and expiration periods may be required at the discretion of the Community Development Director.

An application for a use permit shall be filed with the Community Development Director as per Chapter 40, Administration, Applications and Fees. An application for a use permit shall contain the following information:

1. Name and address of the applicant;
2. Statement that the applicant is the owner of the property or is the authorized agent of the owner;
3. Address or description of the property;
4. Statement indicating the manner of compliance with pertinent requirements of the Zoning Ordinance
5. Any other data or information required by the Community Development Director to review and evaluate the application.
6. Site plan drawn at the scale of one (1) inch to twenty (20) feet, or such other scale as may be acceptable to the Community Development Director, including the following:
  - A. Accurate scale drawing of the site with property lines
  - B. Existing and proposed uses and structures
  - C. Existing and proposed locations of streets, utilities, drainage facilities, driveways, pedestrian walkways, off-street parking and off-street loading facilities
  - D. Existing and proposed landscaped areas.

After determining that an application for use permit approval is complete, the Community Development Director shall review the application. The Community Development Director shall take action on applications for temporary use permits of less than 30 days and administrative use permits within 30 days of a complete application if such application is exempt from CEQA. The Community Development Director shall either approve, approve with conditions or deny any such applications.

The Community Development Director shall forward the application for conditional use permits and temporary use permits of more than 30 days to the Planning Commission along with his recommendation. The Planning Commission shall either approve, approve with conditions or deny the application.

### **50.300 Required Findings**

The Community Development Director and Planning Commission may grant an application for a use permit as the use permit was applied for or in modified form only if all the following findings are made:

1. That the proposed use is consistent with the General Plan
2. That the proposed location of the use conforms with the purposes of the zoning ordinance and the purposes of the district in which the site is located, and will comply with the applicable provisions of the Zoning Ordinance
3. That the location, size, design and operating characteristics of the proposed use will be compatible in design, scale, coverage and density with existing and anticipated adjacent uses
4. There is adequate access, traffic, public utility, and public service capacity for the proposed use and surrounding existing and anticipated uses.
5. There are no potential, significant adverse environmental impacts that could not be feasibly mitigated and monitored.

### **50.400 Hearings and Appeals**

The procedures for hearings and appeals are as per Chapter 40, Hearings and Appeals.

The City Council may call up for review by it any action of the Community Development Director or Planning Commission in granting or denying a use permit. The determination to call up for review shall be made by the Council at the meeting at which the notice of decision is presented to it. If a decision is called up for review by the City Council, the City Council shall hear and determine the matter according to the required findings of this chapter in the same manner as an appeal.

### **50.500 Use Permit Review**

Use permits that are approved with required review periods shall be reviewed by the Community Development Director within 30 days of the periodic review date as measured from the date of final approval. The Community Development Director shall review the use allowed by the use permit for the purpose of determining compliance with the conditions of the permit. If the Community Development Director determines as a result of this review that conditions of the permit are not being fulfilled, then a written notification of noncompliance shall be mailed to the owner of the use, and the owner of the property upon which that use is located, if different. The use owner or property owner shall then have the opportunity to amend the operation of the use to comply with the conditions of the permit, to the satisfaction of the Community Development Director.

If the Community Development Director determines that the use will not fully comply with the permit, and no public hearing was held on its original approval, the Community Development Director shall consider revocation or modification of the use permit.

If the Community Development Director determines that the use will not fully comply with the permit, and a public hearing was held on its original approval, the Community Development Director shall forward the notification of noncompliance to the Planning Commission along with his report. After receiving the report, the Commission may, at its discretion, set the matter for a public hearing to review/discuss the report and consider revocation or modification of the use permit.

### **50.600 Duration, Renewal and Abandonment**

1. Except for vesting tentative maps approved under Title 10, Chapter 2, Article 3.1 of the Municipal Code and development agreements approved under Title 10, Chapter 8 of the Municipal Code, a use permit shall expire 1 year from the date of approval unless prior to the expiration one or more of the following occurs:
  - A. A building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application
  - B. A certificate of occupancy is issued by the Building Official for the site or the structure which was the subject of the use permit application
  - C. The holder of the use permit takes such other implementing action as stated in the use permit.
  - D. A longer period of time, not to exceed 2 years is approved by the Planning Commission or City Council
2. A use permit approved in conjunction with the approval of a vesting tentative map or development agreement shall expire concurrently with the expiration of the vesting tentative map or according to the terms of development agreement.
3. An administrative or conditional use permit may be renewed for an additional period of not to exceed 1 year; provided that prior to the expiration of 1 year from the date when the use permit originally became effective, a request for renewal of the use permit is filed with the Community Development Director. The Planning Commission may grant or deny a request for renewal of a use permit and shall make written findings regarding the approval or denial of the renewal. The decision of the Planning Commission may be appealed to the City Council in the same time and manner and with the same effect as an appeal from the Planning Commission action on the original request for the use permit.
4. An administrative or conditional use permit shall be considered abandoned, and shall no longer be valid, if the use has been discontinued or changed to another use for a continuous period of 6 months. If the Community Development Director determines that a use permit has been abandoned, such determination shall be reported to the Planning Commission, the last known operator of the use and the owner of the property for which the use permit was secured. This determination may be appealed by the property owner, provided that a written request of appeal is filed with Community Development Director

within 10 working days of the mailing of the notice of abandonment. The Planning Commission shall act on such an appeal after holding a public hearing on the appeal.

5. A temporary use permit shall expire 30 days after the commencement of the activity or use for which the permit is secured, or 6 months after the approval of the permit, whichever is sooner. A single 30 day extension may be approved by the Community Development Director if unforeseen circumstances require prolongation of a use or activity beyond the original 30 day period.

## **50.700 Modification and Revocation**

1. The holder of the use permit or the owner of the property containing the use may apply for a modification of the terms and conditions of the existing use permit. The modification request shall be treated as a new application subject to the application, findings public hearing requirements contained in Sections 49.200 - 49.400.
2. A use permit may be revoked or modified through the initiative of the upon a finding of any one or more of the following grounds:
  - A. That the use permit was obtained or renewed by fraud.
  - B. That one or more of the conditions upon which the use permit was granted have been materially violated.
  - C. That the use or facility for which the permit was granted is so conducted as to be a nuisance.

Following an initial grant of a use permit by the Community Development Director, the Community Development Director shall have the authority to modify the conditions of the use permit, and this authority shall also include the removal or modification of existing conditions or the imposition of new conditions if he finds that the use is not consistent with its approved use and conditions or is contrary to the public health, safety or welfare.

Following the initial grant of a use permit through a public hearing, the Planning Commission shall have the authority to modify the conditions of the use permit through a public hearing if it finds that the use is not consistent with its approved use and conditions or is contrary to the public health, safety or welfare. This authority shall also include the removal or modification of existing conditions or the imposition of new conditions. The modification of a permit may include the modification of the terms of the permit itself, or the waiver of conditions of the permit, or the alteration of conditions of the permit, or the imposition of new conditions, if the grounds which would otherwise justify a revocation can be corrected or cured by any such modification. Any modification must be consistent with the required use permit findings of Section 49.300.

An action to revoke or modify a permit may be initiated by order of the City on its own motion or on the request of any city officer provided. The order shall set forth grounds

for consideration of revocation or modification. The Planning Commission and City Council shall have the authority to revoke a conditional use permit as per Section 44.800 if it finds that the use is not consistent with its approved use and conditions or is contrary to the public health, safety or welfare.

### **50.800 Use Permit to Run with Land**

1. A use permit shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application.
2. Any conditional use permit which may be granted by the Planning Commission or City Council, including the conditions attached to the conditional use permit, shall be recorded by the grantee in the form of a covenant running with the land using the form of a document approved by the City Attorney. The recording shall occur within 30 days of conditional use permit approval.

### **50.850 Notation on Zoning Map**

A conditional use permit shall be indicated on the zoning map by a number located on the site of the conditional use.

### **50.900 Preexisting Conditional Uses.**

1. A conditional use established prior to enactment of the Zoning Ordinance shall be permitted to continue subject to all the regulations applicable to use permits.
2. Alteration or expansion of a conditional use established prior to enactment of the ordinance shall be permitted upon the granting of a subsequent use permit.
3. A use permit shall be required for the reconstruction of a structure housing a conditional use established prior to enactment of the ordinance if the structure is destroyed by fire or other calamity or by an act of God or by the public enemy and the reconstruction exceeds fifty percent (50%) of the structure. An exception to this requirement may be granted by the Community Development Director for reconstruction of public or private utility facilities during an emergency situation, provided that a finding that the reconstruction is necessary to preserve or protect the public health or safety is made.
4. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Chief Building Official.

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## **CHAPTER 51 VARIANCES**

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### **51.100 Purpose**

The purposes of the variance chapter are to:

1. Allow variances in order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the purposes of the zoning ordinance as would result from a strict or literal interpretation and enforcement of certain of its regulations.
2. Take into account conditions such as the size, shape or dimensions of a site or the location of existing structures, along with geographic, topographic or other physical conditions on the site or in the immediate vicinity including street locations or traffic conditions which would create a hardship and deprive a property of privileges occurring on other properties with similar conditions and zoning designations.
3. Allow variances in cases where the objectives and goals of the General Plan and the Zoning Ordinance may be better attained than strict application of the regulations and standards of the Zoning Ordinance.
4. Ensure that variances that are approved are subject to conditions that will not result in a grant of special privilege inconsistent with the limitations on other properties with similar conditions and zoning designations.

### **51.200 Application**

An application for a variance shall be filed with the Community Development Director as per Chapter 40, Administration, Applications and Fees. An application for a variance shall contain the following information:

1. Name and address of applicant.
2. Statement that the applicant is the owner of the property or is the authorized agent of the owner.
3. Address or description of the property.
4. Description of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship that would occur from a strict or literal interpretation and enforcement of a specified regulation within the Zoning Ordinance and how this would be inconsistent with the purposes of the Zoning Ordinance and General Plan. Any other data pertinent to the findings required for the granting of a variance, identified in Section 50.400.

5. An accurate scale drawing of the site and any adjacent property affected showing all existing and proposed:
  - A. Streets, utilities and drainage facilities.
  - B. Property lines.
  - C. Uses, and structures.
  - D. Driveways, bicycle paths and pedestrian walks.
  - E. Off-street parking and off-street loading facilities
  - F. Landscaped areas.

### **51.300 Applicability**

The Planning Commission may grant variances to the regulations prescribed by Zoning Ordinance for the following:

1. Site Area
2. Lot Dimensions
3. Site Coverage and FAR
4. Setbacks
5. Structure Heights
6. Distance between structures
7. Parking and loading requirements
8. Landscaping, fences, walls and hedges
9. Usable open space

In no case shall a variance be granted to permit a use or density other than is permitted within the zoning district in which the property is located.

After determining that an application for design review approval is complete, the Community Development Director shall review the application and forward it to the Planning Commission along with his recommendation. The Planning Commission shall either approve, approve with conditions or deny the application. A variance may be revocable, or may be granted for a limited time period.

### **51.400 Required Findings**

The Planning Commission may grant a variance, or modify an approved variance with or without conditions only if all the following findings are made:

1. That strict or literal interpretation and enforcement of Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent within the purposes of the General Plan and Zoning Ordinance. The hardship shall be specific to the property and not created by any act of the owner. Personal, family or financial difficulties; loss of anticipated profits; and zoning violations of neighbors shall not be considered hardships justifying a variance.
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use of the property including size, shape, topography, location

or where the strict or literal interpretation and enforcement of Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the vicinity and classified in the same zoning district(s).

3. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located.
4. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

The Planning Commission may grant a variance to a regulation for off-street parking facilities or off-street loading facilities if, on the basis of the application, the report of the Planning Commission and the evidence submitted, the Community Development Director makes the findings 1 through 4 above and the following additional findings:

5. That the granting of the variance will not result in increased traffic volumes generated by the site or sites in the vicinity that will adversely affect traffic capacity and levels of service.
6. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
7. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the purposes of the zoning ordinance.

### **51.500 Hearings and Appeals**

The procedures for hearings and appeals are as per Chapter 44, Hearings and Appeals.

The City Council may call up for review by it any action of the Planning Commission in granting or denying a variance. The determination to call up for review shall be made by the City Council at the meeting at which the notice of decision is presented to it. If a decision is called up for review by the City Council, the City Council shall hear and determine the matter in the same manner as an appeal.

### **51.600 Duration of Variance Approval**

1. Except for vesting tentative maps approved under Title 10, Chapter 2, Article 3.1 of the Municipal Code and development agreements approved under Title 10, Chapter 8 of the Municipal Code, a variance shall expire 1 year from the date of approval unless prior to the expiration a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion.
2. A variance approved in conjunction with the approval of a vesting tentative map or development agreement shall expire concurrently with the vesting tentative map or according to the terms of development agreement, unless prior to the expiration a

building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion.

3. Variances that are approved may be renewed for a maximum of 1 additional year beyond the original date of expiration, provided that a request for such renewal is submitted to the Planning Department before the date of expiration in subsection 1 or 2 of this Section. The Planning Commission may grant or deny a request for renewal, and such action shall be referred to, or may be appealed to the City Council.

### **51.700 Revocation**

A variance granted subject to a condition or conditions may be revoked by the Planning Commission if the condition or conditions are not complied with. The Planning Commission shall hold a public hearing in accordance with the procedure prescribed in Chapter 44, and if not satisfied that the condition or conditions are being complied with, may revoke the variance or take such action as may be necessary to assure compliance with the condition or conditions. The decision of the Planning Commission may be appealed to the City Council in the same time and manner and with the same effect as an appeal from the Planning Commission action on the original request for the variance.

### **51.800 Variance to Run with the Land**

Unless specified otherwise at the time the variance is granted, the variance shall run with the land for an indefinite period of time and shall be transferred to any subsequent owner of the property.

### **51.900 Precedent**

A previous variance shall not be considered to have set a precedent for the granting of further variances, for each variance application shall be considered only upon its individual merits.

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## **CHAPTER 52**

### **ZONING AMENDMENTS**

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#### **52.100 Purpose**

The purposes of the Zoning Amendments Chapter are to:

1. Provide a process to amend the text of the Zoning Ordinance.
2. Provide a process to amend the Zoning Map.
3. Ensure that zoning amendments conform to the General Plan and are internally consistent within the Zoning Ordinance.

#### **52.200 Application**

An amendment to the Zoning Ordinance or Zoning Map may be initiated by the Community Development Director, by resolution of the Planning Commission, or by action of the City Council in the form of a request to the Commission that it consider the proposed change

An amendment or change in the Zoning Map boundaries of any district may be initiated by the owner of the property within the area for which a change of district is proposed or the authorized agent of the owner. If the area for which a change of district is proposed is in more than one (1) ownership, all the property owners or their authorized agents shall join in filing the application. An application for an amendment to the Zoning Map shall be filed with the Community Development Director as per Chapter 40, Administration, Applications and Fees.

An application for an amendment to the Zoning Map shall include the following data:

1. Name and address of the applicant.
2. Reason for the requested amendment.
3. Requests for Zoning Map amendments shall also include the following:
  - A. Statement that the applicant is the owner of the property for which the change in district boundaries is proposed or the authorized agent of the owner.
  - B. Address and legal description of the property.
  - C. Accurate scale drawing of the site with names of owners of all properties within 300 feet of the property lines, and locations of existing and proposed streets, drainages and easements within or adjacent to the property.

#### **52.300 Applicability**

The City Council may grant amendments to the Zoning Ordinance for the following:

1. Change in Zoning Map boundaries of any zoning district.

2. Change in Zoning Ordinance text of a zoning district regulation.
3. Change in offstreet parking or loading facilities requirement, general provision, exception, or other regulatory provision within the text of the Zoning Ordinance.

### **52.400 Required Findings**

The City Council may grant an amendment to the Zoning Map and Zoning Ordinance only if all the following findings are made:

1. The proposed amendment is consistent with the General Plan
2. The proposed amendment would not be detrimental to the health, safety, welfare, and public interest of the City.
3. The proposed amendment is internally consistent and does not conflict with the purposes, regulations and required findings of the Zoning Ordinance.

### **52.500 Hearings and Appeals**

The procedures for hearings and appeals are as per Chapter 44, Hearings and Appeals.

### **52.600 Change of Zoning Map**

A change in the zoning designation for a property or a zoning district boundary shall be indicated on the Zoning Map with a notation of the date and number of the ordinance amending the map.

### **52.700 Annexed Territory**

All territory which is annexed to the City shall be automatically classified in the Residential Single Family Low Density RS-L District, unless a different classification has been assigned through rezoning. The Planning Commission may make a study of the territory to determine in which zoning district it should be classified in order to carry out the purposes of the zoning ordinance. If the Planning Commission finds that a change of district is required, it may initiate the change as prescribed in Section 51.200. The owner of the property or the authorized agent of the owner may file an application for a change in district as prescribed in Section 51.200.

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## **CHAPTER 53**

### **REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES**

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#### **53.100 Purpose and Intent**

The purpose and intent of this Chapter is to provide flexibility and reasonable accommodations in the application of the Zoning Ordinance to persons with disabilities who are seeking fair access to housing.

#### **53.110 Applicability**

Persons protected under the federal Fair Housing Amendments Act of 1988 and/or California Fair Employment and Housing Act (hereinafter “Fair Housing Laws”) may request reasonable accommodation when the strict application of the Zoning Ordinance acts as a barrier to fair housing opportunities. If a reasonable accommodation request is approved, the request shall be granted to an individual and shall not run with the land unless the Planning Director determines that either the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with applicable codes, or the accommodation is to be used by another disabled person.

#### **53.120 Permitting Procedures**

An application for reasonable accommodation that meets the findings contained in this Chapter 53 shall be reviewed ministerially and shall not be subject to discretionary review or a public hearing. An application shall be approved, approved with modifications, or denied within 10 working days of notification to the applicant that the application is complete.

#### **53.130 Application Requirements**

A request for reasonable accommodations must be filed on an application form provided by the Planning Department, shall be signed by the owner of the property, and shall include, at a minimum, the following information:

1. The applicant’s name, address and phone number;
2. The address for the property for which the reasonable accommodation request is being made;
3. Verification that the property is the primary residence for the person(s) for whom the reasonable accommodation is requested.

4. The basis for the claim that the Fair Housing Laws apply to the person(s) requesting the reasonable accommodations and evidence supporting the claim which may include a letter from a medical doctor or other licensed health care professional, a disabled person license or other appropriate evidence which establishes that the person(s) needing the reasonable accommodation is disabled pursuant to Fair Housing Laws;
5. The current use of the property and a concise physical description of the property;
6. A description of proposed changes to the property;
7. The specific reason the requested accommodation is necessary to make a particular dwelling available to the disabled person(s); and
8. The Zoning Ordinance provision for which reasonable accommodation is being requested.

### **53.140 Development Standards and Regulations**

Approval shall be granted if the request for reasonable accommodations complies with the following development standards and regulations:

1. The request for reasonable accommodations is for a legally established residential dwelling.
2. The residential dwelling is the primary residence of the person(s) requesting the reasonable accommodations and such persons have been determined to be protected under Fair Housing Laws.
3. Any exterior modification to the dwelling is designed to be compatible with the architectural character, colors and texture of the dwelling and surrounding neighborhood.

### **53.150 Findings**

The following findings shall be made in approving the request:

1. The parcel and/or housing, as the subject of the reasonable accommodation request, will be occupied as the primary residence by an individual protected under the Fair Housing Laws.
2. The request for reasonable accommodation is necessary to make specific housing available to one or more individuals protected under Fair Housing Laws.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
4. The requested reasonable accommodation will not require a fundamental alteration of the zoning laws of the City.

5. The requested reasonable accommodation will not adversely affect the health or safety of persons residing or working in the vicinity or be detrimental to the public health, safety, and welfare.
6. The requested reasonable accommodation will not be injurious to property or improvements in the neighborhood.

### **53.160 Decisions**

The Planning Director shall issue a written determination of the action and may grant or deny the accommodation request based on the criteria outlined in this chapter. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision including compliance with the criteria set forth in Section 53.600 of this Chapter. The written decision of the Director shall be final unless an applicant submits an appeal following the appeal procedure established in Section 44.600 of the Zoning Ordinance.

# ARTICLE V: DEFINITIONS

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## CHAPTER 60 DEFINITIONS

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### **60.100 Purpose and Applicability**

The purposes of this Article and Chapter are to provide definitions for the terms and phrases used within the Zoning Ordinance. The definitions shall apply throughout the zoning regulations except where the context of the regulation clearly indicates a different meaning. The Community Development Director shall interpret the meaning of the regulations and definitions as per Section 2.400.

### **60.200 Definitions**

Accessory Building: See Building, accessory.

Accessory Structure: See Structure, accessory.

Accessory Use: See Use, accessory.

Acre: An area of 43,560 square feet, which when referring to minimum site size or gross density includes developable and undevelopable areas within the property

Affordable Housing: Housing capable of being purchased or rented by a household with very low, low, or moderate income, as defined by the US Department of Housing and Urban Development, and based on a household's ability to make monthly payments necessary to obtain housing in Hercules.

Affordable Housing Cost: The term Affordable Housing Cost means the amount set forth in the Health and Safety Code Section 50052.5, as may be amended.

Affordable Rent: The term Affordable Rent means the amount set forth in the Health and Safety Code Section 50053, as may be amended.

Alley: A public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Alteration: Any change, addition or modification in construction or occupancy.

Bed and Breakfast Inn: Usually a dwelling unit, but sometimes a small inn that provides lodging and breakfast for temporary overnight occupants.

Block: The properties abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or the nearest intersecting or intercepting street and a dividing line such as a railroad right of way, unsubdivided land or watercourse.

Breezeway: A structure connecting the main structure on a site with another main structure or an accessory structure on the same site, where less than fifty per cent (50%) of each side of the structure is enclosed with any material other than that necessary for roof supports.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or property of any kind.

Building, accessory: A detached subordinate building, the use of which is incidental to that of the main building on the same lot, or to the use of the land. (See also accessory structure)

Caretaker and Employee Housing: A dwelling unit on the site of a commercial, industrial, or public/quasi-public use occupied by a guard, caretaker or employee of the use on the site.

Carport: An accessory structure or portion of a main structure having a roof but open on two or more sides and designed for the storage of motor vehicles.

Character: Special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its individuality. This term may also refer to the pattern of buildings, public spaces and streets, landscaping, and social ambiance of an area or a particular place or area.

City: The word "City" shall mean the City of Hercules, Contra Costa County, California. The words "City Council" and "Council" shall mean the City Council of the City of Hercules.

Common Interest Development: The term Common Interest Development means the following, all definitions of which are based upon Civil Code Section 4100 or subsequent amendments: (1) a condominium project; (2) a community apartment project, (3) a stock cooperative, or (4) a planned development.

Community Development Director: The City official designated as the Community Development Director or other City official acting in such capacity with responsibility for administering the Zoning Ordinance.

Corner Lot: A lot located at the intersection of two or more streets or private ways, or bounded on two or more adjacent sides by street lines.

Convenience Store: A commercial retail establishment that sells a limited selection of food, beverages and sundry items primarily for offsite consumption; typically designed for brief shopping visits and hours of operation extending beyond 9:00 p.m. This category also includes service station mini-marts and similar uses. Establishments that have sizable assortments of fresh fruit, vegetables, meat or fish are excluded from this category.

Day-Care Center: A State-authorized, certified or residential day-care facility serving children, in which such care is conducted as a business.

Day-Care Home (Family): A home which regularly provides care, protection and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours per day.

Large Family Day Care Home: A home which provides family day care for 7 to 12 children including children under 10 who reside at home. A large family daycare home may provide care for more than twelve and up to fourteen children if it can meet the requirements of Section 1597.465 of the Health and Safety Code.

Small Family Day Care Home: A home which provides family day care for 6 or fewer children including children under 10 who reside at home. A small family daycare home may provide care for more than six and up to eight children if it can meet the requirements of Section 1597.44 of the Health and Safety Code.

Deck: An exterior platform, either free standing or attached to a dwelling that is supported by posts to raise the platform off the surface of the ground.

Density Bonus: A density increase over the otherwise maximum allowable residential density in accordance with the provisions of Chapter 30.420 through 30.470 (Residential Density Bonuses) of the Zoning Ordinance as of the date of the project application.

Density (Gross): A measure of intensity of a development, determined by dividing the total number of dwelling units on a particular lot or property by the total number of acres including open space, easements and road right-of-way of the given lot or property.

Density (Net): A measure of intensity of a development, determined by dividing the total number of dwelling units on a particular lot or property by the number of developable acres of the given property.

Depth: The horizontal distance between the front and rear property lines of a site measured along a line midway between the side property lines.

Development: Any human-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Director of Public Works: The City official designated as the Director of Public Works or other City official acting in such capacity with responsibility for administering the public works functions of the City.

Driveway: The surface areas providing access from a road to an off-street parking area, or a garage or carport.

Dwelling: shall mean a one-family dwelling, multifamily dwelling or lodging house. For the purposes of this definition, automobile trailers, labor camps, tents, railroad cars and temporary structures shall not be considered dwellings.

Dwelling Unit: A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), that constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

Easement: A limited right of use of property by a person, persons or other entity other than the property owner which is described specifically as to location and limits of use.

Emergency Shelter: The term Emergency Shelter shall mean a facility that provides temporary, short-term housing for homeless individuals or families that is limited to occupancy of 180 consecutive days, with minimal supportive services.

Floor Area, gross: The gross floor area (GFA) which is the total horizontal area in square feet on each floor measured from the exterior faces of exterior walls or from the center lines of party walls separating such buildings. Gross floor area excludes the following:

- 1 Uncovered areas used for off-street parking spaces or loading areas and access ways and maneuvering aisles relating thereto;
- 2 Areas which qualify as usable open space under the City regulations of this Ordinance; and
- 3 Arcades, patios and similar open areas which are located at or near street level, which are accessible to the general public and, which are not designed or used as sales, display, storage, service or production areas.

Floor Area, leasable: The gross leasable area (GLA) used for commercial buildings which is the total horizontal area in square feet of the leasable area on each floor. Gross leasable area excludes the following:

- 1 Common areas within the structure not leased to any specific tenant.
2. Uncovered areas used for off-street parking spaces or loading areas and access ways and maneuvering aisles relating thereto;
- 3 Plazas, patios and similar open areas which are located at or near street level, which are accessible to the general public and, which are not designed or used as sales, display, storage, service or production areas.

Floor Area Ratio (FAR): The gross floor area of a building or buildings on the lot of record divided by the gross area of such lot. The resulting figure, expressed as a ratio, reflects the allowable structural density. For example, a 1.0 FAR could provide for a one story building that covers the entire lot or a two story building that covers half the lot.

Frontage: The property line of a lot or portion of a lot abutting a street, except the side of a corner lot.

Garage: An accessory structure or a portion of a main structure, enclosed on 3 or more sides, designed for the storage of motor vehicles.

General Plan: The City of Hercules General Plan, as amended.

Height: A vertical dimension measured from the average elevation of the surface of the ground covered by the structure to the highest point of the structure.

Home Occupation: An art, profession, offering of service, conduct of businesses or handicrafts conducted solely in the dwelling unit, a portion of a garage or an accessory building, by an inhabitant in a manner incidental to the residential occupancy.

Hotel: A structure or portion thereof in which there are 6 or more individual guest rooms or suites, usually occupied by a transient for any period less than thirty days and in which more than 50% of the individual guest rooms and suites are without kitchens.

Kitchen: A room with freestanding and/or built in appliances and a sink with hot and cold running water which is designed and used for the storage, refrigeration, cooking and preparation of food.

Loading Area: An off-street area on the same lot as a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot Area: The total horizontal area measured in a horizontal plane within the lot lines bordering the property.

Lot or Lot of Record: Any lot recorded as a separate parcel in the office of the County Assessor, or a proposed lot on a tentative or final subdivision map.

Lot Line: The boundary lines of a lot.

Lot Line, front: On an interior lot: any abutting street line. On a corner lot: the shorter of any adjacent two abutting street lines. However, if these street lines are equal in length, the owner or developer of the lot may select either as the front lot line.

Lot Line, rear: A lot line which is opposite and most distant from the front lot.

Lot Line, side: Any lot line that is not a front or rear lot line.

Lower-Income Household: The term Lower-Income Household means a household whose gross income does not exceed that established by Health and Safety Code Section 50079.5, as may be amended. (Generally less than 80% of County median income and includes very-low income category)

May: This term indicates an opportunity, possibility or option for an action or decision that is up to the discretion of the deciding party.

Mini-mart: A gasoline service station containing retail sales of food, beverages, and convenience items; typically with extended hours of operation.

Minor Exception: A procedure and discretionary entitlement to allow up to 10% variation from the development regulations and standards for lot dimensions, setbacks, structure heights, site area, parking, and landscaping.

Minor Modification: A procedure to allow minor changes to an existing approval or permit while ensuring that no additional impacts or expansion of structures or uses will occur.

Moderate-Income Household: The term Moderate-Income Household means a household whose gross income does not exceed that established by Section 50093 of the Health and Safety Code, as may be amended. (Generally 80-120% of County median income)

Multi-family Dwelling: shall mean a structure containing more than one dwelling unit designed for occupancy.

Municipal Code: The Municipal Code of the City of Hercules, as amended.

Non-conforming Structure: A structure which was lawfully erected and which no longer complies with the regulations and standards of the Zoning Ordinance.

Non-conforming Use: A use which at one point in time lawfully occupied a building or was conducted upon land and which no longer complies with the use regulations and standards of the Zoning Ordinance.

Off-street Loading: The portion of a site devoted to the loading or unloading of motor vehicles or trailers including loading spaces, aisles, access drives and landscaped areas.

Off-street parking: A site or portion of a site devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives and landscaped areas.

Open Space: Any portion of a lot or property not within required setback or yard areas designated to remain in an undeveloped state or to be improved for outdoor recreational use including usable open space, parks, trails, and other recreation areas.

Open Space, usable: An outdoor recreation or use area adjoining and directly accessible to the residents of a dwelling that is reserved for the exclusive use of the residents and their guests. The usable open space area may consist of yards, decks, balconies and similar facilities.

Parking Space: A stall covered or uncovered, laid out for, surfaced, and used or designed to be used by motor vehicle parking.

Planning Commission: The Planning Commission of the City of Hercules.

Project: Any proposal for new or changed use, or for new construction, alteration, or enlargement of any structure subject to the regulations of the Zoning Ordinance.

Railroad right of way: A strip of land on which railroad tracks, switching equipment and signals are located; but not including lands on which stations, offices, storage buildings, spur tracks, sidings, yards or other uses are located.

Residential Care Facility: The term Residential Care Facility shall mean a building or portion designed or used for the purpose of providing 24-hour-a-day nonmedical residential living accommodations, where the duration of tenancy is determined, in whole or in part, by the

individual resident's participation in group or individual activities such as counseling, recovery planning, medical, or therapeutic assistance. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code [H&SC] Section 1250 et seq.), community care facilities (H&SC Section 1500 et seq.), residential care facilities for the elderly (H&SC Section 1569 et seq.) or facilities for the mentally disordered or otherwise handicapped (W&I Code Section 5000 et seq.), and alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11384.11), and other similar care facilities.

Satellite Dish Antennae: An apparatus capable of receiving or transmitting communications from a satellite.

Second Residential Unit: An dwelling unit in addition to an existing residential unit, that provides complete independent living facilities for one or more persons including permanent provisions for sleeping, living, eating, cooking, and sanitation; and does not exceed 30% of the existing living area or 800 square feet whichever is less.

Senior Citizen Housing Development: The term Senior Citizen Housing Development means a housing development with at least thirty-five dwelling units as defined in Civil Code Section 51.3, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, as may be amended.

Senior Congregate Care: A structure providing housing for senior citizens with central or private kitchen, dining room, and other facilities but with separate bedrooms and living quarters.

Service Station: A place where gasoline or any other motor fuel, lubricating oil or grease for the operation of passenger vehicles is offered for sale to the public and deliveries are made directly into the vehicle, including lubrication on the site and the washing of vehicles.

### Setbacks

Front Setback: The separation between the front lot line and buildings within the lot regulating the depth of front yards.

Side Setback: The separation between the adjacent side lot lines and buildings within a lot regulating the depth of side yards.

Rear Setback: The separation between the rear or alleyway lot line and buildings within a lot regulating the depth of rear yards.

Shall: This term is mandatory and not discretionary. It is used as a directive indicating obligation, requirement, or unequivocal direction.

Should: This term indicates obligation or requirement that is slightly less rigid of a directive than shall.

Sign: Any lettering or symbol made of cloth, metal, paint, paper, wood or other material of any kind whatsoever placed for advertising, identification or other purposes on the ground or on any bush, tree, rock, wall, post, fence, building, including windows, structure, vehicle or any place whatsoever. The term "placed" shall include constructing, erecting, posting, painting, printing, tacking, mailing, gluing, sticking, carving or otherwise fastening, affixing, or making visible in

any manner whatsoever. The term sign does not include the flags and emblems of the United States of America, the State of California or the City of Hercules, nor any support, frame or standard that is used exclusively for the display of such flags or emblems.

Sign Area: In a sign having an integral part of a building as its background, "sign area" shall mean the area within the shortest line drawn to include all letters, designs, and tubing which are a part of the sign. In all other signs, "sign area" shall mean the largest cross-sectional area of the sign measured to a line encompassing all portions of the sign including background and tubing but excluding supporting posts without attached lighting. In computing the area of a double face sign, only one face of the sign shall be included provided that the two faces shall be parallel and not more than 2 feet apart.

Single-Room Occupancy: The term Single-Room Occupancy (SRO) shall mean a building or buildings constructed or converted for residential living consisting of one-room dwelling units, where each unit is occupied by a single individual or two persons living together as a domestic unit, and where the living and sleeping spaces are combined. A unit that contains both a bathroom and kitchen shall be considered a studio unit and not a Single-Room Occupancy Unit.

Site: A parcel of land, subdivided or unsubdivided, occupied or to be occupied by a use or structure which has frontage on an accepted city street.

Site Area: The total horizontal area included within the property lines of a site.

Site Coverage: The total horizontal area included covered by developed structures, excluding outdoor uncovered paved areas, divided by the site area.

Site Width: The horizontal distance between the side property lines of a site measured at right angles to the depth at a point midway between the front and rear property lines.

Street: A thoroughfare dedicated as a street or acquired for public use other than an alley, which affords the principal means of access to abutting land.

Structure: Anything constructed or erected that requires a location on the ground, including a building but not including a fence or a wall used as a fence.

Structure, accessory: A non-habitable detached building or structure that is subordinate and incidental to the main building on the lot. Accessory structures include: garages, carports, patio covers, gazebos, swimming pools, hot tubs or spas, and related equipment, workshops, storage sheds, greenhouses, and decks over 12 inches in height.

Structure, detached (detached structure): A structure that does not have a common wall with another structure.

Structure, main or (main structure): A structure housing the principal use of a site or functioning as the principal use.

Supportive Housing: The term Supportive Housing (per California Government Code Section 65582[f], as may be amended) shall mean a dwelling unit occupied by a target population, with

no limit on length of stay, that is linked to on-site or off-site services that assist the supportive housing resident(s) in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. A target population means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Welfare and Institutions [W&I] Code Section 4500) and may include—among other populations—adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. Supportive housing may be designed as a residential group living facility or as a regular residential use and includes the following:

Supportive Housing - Apartment Type: means two or more dwelling units on one parcel, where each unit functions as a single housekeeping unit and no on-site social services are provided.

Supportive Housing - Residential Care Facility Small Type: means one residential facility on a parcel with six residents or fewer (including minor children), excluding staff, that operates as a group living facility, where the residents share a common living area and a kitchen.

Supportive Housing - Residential Care Facility Large Type: means a residential facility with seven or more residents that operates as a group living facility where the residents share a common living area and a kitchen.

Transitional Housing: The term Transitional Housing (per California Government Code Section 65582[h], as may be amended) shall mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of assistance. Transitional housing may be designed as a residential group living facility or as a regular residential use and includes the following:

Transitional Housing - Apartment Type means two or more dwelling units on one parcel, where each unit functions as a single housekeeping unit and no on-site social services are provided.

Transitional Housing - Residential Care Facility Small Type means one residential facility on a parcel with six residents or fewer (including minor children), excluding staff, that operates as a group living facility, where the residents share a common living area and a kitchen.

Transitional Housing - Residential Care Facility Large Type means a residential facility with seven or more residents that operates as a group living facility where the residents share a common living area and a kitchen.

Use: The purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged or for which either a site or a structure is or may be occupied or maintained:

Use, accessory: The performance of any function or operation, or the existence of any building that is incidental or subordinate to the principal.

Use Permit, Administrative: A discretionary permit issued by the Community Development Director for uses that are generally permitted within a district and usually are of low impact to the community and environment. If an administrative use permit denied by the Community Development is appealed to the Planning Commission, it shall be become a conditional use permit if approved.

Use Permit, Conditional: A discretionary permit issued by the Planning Commission or City Council for conditional uses allowed within a district.

Use Permit, Temporary: A discretionary permit issued by the Community Development Director for uses or activities with a proposed duration of no more than 30 days in any one calendar year.

Variance: A procedure and discretionary entitlement to allow variation from the development regulations and standards of the Zoning Ordinance. Required findings are mandated by State law.

Very Low-Income Household: The term Very Low Income Household means a household whose gross income does not exceed that established by Health and Safety Code Section 50105, as may be amended. (Generally less than 50% of County median income and includes extremely-low category)

Yard: An open space on the same site as a structure, unoccupied and unobstructed from the ground upward, including a front yard, side yard, rear yard, or space between structures.

Yard, front or front yard: A yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the front property line and a line parallel to the front of the main structure on the property.

Yard, rear or rear yard: A yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the rear property line and a line parallel and a line parallel to the rear of the main structure on the property.

Yard, side or side yard: A yard extending from the rear line of the required front yard, or the front property line of the site where no front yard is required, to the front line of the required rear yard or the rear property line of the site where no rear yard is required, the depth of which is the minimum horizontal distance between the side property line and a line parallel to the rear of the main structure on the property.

Yard, interior side or interior side yard: A side yard that does not abut a street.

Zoning Ordinance: The Zoning Ordinance of the City of Hercules, as amended.

# APPENDICES

- A. See Contra Costa County Animal Control Ordinance and Amendments