Part 1
Zoning Code Applicability

Table of Contents

Chapter 20.10 – Purpose and Applicability of the Zoning Code 3
20.10.010 – Title 3
20.10.020 – Purpose 3
20.10.030 – Authority, Relationship to General Plan and Local Coastal Plan 3
20.10.040 – Applicability of Zoning Code 4
20.10.050 – Responsibility for Administration 5
Chapter 20.12 – Interpretation of Zoning Code Provisions 7
20.12.010 – Purpose 7
20.12.020 – Rules of Interpretation 7
20.12.030 – Procedures for Official Interpretations/Determinations 10
Chapter 20.14 – Zoning Map 11
20.14.010 – Zoning Map Adopted by Reference 11
20.14.020 – Zoning Districts Established 11
20.14.030 – Zoning District Symbols 12

Tables

Table 1-1 Zoning Districts Implementing the General Plan and Coastal Land Use Plan ... 11

– **This page intentionally left blank –**

Chapter 20.10 – Purpose and Applicability of the Zoning Code

Sections:

20.10.010 – Title
20.10.020 – Purpose
20.10.030 – Authority, Relationship to General Plan and Local Coastal Plan
20.10.040 – Applicability of Zoning Code
20.10.050 – Responsibility for Administration

20.10.010 – Title

This title shall be known as the "City of Newport Beach Zoning Code" and referred to as the "Zoning Code."

20.10.020 – Purpose

This Zoning Code is intended to carry out the policies of the City of Newport Beach General Plan and certified Coastal Land Use Plan. It is also the intent of this Zoning Code to promote the orderly development of the City; promote and protect the public health, safety, peace, comfort, and general welfare; protect the character, social, and economic vitality of neighborhoods; and to ensure the beneficial development of the City.

20.10.030 – Authority, Relationship to General Plan and Local Coastal Plan

A. **Authority.** The regulations within this Zoning Code are enacted based on the authority vested in the City of Newport Beach by the State of California and Section 200 of the City Charter.

B. **Relationship to the California Coastal Act**. The regulations within this Zoning Code are enacted to address the requirements of Articles 1 and 2 of Chapter 6 of the California Coastal Act and Chapter 8 of Title 14 of the California Code of Regulations. The provisions of this Zoning Code implement a portion of the City's certified Coastal Land Use Plan.

C. **Consistency with General Plan and Coastal Land Use Plan.** This Zoning Code is the primary tool used by the City to carry out the goals, objectives, and policies of the General Plan and certified Coastal Land Use Plan. It is intended that all provisions of this Zoning Code be consistent with the General Plan and certified Coastal Land Use Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent with these documents. Whenever the provisions of this Zoning Code require consistency with the General Plan, it shall also be understood as requiring consistency with the certified Coastal Land Use Plan for properties located in the Coastal Zone.

20.10.040 – Applicability of Zoning Code

This Zoning Code applies to all construction, land uses, subdivisions, and development within the City of Newport Beach, as provided by this Section.

A. Compliance required. No structure shall be altered, erected, or reconstructed in any manner, nor shall any structure or land be used for any purpose, other than as allowed by this Zoning Code, except that the provisions of this Zoning Code shall not apply to capital improvements undertaken in compliance with the City Charter.

B. Minimum Requirements. The provisions of this Zoning Code shall be considered the minimum requirements for the promotion of the public health, safety, and general welfare. When this Zoning Code provides for discretion on the part of a review authority, the discretion may be exercised to impose more or less stringent requirements than required by this Zoning Code and may allow deviations from the requirements in order to promote orderly land use and development, environmental resource protection, and the other purposes of this Zoning Code.

C. Agreements, covenants, easements, laws, permits, and regulations.

1. **Effect on municipal laws, policies, and regulations.** It is not intended by the adoption of this Zoning Code to repeal, impair, or interfere with other provisions of law of the City, or any policy, regulation, or rule for the alteration, construction, erection, or establishment of land uses or structures.

2. **Effect on agreements, covenants, and easements**. It is not intended by the adoption of this Zoning Code to interfere with, abrogate, annul, or repeal any agreement, covenant (e.g., CC&Rs), easement, or restriction between private parties. However, if this Zoning Code imposes greater restrictions than are imposed or required by other private agreements, covenants, or easements, the provisions of this Zoning Code shall control. The City shall not enforce any private agreement, covenant, or restriction unless it is a party to the agreement, covenant, or restriction.

D. Subdivisions. A proposed subdivision of land within the City after the effective date of this Zoning Code shall be in compliance with the minimum parcel size requirements of Part 2 (Zoning Districts and Allowable Land Uses), other applicable requirements of this Zoning Code, and Title 19 (Subdivisions) of the Municipal Code.

E. Other permits may be required. Nothing in this Zoning Code eliminates the need for obtaining other permits required by the City; regulations of a special district or agency; or regulations of a State or Federal agency.

F. Other applicable provisions. Where this Zoning Code requires compliance with "other applicable provisions", they shall be in addition to the requirements of this Zoning Code, General Plan, and certified Coastal Land Use Plan. Other applicable provisions may include, but are not limited to, annexation agreements, development agreements, specific plans, adopted criteria/guidelines, City policies, and/or State and Federal regulations.

G. State and Federal law requirements. Where this Zoning Code refers to provisions of State or Federal law, the references shall be interpreted to be to the applicable State or Federal law provisions as they may be amended from time to time.

20.10.050 – Responsibility for Administration

A. Responsible authority. This Zoning Code shall be administered by: Newport Beach City Council, hereafter referred to as the "Council;" the Planning Commission, hereafter referred to as the "Commission;" the Planning Director, hereafter referred to as the "Director;" the Zoning Administrator; and the Planning Department, hereafter referred to as the "Department."

B. Exercise of discretion. In the event that a provision of this Zoning Code or a condition of approval allows the review authority to exercise judgment in the application of a specific development standard or condition of approval, the exercise of the discretion shall be based on all of the following:

1. The proposed project or decision/determination complies with all applicable provisions of this Zoning Code;

2. The exercise of authority will act to ensure the compatibility of the proposed project with its site and surrounding properties;

3. The manner in which authority is exercised will result in a more practical application of the provisions of this Zoning Code given specific characteristics of the site and its surroundings; and

4. The decision is consistent with the General Plan, certified Local Coastal Plan, any applicable specific plan, or any other applicable regulation or standard.

– **This page intentionally left blank –**

Chapter 20.12 – Interpretation of Zoning Code Provisions

Sections:

20.12.010 – Purpose
20.12.020 – Rules of Interpretation
20.12.030 – Procedures for Official Interpretations/Determinations

20.12.010 – Purpose

This Chapter provides rules for resolving questions about the meaning or applicability of any part of this Zoning Code. The provisions of this Chapter are intended to ensure the consistent interpretation and application of the requirements of this Zoning Code.

20.12.020 – Rules of Interpretation

A. Authority. The Director has the authority to interpret provisions of this Zoning Code. Whenever the Director determines that the meaning or applicability of a Zoning Code requirement is subject to interpretation, the Director shall issue a written interpretation. The Director may also refer any issue of interpretation to the Commission for a determination. A decision of the Director may be appealed to the Commission in compliance with Chapter 20.78 (Appeals).

B. Language. When used in this Zoning Code, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the common meaning of the word indicates otherwise. The words "includes" and "including" shall mean "including, but not limited to."

C. Calculations.

1. Residential density. When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential zoning district requires a minimum site area per dwelling unit of 1,500 square feet; a site of 10,000 square feet would be allowed 6 dwelling units.

Example: 10,000 sq. ft. site area / 1,500 sq. ft. per unit = 6.66 dwelling units
This would be rounded down to 6 dwelling units

2. Other calculations. For calculations other than residential density, the fractional/decimal results of calculations shall be rounded to the next highest whole number unless otherwise specified.

3. **Time limits**. Whenever a number of days is specified in this Zoning Code, or in a permit, condition of approval, or notice provided in compliance with this Zoning Code, the number of days shall be construed as calendar days unless otherwise specified. Where the last of the specified number of days falls on a weekend, holiday, or other day the City is not open for business, the time limit shall extend to 5:00 p.m. on the following business day.

D. Conflicting requirements.

1. **Zoning Code and Municipal Code provisions.** If conflicts occur between requirements of this Zoning Code, or between this Zoning Code and the Newport Beach Municipal Code, or other regulations of the City, the more restrictive shall prevail.

2. **Development agreements or specific plans.** If conflicts occur between the requirements of this Zoning Code and standards adopted as part of a planned community development plan, development agreement, specific plan, or annexation agreement, the requirements of the planned community development plan, development agreement, specific plan, or annexation agreement shall prevail.

E. Unlisted uses of land. If a proposed use of land is not specifically listed in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards), the use shall not be allowed, except as provided below.

1. **Director's determination.** The Director may determine that a proposed land use that is not listed in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) may be allowed in compliance with Section 20.12.030 (Procedures for Official Interpretations/Determinations), below. In making this determination, the Director shall first make all of the following findings:

   a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;

   b. The proposed use will meet the purpose/intent of the zoning district that is applied to the location of the use;

   c. The proposed use will be consistent with the goals, objectives, and policies of the General Plan, certified Local Coastal Plan, or any applicable specific plan; and

   d. The proposed use is not listed as allowable in another zoning district.

2. **Applicable standards and permit requirements**. When the Director determines that a proposed but unlisted land use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Zoning Code apply.

F. Zoning Map boundaries. If there is uncertainty about the location of a zoning district boundary shown on the official Zoning Map, the Director shall determine the location of the boundary in the following manner, except as provided in Subsection G, below:

1. Where a district or area boundary approximately follows a lot line, street or alley line, the lot line, street centerline, or alley centerline shall be construed as the district boundary;

2. Where a district or area boundary divides a lot and the boundary line location is not specified by distances indicated on the subject map, the location of the boundary shall be determined by using the scale appearing on the map;

3. Where a public street or alley, or a portion thereof, is officially vacated or abandoned, the property that was formerly in the street or alley shall be included within the zoning district of the adjoining property on either side of the vacated or abandoned street or alley;

4. Where a district or area boundary approximately follows the shoreline of the Pacific Ocean, the boundary shall be construed to follow the mean high tide line; or

5. Where a district or area boundary approximately follows the waterfront of Newport Bay, the boundary shall be construed to follow the bulkhead line.

G. Coastal Zone Permit and Appeal Jurisdiction Map boundaries. If there is uncertainty about the location of a boundary shown on the Coastal Zone Permit and Appeal Jurisdiction Map, or if the boundary bisects a lot, the Director shall proceed as follows:

1. If the uncertainty involves the specific location of a boundary line, the Director shall use any of the methods provided in Subsection F, above, provided the determination would not adjust the boundary line onto or out of any portion of an existing lot;

2. If a boundary line bisects any portion of a lot, the entire lot shall be determined to be within the boundary of the mapped area; or

3. In order to avoid bisecting a lot or to conform a boundary to readily identifiable natural or manmade features, the City may request the Coastal Commission to adjust the boundary of the Coastal Zone up to a maximum of 100 yards inland, or a maximum of 200 yards seaward. Where an inland adjustment is requested by the City and agreed to by the property owner, the maximum distance shall be 200 yards.

H. Illustrations. In case of a conflict between the Zoning Code text and any diagram, illustration, or image contained in the Zoning Code, the text shall control.

I. Use of headings. The headings of the Chapters, Sections, and Subsections of this Zoning Code, together with the accompanying examples and explanatory notes, are inserted as a matter of convenience and are not intended to define, limit, or enlarge the scope or meaning of this Zoning Code or its provisions.

20.12.030 – Procedures for Official Interpretations/Determinations

A. Request for interpretation/determination. A request for an interpretation or determination shall be made in writing to the Department and shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.

B. Basis for interpretation/determination. The issuance of an interpretation or determination by the Director shall state the basis for the interpretation or determination. The basis for an interpretation or determination may include any relevant facts, including technological changes or new industry standards to support the interpretation or determination. The issuance of an interpretation or determination shall also include a finding documenting the consistency of the interpretation or determination with the General Plan and certified Coastal Land Use Plan.

C. Record of interpretations/determinations. Official interpretations or determinations shall be written and shall quote the provisions of this Zoning Code being interpreted and the circumstances that caused the need for the interpretation or determination.

Chapter 20.14 – Zoning Map

Sections:

20.14.010 – Zoning Map Adopted by Reference
20.14.020 – Zoning Districts Established
20.14.030 – Zoning District Symbols

20.14.010 – Zoning Map Adopted by Reference

The boundaries, designations, and locations of the zoning districts established by this Zoning Code shall be shown upon the map(s) entitled "Zoning Map for the City of Newport Beach, California". Any additional maps as may be subsequently adopted or amended shall also be a part of this Zoning Code by reference.

20.14.020 – Zoning Districts Established

The City of Newport Beach shall be divided into zoning districts that implement the General Plan Land Use Plan and the certified Coastal Land Use Plan. The zoning districts shown in Table 1-1 are hereby established, and shall be shown on the Zoning Map.

TABLE 1-1
ZONING DISTRICTS IMPLEMENTING THE GENERAL PLAN AND COASTAL LAND USE PLAN

Zoning Map Symbol	Zoning Districts	General Plan Land Use Designations and Coastal Land Use Plan Designations Implemented by Zoning Districts	
Residential Zoning Districts			
RA R-1 R-1-6,000 R-1-7,200 R-1-10,000	Single-Unit Residential Detached	RS-D	Single-Unit Residential Detached
R-1-A	Single-Unit Residential Attached	RS-A	Single-Unit Residential Attached
R-2 R-2-6,000	Two-Unit Residential	RT	Two-Unit Residential
RM RM-6,000	Multi-Unit Residential	RM RM-D	Multiple-Unit Residential Multiple-Unit Residential Detached
Commercial Zoning Districts			
OA	Office - Airport	AO	Airport Office and Supporting Uses
OG	Office - General Commercial	CO-G	General Commercial Office
OM	Office - Medical Commercial	CO-M	Medical Commercial Office
OR	Office - Regional Commercial	CO-R	Regional Commercial Office
CC	Commercial Corridor	CC	Corridor Commercial

TABLE 1-1
ZONING DISTRICTS IMPLEMENTING THE GENERAL PLAN AND COASTAL LAND USE PLAN

Zoning Map Symbol	Zoning Districts	General Plan Land Use Designations and Coastal Land Use Plan Designations Implemented by Zoning Districts	
CG	Commercial General	CG	General Commercial
CM	Commercial Recreational and Marine	CM	Recreational and Marine Commercial
CN	Commercial Neighborhood	CN	Neighborhood Commercial
CV	Commercial Visitor-Serving	CV	Visitor Serving Commercial
Mixed -Use Zoning Districts			
MU-V	Mixed Use Vertical	MU-V	Mixed Use Vertical
MU-H1-MM MU-H1-DW MU-H3 MU-H4	Mixed Use Horizontal	MU-H	Mixed Use Horizontal
MU-W1 MU-W2	Mixed Use Water	MU-W	Mixed Use Water Related
Industrial Zoning Districts			
IG	Industrial	IG	Industrial
Special Purpose Zoning Districts			
OS	Open Space	OS	Open Space
PC	Planned Community	All designations	
PF	Public Facilities	PF	Public Facilities
PI	Private Institutions	PI	Private Institutions
PR	Parks and Recreation	PR	Parks and Recreation
Overlay Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	
DR	Development Review	All designations	

20.14.030 – Zoning District Symbols

In addition to the zoning district designations established under Section 20.14.020 (Zoning Districts Established) and the related development standards established in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) symbols are established on the Zoning Map for the purpose of designating floor area ratio limits for nonresidential uses and density limits or the actual number of allowed units for residential uses. When these symbols are placed on the Zoning Map, the floor area ratios, dwelling unit limits or residential densities (minimums and maximums) as indicated shall apply. In addition, individual locations/sites/lots are identified on the Zoning Map by a number symbol where specific development limits and restrictions apply. These development limits/restrictions shall apply in addition to those provided in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards). The symbols and limits shall be shown in the following manner:

A. Nonresidential districts. A number following the district symbol shall designate the maximum floor area ratio allowed for the nonresidential area designated.

Example: CG 0.5

B. Residential districts.

1. A number following the district symbol designates the minimum site area required per dwelling unit if the requirement differs from the district standard minimum.

   Example: RM (2178)

2. Two numbers following the district symbol indicates that both the minimum and maximum number of dwelling units is regulated. The first number designates the site area used to calculate the minimum number of units required. The second number designates the site area to be used to calculate the maximum number of dwelling units allowed.

   Example: RM (3100/2420)

3. A number followed by the DU symbol indicates the maximum number of dwelling units allowed for the area designated. Where two numbers are shown, the first represents the maximum number of units allowed, the second represents the minimum number of units required.

   Examples: RM 50 DU
   RM 388/300 DU

C. Mixed use districts. Allowed residential densities and floor area ratios for nonresidential structures in mixed use districts are not indicated on the Zoning Map, but are provided in the development standards tables for mixed use districts in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards).

D. Anomaly locations. Anomaly locations shall be designated on the Zoning Map with a reference number that coincides with an Anomaly Table included on the Zoning Map.

E. Planned Communities (PC). Each PC District shall be shown on the Zoning Map with a "PC" designator along with a sequential reference number.

– **This page intentionally left blank –**

Part 2
Zoning Districts, Allowable Land Uses, and Zoning District Standards

Table of Contents

Chapter 20.16 – Development and Land Use Approval Requirements 3
20.16.010 – Purpose 3
20.16.020 – General Requirements for Development and New Land Uses 3
20.16.030 – Allowable Land Uses and Planning Permit Requirements 4
20.16.040 – Short Term Uses and Structures 4
20.16.050 – Special Events 4
20.16.060 – Coastal Development Permit. 5
20.16.070 – Additional Permits and Approvals may be Required 5

Chapter 20.18 – Residential Zoning Districts [R-1, R-2, RM] 7
20.18.010 – Purposes of Residential Zoning Districts 7
20.18.020 – Residential Zoning Districts Land Uses and Permit Requirements 7
20.18.030 – Residential Zoning Districts General Development Standards 9

Chapter 20.20 – Commercial Zoning Districts [AO, OG, OM, OR, CC, CG, CM, CN, CV,] (See 20.60.085, Uses requiring City Manager approval) 15
20.20.010 – Purposes of Commercial Zoning Districts 15
20.20.020 – Commercial Zoning Districts Land Uses and Permit Requirements 16
20.20.030 – Commercial Zoning Districts General Development Standards 23

Chapter 20.22 – Mixed-Use Zoning Districts [MU-V, MU-H1-MM, MU-H1-DW, MU-H3, MU-H4, MU-W1, MU-W2] 27
20.22.010 – Purposes of Mixed-Use Zoning Districts 27
20.22.020 – Mixed-Use Zoning Districts Land Uses and Permit Requirements 28
20.22.030 – Mixed-Use Zoning Districts General Development Standards 35

Chapter 20.24 – Industrial Zoning District [IG] 41
20.24.010 – Purposes of Industrial Zoning District 41
20.24.020 – Industrial Zoning Districts Land Uses and Permit Requirements 41
20.24.030 – Industrial Zoning Districts General Development Standards 45

Chapter 20.26 – Special Purpose Zoning Districts [OS, PC, PF, PI, and PR] 47
20.26.010 – Purposes of Special Purpose Zoning Districts 47
20.26.020 – Special Purpose Zoning Districts Land Uses and Permit Requirements 48
20.26.030 – Special Purpose Zoning Districts General Development Standards 50

Chapter 20.28 – Overlay Zoning Districts [MPH, PM, and SP] 51

20.28.010 – Purposes of Overlay Zoning Districts 51
20.28.020 – Mobile Home Park (MHP) Overlay Zoning District 51
20.28.030 – Parking Management (PM) Overlay District 52
20.28.040 – Development Review (DR) Overlay District 52
20.28.050 – Overlay Zoning Districts General Development Standards 53

Tables

Table 2-1 Allowed Uses and Permit Requirements 8

Table 2-2 Development Standards for Single-Unit Residential Zoning Districts 9

Table 2-3 Development Standards for Two-Unit and Multi-Unit Residential Zoning Districts 12

Table 2-4 Allowed Uses and Permit Requirements 16

Table 2-5 Allowed Uses and Permit Requirements 20

Table 2-6 Development Standards for Commercial Zoning Districts 23

Table 2-7 Development Standards for Commercial Zoning Districts 25

Table 2-8 Allowed Uses and Permit Requirements 28

Table 2-9 Allowed Uses and Permit Requirements 29

Table 2-10 Allowed Uses and Permit Requirements 32

Table 2-11 Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts 35

Table 2-12 Development Standards for Waterfront Mixed-Use Zoning Districts 37

Table 2-13 Allowed Uses and Permit Requirements 42

Table 2-14 Development Standards for Industrial Zoning Districts 45

Table 2-15 Allowed Uses and Permit Requirements 49

Chapter 20.16 – Development and Land Use Approval Requirements

Sections:

20.16.010 – Purpose
20.16.020 – General Requirements for Development and New Land Uses
20.16.030 – Allowable Land Uses and Planning Permit Requirements
20.16.040 – Short Term Uses and Structures
20.16.050 – Special Events
20.16.060 – Coastal Development Permit.
20.16.070 – Additional Permits and Approvals may be Required

20.16.010 – Purpose

This Part describes the general requirements of this Zoning Code for the approval of proposed development and new land use activities. Land use requirements for specific land uses are established by this Part 2, Part 3 (Site Planning and General Development Standards), and Part 4 (Standards for Specific Land Uses). Land use and development approval and administrative provisions are established by Part 5 (Planning Permit Procedures) and Part 6 (Zoning Code Administration).

20.16.020 – General Requirements for Development and New Land Uses

No use of land or structures shall be allowed, altered, constructed, established, expanded, reconstructed, or replaced unless the use of land or structures complies with the following requirements.

A. **Allowable use**. The land use shall be identified by Chapter 20.18 (Residential Zoning Districts), Chapter 20.20 (Commercial Zoning Districts), Chapter 20.22 Mixed-Use Zoning Districts, Chapter 20.24 (Industrial Zoning Districts), Chapter 20.26 (Special Purpose Zoning Districts), or Chapter 20.28 (Overlay Zoning Districts) as being allowable in the zoning district applied to the site.

B. **Permit requirements**. Permits required by this Zoning Code shall be obtained before the proposed use is constructed, otherwise established, or put into operation.

C. **Development standards.** Uses and/or structures shall comply with all applicable development standards of this Part, the provisions of Part 3 (Site Planning and General Development Standards), Part 4 (Standards for Specific land Uses), and other adopted criteria, guidelines, and policies related to the use and development of land.

D. **Conditions of approval.** Uses and/or structures shall comply with all conditions imposed by a previously granted permit. Failure to comply with imposed conditions shall be grounds for revocation of the permit in compliance with Chapter 20.82 (Enforcement).

E. Other development criteria, guidelines, and policies. The City may adopt criteria, guidelines, and policies separate from this Zoning Code that may affect the use and development of land. All applicable standards, criteria, guidelines, policies, and procedures related to development shall apply when appropriate as determined by the applicable review authority.

F. Reasonable Accommodations. The review authority may grant reasonable accommodations (modifications) to the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Section 20.66.040 (Reasonable Accommodations).

20.16.030 – Allowable Land Uses and Planning Permit Requirements

A. Allowed land uses.

1. **Permitted uses.** Permitted subject to compliance with all applicable provisions of this Zoning Code, issuance of a Zoning Clearance (Section 20.66.110), and any Building Permit or other permit required by the Municipal Code. These are shown as "P" uses in the tables.

2. **Conditional Use Permit required.** Allowed subject to the approval of a Conditional Use Permits and Minor Use Permits (Section 20.66.090) and shown as "CUP" uses in the tables.

3. **Conditional Use Permit - Hearing Officer required.** Allowed subject to the approval of a Conditional Use Permit - Hearing Officer (Section 20.74.040) and shown as "CUP -HO" uses in the tables.

4. **Minor Use Permit required.** Allowed subject to the approval of a Conditional Use Permits and Minor Use Permits (Section 20.66.090), and shown as "MUP" uses in the tables.

B. Multiple uses on a single site. Where a proposed multi-tenant project includes multiple land uses that require different permits, the project shall be authorized through the approval of the permit requiring the highest level of review. This provision shall not apply to a new single use when locating in an existing multi-tenant project.

20.16.040 – Short Term Uses and Structures

Requirements for establishing a short term use or structure (e.g., construction yards, seasonal sales lots, temporary office trailers, etc.) are identified in Section 20.66.080 (Limited Term Permits).

20.16.050 – Special Events

Requirements for holding a special event are identified in Municipal Code Chapter 11.03 (Special Events). In addition, all other applicable permits shall also be obtained.

20.16.060 – Coastal Development Permit.

A coastal development project in the Coastal Zone shall require approval a Coastal Development Permit in compliance with Section 20.66.020, unless identified as exempt in that Section.

20.16.070 – Additional Permits and Approvals may be Required

A. Other permits required. An allowed land use or structure that is exempt from a permit, or has been granted a permit, may still be required to obtain other permits before the use or structure is constructed, or otherwise established and put into operation. Nothing in this Section shall eliminate the need to obtain any permits or approvals required by:

1. Other provisions of the Municipal Code (e.g., Building Permits, Grading Permits, other construction permits, Live Entertainment Permit, or a Business License); or

2. Orange County, a special district, or any regional, State, or Federal agency.

B. Timing of other permits. All necessary permits shall be obtained before starting work or establishing a new use.

– **This page intentionally left blank –**

Chapter 20.18 – Residential Zoning Districts [R-1, R-2, RM]

Sections:

20.18.010 – Purposes of Residential Zoning Districts
20.18.020 – Residential Zoning Districts Land Uses and Permit Requirements
20.18.030 – Residential Zoning Districts General Development Standards

20.18.010 – Purposes of Residential Zoning Districts

The purposes of the individual residential zoning districts and the manner in which they are applied are as follows:

A. **R-1 (Single-Unit Residential) Zoning District.** The R-1 zoning district is intended to provide for areas appropriate for a range of detached single-family residential dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing.

B. **R-2 (Two-Unit Residential) Zoning District.** The R-2 zoning district is intended to provide for areas appropriate for two unit residential dwelling units (i.e., duplexes) located on a single legal lot.

C. **RM (Multiple Residential) Zoning District.** The RM zoning district is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units.

20.18.020 – Residential Zoning Districts Land Uses and Permit Requirements

A. **Allowed land uses.**

1. Table 2-1 indicates the uses allowed within each residential zoning district and the permit required to establish the use, if any, in compliance with Part 5 (Planning Permit Procedures).

2. Residential uses represent the primary allowed use, and only those additional uses that are complementary to, and can exist in harmony with, the residential character of each zoning district may be allowed as accessory, conditionally permitted, and/or temporary uses.

B. **Prohibited land uses.** A table cell with "---" means that the listed land use is prohibited in that zoning district.

C. **Applicable Regulations**. Where the last column in the tables ("Specific Use Regulations") includes a Section number, the regulations in the referenced section apply to the use. Provisions in other Sections of this Zoning Code may also apply.

TABLE 2-1
ALLOWED USES AND PERMIT REQUIREMENTS

Residential Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
CUP-HO	Conditional Use Permit - Hearing Officer (20.66.095)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	R-A	R-1	R-2	RM	Specific Use Regulations
Residential Uses					
Home Occupations	P	P	P	P	20.60.110
Single-Unit Dwellings - Attached	---	---	P	P	20.60.190
Single-Unit Dwellings - Detached	P	P	P	P	20.60.190
Multi-Unit Dwellings	---	---	---	P	
Two-Unit Dwellings	---	---	P	P	20.60.190
Accessory Dwelling Units	MUP	MUP	---	---	
Visitor Accommodations, Residential					
Bed & Breakfast Inns	---	---	CUP-HO	CUP-HO	20.60.060
Short Term Lodging	---	---	P	P	MC 5.95
Care Uses					
Adult Day Care					
Small (6 or fewer)	P	P	P	P	
Large (7 to 14)	MUP	MUP	MUP	MUP	
Child Day Care					
Small (8 or fewer)	P	P	P	P	20.60.070
Large (9 to 14)	MUP	MUP	MUP	MUP	20.60.070
Day Care, General (15 or more)	---	---	CUP-HO	CUP-HO	
Residential Care Facilities					
Limited (6 or fewer) Licensed	P	P	P	P	20.60.180
Limited (6 or fewer) Unlicensed	---	---	---	CUP-HO	20.60.180
General (7 or more) Licensed	---	---	---	CUP-HO	20.60.180
General (7 or more) Unlicensed	---	---	---	CUP-HO	20.60.180
Integral Facilities/Integral Uses	---	---	---	CUP-HO	20.60.180
Parolee-Probationer Home	---	---	---	---	
Nonresidential Uses					
Parking Facility	MUP	MUP	MUP	MUP	
Convalescent Facilities	---	---	---	MUP	
Utilities	P	P	P	P	
Wireless Telecommunication Facilities	See Municipal Code Chapter 15.70				
Other Uses					
Accessory Structures and Uses	P	P	P	P	
Animal Keeping	P	P	P	P	20.60.040
Personal Property Sales	P	P	P	P	20.60.160
Special Events	See Municipal Code Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as provided by Section 20.12.020 (Rules of Interpretation).

20.18.030 – Residential Zoning Districts General Development Standards

New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Tables 2-2 and 2-3, in addition to the development standards in Part 3 (Site Planning and Development Standards).

TABLE 2-2
DEVELOPMENT STANDARDS FOR SINGLE-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	R-A	R-1	R-1 - 6,000	R-1 - 7,200	R-1 - 10,000	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each NEWLY CREATED lot.*					
Lot Area (1) (2)						
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Lot Width						
Corner	125 ft.	60 ft.	60 ft.	70 ft.	90 ft.	
Interior	125 ft.	50 ft.	60 ft.	70 ft.	90 ft.	
Lot Length	N/A	N/A	80 ft.	90 ft.	100 ft.	
Density/Intensity	*Each legal lot shall be allowed one single-unit detached dwelling.*					
Setbacks	*These are minimum setbacks required for primary structures. See Section 20.80.090 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the Setback Maps in which case the Setback Maps shall control. (See Part 8, Figure x)*					
Front:	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20.30.090
Side (interior, each):						
Lots 40 ft. wide or less.	5 ft.	3 ft. (4)	6 ft.	5 ft.	10 ft.	20.30.090
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Side (Street side):						
Lots 40 ft. wide or less.	5 ft.	3 ft.	6 ft.	5 ft.	10 ft.	20.30.090
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	

TABLE 2-2
DEVELOPMENT STANDARDS FOR SINGLE-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	R-A	R-1	R-1 - 6,000	R-1 - 7,200	R-1 - 10,000	Additional Requirements
Rear	25 ft.	10 ft.	6 ft.	20 ft.	10 ft.	
Abutting Alley:						
15 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	Garages on alleys shall be set back a minimum of 5 ft. and a maximum of 7 ft.
15'-1" to 19'-11"	N/A	3'-9"	N/A	N/A	N/A	
20 ft. wide or more	N/A	0	N/A	N/A	N/A	
Bluff edge setback	*As provided on Setback Maps (See Part 8, Figure x) and Chapters 20.38 (Bluff, Canyon, and Shoreline Protection in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Outside the Coastal Zone)*					
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.					
Site Coverage	*Maximum percentage of the total lot area that may be covered by structures.*					
Lots 40 ft. wide or less	N/A	N/A	N/A	N/A	N/A	
Lots wider than 40 ft.	40%	N/A	60%	60%	60%	
Height (3)	*Maximum height of structures without discretionary approval. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*					
Flat roof	24 ft.	24 ft.	24 ft.	35 ft. and 2 stories	24 ft.	See Sections 20.30.090.C (Height Limit Areas) and 20.30.050. A (Height of structures and measurement)
Sloped roof; Minimum 4/12 pitch	29 ft.	29 ft.	29 ft.	40 ft. and 2 stories	29 ft.	
Open Space	*Minimum required open space.*					
	N/A	20% of buildable area.	20% of buildable area.	20% of buildable area.	20% of buildable area.	See Section 20.60.190 (Residential Development Standards) for R-1 and R-2 open space standards.
Bluffs and Canyons	*Chapters 20.38 (Bluff, Canyon, and Shoreline Protection in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Outside the Coastal Zone)*					
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*					
Landscaping	*See Chapter 20.48 (Landscaping Standards).*					

TABLE 2-2
DEVELOPMENT STANDARDS FOR SINGLE-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	R-A	R-1	R-1 - 6,000	R-1 - 7,200	R-1 - 10,000	Additional Requirements
Lighting	*See Section 20.30.060(Outdoor Lighting).*					
Parking	*See Chapter 20.52 (Off-Street Parking and Loading Standards).*					
Satellite Antennae	*See Section 20.60.200 (Satellite Antennas and Amateur Radio Facilities).*					
Signs	*See Chapter 20.54 (Signs).*					

Notes.

(1) The City may require the merger of existing substandard lots that do not meet minimum size requirements in compliance with Municipal Code Chapter 19.68 (Merger of Contiguous Lots).

(2) Lots in the R-1 and R-2 zoning districts may be subdivided so that the resulting lot area for each new lot is less than that identified in Table 2-2; provided the minimum lot size shall not be less than the average size of lots located on the same block face and in the same zoning district. No new lot shall be less than 2,400 square feet. Lot width and length may vary according to other similar lots within the subject area.

(3) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.

(4) Side setback areas for lots within Buck Gully shall be a minimum of 5 feet.

TABLE 2-3
DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	R-2	R-2- 6,000	RM	RM - 6,000	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each NEWLY CREATED lot.*				
Lot Area (1) (2) (3)					
Corner lot	6,000 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	6,000 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Balboa Island	5,000 sq. ft.	N/A	N/A	N/A	
Lot Width					
Corner lot	60 ft.	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	60 ft.	50 ft.	60 ft.	
Balboa Island	0	N/A	N/A	N/A	
Lot Length	N/A	80 ft.	N/A	80 ft.	
Density/Intensity	N/A		*The specific density and intensity limitations for each lot or site are identified on the Official Zoning Map.*		
Site Area per Dwelling Unit	*Minimum required site area per dwelling unit based on net area of the lot.*				
	1,000 sq. ft.	3,000 sq. ft.	1,200 sq. ft.	1,500 sq. ft.	
Floor Area Limit	N/A	N/A	1.75 (4)	N/A	
Setbacks	*Minimum setbacks required for primary structures. See Section 20.30.090 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the Setback Maps in which case the Setback Maps shall control. (See Part 8, Figure x)*				
Front:	20 ft.	20 ft.	20 ft.	20 ft.	
Side (interior, each):					
Lots 40 ft. wide or less.	3 ft.	6 ft.	3 ft.	6 ft.	
Lots 40'-1" wide to 49'-11" wide.	4 ft.	6 ft.	4 ft.	6 ft.	
Lots 50 ft. wide and greater.	4 ft.	6 ft.	8% of the average lot width (5)	6 ft.	
Side (Street side):					
Lots 40 ft. wide or less.	3 ft.	N/A	3 ft.	N/A	
Lots 40'-1" wide to 49'-11" wide.	4 ft.	N/A	4 ft.	N/A	
Lots 50 ft. wide and greater.	N/A	6 ft.	8% of the average lot width (5)	6 ft.	

TABLE 2-3
DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	R-2	R-2- 6,000	RM	RM - 6,000	Additional Requirements
Rear	10 ft.	N/A.	10 ft.	N/A	
Abutting Alley					
15 ft. wide or less	5 ft.	N/A	5 ft.	N/A	
15'-1" to 19'-11"	3'-9"	N/A	3'-9"	N/A	
20 ft. wide or more	0.	N/A	0.	N/A	
Balboa Island	10 ft.	6 ft.	N/A	6 ft.	
Waterfront	10 ft.	N/A	10 ft.	N/A	
Bluff edge setback	*As provided on Setback Maps (See Part 8, Figure x) and Chapters 20.38 (Bluff, Canyon, and Shoreline Protection in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Outside the Coastal Zone)*				
Bulkhead setback	Structures shall be setback a minimum of 10 ft. from the bulkhead in each zoning district.				
Site Coverage	*Maximum percentage of the total lot area that may be covered by structures.*				
	N/A	60%	N/A	60%	
Height (6)	*Maximum height of structures without discretionaly approval. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*				
Flat roof	24 ft.	24 ft.	28 ft.	28 ft.	See Section 20.30.050.B (*Increase in Height Limit)*
Sloped roof; Minimum 4/12 pitch	29 ft.	29 ft.	33 ft.	33 ft	
Open Space	*Minimum required open space.*				
	20% of buildable area.	20% of buildable area.	Common: 75 square feet/unit Private: 5% of the gross floor area for each unit.	Common: 75 square feet/unit Private: 5% of the gross floor area for each unit.	See Section 20.60.190 (Residential Development Standards) for R-1 and R-2 open space standards.
Bluffs and Canyons	*See Chapters 20.38 (Bluff, Canyon, and Shoreline Protection in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Outside the Coastal Zone)*				
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*				
Landscaping	*See Chapter 20.48 (Landscaping Standards).*				
Lighting	*See Section 20.30.060 (Outdoor Lighting).*				
Parking	*See Chapter 20.52(Off-Street Parking and Loading Standards).*				
Satellite Antennae	*See Section 20.60.200 (Satellite Antennas and Amateur Radio Facilities).*				

TABLE 2-3
DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	R-2	R-2- 6,000	RM	RM - 6,000	Additional Requirements
Signs	*See Chapter 20.54 (Signs).*				

Notes:

(1) The city may require the merger of existing substandard lots that do not meet minimum size requirements in compliance with Municipal Code Chapter 19.68 (Merger of Contiguous Lots).

(2) Lots in the R-1 and R-2 zoning districts may be subdivided so that the resulting lot area for each new lot is less than that identified in Table 2-3; provided the minimum lot size shall not be less than the average size of lots located on the same block face and in the same zoning district. No new lot shall be less than 2,400 square feet. Lot width and length may vary according to other similar lots within the subject area.

(3) On a site of less than 5,000 square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed provided that there shall be not less than 1,000 square feet of land area for each dwelling unit.

(4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site; provided that up to 200 square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.

(5) Interior and street side setback areas are not required to be wider than 15 feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.

(6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.

Chapter 20.20 – Commercial Zoning Districts [AO, OG, OM, OR, CC, CG, CM, CN, CV,] (See 20.60.085, Uses requiring City Manager approval)

20.20.010 – Purposes of Commercial Zoning Districts
20.20.020 – Commercial Zoning Districts Land Uses and Permit Requirements
20.20.030 – Commercial Zoning Districts General Development Standards

20.20.010 – Purposes of Commercial Zoning Districts

The purposes of the individual commercial zoning districts and the manner in which they are applied are as follows:

A. **OA (Office - Airport) Zoning District.** The OA zoning district is intended to provide for areas appropriate for the development of properties adjoining the John Wayne Airport for uses that support or benefit from airport operations. These may include corporate and professional offices; automobile sales, rental, and service; aviation sales and service; hotels; and accessory retail, restaurant, and service uses.

~~B.~~ **OG (Office - General) Zoning District.** The OG zoning district is intended to provide for areas appropriate for administrative, professional, and medical offices with limited accessory retail and service uses.

C. **OM (Office - Medical) Zoning District.** The OM zoning district is intended to provide for areas appropriate primarily for medical-related offices, other professional offices, limited retail, short-term convalescent and long-term care facilities, research labs, and similar uses.

D. **OR (Office - Regional) Zoning District.** The OR zoning district is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and regional markets, with limited accessory financial, retail, service, and entertainment uses.

E. **CC (Commercial Corridor) Zoning District.** The CC zoning district is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.

F. **CG (Commercial General) Zoning District.** The CG zoning district is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve City-wide or regional needs.

G. CM (Commercial Recreational and Marine) Zoning District. The CM zoning district is intended to provide for areas appropriate for commercial development on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to the bay on sites located on or near the bay.

H. CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area.

I. CV (Commercial Visitor-Serving) Zoning District. The CV zoning district is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City.

20.20.020 – Commercial Zoning Districts Land Uses and Permit Requirements

A. Allowed land uses. Tables 2-4 and 2-5 indicate the uses allowed within each zoning district and the permit required to establish the use, if any, in compliance with Part 5 (Planning Permit Procedures).

B. Prohibited land uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. Where the last column in the tables ("Specific Use Regulations") includes a Section number, the regulations in the referenced section apply to the use. Provisions in other Sections of this Zoning Code may also apply.

D. Uses to be conducted within an enclosed structure. All uses allowed within the commercial zoning districts shall be conducted within an enclosed structure, unless allowed otherwise by a Conditional Use Permit or Minor Use Permit.

TABLE 2-4
ALLOWED USES AND PERMIT REQUIREMENTS

Commercial Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	OA	OG	OM	OR	Specific Use Regulations
Industry, Manufacturing & Processing, Warehousing Uses					
Handicraft Industry	P	--	--	--	
Industry, Small (Less than 5,000 sq. ft.)	MUP	--	--	--	
Personal Storage (Mini Storage)	P	--	--	--	
Research and Development	P	P	P	P	
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities (Less than 5,000 sq. ft.)	CUP	CUP	CUP	CUP	

TABLE 2-4
ALLOWED USES AND PERMIT REQUIREMENTS

Commercial Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	OA	OG	OM	OR	Specific Use Regulations
Commercial Recreation and Entertainment	---	---	---	CUP	
Cultural Institutions	P	---	---	P	
Schools, Public and Private	CUP	CUP	---	CUP	
Schools, related to medical professions	MUP	MUP	MUP	MUP	
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	20.60.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	
Retail Sales (less than 10,000 sq. ft.)	P	P	P	P	
Retail Sales (10,000 sq. ft. or greater)	P	---	---	---	
Pharmacy, Medical Supplies	P	P	P	P	
Service Uses – Business, Financial, Medical, and Professional					
ATM's	P	P	P	P	
Convalescent Facilities	---	P	P	---	
Emergency Health Facilities	P	P	P	P	
Financial Institutions and Related Services	P	P	P	P	
Hospitals	--	--	CUP	--	
Offices - Business	P	P	P	P	
Offices - Corporate	P	P	---	P	
Offices - Medical and Dental	P	P	P	P	
Offices - Professional	P	P	P	P	
Outpatient Surgery Facility	P	P	P	P	
Service Uses - General					
Adult-Oriented Businesses	CUP	--	--	--	MC 5.96 20.60.020
Ambulance Services	P	---	P	---	
Animal Sales and Services					
Animal Boarding/Kennels	P	---	--	CUP	20.60.050
Animal Grooming	P	MUP	--	MUP	20.60.050
Veterinary Services	P	CUP	CUP	CUP	20.60.050
Artists' Studios	P	P	---	P	
Catering Services	P	P	--	P	
Day Care - General (15 or more)	MUP	MUP	MUP	MUP	

TABLE 2-4
ALLOWED USES AND PERMIT REQUIREMENTS

Commercial Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	OA	OG	OM	OR	Specific Use Regulations
Eating and Drinking Establishments					
Accessory (open to public)	P	P	P	P	20.60.090
Bars, Lounges, and Nightclubs	CUP	---	---	CUP	20.60.090
Fast Food (no late hours) (1)(2)	P/MUP	P/MUP	---	---	20.60.090
Fast Food (with late hours) (1)	MUP	MUP	---	---	20.60.090
Food Service (no alcohol, no late hours) (1)(2)	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Food Service (no late hours) (1)	MUP	MUP	MUP	MUP	20.60.090
Food Service (with late hours (1)	CUP	CUP	CUP	CUP	20.60.090
Take-Out Service, Limited (2)	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Take-Out Service Only (2)	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Outdoor Dining - Accessory	MUP	MUP	MUP	MUP	20.60.090
Emergency Shelters	P	---	---	---	20.60.100
Funeral Homes and Mortuaries, w/o crematorium	MUP	MUP	MUP	MUP	
Funeral Homes and Mortuaries, with crematorium	CUP	CUP	CUP	CUP	
Health/Fitness Facilities					
Small - 2,000 sq. ft or less	P	P	P	P	
Large - Over 2,000 sq. ft.	MUP	MUP	MUP	MUP	
Laboratories	P	P	P	P	
Maintenance and Repair Services	P	P	---	P	
Massage Establishments	MUP	MUP	MUP	MUP	MC 5.50 20.60.120
Massage Services, Accessory	MUP	MUP	MUP	MUP	20.60.120
Personal Services	P	P	P	P	
Postal Services	P	P	P	P	
Printing and Duplicating Services	P	P	P	P	
Visitor Accommodations, Nonresidential					
Hotels, Motels, and Time-Shares	CUP	--	CUP	---	
Transportation, Communications, and Infrastructure Uses					
Communication Facilities	P	P	----	P	
Heliports and Helistops	CUP	---	CUP	CUP	
Parking Facilities	MUP	MUP	MUP	MUP	
Utilities	P	P	P	P	
Wireless Telecommunication Facilities	Municipal Code Chapter 15.70				

TABLE 2-4
ALLOWED USES AND PERMIT REQUIREMENTS

Commercial Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	OA	OG	OM	OR	Specific Use Regulations
Vehicle Rental, Sale, and Service Uses					
Vehicle Sales, Office Only	P	P	---	P	
Vehicle/Equipment Rentals					
Office Only	P	P	---	P	
Vehicle/Equipment Rentals and Sales	CUP	---	---	---	
Vehicle/Equipment Repair					
General	CUP	---	---	---	
Limited	MUP	---	---	---	
Vehicle/Equipment Services					
Automobile Washing/Detailing, self service or accessory	MUP	MUP	---	MUP	
Service Stations	CUP	---	---	---	20.62
Other Uses					
Accessory Structures and Uses	P	P	P	P	
Drive-Through Facilities	MUP	MUP	MUP	MUP	20.60.080
Outdoor Storage and Display	MUP	MUP	MUP	MUP	20.60.150
Parking Structures, adjacent to residential district	---	CUP	CUP	---	
Special Events	Municipal Code Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Late hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 10:00 p.m. Sunday through Thursday and past 11:00 p.m. Friday and Saturday.

(2) Minor Use Permit required.
- a. A Minor Use Permit shall be required for any use that abuts a residential zoning district or is located within 500 feet, property line to property line, of any residential zoning district.
- b. A Minor Use Permit shall be required for any use that maintains late hours.

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	Commercial Zoning Districts Permit Requirements *					
	P	Permitted By-Right				
	CUP	Conditional Use Permit (20.66.090)				
	MUP	Minor Use Permit (20.66.090)				
	LTP	Limited Term Permit (20.66.080)				
	---	Not allowed *				
Land Use See Part 7 for land use definitions. See Section 20.12.020 for unlisted uses.	**CC**	**CG**	**CM**	**CN**	**CV**	**Specific Use Regulations**
Industry, Manufacturing & Processing, Warehousing Uses						
Handicraft Industry	P	P	P	P	P	
Recreation, Education, and Public Assembly Uses						
Assembly/Meeting Facilities (above 1st floor only)	CUP	CUP	CUP	CUP	CUP	
Commercial Recreation and Entertainment	CUP	CUP	CUP	CUP	CUP	
Cultural Institutions	P	P	MUP	--	P	
Schools, Public and Private	---	CUP	CUP	CUP	CUP	
Retail Trade Uses						
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	MUP	20.60.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	P	
Bulk merchandise	---	P	---	P	--	
Marine Rentals and Sales						
Boat Rentals and Sales	--	CUP	CUP	--	CUP	
Marine Retail Sales	P	P	P	--	P	
Retail Sales	P	P	P	P	---	
Visitor Serving Retail	P	---	---	---	P	
Service Uses – Business, Financial, Medical, and Professional						
ATM's	P	P	P	P	P	
Emergency Health Facility (above 1st floor only)	MUP	MUP	--	--	MUP	
Financial Institutions and Related Services	P	P	--	P	P	
Offices - Corporate (above 1st floor only)	P	P	P	P	---	
Offices - Business	P	P	P	P	P	
Offices - Medical and Dental	P	P	--	P	P	
Offices - Professional (above 1st floor only)	P	P	P	P	P	
Outpatient Surgery Facility (above 1st floor only)	MUP	MUP	P	---	---	
Service Uses - General						
Adult-Oriented Businesses	---	---	--	--	---	MC 5.96 20.60.020
Ambulance Services	---	MUP	--	--	---	
Animal Sales and Services						
Animal Boarding/Kennels	CUP	CUP	--	CUP	---	20.60.050
Animal Grooming	P	P	--	P	P	20.60.050
Animal Retail Sales	P	P	--	P	P	20.60.050
Veterinary Services	CUP	CUP	--	CUP	---	20.60.050

TABLE 2-5
ALLOWED USES AND PERMIT REQUIREMENTS

Commercial Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Section 20.12.020 for unlisted uses.	CC	CG	CM	CN	CV	Specific Use Regulations
Artists' Studios	P	P	P	P	P	
Catering Services	---	P	P	P	P	
Day Care, General (15 or more)	MUP	MUP	--	MUP	MUP	
Eating and Drinking Establishments						
Accessory (open to public)	P	P	P	P	P	20.60.090
Bars, Lounges, and Nightclubs	CUP	CUP	CUP	CUP	CUP	20.60.090
Fast Food (no late hours) (1)(2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Fast Food (with late hours) (1)	MUP	MUP	MUP	MUP	MUP	20.60.090
Food Service (no alcohol, no late hours) (1)(2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Food Service (no late hours) (1)	MUP	MUP	MUP	MUP	MUP	20.60.090
Food Service (with late hours (1)	CUP	CUP	CUP	CUP	CUP	20.60.090
Take-Out Service, Limited (2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Take-Out Service Only (2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	20.60.090
Outdoor Dining - Accessory	MUP	MUP	MUP	MUP	MUP	20.60.090
Funeral Homes and Mortuaries, without crematorium	---	MUP	--	--	---	
Funeral Homes and Mortuaries, with crematorium	---	CUP	---	---	---	
Health/Fitness Facilities						
Small - 2,000 sq. ft. or less	P	P	P	P	P	
Large - Over 2,000 sq. ft.	MUP	MUP	MUP	MUP	MUP	
Laboratories	---	P	---	--	--	
Maintenance and Repair Services	---	P	---	P	--	
Marine Services						
Boat Storage	--	--	CUP	--	--	
Boat Yards	--	--	CUP	--	--	
Entertainment and Excursion Services	--	--	P	--	P	MC Title 17
Marine Service Stations	--	--	CUP	--	CUP	
Water Transportation Services	---	---	MUP	---	MUP	
Personal Services						
Massage Establishments	MUP	MUP	---	MUP	MUP	MC 5.50 20.60.120
Massage Services, Accessory	MUP	MUP	---	MUP	MUP	20.60.120
Nail Salons	P	P	---	P	P	
Personal Services, General	P	P	---	P	P	
Studio	P	P	---	P	P	
Postal Services	P	P	---	P	P	
Printing and Duplicating Services	P	P	----	P	---	
Recycling Facilities						
Collection Facility - Small	MUP	MUP	---	MUP	--	20.60.170

TABLE 2-5
ALLOWED USES AND PERMIT REQUIREMENTS

Commercial Zoning Districts
Permit Requirements *

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Section 20.12.020 for unlisted uses.	CC	CG	CM	CN	CV	Specific Use Regulations
Visitor Accommodations						
Bed & Breakfast Inns	MUP	MUP	MUP	--	MUP	20.60.060
Hotels and Motels	CUP	CUP	CUP	---	CUP	
RV Parks	--	--	--	--	CUP	
Time Share Facilities	---	CUP	--	--	CUP	20.60.220
Transportation, Communications, and Infrastructure Uses						
Communication Facilities	MUP	P	MUP	--	P	
Marinas	Municipal Code Title 17					
Parking Facilities	MUP	MUP	MUP	MUP	MUP	
Utilities	P	P	P	P	P	
Wireless Telecommunication Facilities	Municipal Code Chapter 15.70					
Vehicle Rental, Sale, and Service Uses						
Vehicle/Equipment Rentals						
General	---	CUP	---	---	CUP	
Office Only	P	P	P	P	P	
Limited	P	P	P	--	P	
Vehicle/Equipment Repair						
General	---	CUP	---	---	---	
Limited	MUP	MUP	MUP	--	---	
Vehicle Sales, Office Only	P	P	P	P	P	
Vehicle/Equipment Services						
Automobile Washing/Detailing, full service	---	MUP	---	MUP	MUP	
Automobile Washing/Detailing, self service or accessory	P	P	---	P	MUP	
Service Stations	CUP	CUP	---	CUP	CUP	20.62
Other Uses						
Accessory Structures and Uses	P	P	P	P	P	
Drive-Through Facilities	MUP	MUP	MUP	MUP	MUP	20.60.080
Special Events	Municipal Code Chapter 11.03					
Outdoor Storage and Display	P	P	P	P	P	20.60.150
Parking Structure, adjacent to residential zoning district	CUP	CUP	---	CUP	CUP	
Temporary Uses	LTP	LTP	LTP	LTP	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Late hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 10:00 p.m. Sunday through Thursday and past 11:00 p.m. Friday and Saturday.

(2) Minor Use Permit required.
   a. A Minor Use Permit shall be required for any use that abuts a residential zoning district or is located within 500 feet, property line to property line, of any residential zoning district.
   b. A Minor Use Permit shall be required for any use that maintains late hours.

20.20.030 – Commercial Zoning Districts General Development Standards

New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Table 2-6, in addition to the development standards in Part 3 (Site Planning and Development Standards).

TABLE 2-6
DEVELOPMENT STANDARDS FOR COMMERCIAL ZONING DISTRICTS

Development Feature	OA	OG	OM	OR	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each NEWLY CREATED lot*				
Lot Area	25,000 sq. ft.	5,000 sq. ft.	25,000 sq. ft.	10,000 sq. ft.	
Lot Width	100 ft.	50 ft.	100 ft.	100 ft.	
Setbacks	*These are minimum setbacks required for primary structures. See Section 20.30.090 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.*				
Front or adjacent to a street	15 ft.	15 ft.	15 ft.	15 ft.	
Side (interior, each)					
Abutting nonresidential	0	0	0	0	
Abutting residential	N/A	5 ft.	5 ft.	N/A	
Side (Street side)	15 ft.	15 ft.	15 ft.	15 ft.	
Rear	0	0	0	0	
Abutting alley	N/A	10 ft.	N/A.	N/A	
Abutting residential	N/A.	5 ft.	5 ft.	N/A	

TABLE 2-6
DEVELOPMENT STANDARDS FOR COMMERCIAL ZONING DISTRICTS

Development Feature	OA	OG	OM	OR	Additional Requirements
Floor Area Ratio	0.5 for office uses. 0.75 for warehouse uses.	As identified on the Official Zoning Map.	0.75, except as identified on the Official Zoning Map.	As identified on the Official Zoning Map.	
Height	*Maximum allowable height of structures without discretionary approval. See Section 20.30.050 (Height Limits and Exceptions) for height measurement requirements. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*				
Within Shoreline Height Limit Zone	26 ft. with flat roof; less than 4/12 pitch 31 ft. with sloped roof; 4/12 or greater pitch				
Not within Shoreline Height Limit Zone	32 ft. with flat roof; less than 4/12 pitch 37 ft. with sloped roof; 4/12 or greater pitch				20.30.080
Within High Rise Height Limit Zone	375 ft.				
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*				
Landscaping	*See Chapter 20.48 (Landscaping Standards).*				
Lighting	*See Section 20.30.060 (Outdoor Lighting).*				
Parking	*See Chapter 20.52 (Off-Street Parking and Loading Standards).*				
Signs	*See Chapter 20.54 (Sign Standards).*				

TABLE 2-7
DEVELOPMENT STANDARDS FOR COMMERCIAL ZONING DISTRICTS

Development Feature	CC	CG	CM	CN	CV	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each NEWLY CREATED lot*					
Lot Area						
Citywide	5,000 sq. ft.	10,000 sq. ft.	N/A	20,000 sq. ft	N/A	
Coastal Zone	2,000 sq. ft	2,000 sq. ft.	2,000 sq. ft.	20,000 sq. ft	2,000 sq. ft.	
Lot Width						
Citywide	25 ft.	50 ft.	N/A.	100 ft.	N/A	
Coastal Zone	25 ft.	25 ft.	25 ft.	100 ft.	25 ft.	
Setbacks	*Minimum setbacks required for primary structures. See Section 20.30.090.D (Allowed Encroacments into Setback Areas) for setback measurement, allowed projections into setbacks, and exceptions.*					
Front	0	0	0	0	0	
Side (interior, each):						
Abutting nonresidential	0	0	0	0	0	
Abutting residential	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	
Side (Street side)	0	0	0	0	0	
Rear:						
Abutting an alley	10 ft.	10 ft.	10 ft	10 ft.	10 ft.	
Not abutting an alley	0	0	0	0	0	
Abutting residential	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	
Bulkhead setback	Structures shall be setback a minimum of 10 ft. from the bulkhead in each zoning district.					
Floor Area Ratio	*The specific floor area limitations for each zoning district are identified on the Official Zoning Map. However, within the CG zoning district, the FAR may be increased to a maximum of 0.5 where parcels are consolidated to accommodate larger commercial development projects in compliance with General Plan Policy LU 6.19.13.*					
Height	*Maximum allowable height of structures without discretionary approval. See Section 20.30.050 (Height Limits and Exceptions) for height measurement requirements. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*					

Within Shoreline Height Limit Zone Not within Shoreline Height Limit Zone	26 ft. with flat roof; less than 4/12 pitch 31 ft. with sloped roof; 4/12 or greater pitch 32 ft. with flat roof; less than 4/12 pitch 37 ft. with sloped roof; 4/12 or greater pitch	20.30.050
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*	
Landscaping	*See Chapter 20.48 (Landscaping Standards).*	
Lighting	*See Section 20.30.060 (Outdoor Lighting).*	
Parking	*See Chapter20.52 (Off-Street Parking and Loading Standards).*	
Signs	*See Chapter 20.54 (Sign Standards).*	

Chapter 20.22 – Mixed-Use Zoning Districts [MU-V, MU-H1-MM, MU-H1-DW, MU-H3, MU-H4, MU-W1, MU-W2]

20.22.010 – Purposes of Mixed-Use Zoning Districts
20.22.020 – Mixed-Use Zoning Districts Land Uses and Permit Requirements
20.22.030 – Mixed-Use Zoning Districts General Development Standards

20.22.010 – Purposes of Mixed-Use Zoning Districts

The purposes of the individual mixed-use zoning districts and the manner in which they are applied are as follows:

A. **MU-V (Mixed-Use Vertical) Zoning District.** This zoning district is intended to provide for areas appropriate for the development of mixed-use structures that vertically integrate residential dwelling units with retail uses including office, restaurant, retail, and similar nonresidential uses.

B. **MU-H1-MM (Mixed-Use Horizontal, Mariners' Mile) Zoning District.** This zoning district applies to properties located on the inland side of Coast Highway in the Mariners' Mile Corridor (See Part 8, Figure A-4) the Coast Highway frontages. Properties fronting on Coast Highway may be developed for marine-related and highway-oriented general commercial uses. Properties to the rear of the commercial frontage may be developed for free-standing neighborhood-serving retail, multi-unit residential dwelling units, or mixed-use structures that integrate residential with retail uses on the ground floor.

C. **MU-H1-DW (Mixed-Use Horizontal, Dover/Westcliff) Zoning District).** This zoning district applies to properties located in the Dover Drive/Westcliff Drive area. Properties may be developed for professional offices or mixed-use structures that integrate residential with retail or office uses on the ground floor.

D. **MU-H4 (Mixed-Use Horizontal) Zoning District**. This zoning district applies to areas where it is the intent to establish a cohesively developed district or neighborhood containing multi-unit residential dwelling units with clusters of mixed-use and/or commercial structures on interior lots of Cannery Village and 15th Street on Balboa Peninsula. Allowed uses may include multi-unit dwelling units; general or neighborhood commercial uses; and/or mixed-use structures, where the ground floor is restricted to nonresidential uses (i.e., retail sales and restaurants) along the street frontage and the rear and upper floors may be used for residential uses and overnight accommodations. Mixed-use or commercial structures are required on lots at street intersections and are permissible, but not required, on other lots.

E. **MU-W1-MM (Mixed-Use Water, Mariners' Mile) Zoning District.** This zoning district applies to waterfront properties along the Mariners' Mile Corridor (See Part 8, Figure A-4) in which marine-related uses and residential dwelling units may be intermixed. A minimum of 50 percent of the allowed square footage for nonresidential uses shall be used for marine-related or visitor serving land uses. A Site Development Review, in compliance with Section 20.66.070, shall be approved prior to any development to

ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.

F. MU-W2 (Mixed-Use Water) Zoning District. This zoning district applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor serving commercial, and residential dwelling units on the upper floors.

20.22.020 – Mixed-Use Zoning Districts Land Uses and Permit Requirements

A. Allowed land uses. Tables 2-8, 2-9, and 2-10 indicate the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 (Land Use and Development Permit Procedures).

B. Prohibited land uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. Where the last column in the tables ("Specific Use Regulations") includes a Section number, the regulations in the referenced section apply to the use. Provisions in other Sections of this Zoning Code may also apply.

D. Uses to be conducted within an enclosed structure. All uses allowed within the mixed use zoning districts shall be conducted within an enclosed structure, unless allowed otherwise by a Conditional Use Permit or Minor Use Permit.

TABLE 2-8
ALLOWED USES AND PERMIT REQUIREMENTS

Mixed-Use Zoning Districts
Permit Requirements

P Permitted By-Right
CUP Conditional Use Permit (20.66.090)
MUP Minor Use Permit (20.66.090)
LTP Limited Term Permit (20.66.080)
--- Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	MU-V	MU-H1 MM	MU-H1 DW	MU-H4	Specific Use Regulations
Industry, Manufacturing & Processing, Warehousing Uses					
Handicraft Industry	P	P	P	P	
Industry, Marine-Related	---	CUP	---	P	
Research and Development	---	P	CUP	P	
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities - Located only above 1ST floor	CUP	CUP	CUP	CUP	
Commercial Recreation and Entertainment	CUP	CUP	CUP	CUP	
Cultural Institutions	P	P	P	P	
Schools, Public and Private	CUP	CUP	CUP	CUP	
Residential Uses					

TABLE 2-8 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *				
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**MU-V**	**MU-H1 MM**	**MU-H1 DW**	**MU-H4**	**Specific Use Regulations**
Single-Unit Dwellings					
Located on 1st floor	---	---	----	P (3)	20.60.130
Located above 1st floor	P (1)	---	---	P (3)	20.60.130
Multi-Unit Dwellings					
Located on 1st floor	---	P (1)(2)	P (1)	P (3)	20.60.130
Located above 1st floor	P (1)	P (1)(2)	P (1)	P (3)	20.60.130
Two-Unit Dwellings					
Located on 1st floor	---	---	---	P (3)	20.60.130
Located above 1st floor	P (1)	---	---	P (3)	20.60.130
Home Occupations	P	P (1)	P	P	20.60.110
Live-work Units	P	P (1)(2)	P	P (3)	

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit required (20.66.090) MUP Minor Use Permit required (20.66.090) LTP Limited Term Permit required (20.66.080) --- Not allowed *				
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**MU-V**	**MU-H1 MM**	**MU-H1 DW**	**MU-H4**	**Specific Use Regulations**
Care Uses					
Adult Day Care					
Small (6 or fewer)	P	P	P	P	
Child Day Care					
Small (8 or fewer)	P	P	P	P	20.60.070
Day Care, General (15 or more)	---	MUP	---	MUP	
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	---	MUP	20.60.030
Alcohol Sales (off-sale) Accessory Only	P	P	P	P	
Marine Rentals and Sales					
Boat Rentals and Sales	CUP	P	P	CUP	
Marine Retail Sales	P	P	P	P	
Retail Sales	P	P	P	P	
Service Uses – Business, Financial, Medical, and Professional					
Emergency Health Care	MUP	MUP	MUP	MUP	
Financial Institutions and Related Services	P	P	P	P	

TABLE 2-9
ALLOWED USES AND PERMIT REQUIREMENTS

Mixed-Use Zoning Districts
Permit Requirements

P Permitted By-Right
CUP Conditional Use Permit required (20.66.090)
MUP Minor Use Permit required (20.66.090)
LTP Limited Term Permit required (20.66.080)
--- Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	MU-V	MU-H1 MM	MU-H1 DW	MU-H4	Specific Use Regulations
Offices - Business	P	P	P	P	
Offices - Medical and Dental	P	P	P	P	
Offices - Professional (above 1st floor only)	P	P	P	P	
Service Uses - General					
Animal Sales and Services					
Animal Grooming	P	P	P	P	20.30.050
Animal Retail Sales	P	P	---	P	20.30.050
Veterinary Services	---	CUP	CUP	---	20.30.050
Artists' Studios	P	P	P	P	
Eating and Drinking Establishments					
Accessory (open to public)	P	P	P	P	20.60.090
Bars, Lounges, and Nightclubs	CUP	CUP	---	CUP	20.60.090
Fast Food (no late hours) (4)(5)	P/MUP	P/MUP	---	P/MUP	20.60.090
Fast Food (with late hours) (4)	MUP	MUP	---	MUP	20.60.090
Food Service (no alcohol, no late hours) (4)(5)	P/MUP	P/MUP	---	P/MUP	20.60.090
Food Service (no late hours) (4)	MUP	MUP	---	MUP	20.60.090
Food Service (with late hours (4)	CUP	CUP	---	CUP	20.60.090
Take-Out Service, Limited (5)	P/MUP	P/MUP	---	P/MUP	20.60.090
Take-Out Service Only (5)	P/MUP	P/MUP	---	P/MUP	20.60.090
Outdoor Dining - Accessory	MUP	MUP		MUP	20.60.090
Health/Fitness Facilities					
Small – 2,000 sq. ft. or less	P	P	MUP	P	
Large – Over 2,000 sq. ft	CUP	CUP	---	CUP	
Laboratories	---	---	P	---	
Maintenance and Repair Services	P	P	---	P	
Marine Services					
Entertainment and Excursion Services	P	P	---	P	MC Title 17
Marine Service Stations	CUP	---	---	---	
Personal Services					
Massage Establishments	MUP	MUP	MUP	MUP	MC 5.50 20.60.120
Massage Services, Accessory	MUP	MUP	MUP	MUP	20.60.120
Nail Salons	P	P	P	P	
Personal Services, General	P	P	P	P	
Studio	MUP	MUP	MUP	MUP	
Postal Services	P	P	P	P	
Printing and Duplicating Services	P	P	P	P	
Visitor Accommodations					
Hotels, Motels, and Time Shares	CUP	CUP	---	CUP	

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit required (20.66.090) MUP Minor Use Permit required (20.66.090) LTP Limited Term Permit required (20.66.080) --- Not allowed *				
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**MU-V**	**MU-H1 MM**	**MU-H1 DW**	**MU-H4**	**Specific Use Regulations**
Transportation, Communications, and Infrastructure Uses					
Parking Facility	MUP	MUP	MUP	MUP (2)	
Marinas	CUP	---	---	---	MC Title 17
Utilities	P	P	P	P	
Wireless Telecommunication Facilities	Municipal Code Chapter 15.70				
Vehicle Rental, Sale, and Service Uses					
Vehicle/Equipment Rentals					
Office Only	P	P	P	P	
Limited (no outdoor storage)	---	MUP	---	---	
Vehicle/Equipment Repair					
Limited	---	MUP	---	---	
Vehicle Sales	---	CUP	---	---	
Vehicle Sales, Office Only	P	P	P	---	
Vehicle/Equipment Services					
Automobile Washing	---	CUP	---	---	
Service Stations	---	CUP	---	---	20.62
Other Uses					
Accessory Structures and Uses	MUP	MUP	MUP	MUP	
Outdoor storage and display	MUP	MUP	MUP	MUP	
Personal Property Sales	P	P	P	P	20.60.160
Special Events	Municipal Code Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Allowed only as part of a mixed-use development. Refer to Section 20.60.130 (Mixed Use Projects) for additional development standards.

(2) Not allowed to front onto Coast Highway. Coast Highway frontage shall be limited to nonresidential uses.

(3) Not allowed on corner parcel unless part of a mixed-use or live-work structure.

(4) Late hours. Facilities with late hours shall mean facilities that offer service and are open to the public after 10:00 p.m. Sunday through Thursday and/or after 11:00 p.m. Friday and Saturday.

(5) Minor Use Permit required.

a. A Minor Use Permit shall be required for any use that abuts a residential zoning district or is located within 500 feet, property line to property line, of any residential zoning district.

b. A Minor Use Permit shall be required for any use that maintains late hours.

TABLE 2-10 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *		
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**MU-W1 MM (5)**	**MU-W2**	**Specific Use Regulations**
Industry, Manufacturing & Processing, Warehousing Uses			
Handicraft Industry	P	P	
Industry, Marine-Related	P	P	
Recreation, Education, and Public Assembly Uses			
Assembly/Meeting Facilities			
Small - 5,000 sq ft or less	CUP	CUP	
Commercial Recreation and Entertainment	CUP	CUP	
Cultural Institutions	P	P	
Parks and Recreational Facilities	CUP	CUP	
Schools, Public and Private	CUP	CUP	
Residential Uses			
Single-Unit Dwellings			
Located on 1st floor	P (1)	---	20.60.130
Located above 1st floor	P (1)	P (2)	20.60.130
Multi-Unit Dwellings			
Located on 1st floor	P (1)	---	20.60.130
Located above 1st floor	P (1)	P (2)	20.60.130
Two-Unit Dwellings			
Located on 1st floor	P (1)	---	
Located above 1st floor	P (1)	P (2)	
Home Occupations	P	P (2)	20.60.110
Care Uses			
Adult Day Care			
Small (6 or fewer)	P	P	
Child Day Care			
Small (8 or fewer)	P	P	20.30.070
Day Care, General (15 or more)	---	MUP	
Retail Trade Uses			
Alcohol Sales (off-sale)	MUP	MUP	20.60.030
Alcohol Sales (off-sale), Accessory Only	P	P	
Marine Rentals and Sales			
Boat Rentals and Sales	P	P	
Marine Retail Sales	P	P	
Retail Sales	P	P	
Visitor Serving Retail	P	P	
Service Uses – Business, Financial, Medical, and Professional			

TABLE 2-10 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *		
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**MU-W1 MM (5)**	**MU-W2**	**Specific Use Regulations**
ATM's	P	P	
Emergency Health Facilities	---	P	
Financial Institutions and Related Services (above 1st floor only)	P	P	
Offices - Business (above 1st floor only)	P	P	
Offices - Medical and Dental (above 1st floor only)	---	P	
Offices - Profession (above 1st floor only)	P	P	
Service Uses - General			
Animal Retail Sales	MUP	MUP	20.60.050
Artists' Studios	P	P	
Eating and Drinking Establishments			
Accessory (open to public)	P	P	20.60.090
Bars, Lounges, and Nightclubs	CUP	CUP	20.60.090
Fast Food (no late hours) (3)(4)	P	P	20.60.090
Fast Food (with late hours) (3)	MUP	MUP	20.60.090
Food Service (no alcohol, no late hours) (3)(4)	P/MUP	P/MUP	20.60.090
Food Service (no late hours) (3)	MUP	MUP	20.60.090
Food Service (with late hours (3)	CUP	CUP	20.60.090
Take-Out Service - Limited (4)	P/MUP	P/MUP	20.60.090
Take-Out Service Only (4)	P/MUP	P/MUP	20.60.090
Outdoor Dining - Accessory	P	P	20.60.090
Health/Fitness Facilities			
Small – 2,000 sq. ft. or less	P	P	
Maintenance and Repair Services	P	P	
Marine Services			
Boat Storage	CUP	CUP	
Boat Yards	CUP	CUP	
Entertainment and Excursion Services	P	P	
Marine Service Stations	CUP	CUP	
Water Transportation Services	P	P	
Personal Services			
Massage Establishments	MUP	MUP	MC 5.50 20.60.120
Massage Services, Accessory	MUP	MUP	20.60.120
Nail Salons	P	P	
Personal Services, General	P	P	
Visitor Accommodations			
Hotels, Motels, and Time Shares	CUP	CUP	
Transportation, Communications, and Infrastructure			
Parking Facilities	MUP	MUP	

TABLE 2-10 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *		
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**MU-W1 MM (5)**	**MU-W2**	**Specific Use Regulations**
Communication Facilities	P	P	
Heliports and Helistops	CUP	CUP	
Marinas	CUP	CUP	MC Title 17
Utilities	P	P	
Wireless Telecommunication Facilities	Municipal Code Chapter 15.70		
Other Uses			
Accessory Structures and Uses	MUP	MUP	
Outdoor storage and Display	MUP	MUP	
Personal Property Sales	P	P	20.60.160
Special Events	Municipal Code Chapter 11.03		
Temporary Uses	LTP	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) May only be located on lots with a minimum of 200 lineal feet of frontage on Coast Highway. Refer to Section 20.60.130 (Mixed Use Projects) for additional development standards.

(2) May only be located above a commercial use and not a parking use. Refer to Section 20.60.130 (Mixed Use Projects) for additional development standards.

(3) Late hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 10:00 p.m. Sunday through Thursday and past 11:00 p.m. Friday and Saturday.

(4) Minor Use Permit required.

a. A Minor Use Permit shall be required for any use that abuts a residential zoning district or is located within 500 feet, property line to property line, of any residential zoning district.

b. A Minor Use Permit shall be required for any use that maintains late hours.

(5) Approval of a Minor Site Development Review, in compliance with Section 20.60.070, shall be required prior to any development to ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.

20.22.030 – Mixed-Use Zoning Districts General Development Standards

New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Table 2-11, in addition to the development standards in Part 3 (Site Planning and Development Standards).

TABLE 2-11
DEVELOPMENT STANDARDS FOR VERTICAL AND HORIZONTAL MIXED-USE ZONING DISTRICTS

Development Feature	MU-V	MU-H1-MM	MU-H1-DW	MU-H4	Additional Regulations
Lot Dimensions (1)	*Minimum dimensions required for each NEWLY CREATED lot.*				
Lot Area (1)	2,500 sq. ft.	10,000 sq. ft.	40,000 sq. ft.	5,000 sq. ft.	
Lot Width (1)	25 ft.	50 ft.	100 ft.	40 ft	
Density Range	*Minimum/Maximum Allowable Density Range for residential uses.*				
Lot area required per unit (sq. ft.)	Minimum: 1,631 Maximum: 2,167	Minimum: 1,631 Maximum: 2,167 For property beginning 100 ft. north of Coast Hwy.	N/A	Minimum: 1,631 Maximum: 2,167	
Floor Area Ratio (FAR)					
Mixed use development	Min. 0.35 Max. 0.50 for nonresidential Max. 1.0 for residential.	Min. 0.25 Max. 0.50 for nonresidential Max. 1.0 for residential.	Min. 0.25 Max. 0.50 for nonresidential Max. 1.0 for residential.	Min. 0.25 Max. 0.50 for nonresidential Max. 1.0 for residential.	
Nonresidential only	0.75.	0.50	0.50	0.50	
Residential only	N/A	N/A	N/A.	1.5	
Setbacks	*These are minimum setbacks required for primary structures. See Section 20.30.090 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.*				
Front	0	0	0	0	
Side	0	0	0	0	
Side Adjoining a residential district	5 ft.	5 ft.	5 ft.	5 ft.	

TABLE 2-11
DEVELOPMENT STANDARDS FOR VERTICAL AND HORIZONTAL MIXED-USE ZONING DISTRICTS

Development Feature	MU-V	MU-H1-MM	MU-H1-DW	MU-H4	Additional Regulations
Rear	0	0	0	0	
Rear Adjoining residential district	5 ft.	5 ft.	5 ft.	5 ft.	
Rear. Adjoining an alley	10 ft.	5 ft.	0	10 ft.	
Bulkhead setback	10 ft.	N/A			
Open Space					
Common open space.	Minimum 75 square feet/dwelling unit. (The minimum dimension shall be 15 feet)				
Private open space.	5% of the gross floor area for each unit. (The minimum dimension shall be 6 feet)				
Separation Distance	*Minimum distance between detached residential structures on same lot.*				
	10 ft.	10 ft.	10 ft.	10 ft.	
Height	*Maximum allowable height of structures without discretionary approval. See Section 20.30.050 (Height Limits and Exceptions) for height measurement requirements. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*				
MU-V, MU-H1-MM, and MU-H4	26 ft. with flat roof, less than 4/12 roof pitch 31 ft. with sloped roof, 4/12 roof pitch or greater				
MU-H1-DW	32 ft. with flat roof, less than 4/12 roof pitch 37 ft. with sloped roof, 4/12 roof pitch or greater				
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*				
Landscaping	*See Chapter 20.48 (Landscaping Standards).*				
Lighting	*See Section 20.30.060 (Outdoor Lighting).*				
Parking	*See Chapter 20.52 (Off-Street Parking and Loading Standards).*				
Satellite Antennae	*See Section 20.60.200 (Satellite Antennae and Amateur Radio Facilities).*				
Signs	*See Chapter 20.54 (Sign Standards).*				

Notes:

(1) The standards for minimum lot area and lot width are intended to regulate sites for development purposes only and are not intended to establish minimum dimensions for the creation of ownership or leasehold (e.g. condominium) purposes.

TABLE 2-12
DEVELOPMENT STANDARDS FOR WATERFRONT MIXED-USE ZONING DISTRICTS

Development Feature	MU-W1 (SP #5)	MU-W2 (SP #6)	Additional Requirements
Lot Dimensions (1)	*Minimum dimensions required for each NEWLY CREATED lot.*		
Lot Area			
Mixed use structures	20,000 sq. ft.	2,500 sq. ft.	
Non-mixed use structures	10,000 sq. ft.	2,500 sq. ft.	
Lot Width			
Mixed use structures	200 ft.	25 ft	
Non-mixed use structures	50 ft.	25 ft.	
Density	*Allowable Density for residential uses.*		
Lot area required per unit	7,260 sq. ft per unit	2,167 to 1,631 sq. ft per unit	
Floor Area Ratio (FAR)			
Mixed use development	Min. 0.35 Max. 0.5 for nonresidential, plus the number of residential units allowed above.	Min. 0.35 Max. 0.5 for nonresidential Max. 0.75 for residential. **Lido Marina Village** Min. 0.35 Ax. 0.7 for nonresidential and 0.8 residential.	
Nonresidential only	0.5 Commercial only	0.5 Commercial only	
Setbacks	*These are minimum setbacks required for primary structures. See Section 20.30.090 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.*		
Front	0	0	

TABLE 2-12
DEVELOPMENT STANDARDS FOR WATERFRONT MIXED-USE ZONING DISTRICTS

Development Feature	MU-W1 (SP #5)	MU-W2 (SP #6)	Additional Requirements
Side	0	0	
Side Adjoining a residential district	5 ft.	5 ft.	
Rear	0	0	
Rear Residential portion of mixed use	N/A.	5 ft.	
Rear Nonresidential adjoining a residential district.	N/A.	5 ft.	
Rear Adjoining an alley	N/A	10 ft.	
Bulkhead setback	10 ft.	10 ft.	
Open Space			
Common open space	Minimum 75 square feet/dwelling unit. (The minimum dimension shall be 15 feet)		
Private open space	5% of the gross floor area for each dwelling unit. (The minimum dimension shall be 6 feet)		
Separation Distance	*Minimum distance between detached structures on same lot.*		
	10 ft.	10 ft	
Height	*Maximum allowable height of structures without discretionary approval. See Section 20.30.050 (Height Limits and Exceptions) for height measurement requirements. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*		
	26 ft. with flat roof, less than 4/12 roof pitch 31 ft. with sloped roof, 4/12 roof pitch or greater		
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*		
Landscaping	*See Chapter 20.48 (Landscaping Standards).*		
Lighting	*See Section 20.30.060 (Outdoor Lighting).*		
Parking	*See Chapter 20.52 (Off-Street Parking and Loading Standards).*		
Satellite Antennae	*See Section 20.60.200 (Satellite Antennae and Amateur Radio Facilities).*		
Signs	*See Chapter 20.54 (Sign Standards).*		

Notes:

(1) The standards for minimum lot area and lot width are intended to regulate sites for development purposes only and are not intended to establish minimum dimensions for the creation of ownership or leasehold (e.g. condominium) purposes.

Chapter 20.24 – Industrial Zoning District [IG]

20.24.010 – Purposes of Industrial Zoning District
20.24.020 – Industrial Zoning Districts Land Uses and Permit Requirements
20.24.030 – Industrial Zoning Districts General Development Standards

20.24.010 – Purposes of Industrial Zoning District

The IG zoning district is intended to provide for areas appropriate for a wide range of moderate to low intensity industrial uses (e.g., light manufacturing and research and development) and limited ancillary commercial and office uses).

20.24.020 – Industrial Zoning Districts Land Uses and Permit Requirements

A. **Allowed land uses.** Table 2-13 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 (Land Use and Development Permit Procedures).

B. **Prohibited land uses.** Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. **Applicable Regulations.** Where the last column in the tables ("Specific Use Regulations") includes a Section number, the regulations in the referenced section apply to the use; however, provisions in other Sections of this Zoning Code may also apply.

TABLE 2-13 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *	
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**IG**	**Specific Use Regulations**
Industry, Manufacturing & Processing, Warehousing Uses		
Food Processing	P	
Handicraft Industry	P	
Industry		
Small - 5,000 sq. ft. or less	P	
Large - Over 5,000 sq. ft.	CUP	
Personal Storage (Mini Storage)	MUP	
Research and Development	P	
Warehousing		
Small - 5,000 sq. ft. or less	P	
Large - Over 5,000 sq ft	MUP	
Wholesaling	P	
Recreation, Education, and Public Assembly Uses		
Assembly/Meeting Facilities	CUP	
Retail Trade Uses		
Alcohol Sales (off-sale)	P	20.60.030
Alcohol Sales (off-sale), Accessory Only	P	
Building Materials and Services	P	
Contractor's Storage Yards	MUP	
Marine Rentals and Sales		
Boat Rentals and Sales	MUP	
Marine Retail Sales	P	
Retail Sales	P	
Service Uses – Business, Financial, Medical, and Professional		
ATM's	P	
Offices - Business, Governmental, and Professional	P	
Service Uses - General		
Adult-Oriented Businesses	P	MC 5.96 20.60.020
Ambulance Services	P	
Animal Sales and Services		
Animal Boarding/Kennels	MUP	20.60.050
Animal Grooming	P	20.60.050
Animal Hospitals/Clinics	MUP	20.60.050
Animal Retail Sales	P	20.60.050
Catering Services	P	
Eating and Drinking Establishments		
Take-Out Service - Limited	P	20.60.090

TABLE 2-13 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *	
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**IG**	**Specific Use Regulations**
Take-Out Service Only	P	20.60.090
Emergency Shelter	P	20.60.100
Funeral Homes and Mortuaries	CUP	
Health/Fitness Facilities		
Small - 2,000 sq. ft. or less	P	
Large - Over 2,000 sq. ft.	MUP	
Laboratories	P	
Maintenance and Repair Services	P	
Marine Services		
Boat Storage	MUP	
Boat Yards	MUP	
Personal Services		
Studios	P	
Postal Services	P	
Printing and Duplicating Services	P	
Recycling Facilities		
Collection Facility - Large	CUP	20.60.170
Collection Facility - Small	MUP	20.60170
Transportation, Communications, and Infrastructure Uses		
Communication Facilities	P	
Heliports and Helistops	CUP	
Parking Facilities	P	
Utilities	P	
Wireless Telecommunication Facilities	Municipal Code Chapter 15.70	
Vehicle Rental, Sale, and Service Uses		
Vehicle/Equipment Rentals		
Office Only	P	
Limited	P	
Vehicle/Equipment Rentals and Sales	MUP	
Vehicle/Equipment Repair		
General	CUP	
Limited	MUP	
Vehicle/Equipment Services		
Automobile Washing/Detailing	MUP	
Service Stations	CUP	20.62
Vehicle Storage	MUP	
Other Uses		
Accessory Structures and Uses	P	

TABLE 2-13 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning Districts Permit Requirements P Permitted By-Right CUP Conditional Use Permit (20.66.090) MUP Minor Use Permit (20.66.090) LTP Limited Term Permit (20.66.080) --- Not allowed *	
Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	**IG**	**Specific Use Regulations**
Caretaker Residence	P	
Drive-Through Facilities	CUP	20.60.090
Outdoor storage and display	MUP	MUP
Special Events	Municipal Code Chapter 11.03	
Temporary Uses	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

20.24.030 – Industrial Zoning Districts General Development Standards

New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Table 2-14, in addition to the development standards in Part 3 (Site Planning and Development Standards).

TABLE 2-14
DEVELOPMENT STANDARDS FOR INDUSTRIAL ZONING DISTRICTS

Development Feature	IG	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each NEWLY CREATED lot.*	
Lot Area	10,000 sq. ft.	
Lot Width	0	
Setbacks	*Minimum setbacks required for primary structures. See Section 20.30.040.D (Allowed Encroachment into Setback Areas) for setback measurement, allowed projections into setbacks, and exceptions.*	
Front	15 ft.	
Side (interior)	0	
Adjoining a nonindustrial zoning district	10 ft.	
Side (Street side)	15 ft.	
Rear	0	
Adjoining a nonindustrial zoning district	10 ft.	
Floor Area Ratio	0.75, or specified on the Official Zoning Map	
Height	*Maximum allowable height of structures without discretionary approval. See Section 20.30.050 (Height Limits and Exceptions) for height measurement requirements. See Section 20.30.050.B (Increase in Height Limit) for possible increase in height limit.*	
	32 ft. with flat roof, less than 4/12 roof pitch 37 ft. with sloped roof, 4/12 roof pitch or greater	
Fencing	*See Section 20.30.030 (Fences, Hedges, and Walls).*	
Landscaping	*See Chapter 20.48 (Landscaping Standards).*	
Lighting	*See Section 20.30.060 (Outdoor Lighting).*	
Parking	*See Chapter 20.52 (Off-Street Parking and Loading Standards).*	
Signs	*See Chapter 20.54 (Sign Standards).*	

Chapter 20.26 – Special Purpose Zoning Districts [OS, PC, PF, PI, and PR]

20.26.010 – Purposes of Special Purpose Zoning Districts
20.26.020 – Special Purpose Zoning Districts Land Uses and Permit Requirements
20.26.030 – Special Purpose Zoning Districts General Development Standards

20.26.010 – Purposes of Special Purpose Zoning Districts

The purposes of the individual special purpose zoning districts and the manner in which they are applied are as follows:

A. OS (Open Space) Zoning District. The OS zoning district is intended to:

1. Provide areas required to maintain and protect the community's natural open space resources; and

2. Maintain and protect landscaped open space areas located within residential and nonresidential developments, where no further development is allowed.

B. PC (Planned Community) Zoning District. The PC zoning district is intended to provide for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment; to allow diversification of land uses as they relate to each other in a physical and environmental arrangement while ensuring substantial compliance with the spirit, intent, and provisions of this Zoning Code; and to include various types of land uses, consistent with the General Plan, through the adoption of a development plan and related text materials which identify land use relationships and associated development standards.

C. PF (Public Facilities) Zoning District. The PF zoning district is intended to provide for areas appropriate for public facilities, including community centers, cultural institutions, government facilities, libraries, public hospitals, public utilities, and public schools.

D. PI (Private Institutions) Zoning District. The PI zoning district is intended to provide for areas appropriate for privately owned facilities that serve the public, including places for assembly/meeting facilities (e.g., religious assembly), congregate care homes, cultural institutions, health care facilities, museums, private schools, yacht clubs, and comparable facilities.

E. PR (Parks and Recreation) Zoning District. The PR zoning district is intended to provide for areas appropriate for land used or proposed for active public or private recreational use. Allowed uses include aquatic facilities, golf courses, marina support facilities, parks (both active and passive), private recreational facilities, tennis clubs and courts, and similar recreational facilities.

20.26.020 – Special Purpose Zoning Districts Land Uses and Permit Requirements

A. Allowed land uses. Table 2-15 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 (Land Use and Development Permit Procedures).

B. Prohibited land uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. Where the last column in the tables ("Specific Use Regulations") includes a Section number, the regulations in the referenced section apply to the use; however, provisions in other Sections of this Zoning Code may also apply.

TABLE 2-15
ALLOWED USES AND PERMIT REQUIREMENTS

Special Purpose Zoning Districts
Permit Requirements

P	Permitted By-Right
CUP	Conditional Use Permit (20.66.090)
MUP	Minor Use Permit (20.66.090)
LTP	Limited Term Permit (20.66.080)
---	Not allowed *

Land Use See Part 7 for land use definitions. See Chapter 20.12 for unlisted uses.	OS	PF	PI	PR	Specific Use Regulations
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities	---	MUP	MUP	MUP	
Commercial Recreation and Entertainment	---	---	MUP	CUP	
Cultural Institutions	---	MUP	MUP	MUP	
Parks and Recreational Facilities					
Active	---	MUP	MUP	MUP	
Passive	MUP	MUP	MUP	MUP	
Marine and Wildlife Preserves	MUP	---	---	---	
Schools, Public and Private	---	MUP	MUP	---	
Care Uses					
Child Day Center	---	---	MUP	---	20.60.070
Convalescent Facilities	---	---	MUP	---	
Day Care, General (15 or more)	---	---	MUP	---	
Emergency Health Facility	---	---	MUP	---	
Hospital	---	---	MUP	---	
Residential Care, Accessory Use Only	---	MUP	MUP	---	
Retail Trade Uses					
Alcohol Sales (on-sale), Accessory Only	---	---	MUP	CUP	
Service Uses - General					
Eating and Drinking Establishments					
Accessory (open to public)	---	---	MUP	MUP	20.60.090
Emergency Shelters	---	---	P	---	20.60.100
Governmental Facilities	---	MUP	---	MUP	
Marine Services - Boat Storage, accessory only	---	---	MUP	MUP	
Transportation, Communications, and Infrastructure					
Parking Facilities, Accessory Only	---	MUP	MUP	MUP	
Heliports and Helistops	---	MUP	---	---	
Wireless Telecommunication Facilities	Municipal Code Chapter 15.70				
Other Uses					
Accessory Structures and Uses	MUP	MUP	MUP	MUP	
Special Events	Municipal Code Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	20.66.080

* **Uses not listed.** Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

20.26.030 – Special Purpose Zoning Districts General Development Standards

The special purpose zoning district development standards shall be established during review of the required permit (e.g., Coastal Development Permit, Conditional Use Permit, or Minor Use Permit).

Chapter 20.28 – Overlay Zoning Districts [MPH, PM, and SP]

20.28.010 – Purposes of Overlay Zoning Districts
20.28.020 – Mobile Home Park (MHP) Overlay Zoning District
20.28.030 – Parking Management (PM) Overlay District
20.28.040 – Development Review (DR) Overlay District
20.28.050 – Overlay Zoning Districts General Development Standards

20.28.010 – Purposes of Overlay Zoning Districts

The purposes of the individual overlay zoning districts and the manner in which they are applied are outlines below. An overlay district may be initiated as a Zoning Map amendment in compliance with Chapter 20.80 (Amendments).

A. **MHP (Mobile Home Park) Overlay Zoning District.** The MHP overlay zoning district is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.

B. **PM (Parking Management) Overlay Zoning District.** The PM overlay zoning district is intended to provide for areas appropriate for parking management.

C. **Development Review (DR) Overlay Zoning District.** The DR Overlay zoning district is intended to implement adopted policies and criteria applicable within specific areas of the City. The DR Overlay zoning district may be combined with any other base zoning district in areas where it is determined that special attention to overall project design is required due to the unique character of the area and to ensure that proposed projects are in harmony with other quality development in the area.

20.28.020 – Mobile Home Park (MHP) Overlay Zoning District

A. **Uses allowed.** Uses allowed in the MHP Overlay Zoning District include only those uses listed below. When an MHP Overlay Zoning District is applied to an area, all uses previously allowed in the underlying zoning district are no longer allowed.

1. **Mobile home parks.** Mobile home parks as regulated by the State of California.

2. **Accessory structures and uses.** Accessory structures and uses incidental to the operation of mobile home parks (e.g., recreation facilities and/or community centers of a non-commercial nature, either public or private, storage facilities for the use of the mobile home park residents, and any other structures or uses that are incidental to the operation of a mobile home park).

B. **Removal of the Mobile Home Park Overlay District.** The Council shall not approve a Zoning Map amendment that would remove the MHP designation from a property, unless all of the following findings have first been made:

1. The proposed zoning is consistent with the General Plan, and in the event the proposed zoning is Planned Community, the PC development plan has been submitted and is consistent with the General Plan;

2. The property which is the subject of the Zoning Map amendment would be more appropriately developed in compliance with the uses allowed by the underlying base zoning, or proposed zoning, and if the underlying base zoning or proposed zoning is Planned Community, that a PC development plan has been submitted and the property would be more appropriately developed with the uses specified in that development plan; and

3. A mobile home park phase out plan has been prepared, reviewed, and found to be acceptable.

   a. A phase out plan shall not be found to be acceptable unless it includes all of the following:

      (1) A time schedule and method by which existing mobile homes, cabanas, ramadas, and other substantial improvements and tenants are to be relocated or appropriately compensated;

      (2) Methods of mitigating the housing impacts on tenants having low and moderate incomes, elderly tenants, and tenants who are handicapped; and

      (3) The programs or other means that are to be implemented properly address the housing impacts on those described in Subparagraph (2), above, are mitigated.

   b. For purposes of this finding, "low and moderate incomes" shall be defined in compliance with the provisions of the City's Housing Element.

20.28.030 – Parking Management (PM) Overlay District

A. Parking management district plan required. Before approving an amendment reclassifying land to a PM Overlay District, the Commission and Council shall approve a parking management district plan.

B. Establishment of parking management program(s). The parking management district plan shall identify existing and planned parking facilities and establish parking management programs necessary to adequately serve the parking needs of the area.

C. Exemptions. The parking management district plan shall also include a formula or procedure establishing the extent to which properties shall be exempted from the requirements of Chapter 20.52 (Off-Street Parking and Loading Standards).

20.28.040 – Development Review (DR) Overlay District

A. Uses allowed. Uses allowed within the DR Overlay zoning district shall be any use allowed in the base zoning district.

B. Project approval. Proposed projects within the DR Overlay zoning district shall be subject to approval of a Site Development Review in compliance with Section 20.66.070 (Site Development Review).

20.28.050 – Overlay Zoning Districts General Development Standards

The overlay zoning district development standards shall be established during review of the required permit (e.g., Conditional Use Permit, Minor Use Permit, Site Development Review).

– **This page intentionally left blank –**

Part 3
Site Planning and Development Standards

Table of Contents

Chapter 20.30 – Property Development Standards 5

20.30.010 – Purpose and Applicability 5
20.30.020 – Buffering and Screening [New] 5
20.30.030 – Fences, Hedges, and Walls 7
20.30.040 – Grade Establishment [New] 10
20.30.050 – Height Limits and Exceptions [Revised] 13
20.30.060 – Outdoor Lighting [New] 18
20.30.070 – Noise [New] 19
20.30.080 – Public View Protection [New] 20
20.30.090 – Setback Regulations and Exceptions 22
20.30.100 – Solid Waste and Recyclable Materials Storage [New] 29
20.30.110 – Traffic Safety Visibility Area 32

Chapter 20.32 – Density Bonus [New] 35

20.32.010 – Purpose 35
20.32.020 – Eligibility for Density Bonus and Incentives 35
20.32.030 – Allowed Density Bonuses 36
20.32.040 – Parking Requirements in Density Bonus Projects 41
20.32.050 – Allowed Incentives 41
20.32.060 – Incentives for Housing with Child Care Facilities 43
20.32.070 – Design and Distribution of Affordable Units. 43
20.32.080 – Continued Availability 44
20.32.090 – Occupancy and Resale of Common Interest Units. 44
20.32.100 – Affordable Housing Agreement 45

Chapter 20.34 – Inclusionary Housing 47

20.34.010 – Purpose 47
20.34.020 – Applicability. 47
20.34.030 – Regulations 47
20.34.040 – In Lieu Fees 49
20.34.050 – Affordable Housing Implementation Plan (AHIP) 49
20.34.060 – Alternatives to On-Site Construction 50
20.34.070 – Affordable Housing Agreement. 51
20.34.080 – Affordable Housing Trust Fund 52
20.34.090 – Adjustments, Waivers 53

Chapter 20.36 – Conversion or Demolition of Affordable Housing 55

20.36.010 – Purpose 55
20.36.020 – Applicability 55
20.36.030 – Exemptions 55

20.36.040 – Review Authority. 56
20.36.050 – Replacement of Affordable Housing 57
20.36.060 – Determining Requirements for Replacement Units. 57
20.36.070 – Feasibility Analysis. 58
20.36.080 – Administration and Feasibility Analysis Fees 59
20.36.090 – Findings to Conclude that Replacement of Units is Not Feasible. 59
20.36.100 – Affordable Housing Agreement 59

Chapter 20.38 – Bluff, Canyon, and Shoreline Protection in the Coastal Zone [New] 61

20.38.010 – Purpose 61
20.38.020 – Applicability 61
20.38.030 – Development Subject to Bluff and Canyon Setback Line 62
20.38.040 – Development Standards 63
20.38.050 – Permit Requirements 65

Chapter 20.40 – Bluff and Canyon Protection Outside the Coastal Zone [New] 69

20.40.010 – Purpose 69
20.40.020 – Applicability 69
20.40.030 – Development Subject to Bluff and Canyon Setback Line 69
20.40.040 – Development Standards 70
20.40.050 – Permit Requirements 72

Chapter 20.42 – Cultural Resource Protection Standards [New] 75

20.42.010 – Purpose 75
20.42.020 – Archaeological/Palaeontological Resources 75
20.42.030 – Historical and Architectural Resources 77

Chapter 20.44 – Resource Protection in the Coastal Zone [New] 79

20.44.010 – Purpose 79
20.44.020 – Applicability 79
20.44.030 – Determination of Sensitive Areas and Buffer Areas 79
20.44.040 – Allowed Activities and Uses 81
20.44.050 – Development Standards 84
20.44.060 – Permit Requirements 85

Chapter 20.46 – Resource Protection Outside the Coastal Zone [New] 89

20.46.010 – Purpose 89
20.46.020 – Applicability 89
20.46.030 – Determination of Sensitive Areas and Buffer Areas 89
20.46.040 – Allowed Activities and Uses 90
20.46.050 – Development Standards 91
20.46.060 – Permit Requirements 93

Chapter 20.48 – Landscaping Standards [New] 95

20.48.010 – Purpose 95
20.48.020 – Applicability 95
20.48.030 – Alternatives to requirements. 95
20.48.040 – Exempt projects. 95
20.48.050 – General Landscape Standards 96
20.48.060 – Landscape and Irrigation Plans 97
20.48.070 – Landscape and Irrigation Plan Standards. 97
20.48.080 – Fuel Modification 100

Chapter 20.50 – Nonconforming Uses and Structures 101

20.50.010 – Purpose 101
20.50.020 – Applicability 101
20.50.030 – Determination of Nonconformity 101
20.50.040 – Nonconforming Structures 102
20.50.050 – Nonconforming Uses 103
20.50.060 – Nonconforming Parking 104
20.50.070 – Landmark Structures 105
20.50.080 – Repair of Damaged or Partially Destroyed Nonconformities 107
20.50.090 – Termination of Nonconforming Status 108
20.50.100 – Abatement Periods 109

Chapter 20.52 – Off-Street Parking and Loading Standards 115

20.52.010 – Purpose 115
20.52.020 – Applicability 115
20.52.030 – Requirements for Off-Street Parking 116
20.52.040 – Off-Street Parking Spaces Required 117
20.52.050 – Development Standards for Parking Areas 121
20.52.060 – Parking for Nonresidential Uses in Residential Zoning Districts [New] 126
20.52.070 – Parking Standards for Residential Uses 127
20.52.080 – Off-Site Parking 128
20.52.090 – Adjustments to Off-Street Parking Requirements 129
20.52.100 – Parking Management Districts 131
20.52.110 – Off-Street Loading Requirements 131

Chapter 20.54 – Sign Standards 133

20.54.010 – Purpose 133
20.54.020 – Effect of Chapter 134
20.54.030 – General Provisions 135
20.54.040 – Definitions 136
20.54.050 – Prohibited Signs 143
20.54.060 – Provisions Applying to All Sign Types 144
20.54.070 – Standards for Permanent Signs 147
20.54.080 – Standards for Specific Types of Permanent Signs 157
20.54.090 – Standards for Temporary Signs 168
20.54.100 – Procedures for Sign Approval, Exemptions, and Revocations 172
20.54.110 – Modification Permit 176
20.54.120 – Comprehensive Sign Program 176
20.54.130 – Innovative Sign Program 177
20.54.140 – Nonconforming Signs 179
20.54.150 – Abandoned Signs 180
20.54.160 – Illegal Signs 180
20.54.170 – Maintenance Requirements 181
20.54.180 – Heritage Signs 182

Chapter 20.56 – Transportation Demand Management Requirements 185

20.56.010 – Purpose 185
20.56.020 – Applicability 185
20.56.030 – Transportation Demand Management Program 185
20.56.040 – Employment Generation Factors 186
20.56.050 – Site Development Requirements 186
20.56.060 – Equivalent Facilities or Measures. 187
20.56.070 – Enforcement and Penalties. 187

Chapter 20.58 – Transfer of Development Rights 189

20.58.010 – Purpose 189
20.58.020 – Applicability 189

20.58.030 – General Requirements 189
20.58.040 – Procedures 189
20.58.050 – Findings 190

Chapter 20.59 – Public Access in the Coastal Zone [New] 193

20.59.010 – Purpose 193
20.59.020 – Applicability 193
20.59.030 – Protection or Provision of Public Access Required 194
20.59.040 – Determination of Public Access 195
20.59.050 – Development Standards 196
20.59.060 – Permit Requirements 200

Tables

Table 3-1 Maximum Height of Fences, Hedges, and Walls 7
Table 3-2 Significant Noise Increase 20
Table 3-3 Encroachment 28
Table 3-4 Multi-Unit Development Minimum Common Storage Areas Required (Sq. Ft.) 30
Table 3-5 Nonresidential Structures Minimum Storage Areas Required (Sq. Ft) 31
Table 3-6 Very Low-Income 36
Table 3-7 Low-Income 37
Table 3-8 Moderate-Income 38
Table 3-9 Very Low-Income 39
Table 3-10 Habitats Presumed to be Environmentally Sensitive Habitat Areas 81
Table 3-11 Off-Street Parking Requirements 117
Table 3-12 Parking Setback from Alley 121
Table 3-13 Minimum Standard Parking Space Size 122
Table 3-14 Standard Vehicle Space Requirements 122
Table 3-15 Required Loading Spaces 131

Chapter 20.30 – Property Development Standards

Sections

20.30.010 – Purpose and Applicability
20.30.020 – Buffering and Screening [New]
20.30.030 – Fences, Hedges, and Walls
20.30.040 – Grade Establishment [New]
20.30.050 – Height Limits and Exceptions [Revised]
20.30.060 – Outdoor Lighting [New]
20.30.070 – Noise [New]
20.30.080 – Public View Protection [New]
20.30.090 – Setback Regulations and Exceptions
20.30.100 – Solid Waste and Recyclable Materials Storage [New]
20.30.110 – Traffic Safety Visibility Area

20.30.010 – Purpose and Applicability

The purpose of this Chapter is to ensure that all development produces an environment of stable and desirable character that is harmonious with existing and future development, and protects the use and enjoyment of neighboring properties, consistent with the General Plan.

The standards of this Chapter apply to all zoning districts. These standards shall be considered in combination with the standards for each zoning district in Part 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards), and Part 4 (Standards for Specific Land Uses). Where there may be a conflict, the standards specific to the zoning district or specific land use shall override these general standards.

All structures, additions to structures, and uses shall conform to the standards of this Chapter as determined applicable by the Director.

20.30.020 – Buffering and Screening [New]

This Section provides standards for the screening and buffering of adjoining land uses, equipment, and outdoor storage areas. Multi-unit residential and nonresidential land uses shall comply with the requirements of this Section.

A. Roof-mounted and ground-mounted mechanical equipment.

1. **Screening required.** The screening of roof-mounted and ground-mounted mechanical equipment is required in all zoning districts at the time of installation. Roof-mounted and ground-mounted mechanical equipment (e.g. air conditioning, heating, ventilation ducts and exhaust vents, swimming pool and spa pumps and filters, transformers and generators, and similar equipment, but excluding solar collectors and related equipment), shall be screened from public view and adjacent residential districts, and shall comply with the following:

2. **Exception to screening requirement.** Where it can be clearly demonstrated that the roof-mounted or ground-mounted mechanical equipment is not visible from any public rights-of-way and/or public property the above requirement shall not apply.

3. **Roof-mounted mechanical equipment.**

   a. **Screening.** Roof-mounted mechanical equipment shall not be visible in any direction (360 degrees) from a public right-of-way or adjacent residential property, as may be seen from a point 6 feet above ground level. In addition, screening of the top of roof-mounted mechanical equipment may be required by the Director, if necessary to protect views from a residential zoning district located at a higher elevation.

   b. **Height limit**. Roof-mounted mechanical equipment and screening shall be subject to the height limitations of Part 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) and any height limit exceptions in Section 20.30.050 (Height Limits and Exceptions).

   c. **Screening methods**. Screening of roof-mounted equipment shall be accomplished with mechanical roof wells recessed below the roof line or by solid and permanent roof-mounted screens. Screening shall be compatible with the architectural style, materials, and color of the building upon which the equipment is located, subject to the approval of the Department.

4. **Ground-mounted mechanical equipment.**

   a. **Screening.** Ground-mounted mechanical equipment shall be screened from any public rights-of-way and/or public property as seen from a point 6 feet above ground level.

   b. **Setback required**. Ground-mounted mechanical equipment and screening, except landscaping, shall be subject to the setback requirements of Part 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) and any allowed encroachments in Section 20.30.090 (Setback Regulations and Exceptions).

   c. **Screening methods**. Screening of ground-mounted mechanical equipment shall be accomplished with fences, walls, solid hedges, or other methods approved by the Department. Chain link fencing with or without slats is not allowed.

5. **Sound rating.** Roof-mounted and ground-mounted mechanical equipment shall be subject to Municipal Code Section 10.26.025 (Exterior Noise Standards).

6. **Mixed-Use and commercial zoning districts.** Mechanical equipment within mixed-use or commercial zoning districts shall be located so that the impact of noise on residential uses within the development and on adjacent residential uses is minimized to the greatest extent feasible in compliance with Municipal Code Section 10.26.025 (Exterior Noise Standards).

7. **Maintenance required**. Screening shall be maintained in good condition at all times. Landscaping used as screening shall provide a dense, year-round screen.

B. Outdoor storage and display areas. Where equipment, material, or merchandise is allowed to be stored outdoors these items shall be screened from view in compliance with Section 20.60.150 (Outdoor Storage, Display, and Activities).

C. Solid waste storage areas. Screening of solid waste storage areas and trash receptacles shall be provided in compliance with the requirements of Section 20.30.100 (Solid Waste and Recyclable Materials Storage).

D. Screening and buffering between different zoning districts.

1. **Nonresidential use.** Where a nonresidential use abuts a residential zoning district, a solid masonry wall a minimum of 6 feet in height shall be required.

2. **Industrial use.** Where an industrial use abuts a residential zoning district, a masonry wall a minimum of 8 feet in height shall be required.

20.30.030 – Fences, Hedges, and Walls

This Section provides standards for the provision of fences, hedges, and walls.

A. Maximum height allowed. Maximum heights of fences, hedges, and walls are shown in Table 3-1.

TABLE 3-1
MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS

Location	Maximum Height
Front setback areas.	42 inches. See Subsection B, below.
Rear and interior side setback areas.	6 ft. in residential and commercial zoning districts. 8 ft. in industrial zoning districts adjacent to residential uses.
Rear setback area abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport.	42 inches.
At intersections of streets, alleys and driveways within traffic sight areas.	See Section 20.30.110 (Traffic Safety Visibility Area).

B. Special area regulations.

1. **Balboa Peninsula, Balboa Island, Corona del Mar, and West Newport.** In front setback areas in Balboa Peninsula, Balboa Island, Corona del Mar, and West Newport fences and walls shall be allowed to extend to a height of 5 feet, provided that any portion of the fence or wall above 2 feet shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least 40 percent of the portion of the fence or wall above 2 feet is open.

2. **East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island.** In front setback areas adjacent to East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island, fences and walls shall be allowed to extend to a height of 5 feet, provided that any portion of the fence or wall above 2 feet shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least 40 percent of the portion of the fence or wall above 2 feet is open.

C. Exceptions to maximum height.

1. **Grade differential.** Where the existing grade of a lot adjacent to the front setback area is more than 24 inches above the adjacent sidewalk (or curb elevation where no sidewalk exists), a maximum 24-inch high retaining wall shall be allowed to be located at the front property line. Additional retaining walls shall be allowed to a maximum height of 36 inches each provided they are set back a minimum distance of 24 inches from the inward face of the previous retaining wall. Additional retaining walls shall be subject to the same limitation. A maximum 42-inch fence shall be allowed atop the upper most retaining wall for safety purposes, provided the fence is constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least 40 percent of the fence is open.

2. **Decorative fence/wall details and lights. [New]**

   a. Finials, light fixtures, pilaster caps, pots, and similar decorative items may be placed on fence or wall vertical support elements (e.g., pilasters, pillars, posts, etc.) provided they do not extend more than 12 inches above the maximum allowed height.

   b. The number of decorative items (e.g., finials, pilaster caps, pots, and similar items) and light fixtures shall be limited to not more than one item or fixture for every 6 lineal feet of fence or wall.

3. **Fencing for pools and spas. [New]**

   a. Swimming pools, spas, and other similar features shall be fenced in compliance with Municipal Code Title 15.

   b. Required fencing and guardrails for ponds, spas, and swimming pools in the rear setback areas of lots with 42-inch height limitations may be allowed to exceed the height limit up to the minimum required by Municipal Code Title 15 in compliance with the following standards:

      (1) Fences shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least 40 percent of the fence or wall is open; and

      (2) Fence height shall be limited to the minimum required by Municipal Code Title 15.

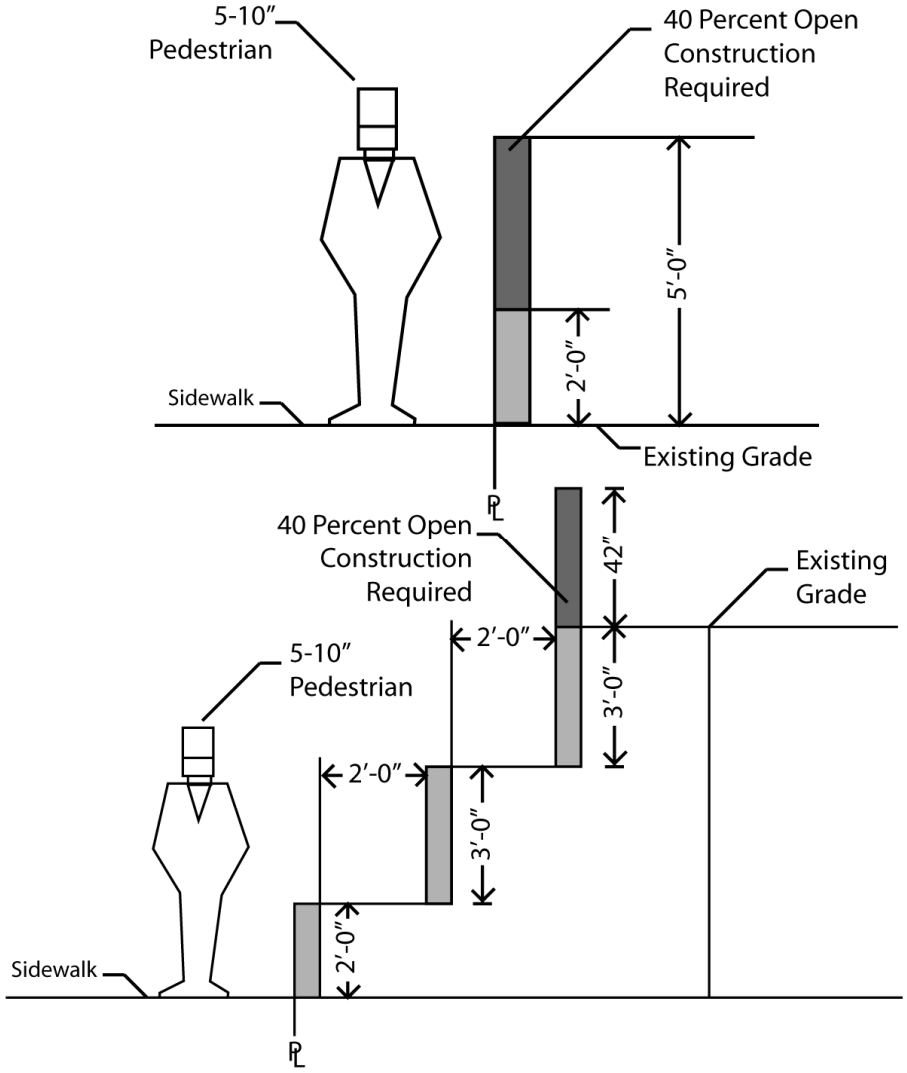


Figure 3-1
Grade Differential at Front Property Line

D. Measurement of fence or wall height. [New]

1. The height of a fence, hedge, or wall shall be measured from the existing grade at the location where the fence, hedge, or wall is located.

2. Where a fence or wall is constructed on top of a retaining wall the height of the fence or wall shall be measured from the side of the retaining wall with the highest elevation. See Figure 3-2

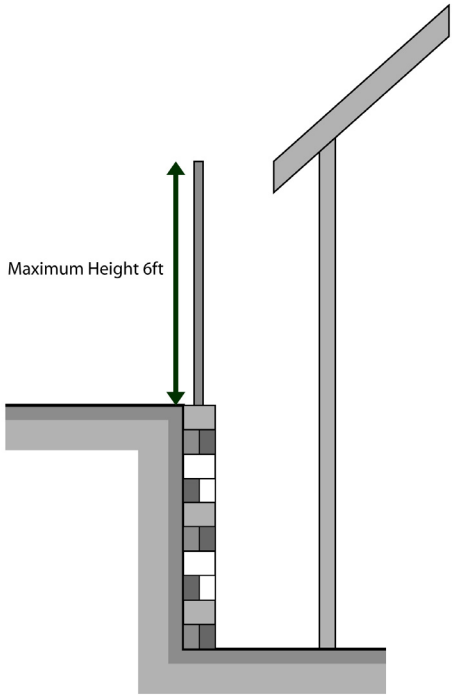


Figure 3-2
Fence Height

E. Prohibited fence materials. [New] Barbed wire, electrical fences, razor wire, and other similar materials shall not be allowed in a residential zoning district.

20.30.040 – Grade Establishment [New]

This Section provides regulations for establishing the slope and grade of a lot for the purpose of identifying the surface from which to measure structure height to be used in conjunction with the provisions of Section 20.30.050 (Height Limits and Exceptions).

A. Establishment of slope. In order to determine which of the two methods to use to establish the grade of the lot from which to measure structure height as provided in Subsection B, below, it is first necessary to determine the slope of the lot as follows:

1. The slope of a lot shall be determined using a 4-sided polygon that most closely approximates the actual footprint of the proposed structure. The area of the 4-

sided polygon shall not be smaller than the footprint of the proposed structure and shall be located entirely within the buildable area of the lot; (See Figure 3-3)

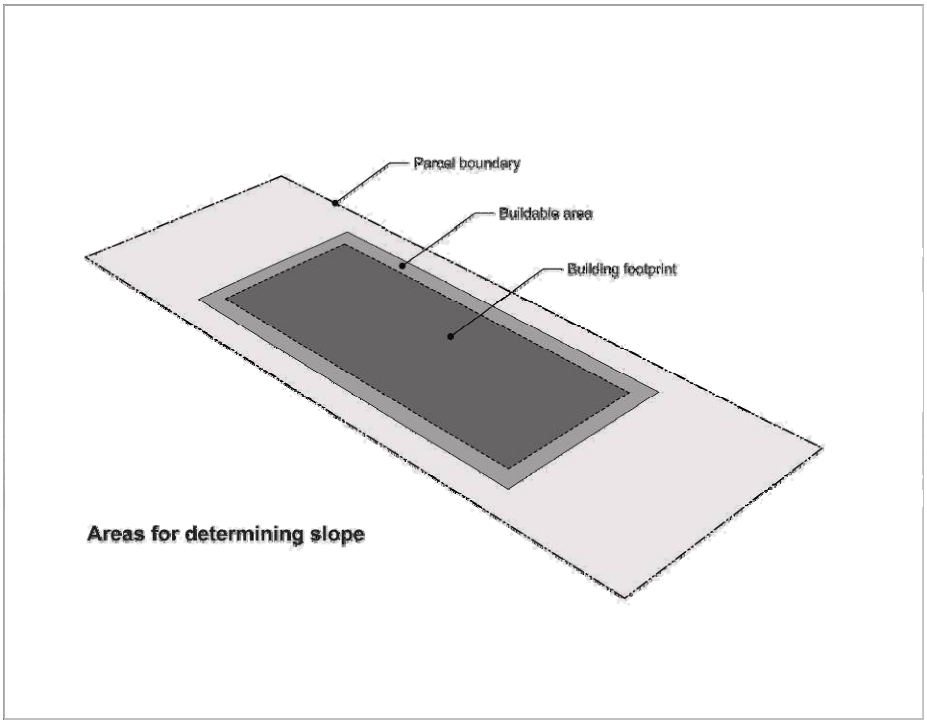


Figure 3-3
Area for Determining Slope

2. The slope of the polygon shall be determined using the highest and lowest elevation at any of the 4 corners of the polygon and the distance between the respective corners;

3. If the location of the polygon selected by the applicant is not clearly representative of the lot's topography or representative of the prevailing slopes on adjoining lots because of retaining structures or previous excavation/fill, the Director shall establish the appropriate area to be used to determine the slope of the lot.

B. Establishment of grade. The grade of a lot shall be established by one of the following methods unless the Director establishes the grade in compliance with Subsection C (Establishment of grade by Director), below.

1. Subdivisions. If the City approves or has approved a grading plan in conjunction with an approved subdivision, the established grade shall be the finished grade as shown on the grading plan or Final Subdivision Map.

2. 5 percent or less slope. On lots where the slope of the 4-sided polygon is 5 percent or less, the grade of the surface from which structure height is measured shall be a plane established using the average of the elevations at each corner of the 4-sided polygon. Example: A + B + C + D = X; X/4 = Established grade elevation from which to measure structure height.

3. More than 5 percent slope.

a. On lots where the slope of the 4-sided polygon is greater than 5 percent, the established grade from which structure height is measured shall be a plane established by determining the elevation of the lot at 5 evenly spaced points along each of the 2 side property lines and connecting each of the points along a side property line with the corresponding point on the opposite side property line.

b. The 5 evenly spaced points along each side property line shall be located so that one point is located at the intersection of the front setback line with the side property line and another point is located at the intersection of the rear setback line with the side property line. The other 3 points along the side property line shall be located so that all 5 points are equidistant from each other. (See Figure 3-4)

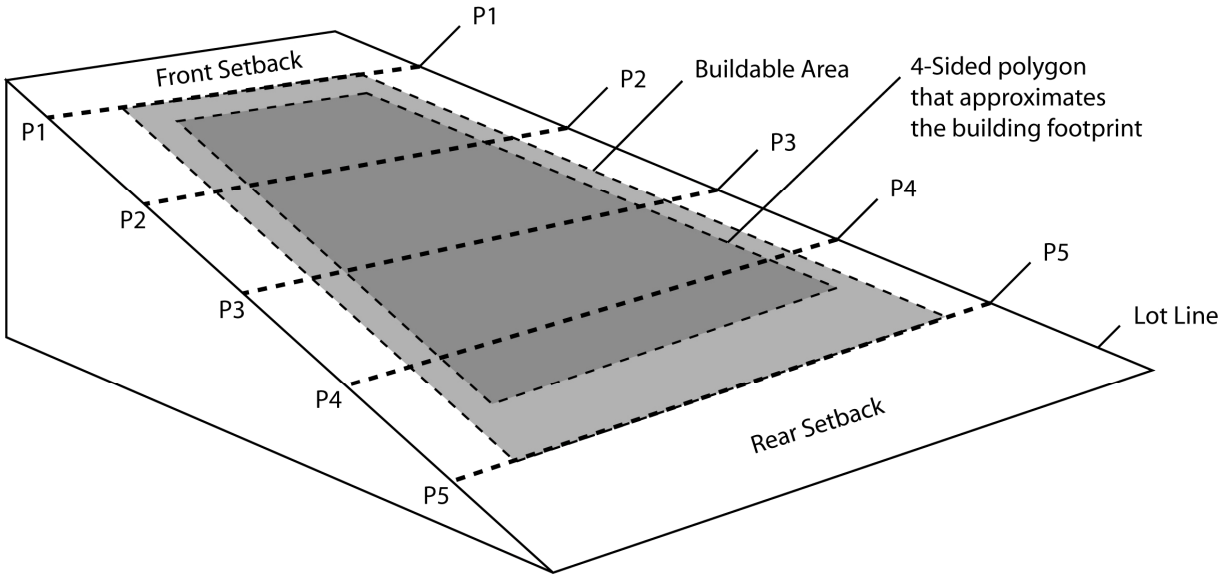


Figure 3-4
Slope Greater than 5%

b. On lots that slope an average of 20 percent or greater, or on irregularly shaped or sloping lots, the Director may require that additional points of elevation be provided.

C. Establishment of grade by Director. If the Director finds that the existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill) to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot, the Director shall establish the grade that is reasonable and comparable with the grades of adjoining lots and that will not be detrimental or injurious to property and improvements on adjoining lots.

20.30.050 – Height Limits and Exceptions [Revised]

This section establishes regulations for determining compliance with the maximum allowable height limits established for each zoning district by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards).

A. Height of structures and measurement.

1. Structure height established. Structures shall not exceed the maximum allowable height for the zoning district in which the structure is located in compliance with Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards), except as provided in Subsection B (Increase in height limit), or Subsection C (Exceptions to height limits and setback planes).

2. Height measurement. Height shall be measured as the vertical distance from the established grade of the pad to the highest part of the structure. The established grade of the pad shall be established by one of the methods identified in Section 20.30.040 (Grade Establishment).

3. Flood hazard areas.

a. Finished first floor elevation. The minimum required finished first floor elevation for interior living areas of all new structures within flood hazard areas established by the Flood Insurance Rate Maps recognized by the Building Department as part of flood safety requirements and maps adopted by the Council shall be at least 8.67 feet (NAVD 88) consistent with the Public Works Department standard for bulkhead elevation.

b. Height measurement. The height of a principal structure shall be measured from the elevation of the finished first floor, including habitable space over a garage or other nonhabitable space.

c. Accessory structures. The height of accessory structures may be measured from either the existing grade of the lot or the elevation established by the Flood Rate Maps.

4. Setback plane in R-1 and R-2 zoning districts. Height limits in the R-1 and R-2 zoning districts shall be regulated by a setback plane in compliance with the procedure below.

a. Setback plane established. A setback plane is established by projecting a vertical line at any point along a required setback line to a point the allowed height for a flat roof and beginning at that point

projecting a 45 degree angle extending toward the interior of the parcel to a point where it intersects a plane equal to the maximum height for the zoning district. (See Figure 3-X, (Setback and Height Planes), below.

b. Lots less than 40 feet in width. The 45 degree angle side setback area plane will not apply to structures on lots less than 40 feet in width. On those parcels only the front and rear setback plane will apply.

5. Structures on Ocean Boulevard. New structures and additions/changes to existing structures on the bluff side of Ocean Boulevard in Corona del Mar shall not be constructed to a height greater than the elevation of the adjacent curb. The top of curb height limit shall be established by a plane created by the extension of the top of curb line across each lot.

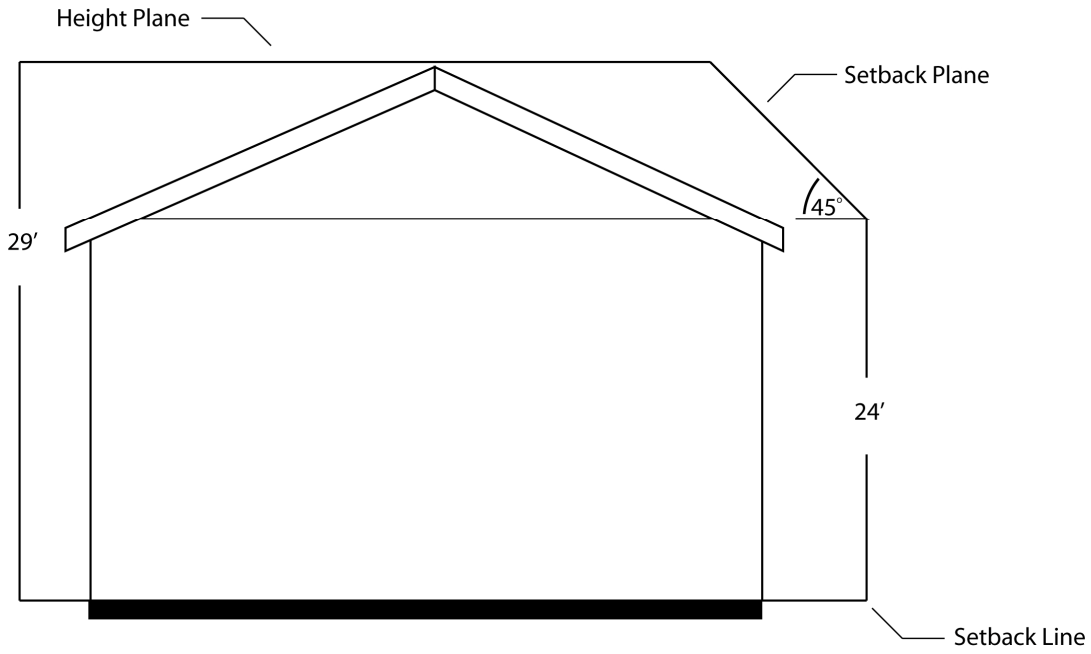


Figure 3-5
Setback and Height Planes

B. Increase in height limit.

1. Procedure. The base height limits established in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) may be increased within specified areas with the adoption of a planned community district, adoption of a specific plan, or approval of a Coastal Development Permit, Planned Development Permit, or Site Development Review. The maximum height limit is not guaranteed by right and shall require approval of a discretionary action when all applicable findings are met in compliance with Subparagraph 3, (Required findings), below.

2. **Height limit areas.** Except for the residential zoning districts, the location of the height limit areas are indicated on the "Height Limit Areas Map" (See Part 8, Figure H-1), which is incorporated and made a part of this Zoning Code. The designations of the height limit areas shall be as follows;

   a. **R-1 and R-2 zoning districts height limit area**. In this height limit area the base height limit for structures with flat roofs is 24 feet and the base height limit for structures with sloped roofs is 29 feet. The height of a structure may be increased up to a maximum of 28 feet with a flat roof or 33 feet with a sloped roof through the approval of a discretionary application as provided above. This height limit applies in all R-1 and R-2 zoning districts.

   b. **RM zoning district height limit area**. In this height limit area the base height limit for structures with flat roofs is 28 feet and the base height limit for structures with sloped roofs is 33 feet. The height of a structure may be increased up to a maximum of 32 feet with a flat roof or 37 feet with a sloped roof through the approval of a discretionary application as provided above. This height limit applies in all RM zoning districts.

   c. **Nonresidential shoreline height limit area**. In the nonresidential shoreline height limit area the base height limit for structures with flat roofs is 26 feet and the base height limit for structures with sloped roofs is 31 feet. The height of a structure may be increased up to a maximum of 35 feet with a flat roof or 40 feet with a sloped roof through the approval of a discretionary application as provided above. The shoreline height limit shall apply to all nonresidential zoning districts within its boundaries.

   d. **Nonresidential, nonshoreline height limit area.** In this height limit area the base height limit for structures with flat roofs is 32 feet and the base height limit for structures with sloped roofs is 37 feet. The height of a structure may be increased up to a maximum of 50 feet with a flat roof or 55 feet with a sloped roof through the approval of a discretionary application as provided above. This height limit shall apply to all nonresidential, nonshoreline zoning districts within its boundaries.

3. **Required findings.** The review authority may adopt a planned community district, adopt a specific plan, or approve a Coastal Development Permit, Planned Development Permit, or Site Development Review to allow an increase in the height of a structure above the base height only after first making all of the following findings in addition to the findings required for the discretionary permit application:

   a. The project applicant is providing additional project amenities beyond those that are otherwise required:

      (1) Additional landscaped open space;
      (2) Increased setback and open areas;
      (1) (3) Additional or improved coastal access beyond that required;
      (2) (4) Enhancement and protection of public views; and
      (3) (5) Provision of public parking for coastal access.

b. The architectural design of the project provides visual interest through the use of light and shadow, recessed planes, vertical elements, and varied roof planes;

c. The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed structure(s) and existing adjacent developments or public spaces. Where appropriate, the proposed structure(s) provide a gradual transition to taller or shorter structures on abutting properties; and

d. The structure will have no more floor area than could have been achieved without the approval of the height increase.

C. Exceptions to Height Limits and Setback Planes

1. **Boat cranes.** Boat cranes used in conjunction with an approved marine-oriented nonresidential use may be allowed to exceed the maximum height limit up to a maximum operating height of 70 feet, subject to the approval of a Minor Use Permit.

2. **Chimneys and vents.** Chimneys for interior fireplaces and roof-mounted vents shall be allowed to exceed height limits to the minimum extent required by Municipal Code Title 15 (Building and Construction). Chimneys shall be allowed an additional 12 inches in height to provide a spark arrestor or a decorative architectural screen. Chimneys including a spark arrestor or decorative architectural screen shall be no larger than 2 feet in width and 4 feet in length. Chimneys for exterior fireplaces shall conform to the maximum height limit for the zoning district.

3. **Dormers.** [New] Dormers may be allowed to exceed the maximum height provided that:

   a. The total width of the dormer that exceeds the height limit shall not be greater than 50 percent of the length of the side of the structure ; and

   b. The dormer shall not extend beyond a setback plane more than 2 feet from its intersection with the setback plane.

4. **Elevator shafts, enclosed stairwells**. Elevator shafts and enclosed stairwell housings may exceed the allowed height limit by the minimum height required by Municipal Code Title 15 (Building and Construction) provided they do not exceed 30 square feet in area, unless a larger elevator is required by Municipal Code Title 15 and/or Fire Department. In these instances, the area of the elevator or stair housing shall not exceed the minimum size required by Municipal Code Title 15 and/or Fire Department. Elevator shafts and enclosed stairwell housings that exceed 30 square feet in area shall have sloped roofs with a minimum 3/12 pitch.

5. **Fences, hedges, and walls.** Refer to Section 20.30.030 (Fences, hedges, and walls) for exceptions to height limits for these structures.

6. Flag poles.

a. Ground-mounted flag poles shall be allowed in residential zoning districts to a maximum height of 28 feet and in nonresidential zoning districts to a maximum height of 35 feet.

b. Flag poles mounted on tops of buildings located in nonresidential zoning districts shall be allowed to exceed the maximum height limit by up to 20 feet. [New]

7. Landmark buildings. An alteration or addition to a Landmark Building shall be exempt from height limits, provided that structural alterations or additions that exceed the height of the existing structure shall require approval of a Site Development Review in compliance with Section 20.66.070 and shall not exceed a maximum of 55 feet in height. The Site Development Review may be approved only if all of the following findings are first made in addition to those findings identified on Section 20.66.070:

a. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact views from public rights-of-way.

b. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the Landmark Building.

c. The allowed height of the Landmark Building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the Landmark Building.

8. Light standards. Light standards may be allowed to exceed maximum height limits, subject to the approval of a Site Development Review in compliance with Section 20.66.070. All light fixtures and standards shall comply with the requirements of Section 20.30.060 (Outdoor Lighting).

9. Mechanical and solar equipment.

a. Nonresidential zoning districts. In nonresidential zoning districts, roof-mounted mechanical and solar equipment, totaling not more than 30 percent of the total roof area, including required screening devices, shall be allowed to exceed the maximum height limit by up to 5 feet.

b. Residential zoning districts. In residential zoning districts, roof-mounted solar equipment, totaling not more than 30 percent of the total roof area, shall be allowed to exceed the maximum height limit by up to 3 feet.

10. Assembly and meeting facilities. Structures used as places of worship may be allowed to exceed the height limit subject to the approval of a Site Development Review in compliance with Section 20.66.070. Where more that one structure exists or is proposed for the site, only the principal structure shall be eligible for approval to exceed the maximum height limit.

11. **Skylights and roof windows.** When mounted on a flat roof, skylights or roof windows shall be allowed to exceed the maximum height limit by up to 6 inches.

D. Airport area height limits.

1. **Development applications.** Applicants for projects that require a notice of construction or alteration by Federal Aviation Administration (FAA) Regulations Part 77 shall submit a copy of the FAA application to the Airport Land Use Commission (ALUC) and provide the City with FAA and ALUC responses.

2. **ALUC review.** Development projects that include structures greater than 200 feet above existing grade shall be submitted to the Airport Land Use Commission (ALUC) for review. ALUC review comments shall be submitted to the City within 60 calendar days from the date of referral of the application to the ALUC and the determination shall be considered by the City before action on the project. If the ALUC fails to make a determination within the 60-day period, the proposed project shall be deemed consistent with the Airport Environs Land Use Plan (AELUP).

   In addition, projects that exceed a height of 200 feet shall file Form 7460-1 with the Federal Aviation Administration (FAA).

20.30.060 – Outdoor Lighting [New]

This Section provides standards for the installation and use of outdoor lighting and shall apply to all uses of property. The standards are intended to reduce unnecessary illumination of adjacent properties, conserve energy, minimize detrimental effects on sensitive environmental areas, and provide minimum standards for safety.

A. Protection from glare. Exterior lighting in nonresidential zoning districts shall comply with the following:

1. **Shielding required.** Exterior lighting shall be shielded and light rays confined within boundaries of the site.

2. **Light spill prohibited.** Direct rays or glare shall not create a public nuisance by shinning onto public streets and adjacent sites.

3. **Maximum light at property line.** Not more than one candlefoot of illumination shall be present at the property line.

B. Photometric study. The Director may require a photometric study as part of a development application if the Director determines that there is a potential significant negative impact on surrounding land uses, sensitive coastal resource areas, riparian habitats, arroyos, and lowland or upland habitat areas.

C. Lighting fixtures. Exterior lights shall consist of a light source, reflector, and shielding devices so that, acting together, the light beam is controlled and not directed across a property line.

D. Parking lot light standards. Light standards within parking lots shall be the minimum height required to effectively illuminate the parking area and eliminate spillover of light and glare onto adjoining properties. To accomplish this, a greater number of shorter light standards may be required as opposed to a lesser number of taller standards.

E. Outdoor recreation/entertainment areas. Sports courts and similar facilities for outdoor recreation or entertainment located within a residential zoning district or closer than 200 feet to the boundary of a residential zoning district, shall not be lighted above ground level immediately adjacent to the facility unless a Minor Site Development Review has been approved in compliance with Section 20.66.070 (Site Development Review).

20.30.070 – Noise [New]

This Section establishes standards for the regulation of noise levels to protect the health, safety, and welfare.

A. Compliance with Noise Control provisions. All land use activities shall comply with the provisions of this Section and Chapters 10.26 (Community Noise Control) and 10.28 (Loud and Unreaonable Noise) of the Municipal Code.

B. Acoustical study. The Director may require the preparation of an acoustical study in instances where it has been determined that a project may expose existing noise-sensitive land uses to noise levels exceeding the standards specified in Chapters 10.26 or 10.28 of the Municipal Code.

C. Noise exposure verification for new development. Applicants for projects located in areas projected to be exposed to a CNEL of 60 dBA and higher may conduct a field survey, noise measurements, or other noise modeling analysis in a manner acceptable to the Director to provide evidence that the noise contours identified in the Noise Element of the General Plan do not adequately account for local noise exposure circumstances due to topography, variation in traffic speeds, and other conditions. These findings shall be used to determine the level of required noise attenuation methods and the feasibility of mitigation.

D. Noise regulations. The following acts are a violation of this Section and are prohibited.

1. **Deliveries.** Deliveries to a site within a nonresidential zoning district shall be allowed between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and Saturdays and between the hours of 9:00 a.m. and 10:00 p.m. on Sundays and Federal holidays.

2. **Loading and unloading operations.** Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage containers, or similar objects in a nonresidential zoning district shall not be allowed between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and Saturdays and between the hours of 9:00 a.m. and 10:00 p.m. on Sundays and Federal holidays.

E. Noise sensitive land uses. New noise sensitive land uses that will be impacted by existing land use related noise sources shall be required to mitigate the noise levels from those noise sources so that the resulting noise levels on the proposed noise-sensitive land use(s) do not exceed the standards in Chapter 10.26 (Community Noise Control) of the Municipal Code.

F. Mitigation of impacts. Noise mitigation measures may be required in conjunction with the approval of an application for new development when a significant noise impact is identified. A significant noise impact occurs when there is an increase in the ambient CNEL produced by new development as indicated in Table 3-2, below.

TABLE 3-2
SIGNIFICANT NOISE INCREASE

CNEL (dBA)	dBA increase
55	3
60	2
65	1
70	1
Over 75	Any increase is considered significant

20.30.080 – Public View Protection [New]

This Section provides regulations to ensure that new development is sited and designed to protect and, where feasible, enhance the scenic and visual qualities of the City, including public views to, from, and along the ocean, bay, and harbor and to bluffs, canyons, open space, and other scenic areas. It is not the purpose of this Section to protect views from private property.

A. Applicability. The provisions of this Section shall apply to discretionary applications for new development that has the potential to obstruct public views from public view points and roads as designated on General Plan Figure NR 3 (Coastal Views) to the Pacific Ocean, Newport Bay and harbor, offshore islands, the Old Channel of the Santa River (the Oxbow Loop), Newport Pier, Balboa Pier, designated landmark and historic structures, parks, coastal and inland bluffs, canyons, mountains, wetlands, and permanent passive open space.

B. Initial evaluation. Applications involving a new structure or expansion of an existing structure that involves one or more of the characteristics listed below shall be reviewed to evaluate the development's potential to impact public views:

1. The project site is located adjacent to the first public roadway paralleling the ocean, bay, harbor, channels, estuary, marsh, or slough;

2. The project site is located adjacent to a coastal or inland bluff or canyon;

3. The project site is adjacent to a public view point, road, public park or beach, or public accessway; or

4. The project site contains significant natural landforms or natural vegetation.

C. Visual impact analysis. If the initial evaluation indicates that the project may result in significant impacts impact to a public viewshed or the scenic and visual qualities of the Coastal Zone, the Director may require a site-specific visual impact analysis to determine and quantify impacts to the visual quality of the area and to visual access and identify mitigation measures designed to reduce or eliminate those impacts.

Where a new development has the potential to obstruct public views from a public right-of-way, park, scenic overlook, or similar public land to a significant scenic resource, a detailed view impact analysis may be required by the Department. The view analysis shall be prepared at the project proponent's expense. The analysis shall include recommendations to avoid impacts to significant views from public lands and rights-of-way and the recommendations shall be incorporated into the project's design.

D. View protection easement. Where appropriate, the review authority may require applicants to provide public view protection easements to protect public views or to restore public views in developed areas.

E. Project design and siting standards.

1. Development projects shall be designed and sited to minimize impacts to public views and, where feasible, enhance the scenic and visual qualities of the City.

2. Development projects on the edges of roads, including those along public streets, shall be designed and sited to frame and accent public views.

3. Where feasible, development projects shall incorporate setbacks that, in conjunction with setbacks on adjacent properties, will form functional public view corridors.

4. Larger development projects shall be designed so that structures are clustered, where feasible, and/or provide greater setbacks from adjacent development in order to provide open corridors and portals to create new and enhance existing public views.

5. Where feasible, development along roads shall prevent an appearance of the public right-of-way being walled off from the public viewsheds.

F. Landscape standards.

1. Landscape improvements shall be installed and maintained to ensure that landscape materials do not obscure or block public views at maturity.

2. Landscaping within public view corridors shall be limited to low-growing species that will not obscure or block public views.

3. Landscaping at the edges of roads from which there is a public view shall be designed, planted and maintained to frame and accent public views.

4. Landscaping shall be properly maintained in order to preserve and promote the aesthetic and environmental benefits provided by trees and the preservation of public views of the surrounding locale, recognizing views can be enhanced and framed by properly maintained trees.

G. Signs. Freestanding signs shall be designed and sited to ensure that they do not obscure or block public views.

H. Rooftop Mechanical Equipment. The design and location of rooftop mechanical equipment and any required screening devices shall be considered early in the design process and identified on building plans to insure that the equipment will not obscure or block public views.

I. Utilities. In non-residential districts, new utility connections and appurtenant and associated utility equipment shall be placed underground unless the Public Works Director determines that undergrounding is physically infeasible.

J. Antennas. The design and location of antennas and any required screening devices shall be considered early in the design process and identified on building plans to insure that the equipment will not obscure or block public views.

K. Landform alteration. Development shall be designed to minimize the alteration of bluffs, canyons, gullies, ravines, rock outcroppings, and other natural landforms and the removal of native vegetation. Site design and construction techniques may include the following:

1. Placing development on the flattest area of the site, except when an alternative location is more protective of coastal resources;

2. Utilizing existing driveways and building pads to the maximum extent feasible;

3. Clustering building sites;

4. Shared use of driveways;

5. Designing buildings to conform to the natural contours of the site, and arranging driveways and patio areas to be compatible with the slopes and building design;

6. Utilizing special foundations, (e.g., stepped, split level, or cantilever designs);

7. Detaching parts of the development; and

8. Requiring altered slopes to blend into the natural contours of the site.

20.30.090 – Setback Regulations and Exceptions

This Section establishes standards to ensure the provision of open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light and ventilation; separation of incompatible land uses; space for privacy, landscaping, and recreation; protection of natural resources; and safety from fire and geologic hazards.

A. Setback requirements.

1. Structures.

a. Principal structures. Principal structures shall conform with the setback requirements established for:

(1) Each zoning district in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) of this Code;

(2) Any specific uses identified in Part 4 (Standards for Specific Land Uses) of this Zoning Code;

(3) Any special setback areas established in Chapters 20.38 (Bluff, Canyon, and Shoreline Protection Standards in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Standards Outside the Coastal Zone); and

(4) Any special setback areas established in Municipal Code Title 9 and Title15.

b. Access to dwellings. On lots 30 feet wide or more, a 4 foot side setback area shall be maintained up to a minimum height of 8 feet above existing grade between the primary entrance of a single- or two-unit dwelling and the public street or alley. Within this area, a 3-foot wide unobstructed walkway shall be provided. The walkway shall be paved and the only above grade encroachments allowed in this area shall be steps necessary for use of a first floor entrance. The requirements of this Section are not intended to affect the buildable area of a lot.

c. Access to side setback area. Regardless of the setback area encroachments allowed by this Subsection, a minimum 36-inch wide passageway shall be maintained within at least one side setback area adjacent to the principal structure in compliance with the following:

(1) The passageway shall be free of any encroachments or obstructions from ground level to a height of 8 feet, including mechanical equipment, and other items attached to, or detached from, the principal structure;

(2) Fences and walls located immediately adjacent to the property line may encroach up to 6 inches. No reduction or modification to this requirement shall be allowed; and

(3) The opposite side setback area may have encroachments allowed by this Subsection.

d. Accessory structures. All accessory structures shall comply with the setback requirements established for:

(1) Accessory Structures in Section 20.30.090 and any allowed encroachments provided in this Section; and

(2) Any special setback areas established in Municipal Code Title 9 and Title15.

2. Setback areas to be open. Each required setback area shall be open and unobstructed from the ground upward, except as provided in this Section.

B. Location and measurement of setbacks. Setbacks shall be located and measured as follows:

1. General.

a. Measure at right angles. The distance/depth of a setback area (i.e., front, side, or rear) shall be measured at right angles from the nearest property line establishing a setback area line parallel to that property line.

b. Future street right-of-way. Whenever a future street right-of-way line is officially established, required setback areas shall be measured at right angles from the established future right-of-way line(s).

2. Front setback area.

a. General. The front setback area shall extend across the entire width of the lot frontage.

b. Corner lots. The front setback area for a corner lot shall be measured from the property line adjoining the street to which the property is addressed.

3. Side setback area. The side setback area shall be established by a line parallel with the side property line and extending between the front and rear setback areas.

4. Street side setback area. The side setback area on the street side of a corner lot shall be established by a line parallel with the side property line adjoining the street and extending between the front and rear setback areas.

5. Rear setback area.

a. General. The rear setback area shall extend across the entire width of the rear of the lot.

b. Irregular shaped lots. Where the side lot lines converge to a point at the rear of the lot, a line 10 feet long within the lot, parallel to and at a maximum distance from the front lot line, shall be deemed to be the rear lot line for the purpose of determining the depth of the required rear setback area. See Figure 3-X. (Rear Setback Areas on Irregularly-shaped Lots), below

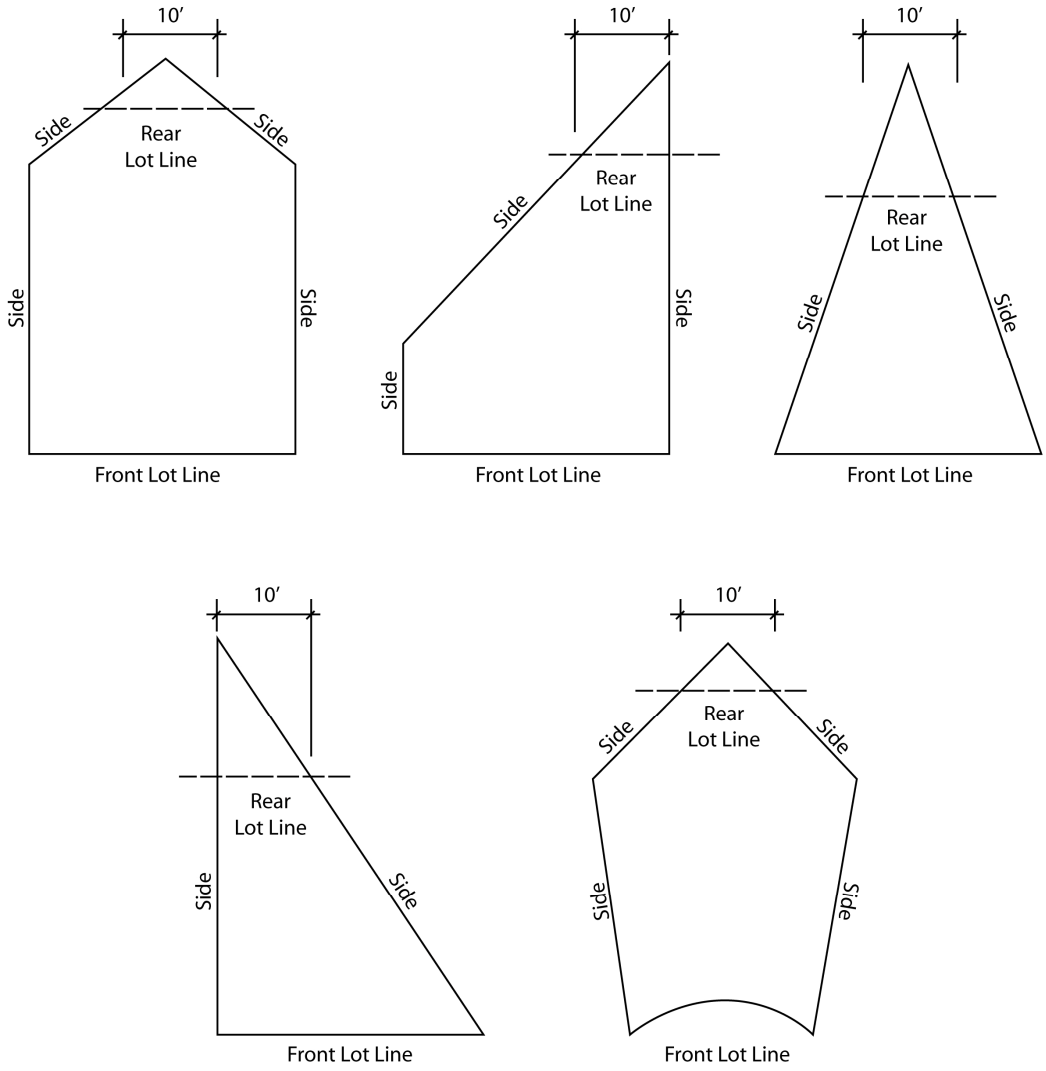


Figure 3-6
Rear Setback Areas on Irregularly-Shaped Lots

6. Bluff and canyon setback area. The bluff and canyon setback area shall be established in compliance with Chapters 20.38 (Bluff, Canyon, and Shoreline Protection Standards in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Standards Outside the Coastal Zone). The bluff and canyon setback area shall/may be used in determining the maximum potential building envelope for the lot.

C. Alternative setback area location. In cases where the orientation of an existing lot and the application of the setback area is not consistent with the character or general orientation of other lots in the vicinity, the Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. This reorientation of setback areas is not applicable to bluff and canyon setback lines/areas.

D. Allowed encroachments into setback areas. Encroachments into required setback areas are allowed in compliance with the standards in this Subsection, except as provided Paragraph 1, below.

1. Exceptions.

a. Waterfront areas. Allowed encroachments into required setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport shall not exceed a height of 42 inches above the existing grade.

b. Bluff and canyon areas. The encroachments allowed by this Subsection do not apply to a bluff or canyon setback areas. For allowed encroachments into a Bluff or Canyon Setback Areas refer to Chapters 20.38 (Bluff, Canyon, and Shoreline Protection Standards in the Coastal Zone) and 20.40 (Bluff and Canyon Protection Standards Outside the Coastal Zone).

2. Accessory structures

a. Accessory structures, including housings for mechanical equipment, not more than 6 feet in height and totaling no more than 150 square feet per structure, may be located within a required side or rear setback area other than those abutting an alley.

b. Arbors, trellises, and similar garden structures may be allowed to encroach into required front, side, and rear setback areas subject to the following limits:

(1) The maximum footprint of the structure shall not exceed 16 square feet; and

(2) The maximum height of the structure shall not exceed 9 feet.

c. Fences, hedges, and walls may be established within required setback areas in compliance with the requirements of Section 20.30.030 (Fences, Hedges, and Walls).

d. Solar devices, hot tubs, and other similar equipment that are placed directly upon the existing grade and are less than 36 inches in height may be located within a required side or rear setback area other than those abutting an alley.

e. Decks, landings, patios, platforms, porches, steps, and terraces, and similar structures not more than 18 inches **[new]** in height measured from the existing grade may be located within a required side or rear setback area other than those abutting an alley.

3. Architectural features.

a. Roof overhangs, brackets, cornices, and eaves may encroach up to 30 inches into any required front, side, or rear setback area, provided that no architectural feature shall project closer than 24 inches from a side property line and a minimum vertical clearance above grade of at least 8 feet is maintained

b. Decorative architectural features (e.g., belt courses, ornamental moldings, pilasters, and similar features) may encroach up to 6 inches into a required setback area.

4. Awnings and canopies. Awnings and canopies may encroach into required setback areas up to a maximum of 5 feet subject to the following limits.

a. Residential districts.

Front: One half the depth of the required front setback area
Side: 0 feet
Rear: 2½ feet
Vertical Clearance: 6½ feet above grade

b. Nonresidential districts, including mixed use districts

Front: One half the depth of the required front setback area
Side: 2 feet
Rear: One half the depth of the required rear setback area
Vertical Clearance: 8 feet above grade.

5. Balconies abutting East Ocean Front and West Ocean Front.

a. Balconies may encroach up to a maximum of 36 inches into a required front setback area along East Ocean Front and West Ocean Front. Balcony railings shall not exceed a maximum height of 42 inches and shall be constructed of either transparent material (except for supports) or opaque material (e.g., decorative grillwork, wrought iron, latticework, or similar open materials) so that at least 40 percent of the railing is open.

b. Balconies shall be cantilevered so that no underlying support is necessary. Roofs over balconies shall not be allowed to encroach into required front setback areas except as provided in Section 20.30.090.D.3 (Architectural features), above.

6. Bay windows and greenhouse windows. Bay windows and greenhouse windows shall be allowed to encroach into required setback areas subject to the following limits:

a. No more than 2 bay windows or greenhouse windows shall be allowed to encroach into any one setback area.

b. Bay windows and greenhouse windows shall not to exceed 8 feet in width or 10 feet in height within the area of encroachment.

c. Bay windows and greenhouse windows shall be cantilevered and shall be designed to preclude use as a door or entry.

d. The exterior bottom surface of a bay window or greenhouse window shall be elevated a minimum of 18 inches above the adjacent finished interior floor surface at the required building setback line.

e. Encroachments into required setback areas shall be limited as follows:

TABLE 3-3
ENCROACHMENT

Standard	Allowed Encroachment	Additional Regulations
Front setback (4 feet to less than 10 ft.):	16 in.	
Front setback (10 ft. or more):	2 ft.	
Side setback:	2 ft.	Limited to first floor only.
Rear setback:	2 ft.	Not allowed when the rear property line abuts an alley.
Distance Between Detached Structures:	2 ft.	

7. Fireplaces, barbeques, and chimneys - attached [New]

a. Front and rear setback area. Fireplaces, barbeques, and chimneys attached to the principal structure that are less than 9 feet in width may encroach up to 2 feet into a required front or rear setback area that is 10 feet or greater in depth.

b. Side setback area. Fireplaces and chimneys attached to the principal structure that are less than 9 feet in width may encroach up to 30 inches into a required side setback area provided that the encroachment shall be at least 24 inches from the side property line.

8. Fireplaces and barbeques - freestanding. [New]

a. Front setback area. Freestanding fireplaces (gas only) and barbeques with a maximum height of 42 inches (not including the barbeque hood) shall be allowed to encroach into the required front setback area provided the total length of the barbeque and counter does not exceed 6 feet.

b. Side and rear setback area. Freestanding fireplaces (gas only) and barbeques with a maximum height of 6 feet shall be allowed to encroach into the required side or rear setback area provided a minimum 36-inch clear path of travel is maintained adjacent to any habitable structures.

9. **Garages and carports for duplexes.** Where 3 parking spaces are located in garages or carports across the rear of a lot that is less than 30 feet 10 inches wide, one garage/carport wall or support may encroach into the required side setback area subject to the following:

   a. **Distance to property line.** The distance from the garage wall or carport support element to the closest side property line shall be not less than 26 inches plus the amount that the width of the lot exceeds 30 feet. The other side setback area shall have a clear passageway a minimum of 36 inches wide, clear of any obstructions; and

   b. **Width of garage/carport.** The width of each garage/carport shall not be larger than the minimum required by Section 20.52.070 (Parking Standards for Residential Uses).

10. **Foundations, basement walls, and structural supports. [New]** Foundations, basement walls, and their structural supports (caissons) that are located completely below grade may encroach into a required setback area up to 12 inches, provided they are located at least 24 inches from any property line.

11. **Light standards. [New]** In nonresidential zoning districts, light standards used in conjunction with the illumination of parking lots and walkways shall be allowed to encroach into a required setback area provided all of the requirements of Section 20.30.060 (Outdoor Lighting) are complied with.

12. **Protective Railing**. Protective railings around balconies and windows required by Municipal Code Title 15 may encroach up to 6 inches into a required setback area.

13. **Second stories abutting alleys**. In residential districts having alleys to the rear of the lot or development site, a second story encroachment may be allowed to encroach into the required setback area subject to the following conditions:

   a. Encroachments shall not extend closer than 7.5 feet to the center of any alley;

   b. Encroachments shall not extend closer than 2.5 feet to the rear property line;

   c. That portion of the building that encroaches into the required rear setback area shall have a minimum ground clearance of 8 feet; and

   d. No encroachment shall be allowed on lots having a depth exceeding 85 feet.

14. **Swimming pools.** Swimming pools may encroach into a side or rear setback area.

20.30.100 – Solid Waste and Recyclable Materials Storage [New]

A. Purpose. This Section provides standards for the provision of solid waste (refuse) and recyclable material storage areas in compliance with State law (California Solid Waste

Reuse and Recycling Access Act, Public Resources Code Section 42900) and Chapter 6.04 (Garbage Refuse and Cuttings) of the Municipal Code.

B. Applicability.

1. **New developments.** All new development projects requiring a Building Permit shall provide adequate, accessible, and convenient areas for collecting and loading solid waste and recyclable materials.

2. **Existing developments undergoing alterations.** An existing development that is undergoing alterations, including remodeling and additional floor area shall provide adequate, accessible, and convenient areas for collecting and loading solid waste and recyclable materials in compliance with this Section to the greatest extent possible as determined by the Director.

C. Multi-unit projects. Multi-unit residential projects with 5 or more dwelling units shall provide refuse and recyclable material storage areas in compliance with the requirements provided in Table 3-4, below.

TABLE 3-4
MULTI-UNIT DEVELOPMENT
MINIMUM COMMON STORAGE AREAS REQUIRED
(SQ. FT.)

Number of Dwellings	Refuse	Recycling	Total Area
5-6	16	16	32
7-15	24	24	48
16-25	48	48	96
26-50	96	96	192
51-75	144	144	288
76-100	192	192	384
101-125	240	240	480
126-150	288	288	576
151-175	316	316	672
176-200	384	384	768
201+	Every additional 25 dwellings shall require an additional 100 sq. ft. for solid waste and 100 sq. ft. for recyclables.		

D. Nonresidential projects. Nonresidential projects within all zoning districts shall provide refuse and recyclable material storage areas in compliance with the minimum storage area requirements provided in Table 3-5, below. These requirements apply to each individual structure. Food service uses may require additional storage areas as determined by the review authority.

TABLE 3-5
NONRESIDENTIAL STRUCTURES
MINIMUM STORAGE AREAS REQUIRED (SQ. FT)

Structure Floor Area (SQ. FT.)	Refuse	Recycling	Total Area
0-5,000	16	16	32
5,001-10,000	24	24	48
10,001-25,000	48	48	96
25,001-50,000	96	96	192
50,001-75,000	144	144	288
75,001-100,000	192	192	384
100,001+	Every additional 25,000 sq. ft. shall require an additional 48 sq. ft. for solid waste and 48 sq. ft. for recyclables.		

E. Development standards for nonresidential and multi-unit projects. The design and construction of the storage area(s) shall:

1. Comply with the dimension, capacity, and number requirements in this Subsection and shall be adequate in distribution to serve the development project;

2. Include an adequate number of bins and containers located within the storage areas to allow for the collection and loading of solid waste and recyclable materials generated by the development project;

3. Include a sign that is permanently posted or painted on each container clearly identifying the container type and the name and telephone number of the company responsible for maintaining the containers;

4. Be appropriately located and screened from any public rights-of-way and/or public property as seen from a point 6 feet above ground level. Screening shall consist of solid masonry walls, metal gates, and landscaping;

5. Be compatible with the surrounding structures and land uses;

6. Be properly secured to prevent access by unauthorized persons, while allowing authorized persons access for disposal of materials;

7. Provide a concrete pad within the fenced or walled area(s) and a concrete apron, which facilitates the handling of the individual bins or containers;

8. Protect the areas and the individual bins or containers provided within from adverse environmental conditions that might render the collected materials unmarketable; and

9. Comply with National Pollutant Discharge Elimination System (NPDES) and Regional Water Quality Control Board (RWQCB).

F. Location standards for nonresidential and multi-unit projects. Refuse and recyclable materials storage areas shall be located in the following manner:

1. Locations where recyclable materials are deposited, collected, and loaded shall be as convenient as the locations where solid waste materials are deposited, collected, and loaded. Wherever feasible, recycling areas shall be located adjacent to or combined with solid waste collection areas.

2. Storage areas shall only be located:

   a. Inside a specially-designated structure; and

   b. Outside required setback areas, parking spaces, or required landscaped areas.

3. Storage area(s) shall be accessible to residents and employees at all times. Storage areas within multi-unit residential developments shall be located within 250 feet of an access doorway to the dwellings that they are intended to serve.

4. Driveways or aisles shall provide unobstructed access for collection vehicles and personnel and provide at least the minimum clearance required by the collection methods and vehicles utilized by the designated collector.

5. Storage areas shall not be closer than 20 feet from doors or operable windows of adjacent structures and property located in a residential zoning district.

G. Development and location standards for residential uses with one to four units.

1. Trash constrainer storage areas shall be located out of view from public places and shall not be located in required parking areas.

2. If trash container storage areas cannot be located out of public view they shall be screened from public view. Screening shall consist of fences, walls, and landscaping to a height at least 6 inches above the tops of the containers.

20.30.110 – Traffic Safety Visibility Area

A. Visibility at corners of intersections required. Corner lots in all zoning districts shall be developed in a manner that ensures visibility across the corners of the intersecting streets, alleys, and private driveways.

B. Traffic safety visibility area described. The traffic safety visibility area shall be described as a triangular-shaped area on a corner lot formed by measuring the prescribed distance from the intersection of the front and street side property lines, an intersecting alley, or an intersecting driveway and connecting the lines diagonally across the property making a 90-degree triangle. For an intersecting street and driveway the distance shall be 5 feet. See Figure 3-X below.

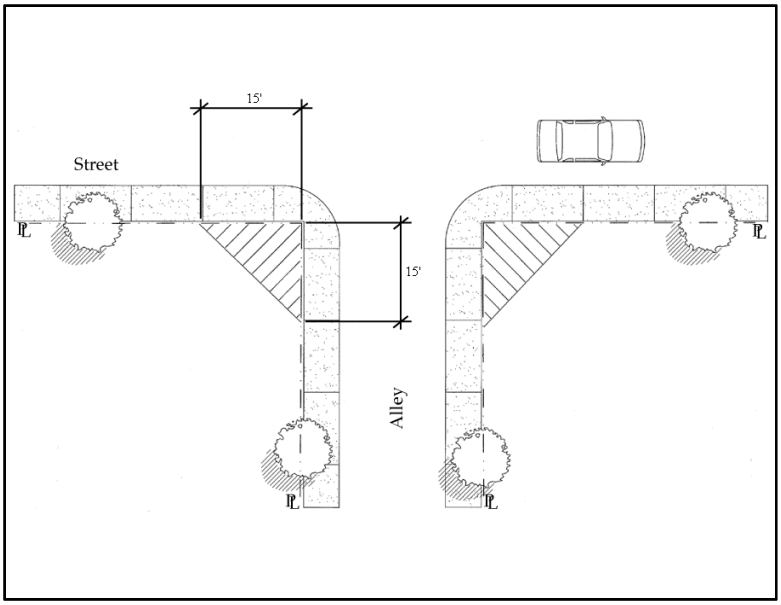


Figure 3-7
Traffic Safety Visibility Area

C. Area of traffic safety visibility area. The dimensions of a traffic safety visibility triangle shall be as follows and shall be subject to the approval of the City Traffic Engineer.

1. City standard 110-L shall apply to the intersection of two street rights-of-way,

2. 15 feet from the intersection of a street right-of-way and an alley,

3. 15 feet from the intersection of two alleys,

4. 5 feet from the corner of an intersecting street right-of-way and a driveway, and

D. Height limit. The following shall not be erected, placed, planted, or allowed to grow within the traffic safety visibility area;

1. Fences, walls, signs, structures, mounds of earth, or other visual obstructions over 30 inches in height;

2. Hedges, shrubbery, and vegetation over or with a growth characteristic over 24 inches in height; and

3. Tree canopies of a single trunk tree shall be maintained at a minimum height of 7 feet above ground level, as measured from adjacent street curb elevation.

E. Exemption from height limit. Improvements, structures, or vegetation that exceed the height limit may be allowed in the traffic safety visibility area by the City Traffic Engineer if it is determined that the location and/or height of the existing or proposed hedge, shrubbery, structure or other obstruction allows for the unobstructed view of oncoming traffic, bicyclists, and pedestrians by a driver approaching an intersection or juncture between street and private driveway.

Chapter 20.32 – Density Bonus [New]

Sections

20.32.010 – Purpose
20.32.020 – Eligibility for Density Bonus and Incentives
20.32.030 – Allowed Density Bonuses
20.32.040 – Parking Requirements in Density Bonus Projects
20.32.050 – Allowed Incentives
20.32.060 – Incentives for Housing with Child Care Facilities
20.32.070 – Design and Distribution of Affordable Units.
20.32.080 – Continued Availability
20.32.090 – Occupancy and Resale of Common Interest Units.
20.32.100 – Affordable Housing Agreement

20.32.010 – Purpose

The purpose of this Chapter is to provide a means for granting density bonuses and incentives in compliance with Government Code Sections 65915 through 65917. This Chapter provides density bonuses and incentives for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens.

20.32.020 – Eligibility for Density Bonus and Incentives

In order to be eligible for a density bonus and other incentives as provided by this Chapter, a proposed housing development shall comply with the following requirements and satisfy all other applicable provisions of this Zoning Code, except as provided by Section 20.32.050 (Allowed Incentives).

A. Eligibility requirements. A housing development proposed to qualify for a density bonus shall contain 5 or more dwelling units and shall include at least one of the following:

1. A minimum of 5 percent of the total number of proposed units are for very low-income households;

2. A minimum of 10 percent of the total number of proposed units are for low-income households;

3. A senior citizen housing development as defined in as defined in this Code, or a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 or 799.5; or

4. A minimum of 10 percent of the total dwelling units in a common interest development as defined in Civil Code Section 1351 are for persons and families of moderate income.

B. Condominium conversion projects. A condominium conversion project for which a density bonus is requested shall provide affordable units as provided below and shall agree to pay for reasonable administrative costs incurred by the City:

1. A minimum of 33 percent of the total units to persons and families of low- or moderate-income, or

2. A minimum of 15 percent of the total units of the proposed condominium project to very low-income households.

C. Units not eligible for bonuses or incentives. When affordable housing is required to be provided under the provisions of Chapter 20.34 (Inclusionary Housing) or the replacement of residential units is required under the provisions of Chapter 20.36 (Conversion or Demolition of Affordable Housing) the number of units required to be provided or replaced under those Chapters shall not count towards the number of units necessary to qualify for a density bonus under the provisions of this Chapter.

20.32.030 – Allowed Density Bonuses

A. Amount of density bonus. A housing development that complies with the eligibility requirements of Section 20.32.020, above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.

1. Bonus for units for very low-income households. A housing development that is eligible for a bonus in compliance with the criteria in Section 20.32.020.A.1 (5 percent of units for very low-income households) shall be entitled to a density bonus calculated as follows.

TABLE 3-6
VERY LOW-INCOME

Percentage of Total Units Proposed	Density Bonus Percentage
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. Bonus for units for low-income households. A housing development that is eligible for a bonus in compliance with the criteria in Section 20.32.020.A.2 (10 percent of units for low-income households) shall be entitled to a density bonus calculated as follows.

TABLE 3-7
LOW-INCOME

Percentage of Total Units Proposed	Density Bonus Percentage
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

3. **Bonus for moderate income units in common interest development.** A housing development that is eligible for a bonus in compliance with the criteria in Section 20.32020.A.4 (10 percent of units in a common interest development for persons and families of moderate-income) shall be entitled to a density bonus calculated as follows.

TABLE 3-8
MODERATE-INCOME

Percentage of Total Units Proposed	Density Bonus Percentage
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

4. **Bonus for senior citizen housing development**. A housing development that is eligible for a bonus in compliance with the criteria in Section 20.32.020.A.3 (senior citizen development or mobile home park) shall be entitled to a density bonus of 20 percent.

5. **Bonus for land donation.** When an applicant for a residential development agrees to donate land to the City for very low-income households, the applicant shall be entitled to a density bonus for the entire market rate development, provided that nothing in this Subsection shall be construed to affect the authority of the City to require a developer to donate land as a condition of development.

   a. **Bonus.** The applicant shall be entitled to the maximum allowed residential density under the General Plan Land Use Element and zoning designation for the entire market rate development as follows.

TABLE 3-9
VERY LOW-INCOME

Percentage of Total Units Proposed	Density Bonus Percentage
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

b. Eligibility for land donations. An applicant shall be eligible for a density bonus if all of the following conditions are met ;

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;

(2) The developable acreage and zoning classification of the land being donated are sufficient to permit construction of units in an amount not less than 10 percent of the number of market rate units of the proposed development;

(3) The donated land is at least one acre, or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible;

(4) No later than the date of approval of the market rate residential development, the donated land shall have all of the discretionary permits and approvals, other than Building Permits, necessary for the development;

(5) The donated land and the affordable units shall be restricted to very low-income households and subject to a deed restriction ensuring continued affordability of the units consistent with Section 20.32.080 (Continued Availability), below, which shall be recorded on the property at the time of dedication;

(6) The land is donated to the City or to a housing developer approved by the City; and

(7) The donated land shall be within the boundary of the proposed development or, if the City agrees, within one quarter mile of the boundary of the proposed market rate development.

6. Density bonus for affordable units and land. The increase in the Table 3-7 (Low-Income),above, shall be in addition to any increase in density required by Subsections A.1 through A.4, up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required in compliance with this Subsection as well as the bonuses provided by Subsections A.1 through A.4.

B. Density bonus calculations.

1. Fractional units. The calculation of a density bonus in compliance with this Section that results in fractional units shall be rounded up to the next whole number, as required by State law.

2. **Mixed income development.** If the applicant desires to develop a density bonus project available to a mix of income levels, the Director shall determine the amount of density bonus to be granted up to a maximum of 35 percent.

C. Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted to require a General Plan amendment, Coastal Land Use Plan amendment, Zoning Map amendment, or other discretionary approval.

20.32.040 – Parking Requirements in Density Bonus Projects

A. Applicability. This Section applies to a development that meets the requirements of Section 20.32.020 (Eligibility for Density Bonus and Incentives), above, but only at the request of the applicant. An applicant may request additional parking incentives beyond those provided in this Section in compliance with Section 20.32.050 (Allowed Incentives), above.

B. Number of parking spaces required.

1. At the request of the applicant, the City shall require the following vehicular parking ratios for a project that complies with the requirements of Section 20.32.020 (Eligibility for Density Bonus and Incentives), above, inclusive of handicapped and guest parking:

   a. Zero to one bedroom: One on-site parking space per unit; or

   b. Two or more bedrooms: Two on-site parking spaces per unit

2. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

C. Location of parking. For purposes of this Section, a development may provide on-site parking through uncovered or tandem parking, but not through on-street parking.

20.32.050 – Allowed Incentives

A. Applicant request and City approval. An applicant for a density bonus may also submit a proposal that includes any of the incentives listed in Subsection C. (Types of incentives), below. The applicant shall file the request concurrently with the application for project approval. The applicant shall show that an incentive is necessary to make the housing units economically feasible. When an applicant makes a request for an incentive, the Council shall grant the request unless either of the following findings is made, based on substantial evidence:

1. The incentive or concession is not required to make development of the affordable housing economically feasible, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Section 20.32.080.B. (Affordable cost); or

2. The incentive or concession would have a specific adverse impact, as defined in 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.

B. Number of incentives. The Council shall grant the following number of incentives, except as provided in Subsection A, above.

1. One incentive. One incentive for a project that includes at least 10 percent of the total units for low income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

2. Two incentives. Two incentives for a project that includes at least 20 percent of the total units for low income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

3. Three incentives. Three incentives for a project that includes at least 30 percent of the total units for low income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

C. Type of incentives. For the purposes of this Chapter, concession or incentive means any of the following:

1. A reduction in the site development standards (e.g., site coverage, setbacks, increase height up to the maximum allowed, reduced lot sizes, and/or parking requirements (see also Section 20.32.040 [Parking Requirements in Density Bonus Projects]), or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;

2. Approval of mixed-use zoning in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;

3. Other regulatory incentives proposed by the applicant or the City that will result in identifiable, financially sufficient, and actual cost reductions; and/or

4. A direct financial contribution granted by the Council, at its sole discretion.

D. Effect of incentive or concession. The granting of an incentive shall not be interpreted to require a General Plan amendment, Coastal Land Use Plan amendment, Zoning Map amendment, or other discretionary approval.

20.32.060 – Incentives for Housing with Child Care Facilities

A residential development that complies with the income requirements of Subsections 20.32.020.A, and B, above, and also includes a child care facility, other than a large or small family day care home, that will be located on the site as the development, shall be eligible for the following incentives in addition to the incentives provided for the affordable housing.

A. **Incentives.** The City shall grant a housing development that includes a child care facility either of the following:

1. An amount of residential floor area equal to or greater than the floor area of the child care facility; or

2. An incentive that contributes to the economic feasibility of the child care facility (e.g., reduction of development standards, reduced parking requirements, monetary contribution).

B. **Requirements to qualify for incentives.** The City shall require, as a condition of approving the housing development, that:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 20.30.080 (Continued Availability), below; and

2. Of the children who attend the child care facility, the children of very low income households, low income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Subsection 20.30.020.A (Resident requirements), above.

C. **Incentive not required.** The City shall not be required to provide a density bonus for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

20.32.070 – Design and Distribution of Affordable Units.

Affordable units shall be designed and distributed within the residential development as follows:

A. **Number of bedrooms.** Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole;

B. **Comparable quality and facilities.** Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units;

C. **Size.** Affordable units may be smaller and have different interior finishes and features than the market-rate units; and

D. Location. Affordable units shall be dispersed throughout the residential development, unless clustering is allowed by the review authority.

20.32.080 – Continued Availability

The units that qualified the housing development for a density bonus and other incentives shall continue to be available as affordable units in compliance with the following requirements as required by Government Code Section 659158). See also Section 20.32.090 (Occupancy and Resale of Common Interest Units).

A. Duration of affordability. The applicant shall agree to and the City shall ensure the continued availability of the units that qualified the housing development for a density bonus and other incentives. The continued affordability of all very low- and low-income qualifying units shall be maintained for 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

B. Affordable costs. The rents and owner-occupied costs charged for the housing units shall not exceed the following amounts during the period of continued availability required by this Section:

1. Rental units. Rents for density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053; and

2. Owner-occupied units. Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.

20.32.090 – Occupancy and Resale of Common Interest Units.

A. Occupancy. An applicant shall agree to, and the City shall ensure that the initial occupants of moderate income units that are directly related to the receipt of the common interest density bonus are persons and families of moderate income and that the units are offered at an affordable housing cost, as provided in this Chapter.

B. Resale. The City shall enforce an equity sharing agreement for the resale of affordable common interest units, unless it would be in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement:

1. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation; and

2. The City shall recapture any additional subsidy and its proportionate share of appreciation, which shall then be used within 3 years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For the purposes of this Section:

   a. The City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value;

b. The City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale; and

c. The initial subsidy shall include any incentives granted by the City and shall be equal to the monetary equivalent of the incentives.

20.32.100 – Affordable Housing Agreement

An affordable housing agreement shall be executed in a recordable form prior to the issuance of a Building Permit for any portion of a residential development project subject to the requirements of this Chapter. The form of the agreement shall be similar in content to the agreement specified in Section 20.32.100 (Affordable Housing Agreement) and as required by the City Attorney.

– **This page intentionally left blank –**

Chapter 20.34 – Inclusionary Housing

Sections:

20.34.010 – Purpose
20.34.020 – Applicability.
20.34.030 – Regulations
20.34.040 – In Lieu Fees
20.34.050 – Affordable Housing Implementation Plan (AHIP)
20.34.060 – Alternatives to On-Site Construction
20.34.070 – Affordable Housing Agreement.
20.34.080 – Affordable Housing Trust Fund
20.34.090 – Adjustments, Waivers

20.34.010 – Purpose

The purpose of this Chapter is to:

A. Provide a balanced residential community comprised of a variety of housing types and opportunities for all social and economic segments, including very low-, low-, and moderate-income households;

B. Promote the City's goal to add affordable housing units to the City's housing stock in proportion to the overall increase in new housing units;

C. Offset the demand on housing that is created by residential development and mitigate environmental and other impacts that accompany residential development by protecting the economic diversity of the City's housing stock, reducing traffic, transit and related air quality impacts, promoting jobs/housing balance and reducing the demands placed on transportation infrastructure in the region; and

D. Ensure that the limited remaining developable land in the City's planning area is utilized in a manner consistent with the City's housing policies and needs.

20.34.020 – Applicability.

Residential development projects that create a net increase in the total number of units shall comply with the requirements of this Chapter, unless granted an adjustment or waiver in compliance with Section 20.34.090 (Adjustments, Waivers).

20.34.030 – Regulations

A. Affordability requirement.

1. All new residential development projects shall include the construction of the following percentage of the total number of dwelling units within the residential development project as restricted affordable units for rent/lease by very low- or low-income households:

    a. 9 percent very low-income households; or

b. 15 percent low-income households.

2. The affordability requirement shall only apply to newly created residential units. In the event that the residential development project includes the demolition or conversion of existing residential units, the affordability requirement shall only apply to the additional units created.

B. Calculation.

1. The number of affordable units required for a residential development project shall be determined prior to tentative or parcel map approval, or for developments not processing a tentative or parcel map, prior to issuance of a Building Permit.

2. In determining the precise number of affordable units required, any decimal fraction shall be rounded up to the next whole number.

C. Eligibility.

1. Affordable units required to be replaced under the provisions of Chapter 20.36 (Conversion or Demolition of Affordable Housing in the Coastal Zone) shall not be eligible for meeting the number of affordable units required under the provisions of this Chapter.

2. Affordable units provided under the provisions of Chapter 20.32 (Density Bonus) shall not be eligible for meeting the number of affordable units required under the provisions of this Chapter.

D. Design and distribution of affordable units.

1. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole and shall be comparable in the facilities provided (e.g., laundry, recreation, etc.), construction quality and exterior design to the market-rate units.

2. Affordable units may be smaller and have different interior finishes and features than the market-rate units.

3. Affordable units shall be dispersed throughout the residential development, unless clustering is allowed by the review authority.

E. Duration of affordability requirement. Affordable units required by this Chapter shall be legally restricted to occupancy by households of the income levels for which the affordable units were designated for a minimum of 30 years, unless otherwise stated in the Chapter, or as provided in an approved Affordable Housing Implementation Plan (AHIP).

F. Timing. Affordable units shall be provided and offered for occupancy concurrently with or prior to the occupancy of the market-rate units. For projects that are phased over time, affordable units shall be provided in the same proportion as the number of market-rate units in each phase of the project.

20.34.040 – In Lieu Fees

A. General requirements.

1. For residential development projects of 50 or fewer dwelling units, the requirements of this Chapter may be satisfied by paying a fee in lieu of providing all or a portion of the affordable units, unless otherwise provided by an approved AHIP.

2. For residential development projects of 51 dwelling units or more, the applicant may not pay a fee in lieu of constructing the required affordable units, unless otherwise provided by an approved AHIP.

B. Timing of payment. Payment of the lieu fee shall be made prior to the issuance of a Building Permit.

C. Amount of fee. The amount of the in lieu fee shall be set by resolution of the Council.

20.34.050 – Affordable Housing Implementation Plan (AHIP)

A. When required.

1. Residential development projects of 51 dwelling units or more shall be required to submit an AHIP.

2. Residential development projects of 50 or fewer dwelling units shall have the option of submitting an AHIP or paying an in lieu fee.

B. Contents. The AHIP shall contain the following information:

1. A description of the residential development, including the number of market rate and affordable units proposed, and the basis for the calculation of the number of required affordable units;

2. The income level(s) of the affordable units;

3. The unit mix, location, structure type, and size of the market rate units and affordable units;

4. A plan of how the applicant proposes to implement and promote the rental of the affordable units to eligible households;

5. A phasing plan, if the applicant proposes a phased project, that provides for the timely development of the affordable units in compliance with Subsection 20.34.030.F (Timing);

6. Information necessary to establish compliance with criteria provided in Subsection 20.34.060.B (Land Dedication); and

7. Any additional information requested by the Department to assist in the evaluation of the AHIP.

C. Review and approval.

1. The applicable review authority for the project shall approve, conditionally approve, or deny the AHIP on the basis of the application, plans, materials, and testimony submitted.

2. If the AHIP proposes the dedication of land in compliance with Subsection 20.34.060.B (Land dedication) the Council shall be the final review authority. In these cases, the Commission shall first recommend and the Council shall approve, conditionally approve, or deny the AHIP.

D. Appeal of review authority's decision. The decision of the review authority may be appealed in compliance with Chapter 20.78 (Appeals).

20.34.060 – Alternatives to On-Site Construction

The following alternative means of compliance with this Chapter may be considered as part of an AHIP.

A. Off-site construction projects. An applicant may propose to construct some or all of the affordable units required by this Chapter at a location not physically within the residential development project.

B. Land dedication. An applicant may propose to dedicate land to the City or City-designated housing developer in lieu of constructing some or all of the affordable units required by this Chapter. The dedicated land shall meet the following requirements:

1. Site suitability.

a. The dedicated land shall be useable for its intended purpose and have the appropriate General Plan and zoning designation for the development of affordable housing, be free of toxic substances and contaminated soils, and be fully improved with infrastructure and adjacent utilities necessary to serve the project.

b. Title to the dedicated land, or lease hold useful for the life of the housing improvements, shall be conveyed to the City or City-designated housing developer before a Building Permit is issued for any portion of the residential development project.

c. All property taxes and special taxes shall be current before the title is conveyed.

d. The dedicated land shall be sufficient in size to construct the number of affordable units that the applicant would otherwise be required to construct.

2. **Land value.** The dedication shall have an equivalent or greater value than the in lieu fee that would be required to be paid under Section 20.34.040 (In Lieu Fees) if applied to the overall project. The process for determining the value of the land to be dedicated shall be as follows:

   a. The value of the land dedication shall be appraised by a certified appraiser selected by the City;

   b. The applicant shall deposit with the City the costs associated with the appraisal as determined by the Director; and

   c. The Director shall provide the applicant with a copy of the appraisal.

3. **Findings and decision.** The review authority may approve or conditionally approve, an AHIP that proposes alternative means of compliance with the requirements of this Chapter after first finding all of the following:

   a. The purpose of this Chapter would be served by the implementation of the proposed alternative;

   b. The units provided are located within the City and are consistent with the requirements of this Chapter ; and

   c. It would not be feasible or practical to construct the units on-site.

20.34.070 – Affordable Housing Agreement.

An affordable housing agreement shall be executed in a recordable form prior to the issuance of a Building Permit for any portion of a residential development project subject to the requirements of this Chapter).

A. Contents. Affordable housing agreements shall include the following where applicable;

1. A description of the residential development project and how the affordable housing requirements will be met by the applicant;

2. The number, size, and location of each affordable unit;

3. Incentives provided by the City (if any) for density bonus;

4. Procedures for tenant selection and the process for qualifying prospective households for income eligibility;

5. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal for density bonus units, or restrictions for rental units;

6. Provisions for monitoring the ongoing affordability of the units;

7. Security provisions (e.g., a cash deposit, bond, or letter of credit) as required by the review authority; and

8. Provisions for the enforcement of the agreement.

B. Recording of agreement. Affordable housing agreements in a form acceptable to the City Attorney shall be recorded against the owner-occupied affordable units and the projects containing rental affordable units. Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents shall also be recorded against owner-occupied affordable units. In cases where the requirements of this Chapter are satisfied through the development of off-site units the affordable housing agreement shall simultaneously be recorded against the property where the off-site units are located.

20.34.080 – Affordable Housing Trust Fund

A. Trust fund. The fund shall receive all in lieu fees contributed under Section 20.34.040 (In Lieu fees) and may also receive monies from other sources.

B. Purpose and limitations. Monies deposited in the fund, together with any interest earnings, shall be used or committed solely to increase affordable housing opportunities for very low-, low-, and moderate-income households. Reasonable administrative charges or related expenses associated with the administration of this Section may be charged against the fund. Expenses may include reasonable consultant and legal expenses related to the establishment and/or administration of the fund and reasonable expenses for administering the process of calculating, collecting, and accounting for fees,

C. Expenditures. Fund monies shall be used in compliance with the General Plan Housing Element to construct, rehabilitate, or subsidize affordable housing or assist other governmental entities, private organizations or individuals to provide affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing. Allowed uses of fund monies include:

1. Assistance to housing development corporations;

2. Equity participation loans;

3. Grants;

4. Pre-home ownership co-investment;

5. Predevelopment loan funds;

6. Participation leases;

7. Other public-private partnership arrangements;

8. The acquisition of property and property rights;

9. Construction of affordable housing including costs associated with planning, administration, and design, as well as actual building or installation; and

10. Other costs associated with the construction or financing of affordable housing.

20.34.090 – Adjustments, Waivers

The Council may waive, wholly or partially, the requirements of this Chapter and approve alternative methods of compliance with this Chapter if the applicant demonstrates, and the Council finds that either:

A. **Taking.** There is no reasonable relationship between the impact of a proposed development and the requirements of this Chapter and applying the requirements of this Chapter would take property in violation of the United States or California Constitutions; or

B. **Special circumstances.** There are special circumstances unique to the residential development that justify the granting of an adjustment or waiver; the residential development would not be feasible without the modifications; a specific and financial hardship would occur if the modification was not granted; and no alternative means of compliance are available that would be effective in attaining the purpose of this Chapter than the relief requested.

Chapter 20.36 – Conversion or Demolition of Affordable Housing in the Coastal Zone

Sections:

20.36.010 – Purpose and Applicability
20.36.020 – Definitions
20.36.030 - Compliance Required
20.36.040 - Application for Mello Act Determination
20.36.050 - Administration and Feasibility Analysis Fees
20.36.060 - Application Materials
20.36.070 - Review Authority
20.36.080 - Determinations and Findings
20.36.090 - Affordable Housing Agreement

20.36.010 – Purpose and Applicability

A. **Consistency with the Mello Act.** It is intended that the provisions of this Chapter shall be fully consistent and in full compliance with the Mello Act (Government Code Section 65590). In the case of conflict between the provisions of this Chapter and those of the Mello Act, the latter shall control.

B. **Purpose.** This Chapter is enacted for the purpose of implementing the Mello Act by providing regulations for the conversion or demolition of dwelling units occupied by low- and moderate- income households within the coastal zone. More specifically, this Chapter seeks to maintain dwelling units occupied by low- moderate- income households in the coastal zone in compliance with the Mello Act.

20.36.020 – Definitions

For the purpose of this Chapter, “Occupied by persons and families of low- and moderate-income” shall include:

A. Any person or families, excluding dependants, of low- and moderate-income that occupy the residential dwelling unit as of the date the application is filed; and

B. Any residential dwelling unit occupied by any person or family, excluding dependents, of low- or moderate-income if the person or family was evicted from the subject dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this Chapter. If a substantial number of persons or families of low- or moderate-income were evicted from the subject residential structure within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this Chapter.

20.36.030 – Compliance Required

A. Replacement of residential use with residential use.

1. Feasibility analysis required. Except as provided in Subsection C, no building permit, subdivision approval, or other land use entitlement shall be issued for the conversion or demolition of an existing residential dwelling unit that is located in the coastal zone and occupied by persons and families of low- or moderate-income for a continuing residential use until the City has performed a feasibility analysis and the applicable determinations as provided in Section 20.36.080, below, have been made.

2. Affordable housing agreement required. If it is determined that the replacement of all or any portion existing residential dwelling units is feasible, no building permit shall be issued for the conversion or demolition of the existing residential dwelling unit until an Affordable Housing Agreement, consistent with the Director's determinations in compliance with Section 20.36.080, is entered into and recorded with the County Recorder.

B. Replacement of residential use with nonresidential use.

1. Residential use no longer feasible. Except as provided in Subsection C, no building permit, subdivision approval, or other land use entitlement shall be issued for the conversion or demolition of an existing residential dwelling unit that is located in the coastal zone and occupied by persons and families of low- or moderate-income for a nonresidential use that is not coastal dependent until it has been determined that a residential use is no longer feasible.

2. Affordable housing agreement required. If it is determined that a residential use is no longer feasible, no building permit shall be issued for the conversion or demolition of the existing residential dwelling unit until an Affordable Housing Agreement, consistent with the Director's determinations in compliance with Section 20.36.080, is entered into and recorded with the County Recorder.

3. Residential use still feasible. If a residential use is feasible at the location, no building permit, subdivision approval or other land use entitlement shall be issued for the conversion or demolition of the existing residential dwelling unit until an Affordable Housing Agreement, consistent with the Director's determinations in compliance with Section 20.36.080, is entered into and recorded with the County Recorder.

C. Exemptions: The provisions of this Chapter shall not apply to the following:

1. Structure is a public nuisance. Demolition of a residential structure that has been declared a public nuisance in compliance with the provisions of Health and Safety Code Division 13 (commencing with Section 17000) or Chapter 10.50. For purposes of this Chapter, no structure, which conforms to the standards that were applicable at the time the structure was constructed and that does not constitute a substandard structure, as provided in Section 17920.3 of the Health

and Safety Code, shall be deemed to be a public nuisance solely because the structure does not conform to one or more of the current provisions for new construction in compliance with Title 15 of the Municipal Code; or

2. **Less than 3 units.** The conversion or demolition of residential structures in an R-1 or R-2 zoning district that contains less than 3 dwelling units for a continuing residential use..

20.36.040 – Application for Mello Act Determination

Any person seeking to convert or demolish an existing residential dwelling unit in the coastal zone that is occupied by persons and families of low- or moderate-income shall file an application for a Mello Act Determination consistent with the requirements of Chapter 20.66, on forms approved by the Director.

20.36.050 – Administration and Feasibility Analysis Fees

A. **Administration fee.** An application to convert or demolish residential units in the coastal zone shall be accompanied by an administration fee in compliance with the City's Master Fee Schedule.

B. **Feasibility analysis processing fee.** If the Director determines that a feasibility analysis is required, the total cost of a feasibility analysis plus a feasibility analysis processing fee shall be paid by the applicant. The feasibility analysis processing fee shall be a percentage of the total feasibility analysis cost and shall be used to cover the cost of processing the feasibility analysis.

20.36.060 – Application Information and Materials

A. **Required information.** The applicant shall provide the following information:

1. Whether the applicant seeks to convert the use of an existing residential dwelling unit occupied by a person or family of low- or moderate-income to a nonresidential use. If the person is seeking to convert the use to a nonresidential use, the person shall also indicate whether they are contending the new use is coastal dependent;

2. Whether the applicant is agreeing to replace all existing residential dwelling units occupied by persons and families of low- or moderate-income on-site or is requesting a feasibility analysis;

3. The address of the property;

4. The total number of existing units;

5. Documentation on the income of the tenants;

6. Square footage and number of bedrooms per unit;

7. Names and addresses of current tenants;

8. Tenant family size in each unit;

9. Information on any evictions within the last year;

10. Whether there are currently any vacant units and how long they have been vacant; and

11. Any other reasonable information requested by the Director

B. Income survey. If requested by the Director, the applicant shall conduct an income survey of the applicant's tenants in a manner approved by the Director.

20.36.070 – Review Authority.

A. Director. The Director shall have authority to investigate and render determinations on applications submitted consistent with this Chapter and shall document information regarding the income status and household size of current tenants.

B. Referral to Commission. The Director may defer action and refer a determination to the Commission for a decision on any of the matters outlined in this Chapter.

C. Exception. The City Council shall have final decision making authority on applications for a Mello Act Determination filed concurrently with amendments to the General Plan, Zoning Code, or a planned community development plan or with a development agreement.

20.36.080 – Determinations.

A. Applicability of chapter. The Director shall make a determination as to the applicability of this Chapter when a residential structure is to be converted or demolished.

B. Number of units occupied by low- moderate income households.

To the extent the Director determines that this Chapter applies, the Director shall determine the number of existing residential dwelling units occupied by low- and moderate-income persons or families.

C. Feasibility of providing replacement dwelling units.

If the applicant is contending that it is not feasible to replace all of the units, replace all of the units on-site, replace all of the units within the City and in the coastal zone, or replace all units within the City and within three miles of the coastal zone, the Director shall make a determination based on the application materials submitted and feasibility analysis as follows:

1. Whether all or any portion of the converted or demolished dwelling units occupied by persons and families of low- or moderate-income is feasible.

2. Whether it is feasible to replace all or any portion of the converted or demolished dwelling units occupied by persons and families of low- or moderate-income on-site.

3. If it is determined to be not feasible to replace all or any portion of the converted or demolished dwelling units on-site, whether it is feasible to replace all or any portion of the converted or demolished dwelling units off-site within the City's coastal zone.

4. If it is determined to be not feasible to replace all or any portion of the converted or demolished dwelling units on-site or in the coastal zone, whether it is feasible to replace all or any portion of the converted or demolished dwelling units off-site within the City and three miles of the coastal zone.

D. Nonresidential uses, feasibility of providing replacement dwelling units.

If the applicant is seeking to convert or demolish a residential structure subject to this Chapter for the purposes of a nonresidential use, the Director shall make a determination based on the application materials submitted and feasibility analysis as follows:

1. The Director shall first make a determination whether the use is coastal dependent. If the proposed use is coastal dependent, the Director may make the determinations provided in Subsection C, above, if a feasibility analysis is required;

2. If the proposed use is not coastal dependent, the Director shall make a determination as to whether a residential use is feasible in that location. If a residential use is feasible at the location, the Director shall not approve the conversion or demolition; or

3. If the proposed use is not coastal dependent and a residential use is no longer feasible, the Director shall make a determination as to:

   a. Whether it is feasible to replace the converted or demolished dwelling units occupied by persons and families of low- or moderate-income on-site;

   b. If it is determined to be infeasible to replace the converted or demolished dwelling units on-site, whether it is feasible to replace the converted or demolished dwelling units within the City's coastal zone; or

   c. If it is determined to be infeasible to replace the converted or demolished dwelling units on-site or in the coastal zone, whether it is feasible to replace the converted or demolished dwelling units off-site within the City and three miles of the coastal zone.

20.36.090 – Affordable Housing Agreement

A. **Form of agreement.** The form of the agreement shall be similar in content to the agreement specified in Section 20.34.070 (Affordable Housing Agreement) and as required by the City Attorney.

B. **Availability of Affordable Units.** The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the existing residential dwelling unit.

C. **Period of affordability.** The agreement shall provide that the required affordable dwelling units remain affordable for a minimum of 30 years.

Chapters 20.38 and 20.40 to be distributed at a dated TBD

Chapters 20.38 and 20.40 to be distributed at a date TBD

Chapter 20.42 – Cultural Resource Protection Standards [New]

Sections:

20.42.010 – Purpose
20.42.020 – Archaeological/Palaeontological Resources
20.42.030 – Historical and Architectural Resources

20.42.010 – Purpose

This Chapter provides standards for proposed development and new land uses to ensure the protection of cultural resources. The purpose is to implement the Coastal Land Use Plan. The intent of this Chapter is to ensure that appropriate safeguards are established and followed in order to protect and preserve archaeological and palaeontological resources that are identified before, or discovered as a result of, development activity. It is also the intent of this Chapter to ensure that appropriate safeguards are established and followed in order to protect and preserve buildings, monuments, objects, and structures that are important to the history or architectural heritage of Newport Beach.

20.42.020 – Archaeological/Palaeontological Resources

A. Applicability. The requirements in this Section shall apply to all projects in the Coastal Zone that involve grading or excavation.

B. Procedures. All applicable projects within the Coastal Zone shall comply with the following procedures:

1. Report required.

a. When report required. When a development is proposed in an area where there are known archaeological or palaeontological resources on the site or in the vicinity, and for which the Director determines no adequate prior assessment of on-site resources has been completed, a report shall be prepared by a qualified archaeologist/paleontologist before the issuance of a discretionary permit approval (i.e., Coastal Development Permit, Conditional Use Permit, Minor Use Permit, Variance, etc.).

b. Elements of report. At a minimum, the report shall include a statement of the qualifications of the preparer, a statement of the types and quantities of resources expected to be encountered, identification of their significance, the impacts of the development on those resources, and mitigation measures designed to reduce or eliminate those impacts.

c. Notice. Cultural organizations, including Native American organizations, shall be notified of proposed developments that have the potential to adversely impact cultural resources.

2. **Monitor required.** Where there is potential for proposed development activity to adversely affect archaeological/palaeontological resources, a qualified paleontologist/archeologist shall monitor all grading and/or excavation activities. If grading operations or excavations uncover palaeontological/archaeological resources, the monitor shall suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the palaeontological/archaeological resources.

3. **Discovery of resources.** If grading or excavation activities uncover archaeological/palaeontological resources, the following procedures shall be followed:

   a. The monitor shall suspend development activity to avoid destruction of resources until a determination can be made as to the significance of the archaeological/palaeontological resources ;

   b. The monitor shall immediately notify the Director of the discovery ; and

   c. If the resource is found to be significant, the site(s) shall be preserved for a reasonable period of time, as determined by the monitor, to allow a recovery plan or preservation to be completed to ensure the protection of the resources.

4. **Mitigation measures.** If resources are determined to be significant a mitigation plan shall be submitted to the Director for review and approval. The plan shall include:

   a. Demonstration of a good faith effort to avoid impacts to the resources through measures including project redesign, in situ preservation/capping, recovery and/or relocation, and placing cultural resource areas in open space;

   b. A monitoring plan that:

      (1) Describes procedures for selecting a qualified archaeologist/palaeontologist, and a Native American monitor if necessary, to monitor all grading and/or excavation activities;

      (2) Identifies monitoring methods; and

      (3) Describes procedures that shall be followed if additional or unexpected archaeological/palaeontological resources are discovered during development of the site. Procedures may include provisions for cessation of all grading and construction activities in the area of the discovery that has any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options to allow for significance testing, additional investigation, and mitigation.

20.42.030 – Historical and Architectural Resources

A. Applicability. The requirements in this Section shall apply to all projects in the Coastal Zone involving the expansion, reconstruction, structural alteration, or demolition of structures or sites having one or more of the characteristics listed below:

1. A site listed, or containing a building, monument, object, or structure that is listed, on the:

   a. Newport Beach Register of Historical Property;

   b. California Register of Historical Resources; or

   c. National Register of Historic Places.

2. A site where evidence of potentially significant historical resources is found in an initial study conducted in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.).

B. Initial Evaluation. An application for approval of any project or development activity involving a historic resource identified in Subsection A, above, shall be reviewed to determine whether the project may have a substantial adverse impact as defined by the California Environmental Quality Act (CEQA), on an historical resource.

C. Site-Specific Study. If the initial evaluation indicates that the proposed development may result in significant impacts to historical resources, the Director shall have the authority to require a site-specific study to be performed by a qualified professional. The study shall describe the significance of the resources; discuss the possible adverse impacts; and identify mitigation measures designed to reduce or eliminate those impacts.

E. Rehabilitation incentives. The following incentives may be available to owners of historic properties identified in Subsection A (Applicability), above:

1. To promote adaptive reuse, the State Historic Building Code may be applied to buildings or structures; and

2. The Commission may grant reductions or waivers of City application fees, City permit fees, and/or any liens placed by the City on properties listed in the Newport Beach Register of Historical Property in exchange for preservation easements.

F. Offer for relocation of historic structure. Before issuance of a permit by the Building Director for the demolition of an historic structure the applicant shall first offer the structure for relocation by interested parties.

Chapter 20.44 – Resource Protection in the Coastal Zone [New]

Sections:

20.44.010 – Purpose
20.44.020 – Applicability
20.44.030 – Determination of Sensitive Areas and Buffer Areas
20.44.040 – Allowed Activities and Uses
20.44.050 – Development Standards
20.44.060 – Permit Requirements

20.44.010 – Purpose

This Chapter regulates development in and adjacent to areas in the Coastal Zone where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem that could easily be disturbed or degraded by human activities and developments. The intent is to implement policies in the Coastal Land Use Plan.

20.44.020 – Applicability

A. **Environmentally Sensitive Areas in the Coastal Zone.** This Chapter applies to development in the Coastal Zone on lots that abut or include Environmental Study Areas that are indicated in Figure NR-2 (Environmental Study Areas) in the General Plan. Within an ESA, sensitive areas shall include the following:

1. **Environmentally Sensitive Habitat Areas (ESHA).** Areas that are currently identified as ESHA or areas that may include ESHA; and

2. **Wetlands.** Wetlands that are currently delineated or that may be deemed suitable for delineation.

B. **Conflict.** In the event of a conflict between this Chapter and another provision in this Zoning Code or the Municipal Code, the more restrictive regulation shall control.

C. **Development defined.** For the purposes of this Chapter, development shall mean "Development" as defined in Part 7 (Definitions).

20.44.030 – Determination of Sensitive Areas and Buffer Areas

This Section provides procedures for identifying sensitive areas and buffer areas.

A. **Initial biological resources survey.** An applicant shall submit an initial biological resources survey that indicates the presence or potential for sensitive habitat or species on a site. The report shall be prepared by a qualified biologist and shall include the following:

1. Photographs of the site;

2. A discussion of the site's physical characteristics (e.g., topography, soil types, streams, etc.);

3. An identification of the presence or expected presence on the site of:

   a. Natural communities identified as rare by the California Department of Fish and Game;

   b. Rare, threatened, or endangered plant or animal species that are designated or are candidates for listing as rare, threatened, or endangered under State or Federal law; and

   c. Any other species for which there is compelling evidence of rarity (e.g., plants designated "1B" or "2" by the California Native Plant Society; identification in the List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database maintained by the California Department of Fish and Game; etc.).

4. A description of the degree of habitat integrity and connectivity to other natural areas. Attributes to be evaluated include the:

   a. Habitat's size and connectivity;

   b. Dominance by invasive/non-native species;

   c. Level of disturbance;

   d. Proximity to development; and

   e. Level of fragmentation and isolation.

5. A map depicting the location of biological resources.

B. Biological resources impact report. If the initial biological resources survey indicates the presence or potential for sensitive habitat or species on the site, an applicant shall submit a detailed biological resources impact report. The report shall be prepared by a qualified biologist and shall include the following:

1. A map depicting the overall boundaries of the sensitive area and recommended buffer areas;

2. A determination that the buffer areas required by Section 20.44.050 (Development Standards) will be adequate to protect the sensitive habitat or species, or a recommendation of more effective buffer areas, where applicable;

3. An evaluation of the individual and cumulative impacts of the proposed development on the habitat or species;

4. An analysis of unauthorized development, including grading or vegetation removal, that may have contributed to the degradation or elimination of habitat area;

5. A list of uses that are consistent with the preservation of habitat values, based upon the allowed uses listed in Section 20.44.040 (Allowed Activities and Uses);

6. A description of mitigation measures, including identification of potential mitigation sites, that would minimize or mitigate residual impacts that cannot be avoided.

C. Presumption of ESHA. For the purposes of this Chapter, habitats that are presumed to be an ESHA are identified in Table 3-10 (Habitats Presumed to be Environmentally Sensitive Habitat Areas), unless there are strong site-specific reasons to rebut that presumption. Existing developed areas and existing fuel modification areas required by the City of Newport Beach Fire Department or the Orange County Fire Authority for existing, legal structures do not meet the definition of ESHA.

TABLE 3-10
HABITATS PRESUMED TO BE ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Wetland Habitats	Terrestrial Habitats
Alkali meadows	Maritime succulent scrub
Coastal brackish marsh	Southern coastal bluff scrub
Coastal freshwater marsh	Southern dune scrub
Freshwater seeps	Southern maritime chaparral
Southern coastal salt marsh	Southern willow scrub
Southern hardpan vernal pools	Southern cottonwood willow riparian forest
	Southern arroyo willow forest
	Southern black willow forest
	Southern sycamore alder riparian woodland
	Southern coastal purple needlegrass grassland
	Southern coast live oak riparian forest
	Coastal sage scrub (When adjacent to coastal salt marsh or other wetlands)

D. Wetland delineation. If the initial biological resources survey and/or the biological resources impact report indicate(s) the presence or potential for wetland species or indicators on the site, an applicant shall submit a delineation of wetland areas on the site. The delineation shall be prepared by a qualified biologist and shall be based on the following:

1. Definitions contained in Section 13577(b) of Title 14 of the California Code of Regulations. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions; and

2. Statewide Interpretive Guidelines for Wetlands and Other Environmentally Sensitive Habitat Areas published by the California Coastal Commission.

20.44.040 – Allowed Activities and Uses

This Section lists uses that may be allowed in sensitive areas and buffer areas.

A. Sensitive areas. The following uses may be allowed in sensitive areas, provided that they are consistent with the preservation of animal or plant life:

1. Biology-related educational, interpretive, or scientific research uses (e.g., bird-watching, noncommercial fishing, nature study, etc.) that do not significantly impair plant and animal life;

2. Wildlife refuge;

3. Habitat restoration projects where the purpose is restoration of the habitat;

4. Open space;

5. Passive recreation;

6. Public access boardwalks, paths, and trails; and

7. Diking, dredging, and filling activities that comply with Subsection C, below.

B. Buffer areas. All of the activities and uses allowed in sensitive areas listed in Subsection A, above, and any of the following shall be allowed in buffer areas:

1. Fences;

2. Road and bridge replacements;

3. Incidental public facilities when there is no other feasible, environmentally less damaging alternative;

4. Signs and small information kiosks; and

5. Other improvements necessary to protect habitat resources.

C. Diking, dredging, and filling.

1. For diking, dredging, and filling activities affecting lands and waters below the mean high water line, see Municipal Code Title 17 (Harbor Code).

2. Diking, dredging, and filling of wetlands above the mean high water line shall be limited to the following activities, provided that there is no feasible, less environmentally damaging alternative and that mitigation measures have been provided to minimize adverse environmental effects:

   a. Construction or expansion of port/marine facilities;

   b. Construction or expansion of coastal-dependent industrial facilities (e.g., commercial fishing facilities, commercial ferry facilities, etc.);

   c. In open coastal waters, other than wetlands, including estuaries and streams, new or expanded boating facilities (i.e., slips, access ramps, piers, marinas, launching ramps) and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities;

d. Incidental public service activities that temporarily impact the resources of the area (e.g., burying cables and pipes, inspection of piers, maintenance of existing intake and outfall pipes, etc.);

e. Recreational docks and piers within the intertidal areas, including wetlands, in Newport Harbor;

f. Maintenance or replacement of existing bulkheads when expansion or encroachment into coastal waters is limited to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and the backfill is not used to create new usable residential land areas;

g. Sand extraction for restoring beaches, except in environmentally sensitive habitat areas;

h. Restoration activities; and

i. Nature study, aquaculture, or similar resource-dependent activities.

3. Restoration activities listed in Paragraph 2, above, may include some fill if the wetlands are small, extremely isolated, and incapable of being restored. Small, extremely isolated parcels that are incapable of being restored to biologically productive systems may be filled and developed for uses not ordinarily allowed only if the actions establish stable and logical boundaries between urban and wetland areas and if the applicant provides funds sufficient to accomplish an approved restoration program in the same general region. All of the following criteria shall be satisfied before the filling may be allowed:

a. The area of the wetland to be filled is less than 1 acre;

b. The wetland to be filled is not contiguous or adjacent to a larger wetland;

c. The wetland to be filled is so small and isolated that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities;

d. The wetland does not provide significant habitat value to marine and wildlife species, and is not used by any species that are rare or endangered;

e. Restoration of another wetland to mitigate for fill can most feasibly be achieved in conjunction with filling a small wetland. The mitigation measure shall be carried out in a manner that would result in no net loss of either wetland acreage or habitat value;

f. Restoration site is abutting or adjacent to a larger, contiguous wetland area providing significant habitat value to fish and wildlife that would benefit from the addition of more area;

g. The restoration site is within the general area surrounding the wetland where the fill occurred; and

h. The California Department of Fish and Game and the U.S. Fish and Wildlife Service has determined that the proposed restoration project can be successfully carried out.

20.44.050 – Development Standards

This Section provides standards applicable to sensitive areas and buffer areas.

A. Buffer areas. Development shall provide the following minimum buffer areas as measured from the boundary of the sensitive area, unless a greater or lesser width is required or allowed by the review authority:

1. Adjacent to an Environmentally Sensitive Habitat Area – 50-foot wide buffer area; and

2. Adjacent to a Wetland – 100-foot wide buffer area.

B. Diking, dredging, and filling.

1. Diking, dredging, and filling of a wetland above the mean high water line shall avoid significant disruption of marine and wildlife habitats and water circulation.

2. Activities shall maintain functional capacity of habitat areas. For the purposes of this Section, functional capacity means the ability of the wetland to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, the development shall not:

   a. Alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem (i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project);

   b. Harm or destroy a species or habitat that is rare or endangered;

   c. Harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary; or

   d. Significantly reduce consumptive (e.g., fishing, etc.) or non-consumptive (e.g., water quality, research opportunity, etc.) values of the wetland ecosystem.

C. Fencing.

1. During and after construction, fencing shall be installed to minimize adverse impacts on sensitive areas.

2. Fencing shall not impact public views or the free passage of native wildlife and shall employ design and materials determined by the review authority to be compatible with the visual and biological character of the habitat.

D. Vegetation.

1. Buffer areas shall be planted and maintained exclusively with vegetation that is consistent with the adjacent habitat values and indigenous native plants. Invasive plant species shall be prohibited.

2. Fuel modification zones shall comply with Section 20.48.080 (Fuel Modification).

E. Lighting. Lighting fixtures shall shield and direct exterior lighting away from sensitive habitat areas in compliance with Section 20.30.060 (Outdoor Lighting).

F. Site planning and design.

1. Development shall be designed and sited to protect against any significant disruption of habitat values and to avoid the need to extend fuel modification zones into sensitive areas.

2. Development shall be compatible with the continued viability of sensitive resources.

3. Land divisions, including lot line adjustments, shall be designed to avoid new development within sensitive areas and to minimize adverse impacts to sensitive resources.

G. Erosion and sediment control. Erosion and sediment controls, including best management practices (BMPs) to minimize siltation, sedimentation, and erosion, shall be installed before and during construction and shall be left in place until the site is stabilized with permanent vegetation.

H. Removal of unauthorized structures. Unauthorized structures shall be removed before issuance of any permit.

I. No net loss. Wetland areas shall sustain "no net loss."

20.44.060 – Permit Requirements

A. Application requirements. Permit applications for new development shall include the:

1. Information required by Section 20.66.020 (Coastal Development Permits); and

2. Initial biological resources survey required in Section 20.44.030 (Determination of Sensitive Areas and Buffer Areas); and/or the

3. Biological resources impact report required in Section 20.44.030 (Determination of Sensitive Areas and Buffer Areas).

B. Subdivisions. If a sensitive area is within the boundaries of a proposed subdivision, the sensitive area shall be shown on the Tentative Map and offered for dedication to the City. When a sensitive area is already in existence at the time a Tentative Map is filed, the status of the sensitive area, whether public or private, shall be identified on the Tentative Map.

C. Habitat restoration or creation. As a condition of permit approval, the review authority may require habitat restoration or creation.

1. Timing. The restoration or creation of habitat may be required before completion of a development, unless a performance guarantee is provided in compliance with Section 20.68.060 (Performance Guarantees) to ensure restoration and monitoring of the effort.

2. Restoration and monitoring plan. A restoration and monitoring plan may be required that includes the following:

a. A clear statement of the goals of the restoration for all habitat types.

b. A description of the desired habitat.

c. Quantitative description of the chosen restoration site;

d. Identification of a qualified biologist who will serve as the restoration manager and be personally responsible for all phases of the restoration;

f. A specific grading plan if the topography must be altered;

e. An erosion control plan, if soil or other substrate will be significantly disturbed during the course of the restoration;

h. A plan that specifies the eradication and control of invasive plants;

i. A planting plan that specifies a detailed plant palette using local native stock or using plants, cuttings, or seeds, which are obtained from a nursery that certifies the local origin. The planting plan should provide specifications for preparation of nursery stock and include technical details of planting methods (e.g., spacing, micorrhyzal inoculation, etc.);

j. An irrigation plan that describes the method and timing of watering and ensures removal of watering infrastructure by the end of the monitoring period;

k. An interim monitoring plan that includes maintenance and remediation activities, interim performance goals, assessment methods, and schedule; and

l. A final monitoring plan to determine whether the restoration has been successful that specifies:

(1) A basis for selection of the performance criteria;

(2) Types of performance criteria;

(3) Procedure for judging success;

(4) Formal sampling design;

(5) Sample size;

(6) Approval of a final report; and

(7) Provision for possible further action.

D. Evidence of other permits. Before any construction, alteration, or other improvement in areas designated as wetlands, the applicant shall submit the following:

1. Section 404 permit. A Section 404 permit from the U.S. Army Corps of Engineers;

2. Letter from CDFG. Letter from the California Department of Fish and Game confirming compliance with Section 1602 of the California Fish and Game Code; and

3. Waiver/certificate from RWQCB. A waiver or certificate of conformance with water quality standards issued by the Santa Ana Regional Water Quality Control Board, if applicable.

E. Mitigation measures. If a project involves diking, dredging, or filling of a wetland, the review authority may require any of the following minimum mitigation measures as a condition of approval:

1. Create or restore wetlands.

a. Plan elements. If an appropriate mitigation site is available, the applicant shall submit a detailed plan that includes provisions for:

(1) Acquiring title to the mitigation site;

(2) "In-kind" wetland restoration or creation where possible;

(3) Where "out-of-kind" mitigation is necessary, restoration or creation of wetlands that are of equal or greater biological productivity to the wetland that was filled or dredged; and

(4) Dedication of the restored or created wetland and buffer to a public agency, or permanent restriction of their use to open space purposes.

b. Mitigation ratio.

(1) Adverse impacts shall be mitigated at a ratio of 3:1 for impacts to seasonal wetlands, freshwater marsh and riparian areas, and at a ratio of 4:1 for impacts to vernal pools and saltmarsh (the ratio representing the acreage of the area to be restored/created to the acreage of the area diked or filled), unless the applicant provides evidence establishing, and the approving authority finds, that restoration or creation of a lesser area of wetlands will fully mitigate the adverse impacts of the dike or fill project.

(2) However, in no event shall the mitigation ratio be less than 2:1 unless, prior to the development impacts, the mitigation is completed and is empirically demonstrated to meet performance criteria that establish that the created or restored wetlands are functionally equivalent or superior to the impacted wetlands.

c. Location of mitigation. The mitigation shall occur on-site wherever possible. Where not possible, mitigation should occur in the same watershed.

d. Acquisition of mitigation site. The mitigation site shall be purchased and legally restricted and/or dedicated before the dike or fill development may proceed.

2. Open equivalent (diked) areas to tidal action. The review authority may allow the applicant to open equivalent areas to tidal action or provide other sources of surface water in place of creating or restoring wetlands as required by Subparagraph 1, above.

3. Timing. Restoration may precede the diking, dredging, or filling project. At a minimum, the review authority shall require restoration to occur simultaneously with project construction.

4. Monitoring. Where impacts to wetlands are allowed, the review authority shall require monitoring of mitigation measures for a period of sufficient time to determine if mitigation objectives and performance standards are being met. Mid-course corrections shall be implemented if necessary to meet the objectives or performance standards. Monitoring reports shall be submitted during the monitoring period that document the success or failure of the mitigation. To help ensure that the mitigation project is self-sustaining, final monitoring for all mitigation projects shall take place after at least 3 years with no remediation or maintenance activities other than weeding. If performance standards are not met by the end of the prescribed monitoring period, the monitoring period shall be extended or the applicant shall submit an amendment application proposing alternative mitigation measures and implement the approved changes. Unless the review authority determines that a different mitigation monitoring schedule is appropriate, monitoring shall occur for a period of not less than 5 years.

Chapter 20.46 – Resource Protection Outside the Coastal Zone [New]

Sections:

20.46.010 – Purpose
20.46.020 – Applicability
20.46.030 – Determination of Sensitive Areas and Buffer Areas
20.46.040 – Allowed Activities and Uses
20.46.050 – Development Standards
20.46.060 – Permit Requirements

20.46.010 – Purpose

This Chapter regulates development in and adjacent to areas outside the Coastal Zone where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem that could easily be disturbed or degraded by human activities and developments.

20.46.020 – Applicability

A. **Development outside the Coastal Zone.** This Chapter applies to development outside the Coastal Zone on lots that abut or include Environmental Study Areas, as identified in General Plan Figure NR-2 (Environmental Study Areas). This Chapter does not apply to existing legal development on lots that abut or include wildland fire hazard areas, as identified on General Plan Figure S-4 (Wildfire Hazards), and fuel modification areas required by the City of Newport Beach Fire Department or the Orange County Fire Authority, as regulated by Section 20.48.080 (Fuel Modification).

B. **Conflict.** In the event of a conflict between this Chapter and another provision in this Zoning Code or the Municipal Code, the more restrictive regulation shall control.

C. **Development defined.** For the purposes of this Chapter, development shall mean "Development" as defined in Part 7 (Definitions).

20.46.030 – Determination of Sensitive Areas and Buffer Areas

This Section provides procedures for identifying sensitive areas and buffer areas.

A. **Initial biological resources survey.** An applicant shall submit an initial biological resources survey in compliance with Section 20.46.030 (Determination of Sensitive Areas and Buffer Areas). The Director, at the Director's discretion, may waive this requirement for developed lots.

B. **Biological resources impact report.** If the initial biological resources survey indicates the presence or potential for sensitive habitat or species on the site, an applicant shall submit a detailed biological resources impact report in compliance with Section 20.46.030 (Determination of Sensitive Areas and Buffer Areas).

C. Wetland delineation. If the initial biological resources survey and/or the biological resources impact report indicate(s) the presence or potential for wetland species or indicators on the site, an applicant shall submit a delineation of wetland areas on the site. The delineation shall be prepared by a qualified biologist and shall be based on the guidelines established by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency.

20.46.040 – Allowed Activities and Uses

This Section lists uses that may be allowed in sensitive areas and buffer areas.

A. Sensitive areas. The following uses may be allowed in sensitive areas, provided that they are consistent with the preservation of animal or plant life:

1. Biology-related educational, interpretive, or scientific research uses (e.g., bird-watching, noncommercial fishing, nature study, etc.) that do not significantly impair plant and animal life;
2. Wildlife refuge;
3. Habitat restoration projects where the purpose is restoration of the habitat;
4. Open space;
5. Passive recreation;
6. Public access boardwalks, paths, and trails; and
7. Diking, dredging, and filling activities that comply with Subsection C, below.

B. Buffer areas. All of the activities and uses allowed in sensitive areas listed in Subsection A, above, and any of the following shall be allowed in buffer areas:

1. Fences;
2. Road and bridge replacements;
3. Incidental public facilities when there is no other feasible, environmentally less damaging alternative;
4. Signs and small information kiosks; and
5. Other improvements necessary to protect habitat resources.

C. Diking, dredging, and filling. Diking, dredging, and filling of wetlands shall be limited to the following:

1. Incidental public service activities that temporarily impact the resources of the area (e.g., burying cables and pipes, inspection of piers, maintenance of existing intake and outfall pipes, etc.);

2. Restoration activities in compliance with Subsection 20.46.050.B. (Development Standards – Diking dredging, and filling), below; and

3. Nature study or similar resource-dependent activities.

20.46.050 – Development Standards

This Section provides standards applicable to sensitive areas and buffer areas.

A. Buffer areas. Development shall provide the following minimum buffer areas as measured from the boundary of the sensitive area, unless a greater or lesser width is required or allowed by the review authority:

1. Adjacent to an Environmentally Sensitive Area – 50-foot wide buffer area; and

2. Adjacent to a Wetland – 100-foot wide buffer area.

B. Diking, dredging, and filling.

1. Diking, dredging, and filling of a wetland shall avoid significant disruption of wildlife habitats and water circulation.

2. Activities shall maintain functional capacity of habitat areas. For the purposes of this Section, functional capacity means the ability of the wetland to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, the development shall not:

   a. Alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem (i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project);

   b. Harm or destroy a species or habitat that is rare or endangered;

   c. Harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary; or

   d. Significantly reduce consumptive (e.g., fishing, etc.) or non-consumptive (e.g., water quality, research opportunity, etc.) values of the wetland ecosystem.

3. Restoration activities listed in Subsection 20.46.040.C.2, above, may include some fill if the wetlands are small, extremely isolated, and incapable of being restored. Small, extremely isolated parcels that are incapable of being restored to biologically productive systems may be filled and developed for uses not ordinarily allowed only if the actions establish stable and logical boundaries between urban and wetland areas and if the applicant provides funds sufficient to accomplish an approved restoration program in the same general region. All of the following criteria shall be satisfied before the filling may be allowed:

   a. The area of the wetland to be filled is less than 1 acre;

b. The wetland to be filled is not contiguous or adjacent to a larger wetland;

c. The wetland to be filled is so small and isolated that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities;

d. The wetland does not provide significant habitat value to marine and wildlife species, and is not used by any species that are rare or endangered;

e. Restoration of another wetland to mitigate for fill can most feasibly be achieved in conjunction with filling a small wetland. The mitigation measure shall be carried out in a manner that would result in no net loss of either wetland acreage or habitat value;

f. Restoration site is abutting or adjacent to a larger, contiguous wetland area providing significant habitat value to fish and wildlife that would benefit from the addition of more area;

g. The restoration site is within the general area surrounding the wetland where the fill occurred; and

h. The California Department of Fish and Game and the U.S. Fish and Wildlife Service has determined that the proposed restoration project can be successfully carried out.

C. Fencing.

1. During and after construction, fencing shall be installed to minimize adverse impacts on sensitive areas.

2. Fencing shall not impact public views or the free passage of native wildlife and shall employ design and materials determined by the review authority to be compatible with the visual and biological character of the habitat.

D. Vegetation.

1. Buffer areas shall be planted and maintained exclusively with vegetation that is consistent with the adjacent habitat values and indigenous native plants. Invasive plant species shall be prohibited.

2. Fuel modification zones shall comply with Section 20.48.080 (Fuel Modification).

E. Lighting. Lighting fixtures shall shield and direct exterior lighting away from sensitive habitat areas in compliance with Section 20.30.060 (Outdoor Lighting).

F. Site planning and design.

1. Development shall be designed and sited to protect against any significant disruption of habitat values and to avoid the need to extend fuel modification zones into sensitive areas.

2. Development shall be compatible with the continued viability of sensitive resources.

3. Land divisions, including lot line adjustments, shall be designed to avoid new development within sensitive areas and to minimize adverse impacts to sensitive resources.

4. Structures that are allowed to encroach into wetlands shall be sited and designed to be consistent with the natural appearance of the surrounding area.

G. Erosion and sediment control. Erosion and sediment controls, including best management practices (BMPs) to minimize siltation, sedimentation, and erosion, shall be installed before and during construction and shall be left in place until the site is stabilized with permanent vegetation.

H. Removal of unauthorized structures. Unauthorized structures shall be removed before issuance of any permit.

I. No net loss. Wetland areas shall sustain "no net loss."

20.46.060 – Permit Requirements

A. Application requirements. Permit applications for new development shall include the:

1. Initial biological resources survey required in Section 20.46.030 (Determination of Sensitive Areas and Buffer Areas); and/or the

2. Biological resources impact report required in Section 20.46.030 (Determination of Sensitive Areas and Buffer Areas).

B. Subdivisions. If a sensitive area is within the boundaries of a proposed subdivision, the sensitive area shall be shown on the Tentative Map and offered for dedication to the City. When a sensitive area is already in existence at the time a Tentative Map is filed, the status of the sensitive area, whether public or private, shall be identified on the Tentative Map.

C. Habitat restoration or creation. As a condition of permit approval, the review authority may require habitat restoration or creation.

1. Timing. The restoration or creation of habitat may be required before completion of a development, unless a performance guarantee is provided in compliance with Section 20.68.060 (Performance Guarantees) to ensure restoration and monitoring of the effort.

2. Restoration and monitoring plan. A restoration and monitoring plan may be required that includes the information identified in Subsection 20.44.060.C. (Habitat Restoration or Creation)

D. Evidence of other permits. Before any construction, alteration, or other improvement in areas designated as wetlands, the applicant shall submit the following:

1. **Section 404 permit.** A Section 404 permit from the U.S. Army Corps of Engineers;

2. **Letter from CDFG.** Letter from the California Department of Fish and Game confirming compliance with Section 1602 of the California Fish and Game Code; and

3. **Waiver/certificate from RWQCB.** A waiver or certificate of conformance with water quality standards issued by the Santa Ana Regional Water Quality Control Board, if applicable.

E. Mitigation measures. If a project involves diking, dredging, or filling of a wetland, the review authority may require as a condition of approval any of the minimum mitigation measures identified in Subsection 20.44.060.E (Mitigation measures).

Chapter 20.48 – Landscaping Standards [New]

Sections:

20.48.010 – Purpose
20.48.020 – Applicability
20.48.030 – Alternatives to requirements.
20.48.040 – Exempt projects.
20.48.050 – General Landscape Standards
20.48.060 – Landscape and Irrigation Plans
20.48.070 – Landscape and Irrigation Plan Standards.
20.48.080 – Fuel Modification

20.48.010 – Purpose

This Chapter establishes requirements and standards for landscaping to enhance the appearance of development projects, reduce heat and glare, control soil erosion, conserve water, screen potentially incompatible land uses, preserve the integrity of neighborhoods, improve air and water quality, and protect pedestrian and vehicular traffic and safety.

20.48.020 – Applicability

A. **New projects**. Each new nonresidential project and multi-unit residential project shall provide landscaping in compliance with this Chapter.

B. **Existing development.** The approval of a discretionary application for physical alterations to an existing development may include conditions of approval requiring compliance with the requirements of this Chapter.

C. **Timing of installation.** Required landscape and irrigation improvements shall be installed before issuance of a certificate of occupancy..

20.48.030 – Alternatives to requirements.

The review authority may modify the standards of this Chapter to accommodate alternatives to required landscape materials or methods when the review authority determines that the proposed alternative will be equally or more effective in achieving the purposes of this Chapter. The review authority may also modify the requirements of this Chapter to accommodate an affordable housing project in compliance with Chapter 20.32 (Density Bonus), or to protect or enhance a public view in compliance with Section 20.30.080 (Public View Protection).

20.48.040 – Exempt projects.

This Chapter shall not apply to:

A. Homeowner-provided landscaping in single-unit and two-unit projects;

B. Registered historical sites; and

C. Ecological restoration projects;

20.48.050 – General Landscape Standards

A. Impervious surfaces in R-1 and R-2 zones.

1. Impervious surfaces shall not exceed 50 percent of the front yard area with the remaining area landscaped with plant material. The use of hardscape for walkways, porches, and outdoor living areas is allowed.

2. Where the typical neighborhood pattern of front yards has been developed with hardscaped outdoor living areas that exceed the 50 percent maximum for impervious surfaces the Director may waive this requirement.

B. Safety requirements. Landscape materials shall be located so that at maturity they do not:

1. Interfere with safe sight distances for vehicular, bicycle, or pedestrian traffic;

2. Conflict with overhead utility lines, overhead lights, or walkway lights; or

3. Block pedestrian or bicycle ways.

C. Fire prevention. Fire prevention shall be addressed on sites in any wooded or vegetated area of the City identified by the Fire Department as being a fire hazard area,

D. Maintenance.

1. Landscape materials and landscaped areas shall be maintained in compliance with the approved landscape plan.

2. Landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming.

3. Landscaped areas shall be kept free of weeds and debris.

4. Irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance. Adjustments to eliminate overspray or runoff shall be made on a regular basis.

5. Landscape materials and landscaped areas shall be maintained to minimize impacts to public viewsheds.

E. Water waste prohibited. Water waste resulting from an inefficient irrigation system leading to excessive runoff, low head drainage, overspray, and other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures is prohibited.

F. Enforcement. Failure to maintain landscape areas in compliance with this Section shall be deemed a nuisance and shall be subject to abatement in compliance with the Municipal Code.

20.48.060 – Landscape and Irrigation Plans

A. Plans required. A landscape and irrigation plan shall be submitted as part of the application for a Zoning Clearance or discretionary application approval.

B. Content and preparation.

1. **Required information.** Landscape plans shall contain the information required by the Department.

2. **Preparation by qualified professional.** Each landscape plan shall be prepared by a California licensed landscape architect, licensed landscape contractor, certified nurseryman, or other professional determined by the Department to be qualified.

C. Review and approval. The review authority shall review each landscape plan to verify its compliance with the provisions of this Chapter.

D. Statement of surety. When required by the review authority a performance guarantee security in the form of cash, performance bond, letter of credit, or instrument of credit in an amount equal to 100 percent of the total value of all plant materials, irrigation, installation and maintenance shall be posted with the City.

E. Changes to approved landscape plans. The Director may authorize minor changes to an approved landscape plan that do not affect the theme or character established for the project.

F. Certification of landscape completion. The completion of required landscaping and irrigation improvements shall be certified by the preparer of the landscape and irrigation plan through a signed statement submitted to the Director.

20.48.070 – Landscape and Irrigation Plan Standards.

A. Landscape design. The required landscape plan shall be designed to integrate all elements of the project (i.e., structures, parking lots, and streets), enhance the aesthetic quality of the site, and minimize water and energy demand.

B. Landscape location requirements. Landscaping shall be provided in all areas of a site as follows.

1. **Setbacks, open areas, and easements.** All setback and open space areas required by this Zoning Code, any easements for utilities, drainage courses, or other purposes, and any areas provided for utilities shall be landscaped, except where they are to be retained in their natural state and the review authority determines that landscaping is not necessary to achieve the purposes of this Chapter.

2. **Unused areas.** All areas of a project site not intended for a specific use, including a commercial pad site intended for future development, shall be landscaped unless retained in their natural state and the review authority

determines that landscaping is not necessary to achieve the purposes of this Chapter.

3. **Parking areas.** Parking areas shall be landscaped as outlined in Section 20.52.050 (Development Standards for Parking Areas).

C. Plant material.

1. **Variety.** Landscaping shall include trees, shrubs, and ground covers.

2. **Quality.** Plant materials shall conform to or exceed the plant quality standards of the latest edition of American Standard for Nursery Stock published by the American Association of Nurserymen, or the equivalent.

3. **Size at time of planting.** Plant materials shall be sized and spaced to achieve immediate effect and shall not be less than a 15-gallon container for trees, five-gallon container for specimen shrubs and 6-inch pots for mass planting, unless otherwise approved by the review authority.

4. **Nonvegative plant material.** The use on nonvegative (fake) plant materials, except to turf, shall be prohibited.

D. Plant selection and grouping. Plant materials shall be selected for low water demand and drought tolerance; adaptability and relationship to the Newport Beach environment, and the geological and topographical conditions of the site; color, form, and pattern; ability to provide shade; and soil retention capability.

1. **Drought tolerant species.** Landscape designs shall emphasize the use of drought tolerant plant species (Xeriscape).

2. **Invasive plant species.** Invasive plants are generally those identified by the California Invasive Plant Council and California Native Plant Society in their publications. The planting of invasive species shall be prohibited in the following areas:

   a. ESHA and ESHA buffer areas;

   b. Fuel modification areas abutting sensitive habitats;

   c. Sites where a biological survey has identified significant natural habitat; and

   d. With the Coastal Zone.

3. **Deciduous trees.** Landscape designs shall maximize the use of deciduous trees to shade buildings in summer and allow for passive solar heating in winter.

5. **Grouping of plants.** Plants having similar water use requirements shall be grouped together in distinct hydrozones.

E. Minimum dimensions. Each area of landscaping shall have a minimum interior width of 3 feet for shrubs and groundcover and 5 feet for trees.

F. Protective curbing. Landscaped areas shall be protected with a minimum 6-inch high concrete curb, except where otherwise deemed unnecessary by the review authority.

G. Soil conditioning and mulching.

1. A minimum one-foot depth of uncompacted soil shall be provided for water absorption and root growth in each planted area.

2. Soil shall be prepared and/or amended to be suitable for the landscape to be installed.

3. A minimum of two inches of mulch shall be added in each nonturf area to the soil surface after planting. Any plant type that is intolerant to mulch shall be excluded from this requirement.

H. Irrigation system requirements.

1. All landscaped areas, except those intentionally maintained with native plants, shall include an automatic irrigation system.

2. Water-efficient systems (e.g., drip, mini-spray, bubbler-type, or similar system) shall be used whenever feasible. Low-flow sprinkler heads with matched precipitation rates shall be used when spray or rotor-type heads are specified for watering shrubs and ground cover areas.

3. Dual or multi-program controllers with separated valves and circuits shall be used when the project contains more than one type of landscape treatment (e.g., lawn, ground cover, shrub, tree areas), or a variety of solar aspects.

4. Soil moisture-sensing devices and rain sensors shall be used on projects with more than 20,000 square feet of landscaped area to minimize or eliminate over-watering.

5. The review authority may require soil moisture-sensing devices and rain sensors for projects that abut a bluff or canyon.

6. Watering shall be scheduled at times of minimal wind conflict and evaporation loss.

7. Sprinkler heads shall have matched precipitation rates within each valve zone.

8. Check valves are required where elevation differential may cause low head drainage.

9. Overspray or run-off onto paved areas shall be avoided.

20.48.080 – Fuel Modification

This Section provides standards for development within and adjacent to wildland fire hazard areas as identified on General Plan Figure S4, Wildfire Hazards. The requirements of this Section shall be in addition to the Fire Department's Guidelines for Fuel Modification Plans and Maintenance Standard, Municipal Code Chapter 15.04, Section 701A.4 (Fuel Modification Plan), and Municipal Code Chapter 9.04, Section 9.04.030 (Amendments to Chapter 3, "General Precautions Against Fire" of the 2007 California Fire Code).

A. **New development.** New development within or adjacent to areas of high and moderate fire susceptibility as identified on General Plan Figure S4 (Wildfire Hazards) shall be located and designed to avoid the need to extend fuel modification zones into an Environmentally Sensitive Habitat Area (ESHA).

B. **Sensitive habitat areas.** Fuel modification zones in buffer zones abutting an ESHA shall consist of fire-resistive, native plant species from the City-approved plant list.

C. **Invasive plants prohibited.** Invasive ornamental plant species shall be prohibited in fuel modification zones abutting an ESHA and sites where a biological survey has identified significant natural habitat.

Chapter 20.50 – Nonconforming Uses and Structures

Sections:

20.50.010 – Purpose
20.50.020 – Applicability
20.50.030 – Determination of Nonconformity
20.50.040 – Nonconforming Structures
20.50.050 – Nonconforming Uses
20.50.060 – Nonconforming Parking
20.50.070 – Landmark Structures
20.50.080 – Repair of Damaged or Partially Destroyed Nonconformities
20.50.090 – Termination of Nonconforming Status
20.50.100 – Abatement Periods

20.50.010 – Purpose

This Chapter establishes procedures for the continuation and maintenance of existing uses and structures that do not conform to the provisions of this Zoning Code and for the abatement of those uses that may adversely affect the general welfare of persons and property. The purpose of this Chapter is to:

A. Establish procedures and criteria for the continuation, maintenance, and expansion of specific nonconforming uses and structures;

B. Encourage nonconforming uses and structures to become more conforming over time;

C. Reduce the number of nonconforming uses by prohibiting their reestablishment after abandonment; and

D. Phase out nonconforming uses in residential zoning districts in compliance with the abatement periods established in this Chapter without infringing upon vested property rights.

20.50.020 – Applicability

The provisions of this Chapter apply to all legally established uses and structures that became nonconforming due to reclassification, ordinance changes, or annexations.

20.50.030 – Determination of Nonconformity

A. Director's determination. The Director shall determine the nonconforming conditions of land uses and structures.

B. Nonconforming use. Any use determined to have been lawfully established and maintained, but that does not conform to the use regulations or required conditions for the zoning district in which it is located by reason of adoption or amendment of this Zoning Code or by reason of annexation of territory to the City, shall be deemed to be a nonconforming use.

1. A nonconforming use includes a use that was lawfully established and maintained, but is now conditionally allowed, and has not obtained a Conditional Use Permit or Minor Use Permit.

2. A use shall not be considered to have been "lawfully established and maintained" and is an illegal use if it was established or operated without required permits and licenses, including permits and licenses required by any Federal, State, or local government agency.

C. Nonconforming structure. Any structure that was lawfully erected, but that does not conform with the property development standards for the zoning district in which the structure is located by reason of adoption or amendment of this Zoning Code or by reason of annexation of territory to the City, shall be deemed to be a legal nonconforming structure. A structure, or any portion of a structure, shall not be considered to have been "lawfully erected" and is illegal if it was constructed without required permits, or was constructed inconsistent with approved plans for a required permit, including permits required by any Federal, State, or local government agency.

D. Responsibility of owner. When a use or structure does not conform with the applicable use regulations or property development standards for the zoning district in which it is located, it shall be the responsibility of the owner to provide evidence that the use or structure was lawfully established, erected, and maintained and is nonconforming by reason of adoption or amendment of this Zoning Code or by reason of annexation of territory to the City.

E. Illegal use or structure. A use or structure that was not lawfully established, erected, or maintained is contrary to the provisions of this Zoning Code and the City may commence proceedings for the abatement and removal of the use or structure in compliance with the provisions of Chapter 20.82 (Enforcement).

20.50.040 – Nonconforming Structures

Nonconforming structures may be maintained, altered, or added on to only in compliance with the provisions of this Section.

A. Maintenance and repairs. Routine maintenance and repairs may be made to nonconforming principal and accessory structures.

B. Nonstructural alterations. Changes to interior partitions or other nonstructural improvements may be made to nonconforming structures, except accessory structures.

C. Structural alterations. Structural elements to nonconforming principal structures, excluding accessory structures, may be modified, repaired, or replaced when confined to only the conforming portions of the structure.

D. Seismic retrofits. Alterations to nonconforming structures due to seismic retrofitting requirements are allowed in compliance with Chapter 15.07 (Earthquake Hazard Reduction in Existing Buildings) of the Municipal Code.

E. Reasonable accommodation. Improvements to a nonconforming structure that are necessary to comply with an approved reasonable accommodation in compliance with Section 20.66.040 (Reasonable Accommodations) shall be allowed.

F. Additions. Nonconforming structures may added on to up to a maximum of 50 percent of the gross floor area of the existing structure within a 5 year period and the existing nonconforming structure shall not be required to be brought into compliance with the development standards of this Zoning Code subject to the following:

1. The floor area of the addition, together with the floor area of the existing structure, does not exceed the allowed floor area for the zoning district;

2. The addition complies with all applicable development standards (e.g., height, setbacks, fences, landscaping, etc.) of this Zoning Code ;

3. Additional parking shall be provided in compliance with Section 20.50.060 (Nonconforming Parking), below ; and

4. Within the Coastal Zone, if 50 percent or more of the exterior walls of a nonconforming structure are demolished or replaced, the entire structure shall be brought into conformity with all current development regulations and all applicable policies of the certified Local Coastal Program.

G. Alteraltions and additions in the Coastal Zone. [New] In the Coastal Zone, if a structure is non-conforming due to a coastal resource protection development regulation and proposed alterations or additions would result in more than 50 percent of the exterior walls to be demolished or replaced, the entire structure shall be brought into conformity with all current development regulations and all applicable policies of the certified Local Coastal Program.

H. Exceptions.

1. **Corona del Mar and Balboa Village. [New]** Existing nonresidential structures within Corona del Mar and Balboa Village that are nonconforming because they exceed the allowed floor area shall be exempt from the limits of this Section and may be demolished and reconstructed to their pre-existing height and floor area provided that not less than the pre-existing number of parking spaces is provided.

2. **Landmark structures.** Landmark structures shall be exempt from the requirements of this Chapter in compliance with Section 20.50.070 (Landmark Structures), below.

20.50.050 – Nonconforming Uses

Nonconforming uses may be changed, expanded, increased, or intensified only as provided in this Section.

A. Expansion and intensification of existing nonconforming uses. In nonresidential zoning districts, and in areas where residential uses are not allowed in planned community districts or specific plan districts, a use that was previously allowed by right, but which becomes nonconforming because of new permit regulations, may be expanded or intensified (e.g., increase in floor area, lot area, or occupancy load) subject to the approval of a Conditional Use Permit.

B. Change of use.

1. A nonconforming nonresidential use may be changed to a conforming use provided the change does not create or increase a deficiency in required off-street parking except as provided in Section 20.50.060 (Nonconforming Parking).

2. A residential use that is nonconforming because it exceeds the allowed number of units for the zoning district may be altered to reduce the number of dwelling units provided the reduction complies with any floor area limit and the provisions of Chapter 20.36 (Conversion or Demolition of Affordable Housing) are satisfied.

C. Exception for landmark structures. The use of a landmark structure may be changed, expanded, increased, or intensified without obtaining a Conditional Use Permit required by this Section subject to compliance with the provisions of Section 20.50.070 (Landmark Structures).

20.50.060 – Nonconforming Parking

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Zoning Code, the following alterations shall be allowed:

1. Number of spaces. A residential development having less than the required number of parking spaces per dwelling unit or having at least 2 parking spaces but fewer than the required number of covered or enclosed parking spaces shall be allowed the following repairs, alterations, and additions:

a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Subsections 20.50.040 (A-E), above ; and

b. Minor additions (e.g., bathrooms, closets, and hallways) or the expansion of existing rooms limited to a maximum of 10 percent of the existing floor area of the structure.

2. Dimensions of parking spaces. Residential developments that are nonconforming only because amendments to this Zoning Code have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

a. All improvements and expansions allowed under Subparagraph A.1, above; and

b. Additions larger than those allowed under Subparagraph A.1, above, may be allowed subject to the approval of a Modification Permit in compliance with Section 20.66.050 (Modification Permits).

B. Nonresidential. Where nonresidential structures and uses are nonconforming because they do not provide the number of parking spaces required by this Zoning Code, the following provisions shall apply:

1. Change of use. A nonconforming use in a nonresidential zoning district, and in areas where residential uses are not allowed in planned community districts or specific plan districts, may be changed to a new use allowed in that zoning district without providing additional parking provided no intensification or enlargement (e.g., increase in floor area, lot area, or occupancy load) occurs and the new use requires a parking rate of no more than one space per 250 square feet of building area.

2. Repair, maintenance, and alterations. Repair, maintenance, and alterations to nonconforming structures and uses shall be allowed as provided in Subsections 20.50.040 (A-E), above.

3. Addition to structure or intensification of use. A nonconforming structure may be enlarged or a nonconforming use may be enlarged or changed to a new use that requires additional parking under either of the following conditions:

a. Required parking for the additional square footageis provided; or

b. If the new use requires more parking than the nonconforming use, the new use shall only be required to provide additional equal to the difference between the two; or

c. A reduction in the number of required parking spaces is approved in compliance with the provisions of the zoning code.

4. Demolition of structure. All rights with regard to nonconforming parking shall be lost for a structure that is voluntarily demolished, except as provided in Subsection 20.50.040.H (Exceptions), above.

20.50.070 – Landmark Structures

A. Purpose. The purpose of this Section is to help preserve historic structures, encourage their adaptive reuse, and revitalize the older commercial areas in which they are located by granting relief from restrictions on nonconforming structures and uses while maintaining the principal use and minimizing impacts on the surrounding area.

B. Applicability. The following types of structures are recognized as having importance to the history and architecture of the City and are collectively designated as landmark structures:

1. Landmark theaters. The term landmark theaters shall mean a structure constructed for use as a cinema or theater that was constructed on or before December 12, 1950; has a single screen or stage; and was designed to seat more than 300 people.

2. Landmark structure. The term landmark structure shall mean a structure listed on the National Register of Historic Places, constructed on or before December 12, 1950.

C. Exemptions. Changes in use and structural alterations to a landmark structure shall be exempt from the requirements of this Chapter in compliance with the following.

1. Change of use.

a. The principal use of a landmark structure may be changed, modified, increased, or intensified without obtaining a discretionary permit subject to compliance with the conditions of Subsection D, below, and regardless of whether the use has been discontinued for a period of time.

b. An accessory use may be initiated, increased, or intensified without obtaining a discretionary permit subject to compliance with the conditions of Subsection D, below.

c. For purposes of this Section, the term principal use of a landmark theater shall mean the display of motion pictures and similar entertainment uses that occurred on a regular basis within the structure from its inception to January 1, 2003.

d. For the purposes of this Section, the term principal use of a landmark structure shall be the use that occupied the greatest amount of floor area as of January 1, 2003.

e. For purposes of this Section, the term accessory use shall mean a use that is allowed in the zoning district in which the landmark structure is located.

2. Alterations. Structural alterations may be made to a landmark structure without obtaining a discretionary permit subject to compliance with the conditions of Subsection D, below.

D. Conditions. The exemptions specified in Subsection C, above, are applicable on the following conditions:

1. A new use that is initiated and a use that is intensified by way of a change in operational characteristics shall be an accessory use and remain subordinate to the principal use of the landmark structure;

2. The principal use of the landmark structure shall occupy at least 70 percent of the gross floor area of the structure;

3. Any permit required by any other titles (other than Title 20) of the Municipal Code shall be obtained before the initiation or intensification of an accessory use of a landmark structure;

4. Accessory uses in any landmark theater shall be conducted only between the hours of 8:00 a.m. and 12:00 a.m.;

5. The required off-street parking of all uses after any additions, intensification, modification, or expansion (including credit for reductions in off-street parking resulting from the elimination of accessory uses existing on January 1, 2003) is less than the required off-street parking for the principal and accessory uses prior to any additions, intensification, modification or expansion; and

6. The façade and exterior architectural features of the landmark structure are restored to substantially their original condition as determined by the Director and the exterior walls remain in substantially the same location as they existed on January 1, 2003.

20.50.080 – Repair of Damaged or Partially Destroyed Nonconformities

A. Nonconforming use. A nonconforming use occupying land, a conforming structure, or portion of a conforming structure that is involuntarily damaged, or destroyed may be reestablished, provided that;

1. Restoration work is commenced within 12 months of the date of damage, unless otherwise allowed by the Director, and is diligently pursued to completion; and

2. An abatement period for the nonconforming use has not been established in compliance with Section 20.50.100 (Abatement Periods), below.

B. Nonconforming structure.

1. Determination of replacement cost. The replacement cost of the structure shall be determined by the Building Official. However, the Building Official shall accept the appraised replacement cost of the structure as determined by an independent, licensed appraiser retained by the property owner.

2. Up To 75 percent damage or destruction. A nonconforming structure that is involuntarily damaged, or destroyed may be repaired, restored, or rebuilt if the cost of the repair or restoration is less than 75 percent of the replacement cost of the entire structure and a Minor Use Permit is not required by the circumstances outlined in subparagraph b, below. The rights conferred by this Section are contingent upon diligent application for a Building Permit after the damage occurs and diligent pursuit of repairs or rebuilding to completion.

3. Greater than 75 percent damage or destruction. If a nonconforming structure is involuntarily damaged, or destroyed to an extent of more than 75 percent of its replacement cost, the nonconformity may be restored subject to the approval of a Modification Permit. An application for the Modification Permit shall be made within 12 months after the damage or destruction occurs.

C. Aging and deterioration. The provisions of this Section shall not allow replacement of nonconforming conditions in structures damaged by ongoing natural processes (e.g., dry rot or termites) or that have deteriorated due to age and lack of maintenance.

D. Condominium units. When a Minor Use Permit is required for replacement or repair of condominium units that are involuntarily damaged, or destroyed no reduction in the number of units shall be required. The replacement units shall be permitted to be equivalent in size and location to the units that were damaged or destroyed.

E. Exceptions for Corona del Mar and Balboa Village. Existing nonresidential structures within Corona del Mar and Balboa Village that are nonconforming because they exceed the allowed floor area shall be exempt from the limits of this Section and may be demolished and reconstructed to their pre-existing height and floor area provided that not less than the pre-existing number of parking spaces is provided.

20.50.090 – Termination of Nonconforming Status

A. Nonconforming use. Unless otherwise provided in this Chapter a nonconforming use, or nonconforming operational characteristic of a use, shall cease operations and shall not be reestablished when one or more of the following conditions occur:

1. The use, or nonconforming operational characteristic of a use, is discontinued for 180 consecutive days, except as provided in Subsection C, below;

2. The use, or nonconforming operational characteristic of a use, is converted to a conforming use;

3. The use, or nonconforming operational characteristic of a use, is enlarged, extended, expanded (e.g., increase in floor area, lot area, or occupancy load), or changed to increase its nonconformity with the regulations this Zoning Code without first obtaining required approvals; or

4. The abatement period specified for the nonconforming use has expired as identified in Section 20.50.100 (Abatement Periods), below.

B. Demolition of structure. All rights with regard to maintaining nonconforming status of a structure or nonconforming parking shall be lost for a structure that is voluntarily demolished, except as provided in Subsection 20.50.040.H (Exceptions), above.

C. Exceptions.

1. In nonresidential zoning districts, and in areas where residential uses are not allowed in planned community districts or specific plan districts, a nonconforming use that has been discontinued for 180 days or more may be reestablished subject to the approval of the Director when all of the following findings are made:

   a. The use is allowed by right, but is nonconforming only because it does not conform to one or more of the standards for specific land uses, including parking;;

   b. The property or structure where the nonconforming use is located contains a substantial investment because of the structural design,

equipment, or fixtures that are unique to and necessary for the operation of the former use; and

c. The property owner has made a good faith effort to reestablish the use and has maintained the property in a manner to prevent unsafe or unsightly conditions during the period of inactivity.

2. A nonconforming use that has been discontinued for 180 days or more may be reestablished when located within a landmark structure, in compliance with the requirements of Section 20.50.070 (Landmark Structures).

20.50.100 – Abatement Periods

Nonconforming uses shall be abated and terminated upon the expiration of the periods of time identified in this Section.

A. All zoning districts when no structure is involved. Nonconforming uses of land located in any zoning district, planned community district, or specific plan district that do not involve the use of a structure shall be discontinued within one year of becoming nonconforming.

B. Residential zoning districts involving a structure. In residential zoning districts or in an area where residential uses are allowed in planned community districts or specific plan districts, a nonconforming use of land involving a structure shall be discontinued as follows:

1. Abatement period. A nonconforming use of land involving a structure in a residential zoning district shall be discontinued on the earliest date as follows:

a. Within one year from May 21, 2008; or

b. Upon the expiration of the term of a lease on the property. Any lease shall be the last lease entered into for the subject property prior to December 7, 2007; or

c. Upon the expiration of a current operating license that is required by State law.

2. Order of abatement. Whenever the Director finds that any of the conditions exist that are identified in Subparagraph 1, above, the Director shall issue a written order of abatement to the property owners and all persons in possession of the property. The owner and/or person in possession shall comply within the time and in the manner stated in the order.

3. Exception. Multi-family and two-family residential uses located in residential zoning districts and in areas where residential uses are allowed in planned community districts or specific plan districts that are nonconforming only in terms of their number of units, parking, or use shall not be subject to abatement.

4. Extension of abatement period. Following the issuance of an Abatement Order by the Director, a property owner may request an extension of the abatement period in order to amortize the property owner's investment and to

avoid a potential taking of property either under the procedure outlined in this Subparagraph or under the procedure outlined in Subparagraph 5 (Extension of abatement period for residential care facility), below.

a. Application requirements. An application for an extension of the abatement period shall be filed with the Department no later than 90 days prior to the expiration of the abatement period as specified in this Section. The application shall include the following information in addition to other information required by the Department:

(1) (1) The length of the requested extension of the abatement period; and

(2)

(3) (2) Evidence in support of the findings included in Subparagraph 5 (Findings/Considerations), below.

b. Hearing Officer hearing and action.

(1) The Hearing Officer, as provided in Section 20.74.040 (Hearing Officer), shall be the review authority for applications for requests of extensions to abatement periods for nonconforming uses in residential zoning districts and in planned community districts or specific plan districts where residential uses are allowed.

(2) The Hearing Officer shall conduct a public hearing on the request in compliance with Chapter 20.76 (Public Hearings).

(3) The Hearing Officer, by resolution, shall approve, conditionally approve, or deny the request for an extension to the abatement period. The resolution shall include; findings of fact; evidence presented of economic hardship arising from the abatement proceedings; the nonconformity's impact on the community; and other factors that may affect the length of the abatement period required to avoid an unconstitutional taking.

c. Findings and considerations. In reviewing an application for an extension to the abatement period the Hearing Officer shall consider the following:

(1) Length of the abatement period in relation to the owner's investment in the use;

(2) Length of time the use was operating prior to the date of nonconformity;

(3) Suitability of the structure for an alternative use;

(4) Harm to the public if the use remains beyond the abatement period; and

(5) Cost and feasibility of relocating the use to another site.

d. Notice to owner. Following the hearing, the Department shall send a copy of the Hearing Officer's action to the owner of the property within 10 days following the date of the Commission's action.

e. Appeals. Refer to Subsection E, below.

5. Extension of abatement period for residential care facility. The abatement period for a residential care facility may be extended upon approval of an application by the Director under one or both of the circumstances outlined below. An application for an extension under this Subparagraph is separate and apart from an application for an extension under Subparagraph 4, above. A residential care facility may apply for an extension under either or both procedures:

a. When the owner or occupant has applied for a Conditional Use Permit (Section 20.66.090) or Reasonable Accommodation (Section 20.66.040) in a timely manner and is diligently pursuing the applicable process, as determined by the Director; or

b. When the business owner or occupant is contractually obligated to continue the provision of a program or service for one or more persons so long as any existing contract provides for a normal and customary term for the provision of those services. No term shall exceed 60 days.

C. Nonresidential zoning districts involving a structure.

1. Abatement period. In nonresidential zoning districts, and in areas where residential uses are not allowed in planned community districts or specific plan districts, a nonconforming use of land involving a structure shall be discontinued within 10 years after the Commission determines that the orderly termination of the nonconforming use is necessary to promote the health, safety, and general welfare and to comply with the provisions of the Zoning Code and goals and policies of the General Plan.

2. Order of abatement. Whenever the Commission determines that the abatement of a nonconforming use is necessary in compliance with Subparagraph 1, above, the Director shall issue a written order of abatement to the property owners and all persons in possession of the property. The owners and/or persons in possession shall comply within the time and in the manner stated in the order.

3. Exceptions. The abatement period specified in Subparagraph 2, above, shall not apply except in the following circumstances:

a. A different abatement period is specified in a planned community district or specific plan district; or

b. The use is located in a landmark structure that is subject to the provisions of Section 20.50.070 (Landmark Structures) in which case there shall be no abatement period.

4. Extension of abatement period. Following the issuance of an Abatement Order by the Director, a property owner may request an extension of the

abatement period in order to amortize the property owner's investment and to avoid a potential taking of property.

a. Application requirements. An application for an extension of the abatement period shall be filed with the Department no later than 90 days prior to the expiration of the abatement period as specified in this Section. The application shall include the following information in addition to other information required by the Department:

(1) The length of the requested extension of the abatement period; and

(2) Evidence in support of the findings included in Subparagraph 5 (Findings/Considerations), below.

b. Commission hearing and action.

(1) The Commission shall be the review authority for applications for requests of extensions to abatement periods for nonconforming uses in nonresidential zoning districts and in planned community districts or specific plan districts where residential uses are not allowed.

(2) The Commission shall conduct a public hearing in compliance with Chapter 20.76 (Public Hearings).

(3) The Commission shall evaluate evidence presented of economic hardship arising from the abatement proceedings, the nonconformity's impact on the community, and other factors provided in Subsection E, below, that may affect the length of the abatement period required to avoid an unconstitutional taking.

(4) The Commission shall approve, conditionally approve, or deny the request for an extension to the abatement period only as required to avoid an unconstitutional taking of property.

c. Findings and considerations. In reviewing an application for an extension to the abatement period the Commission shall consider the following:

(1) Length of the abatement period in relation to the owner's investment in the use;

(2) Length of time the use was operating prior to the date of nonconformity;

(3) Suitability of the structure for an alternative use;

(4) Harm to the public if the use remains beyond the abatement period;

(5) Cost and feasibility of relocating the use to another site ; and

(6) Other evidence relevant to the determination of whether an extension of the abatement period is required to avoid an unconstitutional taking of property.

d. Notice to owner. Following the hearing, the Department shall send a copy of the Commission's action to the owner of the property within 10 days following the date of the Commission's action.

D. Enforcement. The City shall enforce the provisions of this Chapter by civil action, utilization of the procedures in Chapter 20.82 (Enforcement), or any other proceedings or methods permitted by law.

E. Appeals.

1. Decisions of the Director, Zoning Administrator, Hearing Officer, or Commission may be appealed in compliance with the procedures established in Chapter 20.78 (Appeals).

2. Council hearings on appeals of the Hearing Officer's decision shall not be de novo and the City Council shall determine whether the findings made by the Hearing Officer are supported by substantial evidence presented during the evidentiary hearing. The City Council, acting as the appellate body, may sustain, reverse, or modify the decision of the Hearing Officer or remand the matter for further consideration. The remand shall include specific issues to be considered or a direction for a de novo hearing.

Chapter 20.52 – Off-Street Parking and Loading Standards

Sections:

20.52.010 – Purpose
20.52.020 – Applicability
20.52.030 – Requirements for Off-Street Parking
20.52.040 – Off-Street Parking Spaces Required
20.52.050 – Development Standards for Parking Areas
20.52.060 – Parking for Nonresidential Uses in Residential Zoning Districts [New]
20.52.070 – Parking Standards for Residential Uses
20.52.080 – Off-Site Parking
20.52.090 – Adjustments to Off-Street Parking Requirements
20.52.100 – Parking Management Districts
20.52.110 – Off-Street Loading Requirements

20.52.010 – Purpose

The purpose of this Chapter is to provide off-street parking and loading standards to:

A. Provide for the general welfare and convenience of persons within the City by ensuring that sufficient parking facilities are available to meet the needs generated by specific uses and that adequate parking is provided, to the extent feasible;

B Provide accessible, attractive, secure, and well-maintained off-street parking and loading facilities;

C. Increase public safety by reducing congestion on public streets and to minimize impacts to public street parking available for coastal access and recreation;

D. Ensure access and maneuverability for emergency vehicles; and

E. Provide loading and delivery facilities in proportion to the needs of allowed uses.

20.52.020 – Applicability

A. Off-street parking required. Each use, including a change or expansion of a use or structure, except as otherwise provided for in Chapter 20.50 (Nonconforming Uses and Structures) shall have appropriately maintained off-street parking and loading areas in compliance with the provisions of this Chapter. A use shall not be commenced and structures shall not be occupied until improvements required by this Chapter are satisfactorily completed.

B. Change, enlargement, or intensification of use. Changes in use and enlargement or intensification of an existing shall require compliance with the off-street parking requirements of this Chapter, except as allowed in Chapter 20.50 (Nonconforming Uses and Structures).

20.52.030 – Requirements for Off-Street Parking

A. Parking required to be on-site. Parking shall be located on the same lot or development site as the uses served, except for the following:

1. **Townhouses and multi-tenant uses**. Where parking is provided on another lot within the same development site, the parking shall be located within 200 feet of the units they are intended to serve.

2. **Off-site parking agreement.** Parking may be located off site with the approval of an off-site parking agreement in compliance with Subection 20.52.080.C (Parking agreement).

B. Permanent availability required. Each parking and loading space shall be permanently available and maintained for parking purposes for the use it is intended to serve. The Director may authorize the temporary use of parking or loading spaces for other than parking or loading in conjunction with a seasonal or intermittent use allowed in compliance with Section 20.66.080 (Limited Term Permit).

C. Parking and loading to be unrestricted. During business hours, parking and loading facilities required by this Division shall be available to the building's occupants, customers, and visitors without charge. A fee for parking may only be charged for spaces that exceed the requirements of this Chapter.

D. Maintenance. Parking spaces, driveways, maneuvering aisles, turnaround areas, and landscaping areas shall be kept free of dust, graffiti, and litter. Striping, paving, walls, light standards, and all other facilities shall be permanently maintained in good condition.

E. Vehicles for sale. Vehicles, trailers, or other personal property shall not be parked upon a private street, parking lot, or private property for the primary purpose of displaying the vehicle, trailer, or other personal property for sale, hire, or rental, unless the property is appropriately zoned, and the vendor is licensed to transact a vehicle sales business at that location.

F. Calculation of spaces required.

1. **Fractional spaces.** Fractional parking space requirements shall be rounded up to the next whole space.

2. **Bench seating**. Where bench seating or pews are provided, 18 linear inches of seating shall be considered to constitute a seat.

3. **Gross floor area.** References to spaces per square foot are to be calculated on the basis of gross floor area unless otherwise specified.

4. **Net public area.** "Net Public Area" shall be defined as the total area accessible to the public within an eating and/or drinking establishment, excluding kitchens, restrooms, offices pertaining to the use, and storage areas.

5. **Spaces per occupant.** References to spaces per occupant are to be calculated on the basis of maximum occupancy approved by the City of Newport Beach Fire Department.

6. **Spaces required for multiple uses.** If more than one use is located on a site, the number of required off-street parking spaces shall be equal to the sum of the requirements prescribed for each use.

G. Nonconforming parking and loading. Land uses and structures that are non-conforming due solely to the lack of off-street parking or loading facilities required by this Chapter, shall be subject to the provisions of Section 20.50.060 (Nonconforming Parking).

20.52.040 – Off-Street Parking Spaces Required

Off-street parking spaces shall be provided in compliance with Table 3.11, below. These standards shall be considered the minimum required to preserve the public health, safety, and welfare, and more extensive parking provisions may be required by the review authority in particular circumstances.

TABLE 3-11
OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Industry, Manufacturing & Processing, Warehousing Uses	
Food Processing	1 per 2,000 sq. ft.
Handicraft Industry	1 per 500 sq. ft.
Industry	
Small - 5,000 sq. ft. or less	1 per 500 sq. ft.
Large - Over 5,000 sq. ft.	1 per 1,000 sq. ft.
Industry, Marine Related	1 per 750 sq. ft.
Personal Storage (Mini Storage)	2 for resident manager, plus additional for office as required by Minor Use Permit
Research and Development	1 per 500 sq. ft.
Warehousing and Storage	1 per 2,000 sq. ft., plus 1 per 350 sq. ft. for offices. Minimum of 10 spaces per use
Wholesaling	1 per 1,000 sq. ft.
Recreation, Education, and Public Assembly Uses	
Assembly/Meeting Facilities	1 per 3 seats or 1 per 35 sq. ft. used for assembly purposes
Commercial Recreation and Entertainment	As required by Conditional Use Permit
Cultural Institutions	1 per 300 sq. ft.
Schools, Public and Private	As required by Conditional Use Permit
Residential Uses	
Accessory Dwelling Units	1 per unit; a minimum of 2 covered per site.
Single-Unit Dwellings - Attached	2 per unit in a garage
Single-Unit Dwellings - Detached	2 per unit in a garage

TABLE 3-11
OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Single-Unit Dwellings - Balboa Island	2 per unit in a garage
Multi-Unit Dwellings - up to 3 units	2 per unit in a garage, plus guest parking; 1 - 2 units, no guest parking required 3 units, 1 guest parking space
Multi-Unit Dwellings - 4 units or more	2 per unit in a garage, plus 0.5 space per unit for guest parking
Two-Unit Dwellings	2 per unit in a garage
Live/work units [New]	2 per unit in a garage, plus 2 for guest/customer parking
Senior Housing	1 per unit
Retail Trade Uses	
Appliances, Building Materials, Home Electronics, Furniture, Nurseries, and Similar Large Warehouse-type Retail Sales and Bulk Merchandise Facilities	1st 10,000 sq. ft. - 1space per 300 sq. ft. Over 10,000 sq. ft. - 1 space per 500 sq. ft. Plus 1 per 1,000 sq.ft. of outdoor merchandise areas
Food and Beverage Sales	1 per 200 sq. ft.
Marine Rentals and Sales	
Boat Rentals and Sales	1 per 1,000 sq. ft. of lot area, plus 1 per 350 sq. ft of office area
Marine Retail Sales	1 per 250 sq. ft.
Retail Sales	1 per 250 sq. ft.
Shopping Centers	I per 200 sq. ft.
Service Uses – Business, Financial, Medical, and Professional	
Convalescent Facilities	1 per 3 beds or as required by Conditional Use Permit
Emergency Health Facilities	1 per 200 sq. ft.
Financial Institutions and Related Services	1 per 250 sq. ft.
Hospitals	1 per bed; plus 1 per resident doctor and 1 per employee.
Offices* - Business, Corporate, General, Governmental Up to 50,000 sq. ft. 50,001 - 125, 000 sq. ft. 125,001 sq. ft. and greater * Not more than 20% medical office uses.	 1 per 250 sq. ft. 1 per 300 sq. ft. 1 per 350 sq. ft.
Offices - Medical and Dental Offices	1 per 200 sq. ft.
Outpatient Surgery Facility	1 per 250 sq. ft.
Service Uses - General	
Adult-Oriented Businesses	1 per 1.5 occupants or as required by Conditional Use Permit
Ambulance Services	1 per 500 sq. ft.; plus 2 storage spaces.
Animal Sales and Services	

TABLE 3-11
OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Animal Boarding/Kennels	1 per 400 sq. ft.
Animal Grooming	1 per 400 sq. ft.
Animal Hospitals/Clinics	1 per 400 sq. ft.
Animal Retail Sales	1 per 250 sq. ft.
Artists' Studios	1 per 1,000 sq. ft.
Catering Services	1 per 400 sq. ft.
Care Uses	
Adult Day Care – Small (6 or fewer)	Spaces required for dwelling unit only.
Adult Day Care - Large (7 or more)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit).
Child Day Care – Small (6 or fewer)	Spaces required for dwelling unit only.
Child Day Care - Large (9 to 14)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit).
Day Care - General (15 or more)	1 per 7 occupants based on maximum occupancy allowed per license.
Residential Care - General (7 to 14)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit).
Eating and Drinking Establishments	
Accessory (open to public)	1 per each 3 seats or 1 per each 75 sq. ft. of net public area., whichever is greater
Bars, Lounges, and Nightclubs	1 per each 4 persons based on allowed occupancy load or as required by Conditional Use Permit
Food Service [New]	1 per 175 sq. ft. of gross area, including outdoor dining areas, but excluding the first 25% or 1,000 sq. ft of outdoor dining area, whichever is less.
Food Service - Fast food	1 per 50 sq. ft., and 1 per 100 sq. ft. for outdoor dining areas
Take-Out Service - Limited	1 per 250 sq. ft.
Take-Out Service Only - no seating	1 per 50 sq. ft.
Emergency Shelter	As required by Conditional Use Permit
Funeral Homes and Mortuaries	1 per 35 sq. ft. of seating area
Health/Fitness Facilities	
Small - 2,000 sq. ft or less	1 per 250 sq. ft.
Large - Over 2,000 sq. ft.	1 per 200 sq. ft.
Laboratories (medical, dental, and similar)	1 per 500 sq. ft
Maintenance and Repair Services	1 per 500 sq. ft.
Marine Services	
Boat Storage - Dry	0.33 per storage space or as required by Conditional Use Permit
Boat Yards	As required by Conditional Use Permit
Dry Docks	2 per dry dock
Entertainment and Excursion Services	1 per each 3 passengers and crew members

TABLE 3-11
OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Marine Service Stations	As required by Conditional Use Permit
Sport Fishing Charters	1 per each 2 passengers and crew members
Water Transportation Services - Office	1 per 100 sq. ft., minimum 2 spaces
Personal Services	
Massage Establishments	1 per 200 sq. ft. or as required by Conditional Use Permit
Nail Salons	1 per 80 sq. ft.
Personal Services, General	1 per 250 sq. ft.
Studio (dance, music, and similar)	1 per 250 sq. Ft.
Postal Services	1 per 250 sq. ft.
Printing and Duplicating Services	1 per 250 sq. ft.
Recycling Facilities	
Collection Facility - Large	4 spaces minimum, but more may be required by the review authority
Collection Facility - Small	As required by the review authority
Visitor Accommodations	
Bed and Breakfast Inns	1 per guest room, plus 2 spaces
Hotels	1 per 2 guest rooms
Motels	1 per guest room or unit
Recreational Vehicle Parks	As required by Conditional Use Permit
Time Shares	1.2 per unit, plus 1 for each 50 sq. ft. of banquet seating or meeting area
Transportation, Communications, and Infrastructure Uses	
Communication Facilities	1 per 500 sq. ft.
Heliports and Helistops	As required by Conditional use Permit
Marinas	0.75 per slip or 0.75 per 25 feet of mooring space
Vehicle Rental, Sale, and Service Uses	
Vehicle/Equipment Rentals	
Office Only	1 per 250 sq. ft.
Limited	1 per 300 sq. ft., plus 1 per rental vehicle (not including bicycles and similar vehicles)
Vehicle/Equipment Rentals and Sales	1 per 1,000 sq. ft. of lot area
Vehicle Sales, Office Only	1 per 250 sq. ft., plus 1 as required by DMV
Vehicle/Equipment Repair (General and Limited)	1 per 300 sq. ft. or 5 per service bay whichever is more
Vehicle/Equipment Services	
Automobile Washing	1 per 200 sq. ft.of office or lounge area; plus queue for 5 cars per washing station
Service Station	1 per 300 sq. ft. or 5 per service bay whichever is more; minimum of 4
Service Station with Convenience Market	1 per 200 sq. ft., in addition to 5 per service bay
Vehicle Storage	1 per 500 sq. ft.
Other Uses	
Caretaker Residence	1 per unit

TABLE 3-11
OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Special Events	As required by Municipal Code Chapter 11.03
Temporary Uses	As required by the Limited Term Permit in compliance with Section 20.66.080

20.52.050 – Development Standards for Parking Areas

A. Access to parking areas. Access to off-street parking areas shall be provided in the following manner:

1. Nonresidential and multi-unit. Parking areas for nonresidential and multi-unit uses:

a. Adequate and safe maneuvering aisles shall be provided within each parking area so that vehicles enter an abutting street or alley in a forward direction.

b. The Director may approve exceptions to the above requirement for parking spaces immediately adjoining a public alley, provided not more than 10 feet of the alley right-of-way is used to accommodate the required aisle width, and provided the spaces are set back from the alley the required minimum distances shown in the table, below.

TABLE 3-12
PARKING SETBACK FROM ALLEY

Alley Width	Minimum Setback
15'-0" or less	5'-0"
15'-1" to 19'-11"	3'-9"
20'-0" or more	2'-6"

c. The first parking space within a parking area accessed from a public street shall be set back a minimum of 5 feet from the property line.

2. Access ramps. Ramps providing vehicle access to parking areas shall not exceed a slope of 15 percent. Changes in the slope of a ramp shall not exceed 11 percent and may occur at 5-foot intervals. Refer to Public Works Standard 160 A, B, and C. The Director of Public Works may modify these standards to accommodate specific site conditions.

B. Location of parking facilities.

1. Residential uses. Parking facilities serving residential uses shall be located on the same site as the use the parking is intended to serve. Additional

requirements are provided in Section 20.52.070 (Parking Standards for Residential Uses), below.

2. **Nonresidential uses**. Parking facilities for nonresidential uses shall be located on the same site as the use the parking is intended to serve, except where an off site parking facility is approved in compliance with Section 20.52.080 (Off-site Parking).

3. **Parking structures.** When adjacent to a residential zoning district, the development of structured parking, including rooftop parking shall require the approval of a Conditional Use Permit to mitigate potential impacts to adjacent residential uses.

4. **Parking on slopes.** Parking shall not be allowed on slopes greater than 5 percent.

C. Parking space and lot dimensions.

1. **Minimum parking space and drive aisle dimensions.** Each parking space, drive aisle, and other parking lot features shall comply with the minimum dimension requirements in Tables 3-x and 3-x, below, and as illustrated in Figure 3-x.

2. **Width of one way aisle.** The width of one way aisles may by reduced by the Public Works Director in unique situations arising from narrow lots or existing built conditions when traffic safety concerns have been addressed.

TABLE 3-13
MINIMUM STANDARD PARKING SPACE SIZE

Minimum Standard Space Requirements	
Width	**Length**
8 ft. 6 in.	17 ft

TABLE 3-14
STANDARD VEHICLE SPACE REQUIREMENTS

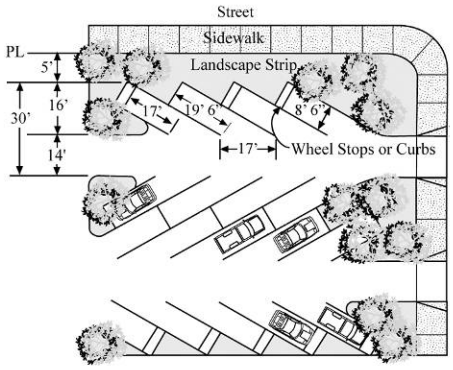
Angle (degrees)	Stall Width (1)	Stall Depth (2)	Stall Length	Aisle Width	
				One-Way	Two-Way
Parallel	8 ft	8 ft	22 ft	14 ft	24 ft
30	8 ft 6 in	16 ft	17 ft	14 ft	N/A
45	8 ft 6 in	18 ft	17 ft	14 ft	N/A
60	8 ft 6 in	19 ft	17 ft	18 ft	N/A
90	8 ft 6 in	17 ft	17 ft	26 ft	26 ft

(1) When the length of a parking space abuts a column, fence, wall, or other obstruction, the required width of the space shall be increased to 9 feet.

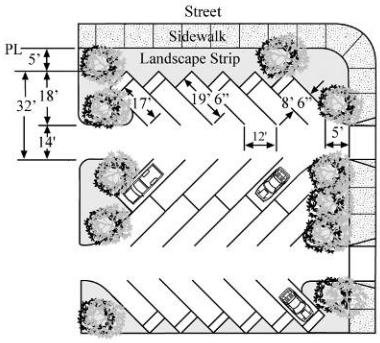
(2) Measured perpendicular to aisle

3. Bumper overhang areas. A maximum of 2.5 feet of the parking stall depth may be landscaped with low-growing, hearty materials in lieu of paving or the walkway may be increased, allowing a 2.5 foot bumper overhang while maintaining the required parking dimensions. Bumper overhang areas shall not encroach into required walkways, required landscape areas, or rights-of-way.

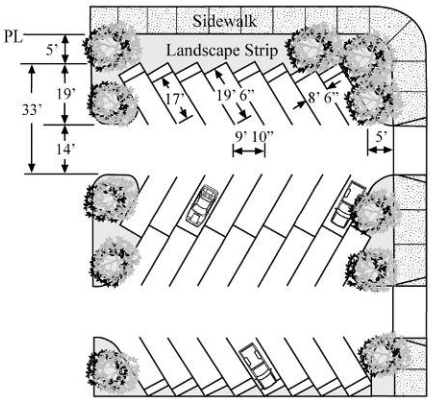
4. Compact parking. Compact parking spaces shall not be allowed.



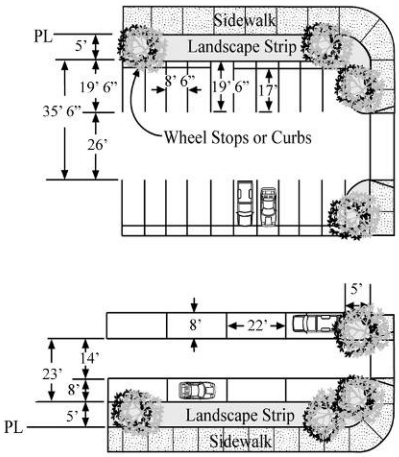
30 Degree Angle Parking



45 Degree Angle Parking



60 Degree Angle Parking



90 Degree Parking

Figure 3-8
Parking Lot Dimensions

D. Required parking area improvements. Off-street parking areas shall have the following improvements:

1. Curbing and wheel stops.

a. Continuous concrete curbing shall be installed a minimum of 5 feet from a wall, fence, building, or other structure. Curbs shall be a minimum of 6 inches high and 5½ inches wide.

b. The minimum standard curb radius shall be 6 feet at all aisle corners. Alternative curb radii may be approved by the Director of Public Works.

c. Individual wheel stops may be provided in lieu of continuous curbing when the parking is adjacent to a landscaped area, and the parking area drainage is directed to the landscaped area subject to the approval of the Director of Public Works. Wheel stops shall be placed to allow for 2 feet of vehicle overhang area within the dimension of the parking space.

2. Drainage. Parking lots shall be designed in compliance with the storm water quality and quantity standards of the City's Best Management Practices and the City's Standard Specifications and Plans.

3. Landscaping. [New] Landscaping for surface parking lots with 10 or more spaces shall be provided as follows.

a. Perimeter parking lot landscaping. [New]

(1) Adjacent to streets.

(a) Parking areas abutting a public street shall be designed to provide a perimeter landscape strip a minimum 5 feet wide between the street right-of-way and parking area. The Director may grant an exception to this requirement if existing structures, substandard lots, or unique site conditions preclude its implementation. In this case, the maximum feasible planting strip area shall be provided based on site conditions.

(b) Landscaping, other than trees, shall be designed and maintained to screen cars from view from the street and shall be maintained at approximately 36 inches in height.

(c) Screening materials may include a combination of plant materials, earth berms, raised planters, low walls, or other screening devices that meet the intent of this requirement as approved by the Director.

(d) Plant materials, walls, or structures within a traffic sight area of a driveway shall not exceed 36 inches in height in compliance with Section 20.30.110 (Traffic Safety Visibility Area).

(2) Adjacent to residential use.

(a) Parking areas for nonresidential uses adjoining residential uses shall provide a landscaped buffer yard with a minimum of 5 feet in width between the parking area and the common property line bordering the residential use. A solid masonry wall and landscaping in compliance with Subsection 20.30.020.D (Screening and buffering between different zoning districts) shall be provided along the property line.

(b) Trees shall be provided at a rate of one for each 30 feet of landscaped area and shall be a minimum 24 inch box container at time of planting.

b. Interior parking lot landscaping. [New]

(1) Trees required.

(a) Number and location. Trees shall be evenly spaced throughout the interior parking area at a rate of one tree for every 5 parking spaces. Trees shall be located in planters that are bounded on at least 3 sides by parking area paving. Planters shall have a minimum interior dimension of 6 feet.

(b) Size. All trees within the parking area shall be a minimum 24 inch box container at time of planting.

(2) Ends of aisles. All ends of parking aisles shall have landscaped islands planted with trees, shrubs, and ground cover.

(3) Larger projects. Parking lots with more than 100 spaces shall provide an appropriate entry feature consisting of a concentration of landscape elements, including specimen trees, flowering plants, enhanced paving, and project identification.

4. Lighting. Parking lots shall be lighted so that there is an average illumination over the entire lot of 2.5 footcandles and a minimum of 1.0 footcandle.

5. Stall markings, directional arrows, and signs.

a. Parking spaces shall be clearly outlined with 4-inch-wide lines painted on the surface of the parking facility. Car pool and van pool spaces shall be clearly identified for exclusive use of car pools and van pools.

b. Parking spaces for the disabled shall be striped and marked so as to be clearly identified in compliance with the applicable Federal, State, and City standards.

c. Driveways, circulation aisles, and maneuvering areas shall be clearly marked with directional arrows and lines to ensure the safe and efficient flow of vehicles.

d. The Director of Public Works may require the installation of traffic signs in addition to directional arrows to ensure the safe and efficient flow of vehicles in a parking facility.

6. Surfacing. Parking spaces and maneuvering areas shall be paved and permanently maintained with asphalt, concrete, or interlocking paving stones or other City approved surfaces.

E. Enclosed parking. The following regulations shall apply to enclosed commercial off-street parking:

1. Doors shall remain open during regular business hours;

2. A sign shall be posted on the business frontage that advises patrons of the availability and location of parking spaces;

3. Signs shall be posted on the site containing the following information:

   a. Doors are to remain open during business hours; and

   b. A number to call for Code Enforcement.

4. The location, size, and color of the signs required above shall be approved by the Department.

20.52.060 – Parking for Nonresidential Uses in Residential Zoning Districts [New]

Where parking lots for nonresidential uses are allowed in residential zoning districts in compliance with Chapter 20.18 (Residential Zoning Districts), they shall be developed in compliance with the following requirements in addition to other applicable standards provided in this Chapter.

A. Conditional Use Permit required. Approval of a Conditional Use Permit shall be required in order to locate a parking lot intended for nonresidential use within a residential zoning district.

B. Location of parking area. The parking area shall be accessory to, and for use of, one or more abutting nonresidential uses allowed in an abutting commercial zoning district. The Commission may grant a waiver for noncontiguous parking lots, but only under all of the following conditions:

1. The parking lot is designed to be compatible with the neighborhood;

2. There are no residential uses between the parking lot and the commercial zoning district;

3. The location of the parking lot does not fragment the adjacent neighborhood;

4. The parking lot is not detrimental or injurious to property and improvements in the neighborhood; and

5. The parking lot is located within a reasonable walking distance of the use to which it is an accessory.

C. Access. Access to parking lots shall be from commercial streets or alleys. An exception may be granted by the Commission if no commercial streets are available for access.

D. Passenger vehicle parking only. Parking lots shall be used solely for the parking of passenger vehicles.

E. Signs. No signs, other than signs designating entrances, exits, and conditions of use shall be maintained in parking areas. Signs shall not exceed 4 square feet in area and 5 feet in height. The number and location shall be approved by the Director before installation.

F. Perimeter wall. The parking lot shall have a solid masonry wall 6 feet in height along all interior property lines adjacent to residential zoning districts and 36 inches in height adjacent to streets and the front setback area of an abutting residential use.

G. Development standards. The parking lot shall be developed in compliance with the development standards of this Chapter and the outdoor lighting standards in Section 20.30.060 (Outdoor lighting).

H. No overnight parking. Overnight parking shall be prohibited and the parking lot shall be secured after business hours to prevent any use of the facility.

20.52.070 – Parking Standards for Residential Uses

A. Parking space and driveway dimensions.

1. Minimum interior dimensions.

a. Lots less than 40 feet wide. Required parking spaces shall have a minimum interior width of 17 feet, 6 inches and a minimum interior depth of 19 feet.

b. Lots 40 feet wide and greater. Required parking spaces shall have a minimum interior width of 18 feet, 6 inches and a minimum interior depth of 20 feet.

2. Tandem parking. Where tandem parking is provided, one space may have a minimum interior depth of 16 feet, provided the space is not used to meet the requirements for covered parking. Tandem parking up to a maximum of 2 cars in depth shall be allowed.

3. Driveway width. Driveways visible from a public right-of-way shall not be wider than required to access an adjacent garage as follows:

a. One car garage: 10 feet wide

b. Two car garage: 20 feet wide

c. Three car garage: 25 feet wide

d. Four car garage: 32 feet wide

4. **Vertical clearances.** The minimum unobstructed vertical clearance for parking spaces shall be 7 feet, except that the front 4 feet may have a minimum vertical clearance of 4 feet.

B. Access to parking.

1. **Direct access required.** Each parking space shall be capable of being accessed directly from an adjoining vehicular right-of-way or over an improved hard surfaced driveway, except for approved tandem parking spaces.

2. **Clear access required.** Where access to a required parking space is taken over a driveway, the driveway shall be maintained free and clear at all times except for the parking of currently registered, licensed motor vehicles, and for temporary obstructions that are incidental to the use of the property. Temporary obstructions in the driveway shall be allowed only for a period up to 72 hours.

C. Location of parking.

1. **Allowed parking areas.** Parking is allowed only in required permanent parking areas and on driveways leading to required parking areas. Under no circumstances shall landscaped and hardscaped areas, other than driveways, be used for the temporary parking of vehicles.

2. **Garages facing the street.** Garages with doors that face the street that are located within 20 feet of the front property line shall be equipped with automatic roll-up doors.

3. **Parking located in required setback areas.** The following requirements shall apply to the parking or storage of motor vehicles, recreational vehicles, watercraft, trailers, and similar items in residential zoning districts:

   a. **Front setback areas.** Parking or storage in required front setback areas shall be prohibited, except on driveways in front of garages that set back a minimum of 20 feet from the front property line.

   b. **Side setback areas.** Parking or storage in required side setback areas (behind the rear line of the required front setback area) shall be allowed.

   c. **Rear setback areas without alleys.** Parking or storage in required rear setback areas shall be allowed.

   d. **Rear setback areas with alleys.** Parking or storage in required rear setback areas shall **not** be allowed.

20.52.080 – Off-Site Parking

A. Conditional Use Permit required. Approval of a Conditional Use Permit shall be required for a parking facility or any portion of required parking that is not located on the same site it is intended to serve.

B. Findings. In order to approve a Conditional Use Permit for an off site parking facility the Commission shall make all of the following findings in addition to those required for the approval of a Conditional Use Permit:

1. The parking facility is located within a convenient distance to the use it is intended to serve;

2. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area; and

3. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.

C. Parking agreement. A parking agreement, which guarantees the long term availability of the parking facility for the use it is intended to serve, shall be recorded with the County Recorder's Office. The agreement shall be in a form approved by the City Attorney and the Director

D. Loss of off site Parking.

1. Notification of City. The owner or operator of a business that uses approved off site parking facility to satisfy the parking requirements of this Chapter shall immediately notify the Director of any change of ownership or use of the property where the spaces are located, or changes in the use that the spaces are intended to serve, or of any termination or default of the agreement between the parties.

2. Effect of termination of agreement. Upon notification that the agreement for the required off site parking has terminated, the Director shall establish a reasonable time in which one of the following shall occur:

a. Substitute parking is provided that is acceptable to the Director; or

b. The size or capacity of the use is reduced in proportion to the parking spaces lost.

20.52.090 – Adjustments to Off-Street Parking Requirements

The number of parking spaces required by this Chapter may be reduced only in compliance with the following standards and procedures.

A. ADA compliance. The Director may administratively reduce parking requirements due to a loss of parking spaces because of increased ADA requirements associated with tenant improvements.

B. Reduction of required off-street parking. Off-street parking requirements may be reduced with the approval of a Conditional Use Permit in compliance with Section 20.66.090 (Conditional Use Permits and Minor Use Permits) as follows:

1. Reduced parking demand. Required off-street parking may be reduced with the approval of a Conditional Use Permit in compliance with the following conditions:

a. The applicant has provided sufficient data, including a parking study if required by the Director, to indicate that parking demand will be less than requirement (e.g., City parking lot located nearby, greater than normal walk in trade, mixed use development) ; and

b. A parking management plan shall be prepared in compliance with Subsection C (Parking management plan), below

2. Joint use of parking facilities. Required off-street parking may be reduced with the approval of a Conditional Use Permit where two or more nonresidential uses on the same site or immediately adjacent sites have distinct and differing peak parking demands (e.g. a theater and a bank). The review authority may grant a joint use of parking spaces between the uses that results in a reduction in the total number of required parking spaces in compliance with the following conditions:

a. The most remote space is located within a convenient distance to the use it is intended to serve;

b. The amount of reduction is no greater than the number of spaces required for the least intensive of the uses sharing the parking;

c. The probable long-term occupancy of the structures, based on their design, will not generate additional parking demand;

d. The applicant has provided sufficient data, including a parking study if required by the Director, to indicate that there is no conflict in the peak parking demand for the uses proposing to make joint use of the parking facilities;

e. The property owners involved in the joint use of parking facilities shall record a parking agreement approved by the Director and City Attorney. The agreement shall be recorded with the County Recorder, and a copy shall be filed with the Department; and

f. A parking management plan shall be prepared in compliance with Subsection C (Parking management plan), below

C. Parking management plan. When a parking management plan to mitigate impacts associated with a reduction in the number of required parking spaces is required by this Chapter, the parking management plan shall include the following:

1. Restricting land uses to those that have hours or days of operation so that the same parking spaces can be used by two or more uses without conflict;

2. Restricting land uses with high parking demand characteristics;

3. Securing off site parking in compliance with Section 20.52.080 (Off-site Parking); and

4. Providing parking attendants and valet parking.

D. Required Data. In reaching a decision to allow a reduction of required parking spaces, the review authority shall consider data submitted by the applicant or collected/prepared at the applicant's expense.

20.52.100 – Parking Management Districts

Properties within a parking management district, established through the PM (Parking Management) Overlay District, may be exempted from all or part of the off-street parking requirements of this Chapter in compliance with the provisions of the adopted parking management district plan.

20.52.110 – Off-Street Loading Requirements

A. Number of loading spaces required.

1. **Up to 10,000 square feet**. Nonresidential uses with less than 10,000 square feet of gross floor area shall provide one off-street loading space, which may be combined with up to 2 off-street parking spaces.

2. **10,000 square feet or greater.** Nonresidential uses with 10,000 square feet of gross floor area or more shall provide off-street loading space(s) in compliance with Table 3-15, below.

3. **Uses not listed.** Requirements for uses not specifically listed shall be determined by the Director based upon the requirements for comparable uses and upon the particular characteristics of the proposed use.

TABLE 3-15
REQUIRED LOADING SPACES

Type of Land Use	Total Gross Floor Area	Loading Spaces Required
Manufacturing, research and development, institutional, and service uses	10,000 – 30,000 sq. ft.	One
	30,001 sq. ft. or more	One for each additional 20,000 sq. ft., plus additional as required by Director.
Office uses	30,000 to 60,000 sq. ft.	One
	60,001 + sq. ft.	One for each additional 30,000 sq. ft., plus additional as required by Director.
Commercial and other allowed uses	10,000 to 20,000 sq. ft.	One
	20,001 + sq. ft.	One for each additional 10,000 sq. ft., plus additional as required by Director.

B. Development standards for off-street loading areas.

1. Dimensions. Loading spaces shall be at least 10 feet in width, 25 feet in length, with 14 feet of vertical clearance.

2. Lighting. Loading areas shall have lighting capable of providing adequate illumination for security and safety. Lighting sources shall be shielded to prevent light spill beyond the property line. Lighting fixtures shall be energy-efficient and in scale with the height and use of adjacent structure(s).

3. Location. Loading spaces shall be located and designed as follows:

a. As near as possible to the main structure and limited to the rear two-thirds of the lot, if feasible;

b. Situated to ensure that the loading facility is screened from adjacent streets to the greatest degree feasible;

c. Situated to ensure that loading and unloading takes place on-premises and in no case within an adjacent public right-of-way or other traffic circulation areas on-premises;

d. Situated to ensure that vehicular maneuvers occur on-premises; and

e. Situated to avoid adverse impacts upon neighboring residential properties.

4. Striping. When required by the review authority, loading areas shall be striped and identified for "loading only." The striping shall be maintained in good condition at all times.

Chapter 20.54 – Sign Standards

Sections:

20.54.010 – Purpose
20.54.020 – Effect of Chapter
20.54.030 – General Provisions
20.54.040 – Definitions
20.54.050 – Prohibited Signs
20.54.060 – Provisions Applying to All Sign Types
20.54.070 – Standards for Permanent Signs
20.54.080 – Standards for Specific Types of Permanent Signs
20.54.090 – Standards for Temporary Signs
20.54.100 – Procedures for Sign Approval, Exemptions, and Revocations
20.54.110 – Modification Permit
20.54.120 – Comprehensive Sign Program
20.54.130 – Innovative Sign Program
20.54.140 – Nonconforming Signs
20.54.150 – Abandoned Signs
20.54.160 – Illegal Signs
20.54.170 – Maintenance Requirements
20.54.180 – Heritage Signs

20.54.010 – Purpose

The City of Newport Beach is a unique community located in an extraordinary environmental setting. Because of the need to protect and enhance the City's unique character and aesthetic standards, to protect public safety and property values, and to promote tourism through enhanced aesthetic appeal, the Council finds that proper sign control is an important governmental interest. Therefore, the intent of the standards in this Chapter is as follows:

A. Provide each sign user an opportunity for adequate identification while guarding against the excessive and confusing proliferation of signs by appropriately regulating the time, place, and manner under which signs may be displayed.

B. Preserve and enhance the community's appearance by regulating the type, size, location, quality, design, character, scale, color, illumination, and maintenance of signs.

C. Encourage signs that are well designed and that attract and invite rather than demand the public's attention.

D. Encourage the design of signs that are complementary to the buildings and uses to which they relate and that are harmonious with their surroundings.

E. Ensure freedom of expression for sign uses, including noncommercial speech, by maintaining a content-neutral approach to sign regulation.

F. Enhance the safety of motorists and pedestrians by minimizing the distraction of intrusive signs, as well as to protect the life, health, property, and general welfare of City residents and visitors.

G. Provide a review and approval process for signs to ensure compliance with the requirements of this Chapter.

20.54.020 – Effect of Chapter

A. Regulatory scope. This Chapter regulates signs, as defined in this Chapter, that are placed on private property or on property owned by public agencies other than the City of Newport Beach and over which the City has zoning authority. Regulations for signs on public property are codified in Municipal Code Chapter 13.20.

B. Applicability. The regulations in this Chapter shall apply to all signs in all zoning districts that come within the regulatory scope as defined in Paragraph A, above, unless specifically exempted. In addition, the provisions of Municipal Code Chapter 15.16 relating to building codes, sign permits, fees, penalties, and a method of enforcement shall also apply. Applications for sign permits that comply with the requirements of this Chapter, and other applicable laws, shall be approved. Sign Permits shall be required in compliance with Section 20.54.100 (Procedures for Sign Approval, Exceptions, and Revocations). Where approval of a Conditional Use Permit, variance, Modification Permit, site plan review, or design approval has been obtained, any applicable conditions of that approval shall supersede the requirements of this Chapter.

C. Sign permit required. A Sign Permit shall be required for all signs, including change of copy allowed under the provisions of this Chapter. In addition, signs that require a Sign Permit shall be subject to approval by the Director, Zoning Administrator, or Commission in conjunction with their sign approval authority. Only signs that comply with the provisions of this Chapter shall be approved. Additionally, the sign design guidelines that have been adopted by the Council shall be applied to guide the Director, Zoning Administrator, and/or Commission in administering this Chapter. Content of a noncommercial message shall not be considered when any required sign permit application is reviewed. Content of a commercial message shall be considered only to the extent required to determine whether the sign is an on-site sign. Refer to Section 20.54.100 (Procedures of Sign Approval, Exceptions, and Revocations) for Sign Permit requirements.

D. Nonconforming signs. An existing legally allowed sign that does not conform to the requirements of this Chapter shall be deemed a nonconforming sign and shall be subject to the requirements of Section 20.54.140 (Nonconforming Signs).

E. Planned community districts. In Planned Community (PC) Districts, sign regulations contained in the planned community development plan shall supersede the requirements of this Chapter. If the planned community development plan does not provide regulations for a particular sign type or situation, the requirements of this Chapter shall prevail. Service station signs in Planned Community Districts shall be subject to the provisions of Section 20.54.080.(k)(2) (Service station signs) unless more restrictive sign regulations are contained in the planned community development plan.

F. Santa Ana Heights Specific Plan. Signs proposed in the Santa Ana Heights Specific Plan area are subject to the provisions set forth in the Specific Plan document. The regulations contained in the Santa Ana Heights Specific Plan shall supersede the requirements of this Chapter.

20.54.030 – General Provisions

The policies, rules and regulations stated in this Section apply to all signs within the regulatory scope of this Chapter, and to all provisions of this Chapter, notwithstanding any more specific provisions to the contrary.

A. Message neutrality. It is the City's policy to regulate signs in a constitutional manner that is content neutral as to noncommercial messages and viewpoint neutral as to commercial messages.

B. Regulatory interpretations. Interpretations of the requirements of this Chapter shall be exercised in light of the City's message neutrality policy. Where a particular type of sign is proposed and the type is neither expressly allowed nor prohibited by this Chapter, or whenever a sign does not qualify as a "structure" as defined in the California Building Code, then the review authority shall approve, conditionally approve, or disapprove the application based on the most similar sign type that is expressly regulated by this Chapter.

C. Substitution of messages. Signs authorized by this Chapter are allowed to carry noncommercial messages in lieu of any other commercial or noncommercial messages. Substitution of messages may be made without additional approval or permitting process. This provision prevails over any more specific provision to the contrary within this Chapter. The purpose of this provision is to prevent an inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a lot, nor does it affect the requirement that a sign structure or mounting device be properly permitted.

D. Rules for non-communicative aspects of signs. Rules and regulations concerning the non-communicative aspects of signs, (e.g., type, location, size, height, illumination, spacing orientation, etc.), stand enforceable independently of any permit or approval process.

E. Multiple use zones. In a zone where both residential and non-residential uses are allowed, the signage rights and responsibilities applicable to a particular use shall be determined as follows: residential uses shall be treated as if they were located in the residential area where that type of use would be allowed as a matter of right, and non-residential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a Conditional Use Permit or similar discretionary process.

F. Billboard policy. The City completely prohibits the construction, erection or use of billboards, other than those that legally exist in the City, or for which a valid permit has been issued and has not expired, as of the date on which this provision was first adopted. The City adopts this policy in compliance with California Government Code section 65850, California Business and Professions Code sections 5354(a) and 5408.3 (both effective January 1, 2003). Permits shall not be issued for billboards that violate

this policy, and the City will take immediate abatement action against billboards constructed or maintained in violation of this policy. The Council affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Chapter. The Council intends for this billboard policy to be severable and separately enforceable even if other provisions of this Chapter may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid, or unenforceable. This provision does not prohibit agreements to relocate existing, legal billboards, as encouraged by Business and Professions Code Section 5412.

G. Property owners' consent. Signs shall not be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this policy, "owner" means the holder of the legal title to the property and all parties and persons holding a present right to possession, control, or use of the property.

H. Legal nature of signage rights and duties. As to all signs attached to property, real or personal, the signage rights, duties and obligations arising from this Chapter attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases, mutual covenants or equitable servitudes regarding signs (so long as they are not in conflict with this Chapter), or the ownership of sign structures.

I. Sign programs. Sign programs (comprehensive, innovative), voluntarily proposed for specific developments and Planned Communities, as well as special sign districts or special sign overlay zones, when approved by the Zoning Administrator and/or Commission may modify the rules provided in this Chapter as to sign size, height, illumination, spacing, orientation, or other non-communicative aspects of signs, but may not override or modify any of the General Provisions in this Section. All of the provisions of this Section shall automatically apply to and be deemed a part of any sign program approved after the date on which this provision is initially adopted.

20.54.040 – Definitions

For purposes of this Chapter, the following definitions shall apply:

A-Frame Sign. A freestanding portable sign typically constructed of wood, metal, or plastic. These signs are usually small and are removed at the close of business. They are typically hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter A.

Abandoned Nonconforming Sign. A nonconforming sign that is advertising a use that has ceased or is located upon a structure that has been abandoned by its owner, for more than 90 days.

Abandoned Sign. A sign that is advertising a use that has ceased; is located upon a structure that has been abandoned by its owner; does not identify or advertise a current bona fide business, lessor, service, owner or product available upon the site; or that identifies or advertises an event or activity that has occurred.

Animated Sign. A sign that uses movement, lighting, or special materials to depict action or create a special effect or scene. This classification includes wind-actuated (e.g., balloons, bunting, pennants, streamers, whirligigs) or other similar devices.

Awning. A roof-like structure usually covered in fabric (e.g., canvas) that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Awning Sign. A sign painted on, printed on, or attached to the surface of an awning.

Back-lit Awning. An internally illuminated, fixed, space-frame structure with translucent, flexible, fabric reinforced covering designed in awning form and with graphics or copy applied to the visible surface of the awning.

Banner Sign. A sign made of fabric or any nonrigid material with no enclosing framework.

Billboard. A permanent structure used for the display of offsite commercial messages.

Building Frontage. The building elevation that fronts on a street, alley, driveway, parking area, pedestrian plaza, walkway, courtyard, arcade, or waterway.

Building Frontage, Primary. The building frontage that is designated by an applicant as the "primary frontage" for the purpose of determining the applicable sign standards and that does not face a residential district.

Building Frontage, Secondary. The building frontage that is designated by an applicant for a Sign Permit as a "secondary frontage" for the purpose of determining the applicable sign standards, and that does not immediately face a residential zoning district.

Building Sign. A sign attached to or painted on a building.

Building Marker. A sign indicating the name of a building and date and incidental information about its construction, which is cut into a masonry surface or made of bronze or other permanent material.

Cabinet Sign. A sign that has one or more plastic, acrylic, or similar material faces (panels) that may or may not be internally illuminated. The sign panels may be either flat or shaped (“pan face”) and are attached to a metal frame (cabinet).

Canopy Sign. A sign located on a permanent roof-like structure or canopy of rigid or fabric materials extending from the main entrance of a building.

Changeable Copy Sign (electronic). A sign with changeable copy that is changed by incorporating video display, flip-disks, incandescent lamps, fluorescent lamps, fiber optics, light-emitting diodes, liquid crystal displays, plasma-displays, field emission displays, or any other mechanical or light-emitting matrix to convey changing copy or images. Also considered an animated sign.

Changeable Copy Sign (manual). A sign with changeable copy that is manually changed, regardless of method of attachment or materials of construction. This classification includes bulletin boards, and changeable copy signs on marquees. Does not include electronic message boards with lighted displays.

Commercial Mascot. Humans or animals used as advertising devices for commercial establishments, typically by the holding or wearing of insignia, masks or costumes associated with or advertising the commercial establishment. Includes sign twirlers, sign clowns, etc.

Commercial Message. A message displayed on a sign that relates primarily to economic interests (e.g., the exchange of goods or services). This definition shall also include any court rulings defining the term "commercial speech."

Construction Project Sign. A temporary sign displayed on the site of a construction project during the period of construction that provides information about the project, which may contain the names of architects, landscape architects, engineers, and contractors working on the project, future tenants, finance institutions, real estate representatives, and similar persons/organizations involved in the project begins with the issuance of a building permit, or its functional equivalent, and ends with the issuance of the earliest of the following: a certificate of completion, a certificate of occupancy, a final inspection sign-off, or the functional equivalent of any of them.

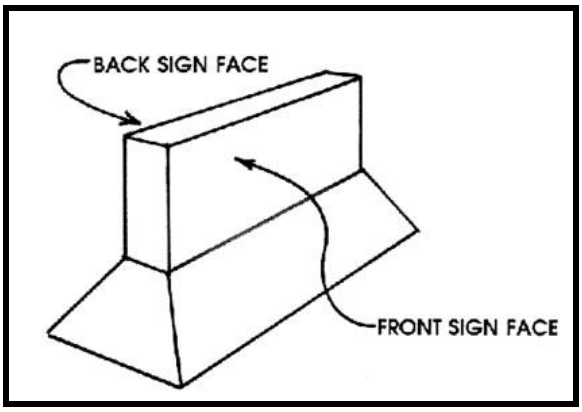
Copy. The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

Directional Sign. An on-premise sign giving directions, instructions, or facility information of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Directory Sign. A sign listing the tenants or occupants of a building or building complex.

Display Surface. The area made available by the sign structure for the purpose of displaying the advertising message.

Double-Faced Sign. A sign designed with the intent of providing copy on both sides.



Electrical Raceway. A utilitarian metal channel used for the electrical components of an illuminated sign; and not designed as an architectural feature.

Establishment. A legal, nonresidential use of land to conduct a commercial or noncommercial activity. By way of example and not limitation, "establishment" includes stores, offices, churches, hospitals, manufacturing facilities, etc. Does not include home-based occupations or hobbies.

Externally Illuminated Sign. A sign illuminated from an exterior light source.

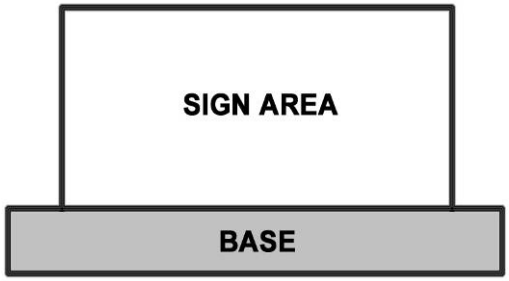
Façade. The entire building elevation, including the parapet.

Face of Sign. The area of a sign on which the copy is placed.

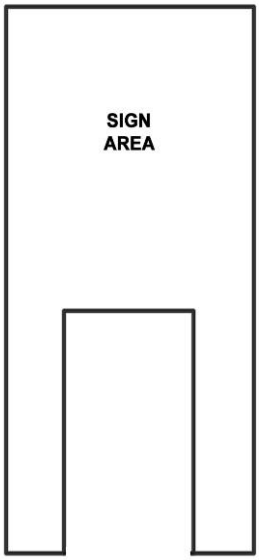
Facia. Typically, the smooth wall surface between a window and the parapet.

Flag. A rectangular piece of fabric of distinctive design that is used as a symbol, as a signage device, or as a decoration.

Freestanding Sign. A sign supported permanently upon the ground by a structure and not attached to a building. This includes pylon signs, blade signs, and ground-mounted signs (monument signs).



Freestanding Monument Sign



Freestanding Pylon Sign

Frontage, Street. The length of the property line of a lot along a right-of-way on which it borders.

Fuel Price Sign. A sign containing prices and grades of fuel for sale at a service station.

Future Tenant Sign. A sign identifying a building tenant or occupant that has not yet occupied the building or opened its establishment.

Illegal Sign. A sign that does not meet the requirements of this Chapter and that is not a legal nonconforming sign.

Illuminated Sign. A sign with an artificial light source for the purpose of decorating, outlining, accentuating, or brightening the sign area.

Innovative Sign. A sign that incorporates design elements, objects, shapes, materials or techniques that may cause the sign to not conform to certain dimensional or placement requirements of this Code, approval of which is subject to meeting the objective criteria described in Section 20.54.130 (Innovative Sign Program), below.

Internally Illuminated Sign. A sign illuminated from an interior light source contained within the sign cabinet.

Incidental Sign. A small sign, emblem, or decal informing the public of the facilities, trade affiliation, or services available on the premises, e.g., a credit card sign or a sign indicating hours of business or presence of parking.

Indirectly Illuminated Sign. A sign whose illumination is derived entirely from an external artificial source that is arranged to illuminate the sign area only.

Inflated Display Sign. A three-dimensional object filled or activated by moving or non-moving air or other gas, located, attached, or tethered to the ground, site, merchandise, structure, or roof and used as a sign or to attract attention. This definition does not include inflated gymnasium devices commonly used for children's parties.

Logo. A sign consisting of a trademark or symbol used to identify a business.

Luminous Tube Signs. A sign that consists of or is illuminated by exposed electrically-charged gas-filled tubing, (e.g., neon and argon signs), or by fiber optics.

Monument Sign. A freestanding sign supported by a solid architectural element at its base.

Mural. An artistic image or design painted or affixed to the exterior surface of a structure that does not contain a commercial or noncommercial text or message.
Nameplate. A sign indicating the name and/or address of a building or occupant.

Nonconforming Sign. A sign, outdoor advertising structure, or display that was originally lawfully erected and maintained, but which does not conform to the current standards of this Chapter or is now prohibited. Signs that do not conform with the current standards of this Chapter or are now prohibited but were erected in compliance with an approved variance, Modification Permit, Conditional Use Permit and/or the Comprehensive Sign Program do not fall within the definition of nonconforming signs.

Noncommercial Message. A sign message that is not commercial in nature. This definition shall automatically incorporate court rulings defining the term "noncommercial speech."

Off site Message. A message on a sign that advertises a business, accommodation, service, or activity not provided on the premises on which the sign is located. This classification includes billboards. The off site/on-site distinction applies only to commercial messages.

On-site Message. A message on a sign advertising the business, accommodations, services, or activities provided on the premises on which the sign is located. The off site/on-site distinction applies only to commercial messages.

Painted Wall Sign. A sign that is applied with paint or similar substance on the surface of a wall, including fences.

Parapet. The extension of a false front or wall above a roofline.

Pedestrian Sign. A sign designed to be viewed at a pedestrian level.

Permanent Sign. A sign designed with durable materials and intended to be used in excess of 60 days per calendar year.

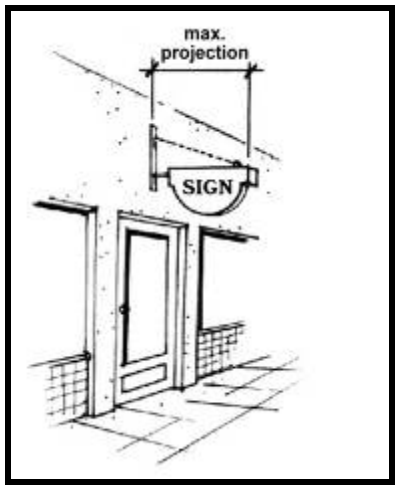
Pole Sign. A sign that is supported by a single pole or similar support structure so that the bottom edge of the sign is one foot or more above grade.

Portable Sign. Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Projector Sign. A sign that is projected onto a surface using an intense source of illumination to project the image.

Projecting Sign. A sign that projects from and is supported by a wall of a building.

Projection. The distance by which a sign extends from the building it is supported by.



Promotional Temporary Banner. A temporary sign or banner displayed by an establishment to advertise temporary events (e.g., sales, seasonal events, liquidation sales, and going out of business sales).

Public Service Sign. Signs of utilities or other publicly regulated service providers indicating danger, and similar aids to service or safety, including official advisory and signal flags.
Pylon Sign. A sign that is supported by 2 or more uprights, poles, or braces in or upon the ground that are not a part of a building or enclosed within the exterior walls of a building and are separated from any other structures by a distance of at least 6 inches. This includes a sign that is supported by 2 or more poles that are surrounded by a decorative cover to form one solid sign support.

Real Estate Sign. A sign advertising real property for sale, exchange, lease, or rent, but not including signs advertising transient occupancy (e.g., hotel or motel accommodations).

Residential Name or Identification Sign. A sign identifying the name or address of a residence and/or its occupants.

Restaurant Menu Sign. Menus displayed on the exterior premises of a restaurant, visible from the public right-of-way.

Rider. A small sign attached to a larger sign and intended to convey information not conveniently incorporated into the text of the larger sign.

Roof Line. The top edge of a roof or building parapet, whichever is higher, excluding any mansards, cupolas, pylons, chimneys, or minor projections.

Roof Sign. A sign erected upon or above a roof of a building.

Sign. Any device, fixture, placard or structure, including its component parts, that draws attention to an object, product, place, activity, opinion, person, establishment, institution, organization, or place of business, or that identifies or promotes the interests of any person and that is to be viewed from any public street, road, highway, right-of-way or parking area.

The following are not within the definition of "sign" for regulatory purposes of this Chapter:

a. Interior signs. Signs or other visual communicative devices that are located entirely within a building or other enclosed structure and are not visible from the exterior thereof or located at least 5 feet from the window, provided the building or enclosed structure is otherwise legal;

b. Architectural features. Decorative or architectural features of buildings (not including lettering, logos, trademarks, or moving parts);

c. Symbols embedded in architecture. Symbols of noncommercial organizations or concepts, including religious or political symbols, when these are permanently integrated into the structure or a permanent building that is otherwise legal; also includes foundation stones, corner stones and similar devices;

d. Manufacturers' marks. Marks on tangible products that identify the maker, seller, provider or product, and that customarily remain attached to the product even after sale;

e. Fireworks and other lights. The legal use of fireworks, candles and artificial lighting not otherwise regulated by this Chapter.

f. Newsracks or newsstands.

g. Legally required information, including public notices, registration, or licensing information, etc.

h. Murals.

Sign Structure. The sign, and the supports, uprights, braces, and framework of the sign.

Super Graphic. Images, graphic elements, and logos, including required corporate logos that are affixed to or painted on a structure that may not be the textual portion of a sign.

Temporary Sign. A sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, fabric, cardboard, wall board, or other light nondurable materials, with or without frames, designed to be displayed for a limited period of time.

Tenant Frontage. That portion of a multi-tenant building facade that is devoted to a single tenant.

Valance. The part of an awning that hangs vertically down from the shed (sloped) portion of an awning.

Vehicle Sign. A sign painted, affixed, or placed upon a vehicle, or trailer that is designed to be towed behind a vehicle. On street legal vehicles, the following insignia are not considered to be "Vehicle Signs," and are not regulated as Vehicle Signs:

1. License plates;
2. License plate frames;
3. Registration insignia;
4. Noncommercial messages painted on or otherwise attached in a manner so that the vehicle can be legally operated on public rights-of-way, or any noncommercial message that does not exceed a total of 3 square feet in size;
5. Messages on a vehicle the primary purpose of which is to be used in the regular course of business to transport the personnel or products, or to provide the services (not including general advertising) that are advertised by the messages on the vehicle, provided that the messages are painted or otherwise attached in a manner so that the vehicle can be operated on public rights-of-way;
6. Commercial messages that do not exceed a total of 3 square feet in size; and
7. Commercial messages on duly licensed mass transit vehicles that pass through the City.

Wall Sign. A sign attached to, erected against or painted upon the wall of a building or structure, the face of which is in a single plane parallel to the plane of the wall.

Window Sign. A sign that is applied or attached to a window or located within 5 feet of the inside of a window in manner that it can be seen from the exterior of the structure.

20.54.050 – Prohibited Signs

The following signs and sign types shall be prohibited throughout all zoning districts of the City.

A. Painted signs. Painted signs on fences or roofs except addresses.

B. Hazardous location. Signs located in a manner that the sign or a portion of the sign or sign supports interfere with the free use of a fire escape, exit or standpipe, or obstruct a required door, stairway, ventilator, window, or public way or are otherwise hazardous.

C. Signs with off site commercial messages. Signs shall not advertise a business, accommodation, service or activity not provided on the premises on which the sign is located. The off site/on-site distinction shall only apply to commercial messages.

D. Beams of light. No person shall erect or maintain any device that directs a beam of light, including klieg lights and searchlights, in a flashing sequence toward any street or highway, nor shall any person erect or maintain any illuminated sign or similar device that interferes with the visibility of any official traffic control device or warning signal.

E. Luminous tube lighting (eg., Neon, Rope Lighting). Luminous tube lighting shall not be used to outline or frame doors and/or windows.

F. Prohibited sign types:

1. A-frame signs;
2. Animated signs;
3. Changeable copy signs, except as a component of another type sign allowed through the Comprehensive Sign Program;
4. Commercial mascots;
5. Inflated display signs;
6. Pole signs;
7. Roof signs, unless a variance is granted; and
8. Vehicle signs, subject to the definition of Vehicle Signs in Section 20.54.040 (Definitions), above.

20.54.060 – Provisions Applying to All Sign Types

A. Compliance required. No person shall erect, re-erect, construct, enlarge, alter, change copy, repair, move, improve, remove, convert, or equip any sign or sign structure, or paint a new wall sign, in the City, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

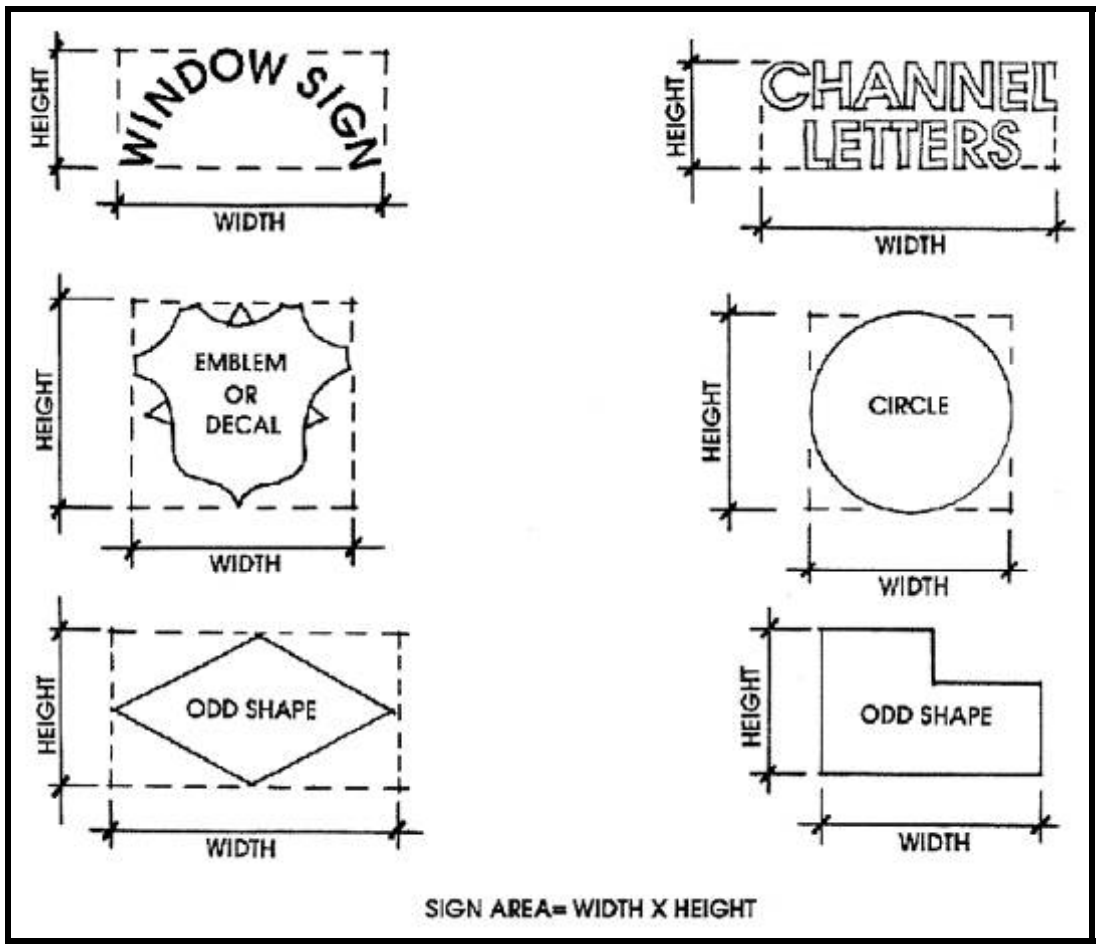
B. Uncertainty of Chapter provisions. The Commission shall have the authority to interpret the provisions of this Chapter at the request of the Director, or when an appeal for a decision of the Director is filed with the Commission.

C. Sign construction. All signs that are not temporary signs shall be constructed of permanent materials, including but not limited to metal, wood, acrylic, or other comparable durable weatherproof materials. No material more combustible than treated wood shall be used in the construction of any permanent sign.

D. Sign area computation.

1. The allowed sign area for a building sign is calculated by first determining if the sign is to be placed on a "primary" or "secondary" building/tenant frontage (as defined in this Chapter) and then referring to the tables in Section 20.54.070 (Standards for Permanent Signs). The allowed sign area for a freestanding sign is determined by the number of linear feet of the street frontage where the sign is to be placed in compliance with the tables in Section 20.54.070.

2. The entire area contained within the frame, cabinet, fixture, or design, including all ornamentation, super graphics, or other decoration used to attract attention that can be enclosed in no more than 4 lines drawn at right angles shall be included in the measurement of sign area. In the case of "skeleton" or "cut-out" letters or signs placed on a wall without any borders, the sign area shall be the sum of the area of all letters, words, logos, or symbols within a single continuous perimeter with no more than 4 lines drawn at right angles (square or rectangle). (See Illustration Below.)



3. Only one face of a double-faced sign shall be counted in computing the permitted area of the sign. Double-faced (back-to-back) signs shall be regarded as a single sign when the sign is mounted on a single structure, and the distance between each sign face does not exceed 2 feet at any point. If the sign is multi-

faced, then each face shall be counted in computing the permitted area of the sign.

4. Supporting framework or bracing that is clearly incidental to the sign shall not be computed as sign area.

5. Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane. Signs may not contain three-dimensional objects that exceed a projection of 6 inches from the sign face, unless the signs are allowed as part of an approved Innovative Sign Program.

E. Sign height measurement. The height of a sign shall be measured from the highest part of the sign, including any decorative features, to the grade of the adjacent street or the surface grade beneath the sign, whichever the Director determines is appropriate given the physical characteristics of the site.

F. Maximum letter/logo height. The maximum height of any letter, text, logo, or symbol shall be 36 inches.

G. Sign removal or replacement. When a sign is removed, all brackets, poles, and other structural elements that supported the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the building.

H. Illuminated signs and lights. The following standards shall apply to all illuminated signs:

1. Sign illumination shall not interfere with the use and enjoyment of adjacent properties, create a public nuisance, or create public safety hazards. Exterior light sources shall be shielded from view and directed to illuminate only the sign face.

2. Signs may be internally or externally illuminated. Internal illumination is permitted only if the sign background is opaque and the only portion of the sign that appears as illuminated is the actual lettering and/or a registered trademark or logo.

3. The light from an illuminated sign shall not be of an intensity or brightness or directed in a manner that will create a negative impact on residential properties in direct line of sight to the sign including signs that face Newport Bay.

4. Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.

5. Reflective-type bulbs and incandescent lamps that exceed 15 watts shall not be used on the exterior surface of signs so that the face of the bulb or lamp is exposed to a public right-of-way or adjacent property.

6. Light sources shall utilize energy-efficient fixtures to the greatest extent possible.

7. Each illuminated sign shall be subject to a 30-day review period, during which time the Director may determine that a reduction in illumination is necessary due to negative impacts on surrounding property or the community in general. In addition, and at any time, the Director may order the dimming of any illumination found to be excessively bright. The Director's determination will be made without regard to the message content of the sign.

20.54.070 – Standards for Permanent Signs

Table 1 provides regulations for permanent signs in residential, nonresidential, institutional, and open space zoning districts. References in the last column provide additional regulations for specific sign types located elsewhere in this Chapter. In the case of an inconsistency between regulations provided in the tables and regulations provided for specific sign types, the regulations for specific sign types shall take precedence.

– **This page intentionally left blank –**

A. Signs allowed in residential zoning districts.

Table 1

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
Name plate Single-family uses	Wall	One per single-family use	2 sq. ft.	Below eave of roof or parapet	Near main entrance	Internal only	Address only
Identification sign Multi-unit uses	Wall or ground sign	One per multi-unit use	12 sq. ft.	Below eave of roof or parapet for wall sign	Near main entrance	Yes	Cabinet signs not allowed
Residential community identification signs	Wall or ground	2 per primary entrance	40 sq. ft. total	6 ft	At primary entrances to residential community	Indirect only	Cabinet signs not allowed

B. Signs allowed in commercial, industrial zoning districts.

Table 1 (continued)

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
1. On-site sign.	**Freestanding signs.** Permitted on sites with minimum 50 ft. of frontage.	One freestanding sign allowed per site. May be used in combination with other allowed building signs. Additional signs for sites with more than 300 linear feet of street frontage through the approval of a Comprehensive Sign Program.	1.0 sq. ft. of sign area per lineal foot of primary street frontage, 75 sq. ft. max per sign	Not to exceed 20 ft. in height for pylon signs, or 8 ft. for monument signs.	Located on street frontage only. At least 15 feet from any building sign and 50 feet from any freestanding sign on an adjacent site.	Yes	See 20.54.080 for sign standards for freestanding signs.
2. On-site sign. **Primary frontage**.	**Building signs.** Wall, projecting, window, and awning signs. Roof sign only with variance.	One sign per primary building or tenant frontage. May be wall, projecting, window, or awning signs. (1) Second story, window or awning signs only. (2)	1.5 sq. ft. of sign area per lineal foot of primary building frontage or tenant frontage total for any combination of building signs and window signs. 75 sq. ft. maximum sign area per sign. 20 sq. ft. max for projecting signs. Window signs, 20% max of each window area.	Shall not extend above adjacent parapet or roof or above bottom of lowest second-story window or third-story window for projecting signs.(2)		Yes	See 20.54.060 for sign standards by sign type

Table 1 (continued)

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
3. On-site sign. **Secondary frontage.**	**Building signs.** Wall, projecting, window, and awning signs	One sign per secondary building or tenant frontage. May be wall, projecting, window, or awning sign. (1) Second story, window or awning signs only. (2)	50% of sign area allowed for primary building frontage total for any combination of building signs. 10 sq. ft. max for projecting signs Window signs, 25% max of each window area.	Shall not extend above adjacent parapet or roof or above bottom of lowest second story window or third-story window for projecting signs (2)		Yes	See 20.54.080 for sign standards by sign type
4. On-site sign. Pedestrian oriented sign.	**Building signs**. Flush-mounted or projecting.	One per establishment. Allowed in combination with other building signs.	3 sq. ft. of sign area.	10 ft. Maximum. 8 ft. of clearance below bottom of projecting sign.	Near main entrance and oriented to pedestrians. Not above 10 ft.	No	See 20.54.080 for sign standards by sign type
5. On-site sign. Entry canopy sign	Canopy sign	Two per canopy if both are not visible at the same time.	Shall be part of and shall not exceed limitation of entry canopy.	Not above upper most part of canopy.	Signs shall be placed on outer faces of canopy only.	No	
6. Business directory. **Multi-tenant** site	Wall or ground sign	One per multi-tenant site.	8 sq. ft. of sign area.	8 ft.	Near main entrance and oriented to pedestrians.	No	See 20.54.080 for sign standards by sign type

(1) The number of allowed building-mounted signs is one per primary frontage and one per secondary frontage. Building signs include wall, projecting, window, and awning signs. All other signs (i.e., pedestrian oriented signs, entry canopy signs, multi-tenant directory sings, and temporary signs are not included in this restriction.

(2) Wall signs are allowed for multi-tenant buildings for second story occupancies with exterior entrances.

Table 1 (continued)

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
1. On-site sign.	**Freestanding signs.** Permitted on sites with minimum 50 ft. of frontage.	One freestanding monument sign allowed per site. May be used in combination with other allowed building signs. Additional signs for sites with more than 300 linear feet of street frontage through the approval of a Comprehensive Sign Program.	1.0 sq. ft. of sign area per lineal foot of primary street frontage, 75 sq. ft. max per sign	8 ft.	Located on street frontage only. At least 15 feet from any building sign and 50 feet from any freestanding sign on an adjacent site.	Yes	See 20.54.080 for sign standards for freestanding monument signs.
2. On-site sign. **Primary frontage**.	**Building signs.** Wall and awning signs.	One sign per primary building frontage. May be wall or awning signs. (1) Second story awning signs only. (2)	1.0 sq. ft. of sign area per lineal foot of primary building frontage or tenant frontage total for any combination of building signs and window signs. 50 sq. ft. maximum sign area per sign.	Shall not extend above adjacent parapet or roof or above bottom of lowest second-story window.		Yes	See 20.54.080 for sign standards by sign type

Table 1 (continued)

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
3. On-site sign. **Secondary frontage.**	**Building signs.** Wall and awning signs	One sign per secondary building frontage. May be wall or awning sign. (1) Second story awning signs only. (2)	50% of sign area allowed for primary building frontage total for any combination of building signs.	Shall not extend above adjacent parapet or roof or above bottom of lowest second story window (2)		Yes	See 20.54.080 for sign standards by sign type
4. On-site sign. Pedestrian oriented sign.	**Building signs.** Flush-mounted or projecting.	One per establishment. Allowed in combination with other building signs.	3 sq. ft. of sign area.	10 ft. Maximum. 8 ft. of clearance below bottom of projecting sign.	Near main entrance and oriented to pedestrians. Not above 10 ft.	No	See 20.54.080 for sign standards by sign type
5. On-site sign. Entry canopy sign	Canopy sign	Two per canopy if both are not visible at the same time.	Shall be part of and shall not exceed limitation of entry canopy.	Not above upper most part of canopy.	Signs shall be placed on outer faces of canopy only.	No	
6. Directory sign	Wall or ground sign	One per multi-tenant site.	8 sq. ft. of sign area.	8 ft.	Near main entrance and oriented to pedestrians.	No	See 20.54.080 for sign standards by sign type

C. Signs allowed in open space, GEIF (government, education, institutional facilities) zoning districts.

Table 1 (continued)

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
1. On-site sign.	**Freestanding signs.** Permitted on sites with minimum 50 ft. of frontage.	One freestanding monument sign allowed per site. May be used in combination with other allowed building signs. Additional signs for sites with more than 300 linear feet of street frontage through the approval of a Comprehensive Sign Program.	1.0 sq. ft. of sign area per lineal foot of primary street frontage, 75 sq. ft. max per sign	8 ft.	Located on street frontage only. At least 15 feet from any building sign and 50 feet from any freestanding sign on an adjacent site.	Yes	See 20.54.080 for sign standards for freestanding monument signs.
2. On-site sign. **Primary frontage**.	**Building signs**. Wall and awning signs.	One sign per primary building frontage. May be wall or awning signs. (1) Second story awning signs only. (2)	1.0 sq. ft. of sign area per lineal foot of primary building frontage or tenant frontage total for any combination of building signs and window signs. 50 sq. ft. maximum sign area per sign.	Shall not extend above adjacent parapet or roof or above bottom of lowest second-story window.		Yes	See 20.54.080 for sign standards by sign type

Table 1 (continued)

Sign Class	Allowed Sign Types	Maximum Number	Maximum Sign Area	Maximum Sign Height	Location Requirements	Lighting Allowed	Additional Requirements
3. On-site sign. **Secondary frontage.**	**Building signs.** Wall and awning signs	One sign per secondary building frontage. May be wall or awning sign. (1) Second story awning signs only. (2)	50% of sign area allowed for primary building frontage total for any combination of building signs.	Shall not extend above adjacent parapet or roof or above bottom of lowest second story window (2)		Yes	See 20.54.080 for sign standards by sign type
4. On-site sign. Pedestrian oriented sign.	**Building signs.** Flush-mounted or projecting.	One per establishment. Allowed in combination with other building signs.	3 sq. ft. of sign area.	10 ft. Maximum. 8 ft. of clearance below bottom of projecting sign.	Near main entrance and oriented to pedestrians. Not above 10 ft.	No	See 20.54.080 for sign standards by sign type
5. On-site sign. Entry canopy sign	Canopy sign	Two per canopy if both are not visible at the same time.	Shall be part of and shall not exceed limitation of entry canopy.	Not above upper most part of canopy.	Signs shall be placed on outer faces of canopy only.	No	
6. Directory sign	Wall or ground sign	One per multi-tenant site.	8 sq. ft. of sign area.	8 ft.	Near main entrance and oriented to pedestrians.	No	See 20.54.080 for sign standards by sign type

(1) The number of allowed building-mounted signs is one per primary frontage and one per secondary frontage. Building signs include wall, projecting, window, and awning signs. All other signs (i.e., pedestrian oriented signs, entry canopy signs, multi-tenant directory sings, and temporary signs are not included in this restriction.

(2) Wall signs are allowed for multi-tenant buildings for second story occupancies with exterior entrances

– **This page intentionally left blank –**

20.54.080 – Standards for Specific Types of Permanent Signs

A. Awning signs.

1. Lettering, logos, symbols, and graphics are allowed on up to 50 percent of the area of a shed (slope) portion of the awning and valance portion of the awning. Signs shall be applied flat against the awning surface. In the case of a barrel shaped (curved) awning, signs shall not occupy more than 60 percent of the bottom 12 inches of the awning.

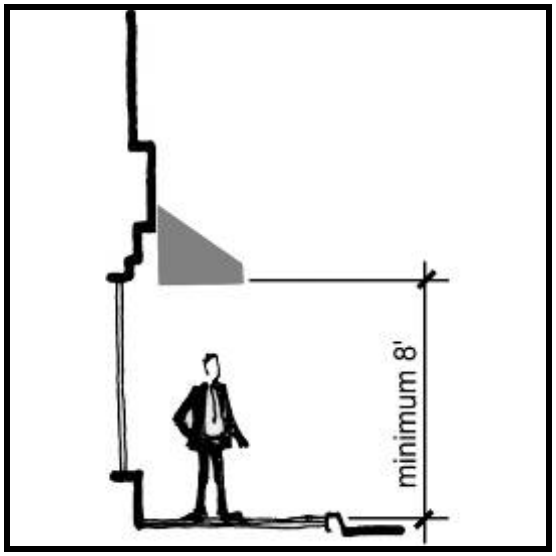
2. Only permanent signs that are an integral part of the awning shall be allowed. Temporary signs shall not be placed on awnings.

3. Awning signs shall be allowed for first and second story commercial occupancies only.

4. Awnings shall conform to the size and shape of the window or door they are above. Overly large awnings and awnings with unusual shapes designed for the purpose of providing additional sign area are not allowed. The upper most part of an awning shall not be located more than 2 feet above a window or door.

5. Awnings shall not be lighted from under the awning (back-lit awning) so that the awning appears internally illuminated. Lighting directed downwards that does not illuminate the awning is allowed.

6. A minimum of 8 feet of clearance shall be provided between the lowest part of an awning and the grade below.



B. Changeable copy signs. A sign that contains a changeable copy element may be permitted through the approval of a Comprehensive Sign Program in compliance with Section 20.54.120 (Comprehensive Sign Program) provided the changeable copy element is a component of another sign type permitted under the provisions of this Chapter. Approval shall not be based on message content.

C. Freestanding signs.

1. Freestanding signs include ground-mounted signs (monument) and pylon signs, which may either have a solid base or a base comprised of 2 legs. If legs are provided, the proportional dimensions of the sign shall comply with the requirements of subsection 3.c., below.

2. Freestanding signs shall be allowed only for lots with at least 50 feet of frontage adjoining a public street. In addition, pylon signs are only allowed when a building is set back from the front property line a minimum of 40 feet.

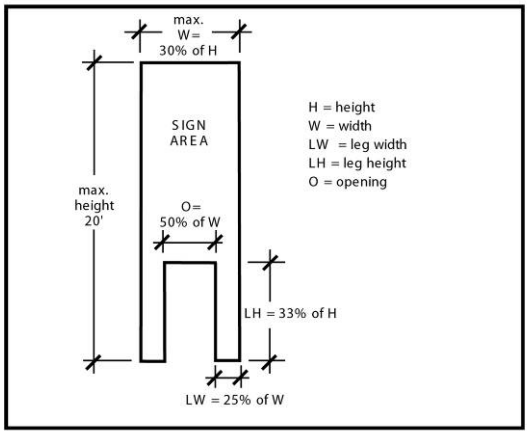
3. Freestanding signs shall not exceed the following maximum height dimensions and shall not exceed the proportional dimensions provided below:

    a. Pylon sign: Maximum height = 20 feet

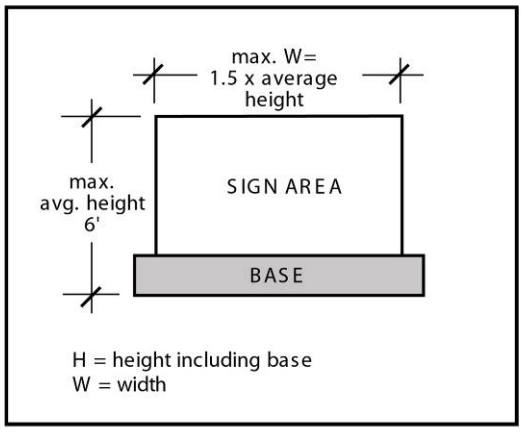
    b. Monument sign: Maximum average height = 6 feet; Maximum overall height = 8 feet, including decorative elements and architectural features

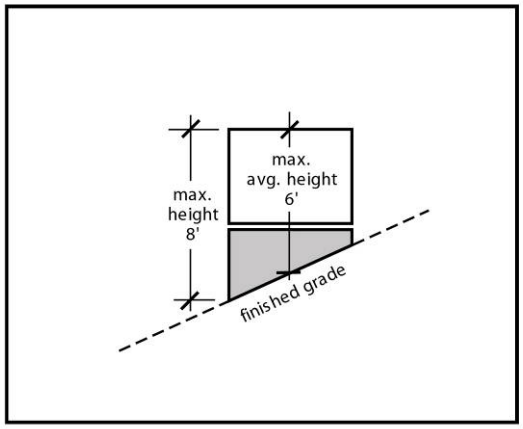
    c. Proportional dimensions shall be as follows:

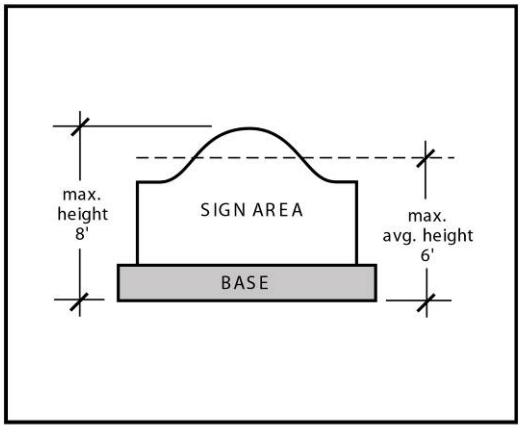
1) Pylon Sign
Maximum W = 30% x H
Maximum LH = 33% x H
Maximum O = 50% x W
Minimum LW = 25% x W



2) Monument Sign
H= height inclusive of the base
W= width exclusive of the base
Maximum W= 1.5 x average H







4. Freestanding signs shall be set back a minimum of 5 feet from a street or interior property line and a minimum of 10 feet from the edge of a driveway.

5. To ensure the readability of freestanding signs, the minimum letter size allowed shall be 12 inches. Sign copy shall not be located closer than one half-letter height to the sign edge or other line of copy.

6. There shall be a minimum of 50 feet between freestanding signs on adjoining sites to ensure adequate visibility for all signs.

7. Freestanding signs shall be a minimum of 50 feet from a lot line of any residentially zoned property.

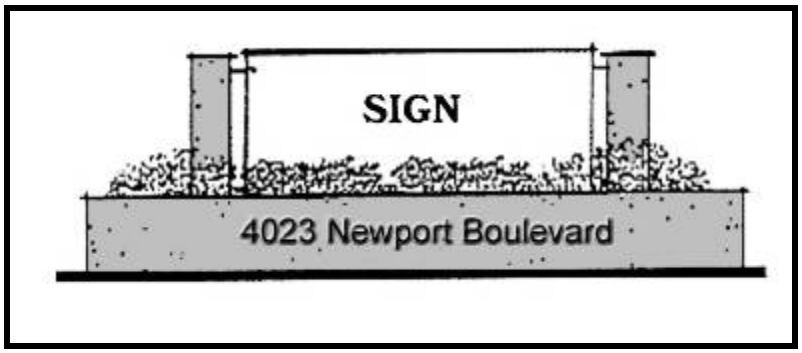
8. Freestanding signs shall not block visibility for motorists at intersections or driveways.

9. Freestanding signs shall not project over any building, or over any on-site driveway or vehicle circulation area.

10. The supporting structure of a pylon sign shall not include exposed metal pole(s), but shall be surrounded by a decorative cover that is architecturally compatible with the sign cabinet and the architectural character of buildings on the site.

11. Landscaping with automatic irrigation shall be provided at the base of the supporting structure equal to twice the area of one face of the sign or 75 square feet, whichever is greater. For example, 40 sq. ft. of sign area = 80 sq. ft. of landscaped area. The Director may waive or modify this requirement on a case-by-case basis to take into account existing conditions.

12. Freestanding signs shall contain an address plate identifying the subject property. Numbers shall be a minimum of 6 inches in height and shall be clearly visible from the public right-of-way. Address plates shall not be calculated against the allowed sign area. (See following illustration.)



Ground Sign with Appropriate Address

D. Luminous Tube Signs. The use of luminous tubes for signs shall be allowed in commercial zoning districts only subject to the following requirements:

1. Luminous tube signs shall be UL (Underwriters Laboratories) listed with a maximum 30 milliamps per circuit and be designed to accommodate a dimmer in order to reduce the brightness of the sign;

2. The manufacturer shall be registered with Underwriters Laboratories;

3. Tubing shall not exceed one half inch in diameter;

4. Luminous tube lighting adjacent to residential uses shall not exceed one half footcandle measured at the property line;

5. Luminous tubes shall not be combined with any reflective materials (e.g., mirrors, polished metal, highly glazed tiles, or other similar materials; and

6. Luminous tube lighting that surrounds a window, door, or similar element is not allowed.

E. Pedestrian-oriented signs.

1. Signs may be placed perpendicular to the building façade (projecting) or mounted flat against the wall near the building entrance.

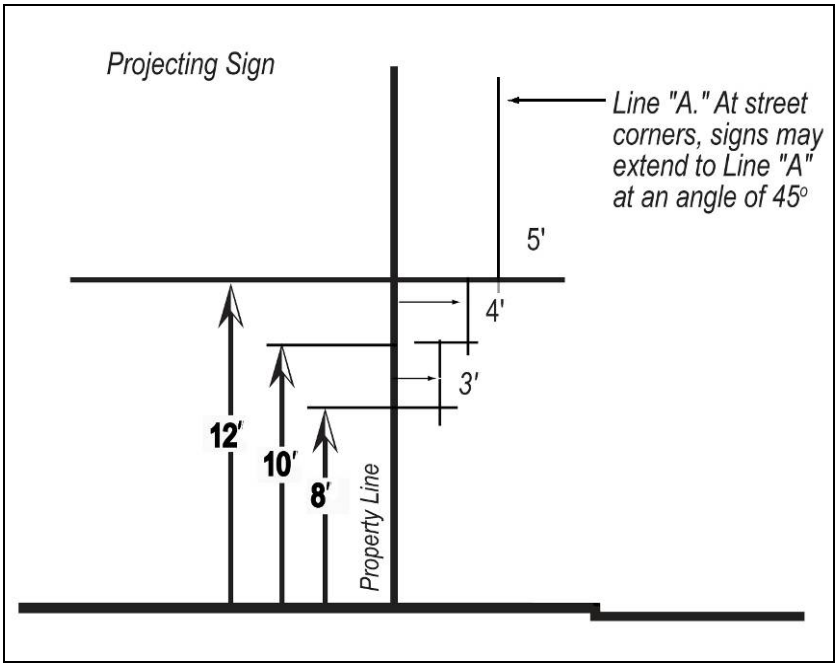
2. Supporting arms or frames for projecting signs shall be of a decorative design compatible with the design of the sign.

3. Double-faced projecting signs shall be considered a single-face sign for the purpose of calculating sign area.

F. Projecting Signs.

1. Signs shall not project more than 5 feet over public property and shall not project to within 2 feet of the curb line. The distance any sign may project over public property or beyond a required setback line is governed by the following table:

Distance Above Sidewalk or Grade Immediately Below Sign.	8'-10'	>10'-12'	>12' and up
Maximum Projection Over Property Line or Building Line.	3’	4’	5’



Maximum Sign Projection

2. The thickness of any portion of a sign that projects over public property or beyond a setback line shall be as follows:

Projection	5’	4’	3’	2’
Maximum Thickness	2’	2'-8"	3'-4"	4'

3. Maximum sign area shall be 20 square feet for a primary frontage and 10 square feet for a secondary frontage.

4. Projecting signs shall provide a minimum vertical clearance of 8 feet above the surface over which they project.

5. Projecting signs shall not project into an alley or parking area more than 36 inches and shall not be less than 14 feet above the surface where vehicles are allowed.

6. Internally illuminated projecting signs shall have opaque face panels so that only the letters, number, symbols, or logos appear illuminated.

7. Projecting signs shall not be closer than 10 feet to another projecting sign or to a freestanding sign or 5 feet from an interior property line or line dividing 2 separate business frontages.

8. Projecting signs shall not project above an apparent eave or parapet, including the eave of a mansard or simulated mansard roof or above the bottom of a third-story window.

G. Projector signs.

1. A projector sign shall project only upon the property occupied by the associated use or the public right-of-way within 10 feet of the building occupied by the use.

2. The sign area of the projector sign shall be included within the overall allowed sign area for the use.

3. Illumination from the projector mechanism shall not pose a hazard for pedestrians or motorists and shall be screened from view to the maximum extent feasible.

H. Signs on architectural projections. The following regulations apply to signs that are located on, attached to, or are an integral part of a projecting architectural feature (e.g., canopy) located not more than 15 feet above street level:

1. Signs may be erected on top of an architectural projection provided the sign is comprised of three-dimensional letters only that do not exceed 18 inches in height. No internal illumination is allowed;

2. Signs may be attached to the face of an architectural projection provided the sign does not exceed a maximum thickness of 10 inches as measured from the face of the sign to the outer face of the architectural projection and that the letters do not exceed a height of 18 inches. No internal illumination is allowed;

3. The maximum sign area for signs mounted on architectural projections shall be included with other permitted signs identified in Table 1; and

4. Signs may be placed below and may be supported by an architectural projection provided the sign shall not exceed 4 feet in length and 16 inches in height. Internally illuminated signs are not allowed. Signs shall not be less than 8 feet above the sidewalk and shall be placed perpendicular to the face of the building.

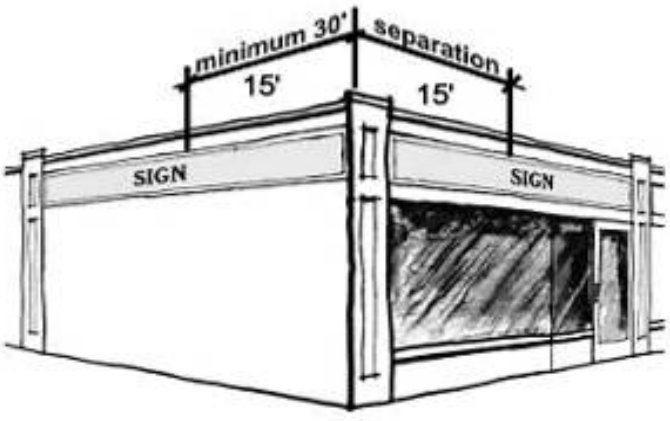
I. Wall signs.

1. Signs shall be located only on a designated building frontage and shall not extend above an eave or parapet, or above or below a fascia on which they are located.

Appropriate Wall Sign Location

Not Allowed

2. Signs located on adjacent walls on the same building shall be separated by a minimum of 30 feet measured along the exterior walls of the building.



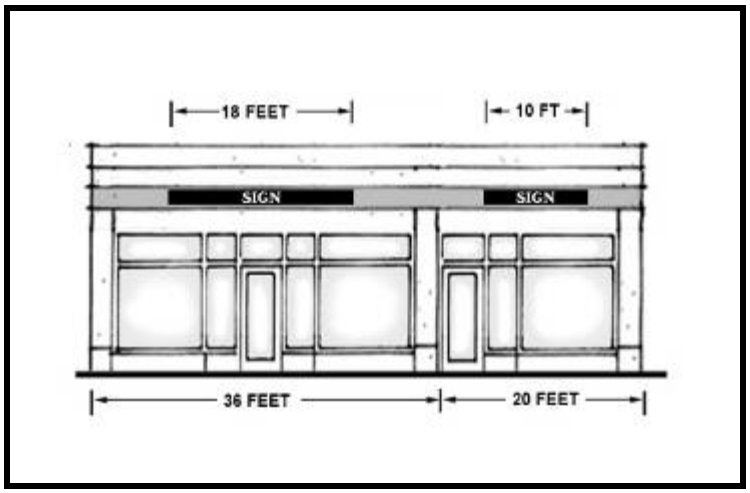
Required Separation of Wall Signs

3. Signs may be either internally or externally illuminated. Internally illuminated cabinet signs shall comply with the provisions of Subsection 20.54.060(H) (Illuminated Signs).

4. Electrical raceways shall be integrated with the overall design of the sign to the greatest degree. Raceways shall not extend beyond the outside edges of the sign copy and shall be painted to match the color of the background on which they are placed.

5. Signs shall be placed flat against the wall and shall not project from the wall more than required for normal construction purposes and in no case more than 12 inches.

6. Signs shall be located within the middle 50 percent of the building or tenant frontage measured from lease line to lease line. The Director may waive this requirement where it can be clearly demonstrated that it severely limits proper sign placement.



Appropriate Wall Sign Location

7. Signs attached to the sloping face of hipped/sloped roofs, mansard overhangs, or similar architectural features intended to resemble or imitate roof structures shall require approval of a Modification Permit.

J. Window signs, permanent and temporary.

1. Window signs, including permanent and temporary signs shall not occupy more than 20 percent of the total window area on either a designated primary or secondary building frontage. For the purpose of this requirement, a window is any glazed area, including glass curtain walls.

2. Signs shall be allowed only on windows located on the ground floor and second story of either a designated primary or secondary building frontage.

3. Signs shall be permanently painted or mounted on the inside of windows and doors except for allowed temporary signs.

4. Signs within 5 feet of a storefront window shall be counted as window signs for the purpose of calculating total sign area and number of signs.

K. Miscellaneous signs.

1. Business directory signs. Multi-tenant buildings are allowed tenant directory signs with a maximum area of 8 square feet each. No illumination is allowed.

2. Menu boards. Food service uses with drive through facilities shall be allowed a maximum of 2 menu board signs with a maximum of 48 square feet each.

3. Service station signs. The following regulations shall be applicable to service stations, in addition to all other provisions of this Chapter.

a. General.

(1) Signs shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer.

(2) Instructional and warning signs and signs required or authorized by state or federal law shall be exempt from the provisions of this Section.

b. Ground signs.

(1) Number. One per site.

(2) Area. Not to exceed 20 square feet; 36 square feet when combined with a fuel price sign.

(3) Height. Not to exceed 4 feet.

(4) Additional Regulations. Ground signs shall be located in a landscaped planter with a minimum area equal to the area of the sign.

c. Fuel price signs.

(1) Number. One per street frontage.

(2) Area. Twelve square feet per sign.

(3) Height. Not to exceed 4 feet.

(4) Additional Regulations.

(a) Separate fuel price signs shall only be permitted in lieu of the 36-square foot combined ground sign/fuel price sign permitted in this Subsection.

(b) Fuel price signs shall advertise the price and grade of fuel only and no other advertising shall be permitted unless in conjunction with a monument as provided in this Section.

(c) Fuel price signs shall be located in a landscaped planter with a minimum area equal to the area of the sign.

d. Wall signs.

(1) Number. One per building frontage.

(2) Area. The area of a wall sign shall not exceed 1 square foot for each lineal foot of building frontage.

(3) Length. The length of a wall sign may be up to 50 percent of the building frontage, not to exceed 30 feet.

e. Canopy signs.

(1) Type. Signs on service station canopies shall be limited to logos only.

(2) Number. One canopy sign per street frontage.

(3) Area. The area of a canopy sign shall not exceed 6 square feet.

(4) Additional Regulations. Canopy signs shall not extend beyond the gable or fascia board of the canopy.

f. Service island signs. One sign, not exceeding 4 square feet, shall be permitted on or in front of each end of a service island to identify methods of sale (i.e., self-serve or full-serve).

g. Window signs.

(1) Number. One per window.

(2) Area. No permanent window sign shall cover more than 20 percent of the visible window area.

(3) Materials. Permanent window signs shall be applied directly to the window surface.

h. Temporary signs.

Refer to Section 20.54.090 (Standards for Temporary Signs)

20.54.090 – Standards for Temporary Signs

A. Number, size, and duration. Table 2 provides standards under which temporary signs are allowed. Temporary signs are allowed in addition to the number of permanent signs allowed for the property. However, combinations of permanent and temporary window signs shall not cover more than 20 percent of any window. References in the last column provide additional regulations for specific sign types located elsewhere in this Chapter. In the case of an inconsistency between regulations provided in the table and regulations provided for general or specific sign types, the general regulations or regulations for specific sign types shall take precedence.

TABLE 2
TEMPORARY SIGNS

Sign Type	Maximum Number	Maximum Area	Maximum Height	Duration	Additional Requirements
Promotional temporary banners.	1 sign per site, including window signs.	75 sq. ft. for banner, 3 sq. ft. for rigid sign. Window signs, 20% of any window area.	10 ft. or bottom of lowest second floor window.	Up to 4 times per year, not to exceed 60 days total per year.	Subject to all requirements of this Section.
Establishment identification.	One sign per building frontage.	Same as for permanent signs.	Same as for permanent signs.	60 days per calendar year.	Allowed only while permanent signs are being obtained.
Construction project signs. Nonresidential and Residential	1 sign per street frontage, 2 signs maximum	32 sq. ft. per sign in non-residential. 6 sq. ft. in residential	8 ft. in non-residential. 4 ft. in residential	Displayed after issuance of building permit or equivalent; shall be removed after earliest of certificate of completion, certificate of occupancy,	Only on the property where construction is taking place and shall not obstruct visibility at intersections.

TABLE 2
TEMPORARY SIGNS

Sign Type	Maximum Number	Maximum Area	Maximum Height	Duration	Additional Requirements
				or final building inspection.	
Restaurant menu signs	1 per restaurant	4 sq. ft. per sign.	5 ft.	During hours establishment is open.	Mounted only on portable easel-type structures; only on property of the establishment within 10 ft of the primary entrance.
Real estate signs for residential and nonresidential properties	Allowed in compliance with Subsection 20.54.090(F) (Real estate signs), below Temporary Sign Permit not required.				
Search lights, Klieg lights	Allowed in conjunction with Special Event Permit.				
Personal property sale sign	1 sign per street frontage	3 sq. ft	4 ft.	2 days within a 30-day period.	Shall be placed only on the property where the sale is being held. Allowed in compliance with Subsection 20.54.100(B)(t) (Exemptions to Sign Permit requirement), below.

B. Placement of temporary signs.

1. Signs are allowed on private property only and shall not be placed in public rights-of-way or at off site locations.

2. Signs may be placed only on building frontages in locations where permanent signs are allowed.

3. Sign shall not be attached to temporary structures, except restaurant menu signs, which may be attached to easel-like structures.

C. Illumination prohibited. Signs shall not be illuminated.

D. Durable materials required. Signs shall be constructed of durable material suitable to their location and purpose.

E. Removal of signs. Temporary signs and their components shall be promptly removed at the expiration of the Temporary Sign Permit.

F. Real estate signs.

1. Residential districts.

a. Real estate signs are permitted, on a temporary basis, in residential zoning districts, subject to the criteria provided in this Subsection.

(1) In all residential zoning districts and PC Districts that provide for residential uses, but do not contain specific provisions relative to temporary signs, temporary real estate signs are permitted subject to the following:

(a) One sign per lot except as provided in Subsections (e) and (f) below;

(i) The sign shall not exceed 216 square inches (1.5 square feet);

(ii) The sign may have one rider not to exceed 94 square inches;

(iii) The sign may include one brochure box not to exceed 154 square inches. For purposes of this Section, a brochure box means a plastic or metal container designed to hold brochures or flyers describing or advertising the real property for sale, lease, rent, or exchange; and

(iv) The overall height of the installed sign, rider, and brochure box shall not exceed 4 feet

above ground unless the sign is mounted flush to a wall;

(b) The sign shall be placed on the lot for sale, lease, rent, or exchange and shall not be installed in a manner that creates a hazard for traffic or pedestrians;

(c) No flags, pennants, balloons, or other attention-attracting devices shall be displayed;

(d) The sign shall be removed immediately after the sale, lease, or rental of the property has been consummated;

(e) One additional real estate sign may be posted during the time an owner or owner' s agent is on the premises and the premises are open for inspection, subject to the following:

(i) The sign shall not exceed 216 square inches (1.5 square feet) and riders are not permitted;

(ii) The sign shall not be installed in medians or anywhere within the traveled way of any street or highway, nor installed in a manner that creates a hazard to traffic or pedestrians; provided, however the sign may be installed on or in a vehicle parked on the street adjacent to the property for sale, lease, rent or exchange if there is no feasible way of installing the sign on private property due to absence of front setback area or other conditions; and

(iii) The overall height of the sign shall not exceed 4 feet above ground unless the sign is installed on a vehicle as provided in the paragraph above; or other conditions exist that require the sign to exceed 4 feet to be reasonably visible from the street; however, in no event shall the sign be higher than necessary to be reasonably visible from the street;

(f) In addition to the real estate sign permitted in Subsection (e), above, 3 off site signs are permitted when the owner or owner's agent is on the premises and the premises are open for inspection, subject to the following:

(i) Each off site real estate sign shall not exceed 216 square inches (1.5 square feet) and riders are not permitted;

(ii) The overall height shall not exceed 4 feet above ground;

(iii) The sign shall not be installed before 8:00 a.m. and shall be removed no later than sunset; and

(iv) The sign shall not be installed in medians or anywhere within the traveled way of any street or highway, nor installed in a manner that creates a hazard to traffic or pedestrians. The sign shall not be attached to any public property.

b. New properties first sale. Residential properties shall be permitted one real estate sign not exceeding 20 square feet in area that advertises the first sale of structures and/or lots in any district for a period of time not to exceed one year following the recordation of the final subdivision map.

2. Nonresidential zoning districts. Commercial and industrial properties shall be allowed one temporary real estate sign not exceeding 20 square feet in area that advertises the sale, rental or lease of the premises upon which the sign is located. Permanent installations of real estate signs shall be subject to the sign standards for permanent signs in this Chapter for commercial, office, and industrial zones.

20.54.100 – Procedures for Sign Approval, Exemptions, and Revocations

A. Sign Permits.

1. Sign permit required (including temporary signs).

a. To ensure compliance with the regulations contained in this Chapter, a Sign Permit shall be required in order to erect, move, alter, change copy on, or reconstruct any permanent or temporary sign or sign structure except for signs exempt from permits in compliance with Subsection B, below.

b. Sign Permits are also required for signs approved through a Comprehensive Sign Program as provided in Section 20.54.120. An application for a Sign Permit shall be made in writing on standard official forms furnished by the Department.

2. Review authority. Sign Permits, including those for temporary signs shall be issued under the direction of the Director when they comply with the provisions of this Chapter. The Director shall review all Sign Permit applications for conformance with the provisions of this Chapter.

a. For signs that comply with the provisions of this Chapter and do not require discretionary review:

(1) The Director shall issue or deny the permit to the applicant within 90 days from the receipt of a complete application and the applicable fees;

(2) Failure of the Director to approve or deny the permit within the 90 days shall result in the permit being granted;

(3) If the application is denied, the Director shall notify the applicant with the reason(s) stated for denial. Notification shall be sent first class United States mail to the address provided on the license application that shall be considered the correct address. Each applicant has the burden to furnish any change of address to the Director, by United States certified mail, return receipt requested; and

(4) In the event an application is denied, the applicant may appeal the Director's decision in compliance with the provisions of Chapter 20.78 (Appeals).

b. Annual Approval of Promotional Temporary Sign Permit. The Director shall approve a Temporary Sign Permit for a temporary promotional banner on an annual basis that allows the applicant to tailor the duration and the number of days allowed under the permit to meet the particular needs of the establishment as long as the total number of days that the sign is allowed does not exceed 60 days per calendar year.

B. Exemptions to sign permit requirement. Sign Permits shall not be required for the signs exempted in this Section. Exempt signs shall not be included in the determination of the total allowable number of signs or total allowable sign area for a site or project. However, exempted signs shall be required to adhere to the regulations established for each sign type. Signs erected without complying with the applicable regulations are considered illegal and may be removed in compliance with Section 20.54.160 (Illegal Signs).

1. On-Site, non-illuminated signs. The following on-site, non-illuminated signs shall not require issuance of a Sign Permit:

a. Accessory signs. Small window signs indicating hours of operation or that an establishment is "Open" or "Closed" for business, limited to a maximum of 2 square feet in area for all accessory signs. No more than 3 signs per establishment frontage. Accessory window signs shall not be included in permanent window sign area calculations, except if illuminated.

b. Building markers. Commemorative plaques, tables, date of construction, and similar signs when carved in stone, concrete, or similar materials or made of bronze, aluminum, or other similar permanent material. Signs shall not exceed 2 square feet in area.

c. Bulletin Boards. Bulletin boards for any legal, noncommercial establishment, when located on the premises of the establishment and not over 12 square feet in area.

d. Construction project signs. Subject to the limits on size and display duration of 20.54.090 (Standards for Temporary Signs), Table 2 (Temporary Signs).

e. Change of copy. Changing the copy in changeable copy signs in existence as of the date of adoption of this Chapter, or approved through the Comprehensive Sign Program.

f. Flags. Flags bearing noncommercial messages or graphic symbols, and flags bearing on-site commercial messages or graphic symbols, shall not require the issuance of a Sign Permit, subject to the following restrictions:

(1) Flags bearing commercial messages shall not be displayed in residential zones;

(2) A maximum of 3 flags may be displayed on any single lot. However, only one flag bearing an on-site commercial message may be displayed on each lot in nonresidential zones; and

(3) No single flag shall exceed 40 square feet in area. The aggregate area of all flags displayed on any single lot shall not exceed 72 square feet. For purposes of determining flag size, only one side of the flag shall be counted as a display surface.

g. Gasoline pump signs. Shall be consistent with Section 20.54.080(K)(2) (Service Station Signs).

h. Government signs. A sign erected by a federal, state, county, agency, or the City.

i. Holiday window painting. Signs and decorations painted on or applied to windows pertaining to holidays and seasonal events when the signs contain no reference to the goods or services sold or provided by the establishment. All signs and/or decorations shall be removed within 10 days following the applicable holiday.

j. Incidental signs. Signs or notices that are incidental to an establishment (e.g., hours of operation, credit card information, emergency contact information, etc.) provided the signs do not exceed 4 square feet in area for all of the signs.

k. Official signs. Official and legal notices required by a court or governmental agency.

l. Portable parking lot and valet parking signs. One freestanding portable sign at each parking lot entrance limited to 10 square (2'x5') feet in area. Sign shall not cause hazard to driver visibility or pedestrian movement. Subject to the approval of a valet parking plan.

m. **Public service signs**. Signs of utilities or other publicly regulated service providers indicating danger, and aids to service or safety, including official advisory and signal flags.

n. **Real estate window listing**. A real estate office may place its listing(s) in a front window provided the gross area occupied by the listing(s) do/does not cover more than 50 percent of the window.

o. **Residential signs**. Up to 3 noncommercial signs, with a maximum total sign area of 6 square feet and a maximum height of 4 feet.

p. **Restaurant menu signs.** Restaurant menu signs not exceeding 4 square feet.

q. **Site address.** Limited to one per street frontage subject to the following standards:

(1) The total aggregate sign area shall not exceed 72 square inches. Individual numbers and letters shall not exceed a height of 8 inches.

(2) The sign shall be placed in an area adjacent to or near the primary entrance of the structure or property frontage and face the street curb in front of the structure.

r. **Temporary real estate signs.** Real estate signs in compliance with Section 20.54.090(F) (Real estate signs).

s. **Vehicle-oriented directional signs.** Signs solely for the purpose of guiding traffic, parking, and loading on private property subject to approval by the Public Works Department. One safety or directional sign for each vehicle entry to a site with a maximum area of 3 square feet per sign. Maximum sign height shall be 4 feet. Additional signs may be allowed with approval of a Comprehensive Sign Program.

t. **Personal property sale signs.** Subject to the limits on size and display duration of Section 20.54.090 on Table 2 (Temporary Signs)

2. **Routine maintenance.** Painting, repainting, or cleaning of a sign shall not be considered erecting or altering a sign, and therefore shall not require a Sign Permit, unless structural changes are made.

C. **Revocation of sign sermit.** The Department may, in writing, suspend or revoke a Sign Permit issued under the provisions of this Chapter if the permit was issued on the basis of a material omission or misstatement of fact, or in violation of any ordinance or any of the provisions of this Chapter.

20.54.110 – Modification Permit

A. Applicability. The Zoning Administrator may grant a Modification Permit in compliance with the provisions of Section 20.66.050 (Modifications Permits) to allow deviations to the height, location, number, and area of signs.

B. Appeals. Actions of the Zoning Administrator may be appealed to the Commission in compliance with the provisions of Chapter 20.78 (Appeals).

20.54.120 – Comprehensive Sign Program

A. Purpose. The purpose of a Comprehensive Sign Program is to integrate all of a project's signs, including a project identification sign with the overall site design and the structures' design into a unified architectural statement. A Comprehensive Sign Program provides a means for the flexible application of sign regulations for projects that require multiple signs in order to provide incentive and latitude in the design and display of multiple signs and to achieve, not circumvent, the purpose of this Chapter.

B. Applicability. The approval of a Comprehensive Sign Program shall be required whenever any of the following circumstances exist.

1. Whenever 3 or more separate tenant spaces are present on the same lot;

2. Whenever 3 or more non-exempt signs are proposed for a single-tenant development;

3. Whenever signs are proposed to be located on or above the second story on a multi-story building.

4. Whenever a project or lot has more than 300 linear feet of frontage on a public street.

5. Whenever an existing multi-tenant development of 3 or more tenants is being remodeled or rehabilitated to the extent that the value of the work will be greater than 20 percent of the replacement cost of the building; or

6. Theater Signage. A Comprehensive Sign Program for a theater or cinema use may authorize signs that deviate from the standards of this Chapter. The Comprehensive Sign Program may allow marquee signs, brighter lights, and design features not otherwise authorized by this Chapter if the sign is generally consistent with the adopted sign design guidelines and the purposes of this Chapter. Approval shall not be based on message content.

7. Whenever the Director determines that a Comprehensive Sign Program is needed because of special project characteristics (e.g., the size of proposed signs, limited site visibility, a business within a business, the location of the site relative to major transportation routes, etc.).

8. A Comprehensive Sign Program shall not be used to override the prohibition on new billboards set forth in Section 20.54.030(F) of this Chapter.

C. Approval authority and limitation. The Zoning Administrator is the review authority for a Comprehensive Sign Program. The Zoning Administrator shall not approve an increase in sign height by more than 20 percent above that allowed or an increase in sign area by more than 30 percent above that allowed. Increases above the limits provided above may be allowed with the approval of a Modification Permit.

D. Application requirements. A Sign Permit application for a Comprehensive Sign Program shall include all information and materials required by the Director, and the filing fee set by the City's Master Fee Schedule.

E. Standards. A Comprehensive Sign Program shall comply with the following standards:

1. The proposed sign program shall comply with the purpose and intent of this Chapter, any adopted sign design guidelines and the overall purpose and intent of this Section;

2. The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable;

3. The sign program shall address all signs, including permanent, temporary, and exempt signs;

4. The sign program shall accommodate future revisions that may be required because of changes in use or tenants;

5. The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter;

6. Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter; and

7. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.

F. Revisions to Comprehensive Sign Programs. The Director may approve revisions to a Comprehensive Sign Program if the intent of the original approval is not affected. Revisions that would substantially deviate from the original approval shall require the approval of a new/revised Comprehensive Sign Program by the Zoning Administrator.

20.54.130 – Innovative Sign Program

A. Purpose. The purpose of the Innovative Sign Program is to:

1. Encourage signs that are unique in their design approach and use of materials; and

2. Provide a review process for the application of sign regulations to innovative signs.

B. Applicability. An applicant may request approval of a Sign Permit under the Innovative Sign Program to authorize an on-site sign or signs that differ from the provisions of this Chapter but comply with the purpose of this Chapter and Section.

C. Review authority. A Sign Permit application for an Innovative Sign shall be subject to approval by the Commission.

D. Application requirements. A Sign Permit application for an Innovative Sign shall include all information and materials required by the Director, and the filing fee set by the City's Master Fee Schedule.

E. Design criteria. In approving an application for an Innovative Sign, the Commission shall ensure that a proposed sign or signs meets the following design criteria:

1. Design elements. The sign shall contain at least one of the following elements:

a. Classic historic design style (ghost sign, metal, carved wood, etc.);

b. Creative image reflecting current or historic character of the City;

c. Symbols or imagery relating to the beach, ocean recreation, fishing, maritime industry, and/or the related business; or

d. Inventive representation of the use or name/logo of the business.

2. Architectural criteria. The sign shall:

a. Utilize and/or enhance the architectural elements of the building; and

b. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features/details of the façade.

3. Contextual criteria. The sign shall:

a. Be in scale and proportion with the structure where it is placed;

b. Be placed to respect and enhance the key architectural elements of the building; and

c. Respect the scale and proportion of surrounding commercial structures and signs.

F. Limitation. Approval of an Innovative Sign Program shall not:

1. Authorize the use of signs prohibited by this Chapter;

2. Authorize any sign that is more than 20 percent larger than it could have been without the owner's participation in the Innovative Sign Program; or

3. Authorize any sign based on an evaluation of the message displayed.

G. Revisions to Innovative Sign Programs. The Director may approve revisions to an Innovative Sign Program if the intent of the original approval is not affected. Revisions that would substantially deviate from the original approval shall require the approval of a new/revised Innovative Sign Program by the Commission.

20.54.140 – Nonconforming Signs

A. Abatement of nonconforming signs. The following nonconforming signs shall be removed or altered to be conforming within 15 years of the effective date of this Section, unless an earlier removal is required by the provisions of subsection B, below.

1. Roof signs;

2. Pole signs;

3. Internally illuminated signs with a translucent face;

4. Signs with letters, text, logos, or symbols taller than permitted by this Chapter; and

5. Signs that exceed 75 square feet in total sign area.

B. Removal of nonconforming signs. Nonconforming signs shall be removed if:

1. The nonconforming sign is more than 50 percent destroyed, and the destruction is other than facial copy replacement. A nonconforming sign shall be deemed to be more than 50 percent destroyed if the estimated cost of reconstruction exceeds 50 percent of the replacement cost as determined by the Building Official;

2. The nonconforming sign is remodeled, unless the sign is remodeled to comply with the provisions of this Chapter;

3. The nonconforming sign is located on a building that is enlarged or expanded, if the nonconforming sign is affected by the construction, enlargement, remodel, or expansion. An enlargement, remodel, or expansion of the portion of the building upon which the nonconforming sign is located or that is more than 50 percent of the building area shall be deemed to affect the nonconforming sign; or

4. The nonconforming sign is temporary.

C. Deactivation of flashing features. The owner of a sign that contains flashing features shall permanently deactivate the flashing features.

D. Continuance of nonconforming signs. Except as provided in Section 20.54.140 subsections A and B, a nonconforming sign may be continued and shall be maintained in good condition as required by these regulations, but it shall not be:

1. Structurally changed to another nonconforming sign, although its copy and pictorial content may be changed.

2. Structurally altered to prolong the life of the sign, except to meet safety requirements.

3. Expanded or altered in any manner that increases the degree of nonconformity.

E. Repairing and repainting. Nonconforming signs shall only be painted and repaired in place and shall not be removed from their existing location, except for building remodeling, unless removal of the sign for painting or repair is part of the sign's customary maintenance and repair.

F. Change of business ownership. Upon a change of ownership, the new owner of a nonconforming sign may change the name or names on the sign so long as there is no change in the structure or configuration of the sign.

20.54.150 – Abandoned Signs

A. Removal of abandoned signs.

1. An abandoned sign or an abandoned nonconforming sign shall be immediately removed by the owner or lessee of the premises upon which the sign is located or by a person, organization, or other entity that directly or indirectly receives a benefit from the information contained on the sign.

2. A sign frame or structure that has been abandoned shall be immediately removed by the owner or lessee of the premises upon which the sign frame or structure is located.

B. Presumption that a sign is abandoned. A sign that identifies or advertises a business that has ceased; is located upon a structure that has been abandoned by its owner; has not identified a bona fide business, lessor, service, owner, product, or activity available upon the site, for more than 90 days; or that has not been removed within 30 days after the occurrence of the event or activity, shall be presumed abandoned.

C. Notice that a sign is presumed abandoned. The Director shall send a person responsible for a sign presumed to be abandoned an Abandoned Sign Notification. Failure of the person to respond within 30 days to the Abandoned Sign Notification shall serve as prima facie evidence of intentional permanent abandonment of the sign.

20.54.160 – Illegal Signs

A. General prohibition. It is unlawful for any person to erect, place, post, construct, reconstruct, alter, maintain, or move or allow any person to erect, place, construct, reconstruct, alter, maintain, or move any sign that does not comply with the provisions of this Chapter.

B. Strict liability. Violations of this Chapter shall be treated as a strict liability offense regardless of intent.

C. Illegal signs identified. The following signs are illegal and declared to be a public nuisance:

1. A sign erected, placed, posted, constructed, reconstructed, altered, maintained, or moved after the effective date of this Chapter that does not comply with any provision of this Chapter;

2. A sign that was erected, placed, posted, constructed, reconstructed, altered, maintained, or moved prior to the effective date of this Chapter that failed to comply with all regulations in effect at the time the sign was erected, placed, posted, constructed, reconstructed, altered, maintained, or moved;

3. A nonconforming sign that is required to be removed or altered by Section 20.54.140 subsections A and B, which is not removed or altered in compliance with Section 20.54.140 subsections A and B;

4. Signs with flashing elements that are not deactivated;

5. An abandoned nonconforming sign; and

6. An abandoned sign.

20.54.170 – Maintenance Requirements

A. Maintenance of signs required. All types of signs, together with their supports, braces, guys, and anchors shall be properly maintained at all times with respect to safety, appearance, and structural and electrical features.

B. Proper maintenance identified. Display surfaces shall be kept clean and neatly painted and repaired at all times, and there shall be no missing or damaged messages, graphics, or structural elements, or portions thereof. Signs shall be refinished to remove rust or other corrosion due to the elements as necessary. Faded, cracked, or broken faces or surfaces, and malfunctioning lamps shall be replaced immediately. Awnings that have signs shall be cleaned periodically and replaced if they become faded, tattered, or ripped.

C. Administrative procedures applied to signs that are not maintained. Signs that are not properly maintained shall be subject to the following administrative procedures:

1. Notice of violation shall be sent by first class United States mail to last known address of sign owner and/or property owner, informing owner of time in which removal of sign or repair of condition shall be accomplished;

2. If the owner fails to remove sign or repair the condition, City shall send final notice by certified United States mail, return receipt requested, and by first class United States mail, notifying owner that failure to remove or repair the sign within 30 days shall result in the issuance of an Administrative Citation, in compliance with the provisions of Municipal Code Title 1 and Title 20; and

3. If the owner does not remove the sign or repair the condition within the 30-day period, an Administrative Citation shall be issued at the end of the 30-day period.

D. Hazardous signs. If a sign is damaged or not properly maintained to a degree that causes it to pose a physical danger to persons or property, the following provisions shall apply:

1. **Hazardous signs identified.** A hazardous sign is a sign that poses a danger to the public or that could create a potential hazard. Hazardous signs are declared to be a public nuisance in compliance with Municipal Code Sections 1.04.020 and 10.50.020(I).

2. **Removal of hazardous signs.** Upon discovering a hazardous condition, the City may cause the immediate removal of a sign that is a danger to the public due to unsafe conditions. The determination that a sign has become hazardous or unsafe shall consider only the physical condition and characteristics of the sign, and shall not consider the message thereon. No hearing shall be required for the removal of hazardous signs. The City is not required to give notice of intent to remove the sign prior to removal, but shall inform the owner that the hazardous sign has been removed within 7 days of removal, by certified United States mail, return receipt requested and by first class United States mail.

3. **Storage of signs.** Signs removed in compliance with this Section shall be stored for 30 days, during which time they may be recovered by the owner upon payment to the City for costs of removal and storage. If not recovered within the 30-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the City. The costs of removal and storage (up to 30 days) may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property.

4. **Penalties**. Hazardous signs shall also be subject to the administrative remedies of the Municipal Code, including Section 10.50.020 and Sections 1.04 and 1.05.

5. **Recovery of costs.** When the City is required to remove a hazardous sign, the reasonable cost of the removal and storage may be assessed against the owner of the sign(s) and/or the property owner. If not paid, the applicable costs may be imposed as a tax lien against the property. Notice of the imposition of the tax lien shall be sent to the owner of the property by certified United States mail, return receipt requested, as well as by first class United States mail.

20.54.180 – Heritage Signs

A. Designation of heritage signs. The designation of a sign as a heritage sign is intended to allow nonconforming signs that otherwise would be required to be removed in compliance with Section 20.54.140 (Nonconforming Signs) of this Chapter to remain if the sign or the establishment associated with the sign are determined to have historical or local identity significance to the City of Newport Beach in compliance with the standards established in this Section.

B. Application and review authority. Application for heritage sign status may be submitted by the business owner, property owner, or City for review by the Commission. The Commission shall review all applications and approve or disapprove heritage sign status in compliance with this Section.

C. Heritage sign criteria. The Commission may designate a sign as a heritage sign if the sign is the type of sign that would be subject to removal as a nonconforming sign and the sign meets both the following criteria:

1. **Historically Significant.** A sign is historically significant if the sign was erected or created at least 35 years ago and is either representative of a significant sign-making technique or style of a historic era or represents entities or establishments that are an important part of Newport Beach history.

2. **Visually Significant**. The sign is visually significant in at least 2 of the following regards:

   a. The sign possess a uniqueness and charm because it has aged gracefully;

   b. The sign remains a classic example of craftsmanship or style of the period when it was constructed and uses materials in an exemplary way;

   c. The sign compliments its architectural surroundings or is particularly well integrated into the structure; or

   d. The sign is an inventive representation of the use, name, or logo of the building or business.

D. Designation of heritage signs.

1. The Director shall review each application for heritage sign status on a case-by-case basis to assess whether the sign meets the criteria for designation as a heritage sign. Based on this review, staff shall prepare findings and recommendations to the Commission regarding their assessment and the application's merit regarding the designation. The Commission shall review staff findings and recommendations at a noticed public hearing.

2. The Commission may direct staff to undertake additional analysis to assess whether a sign should receive heritage sign status. The Commission may also direct staff to undertake additional analysis of any sign already designated as a heritage sign. Staff's additional analyses and recommendations shall be available for public review and comment prior to the Commission's subsequent meeting for review and action on a heritage sign.

3. Upon due consideration of staff's findings and recommendations plus all public testimony and comment, the Commission may approve or deny designation of heritage sign status.

E. Alteration of heritage signs. Designated heritage signs may be not be physically altered except for routine cleaning and general maintenance. Cleaning and maintenance shall be consistent with the preservation of the character or defining features of the sign in all respects. A designated heritage sign may be removed if desired. If a designated heritage sign is removed, its heritage status shall be revoked. If the character or defining features of a designated heritage sign are altered, its designation as a heritage sign shall be revoked and the sign shall be removed. Where applicable, the sign may be modified to conform to the requirements of this Chapter.

– **This page intentionally left blank –**

Chapter 20.56 – Transportation Demand Management Requirements

Sections:

20.56.010 – Purpose
20.56.020 – Applicability
20.56.030 – Transportation Demand Management Program
20.56.040 – Employment Generation Factors
20.56.050 – Site Development Requirements
20.56.060 – Equivalent Facilities or Measures.
20.56.070 – Enforcement and Penalties.

20.56.010 – Purpose

The purpose of this Chapter is to implement the requirements of Orange County's Congestion Management Program. The requirements of this Chapter are intended to:

A. Reduce the number of peak-period vehicle trips generated in association with the approval of development projects;

B. Promote and encourage the use of alternative transportation modes, including ridesharing, carpools, vanpools, public bus and rail transit, bicycles and walking, as well as those facilities that support the use of these modes;

C. Reduce vehicle trips, traffic congestion, and public expenditures for transportation system improvements and improve air quality through the utilization of existing local mechanisms and procedures for project review and permit processing;

D. Promote coordinated implementation of strategies on a County-wide basis to reduce transportation demand; and

E. Achieve the most efficient use of local resources through coordinated and consistent regional and/or local trip reduction programs.

20.56.020 – Applicability

The requirements of this Chapter shall apply to all new nonresidential projects, mixed use projects, and employment centers that are estimated to employ 250 or more persons.

20.56.030 – Transportation Demand Management Program

A. Program preparation. Applicants for projects covered by this Chapter shall prepare a transportation demand management program applicable to the proposed project that will:

1. Reduce the number of peak-period vehicle trips generated in association with the proposed project;

2. Promote and encourage the use of alternative transportation modes (e.g., ridesharing, carpools, vanpools, public transit, bicycles and walking); and

3. Provide those facilities that support alternate transportation modes.

B. Review authority approval. The review authority shall issue a written determination to approve, conditionally approve, or deny the approval of the transportation demand management program based on the program's ability to meet the requirements provided in Subsection A, above.

20.56.040 – Employment Generation Factors

The following generation factors are the basis for determining employment projections in the absence of more specific information.

Land Use Category	Gross Square Feet/Employee
Retail	500
Office/Professional	250
Industrial	525
Hotel	1.0/room

Employment projections shall be developed by the project applicant, subject to approval by the City. The employment projection for a mixed-uses development shall be calculated on a case-by-case basis, based upon the proportion of development devoted to each type of use.

20.56.050 – Site Development Requirements

Projects subject to the requirements of this Chapter shall be subject to the following site development requirements. Required improvements shall be reviewed and approved by the review authority concurrent with other project approvals.

A. Carpool parking. A parking space shall be reserved and designated for each identified carpool. Carpool spaces shall only be used by carpool vehicles and shall be located near the employee entrance or at other preferential locations, as approved by the City Traffic Engineer. A minimum of 5 percent of the provided parking shall be reserved for carpools. Additional spaces shall be designated for each new carpool that forms.

B. Bicycle lockers. Bicycle lockers shall be provided for use by employees or tenants. A minimum of 2 lockers per 100 employees shall be provided. Lockers may be located in a required space.

C. Lockers and showers. A minimum of 2 showers and 2 lockers shall be provided.

D. Information on transportation alternatives. A commuter information area shall be provided in 1 or more central areas that are accessible to all employees or tenants. Information shall include, but not be limited to, current maps, routes and schedules for public transit; ridesharing match lists; available commuter incentives and ridesharing promotional material supplied by commuter-oriented organizations.

E. **Rideshare vehicle loading area**. A rideshare vehicle loading area shall be designated at a location approved by the City Traffic Engineer. The area shall accommodate a minimum of 2 passenger vehicles for the first 25,000 square feet of development, plus 1 for each 50,000 square feet of additional development or fraction thereof.

F. **Vanpool accessibility.** Vanpool spaces shall be reserved and designated for each identified vanpool in compliance with the approved plan. A minimum 7'-2" vertical clearance shall be provided and the spaces shall be located near the employee entrance or other preferential location as approved by the City Traffic Engineer.

G. **Bus stop improvements.** Bus stop improvements, including bus pullouts, bus pads, and right-of-way for bus benches and shelters shall be required for developments located along arterials where public transit exists or is anticipated to exist within 5 years. Improvements shall be developed in consideration of the level of transit ridership and the impact of stopped busses on other traffic.

H. **Sidewalks.** Sidewalks or other paved pathways connecting the external pedestrian circulation system to each building in the development shall be provided.

20.56.060 – Equivalent Facilities or Measures.

The project applicant shall have the option of deleting or modifying any or all of the site development requirements if equivalent facilities or measures are provided. The applicant shall demonstrate the equivalency of the proposed measures to the satisfaction of the review authority.

20.56.070 – Enforcement and Penalties.

The City may withhold the issuance of Building Permits, Certificates of Occupancy and/or issue stop work orders for a development project failing to comply with the provision of this Chapter. If any improvements or programs required by this Chapter are either rendered unusable or discontinued, the property owner, employer and/or tenant may be subject to enforcement procedures in compliance with Chapter 20.82 (Enforcement).

– **This page intentionally left blank –**

Chapter 20.58 – Transfer of Development Rights

Sections:

20.58.010 – Purpose
20.58.020 – Applicability
20.58.030 – General Requirements
20.58.040 – Procedures
20.58.050 – Findings

20.58.010 – Purpose

This Chapter provides procedures for the transfer of development rights from a property to one or more other properties.

20.58.020 – Applicability

The provisions of this Chapter shall apply within all zoning districts.

20.58.030 – General Requirements

A. **Location.** The donor and receiver sites shall be located within the same Statistical Area as identified in the Land Use Element of the General Plan.

B. **Development intensity.** The total development intensity allowed to be transferred into a particular zoning district from another zoning district shall not exceed the total development intensity allowed for that zoning district.

C. **Floor area for a donor site.** The maximum gross floor area allowed on a donor site shall be reduced by the amount of the transfer of development intensity to the receiver site.

D. **Residential uses**. When the transfer of development rights involves residential units, the transfer shall be on a unit for unit basis.

20.58.040 – Procedures

The following procedure shall be used for the transfer of development rights.

A. **Application.** The applicant shall submit an application to the Department that identifies the quantity of entitlement (e.g., floor area, hotel rooms, theater seats, etc.) to be relocated and the sending and receiving sites. If the requested transfer includes the conversion of nonresidential uses, the application shall also identify the quantity of entitlement, by use category, before and after the transfer.

B. **Traffic analysis.** The Traffic Engineer shall perform a traffic analysis to determine the total number of PM peak hour trips that would be generated by development allowed with and without the transfer. Trip generation rates shall be based on standard trip generation values in the current version of ITE's "Trip Generation," unless the Traffic Engineer determines that other rates are more valid for the uses involved in the transfer.

C. **Detailed traffic analysis.** Depending on the location of the sending and receiving sites, the Traffic Engineer may determine that a more detailed traffic analysis is required to determine whether adverse traffic impacts will result from the transfer. This analysis shall demonstrate whether allowed development, with and without the transfer, would either cause or make worse an unsatisfactory level of service at any primary intersections for which there is no feasible mitigation. This analysis shall be consistent with the definitions and procedures contained in the Traffic Phasing Ordinance of the Municipal Code, except that "unsatisfactory level of service" shall be as specified in the General Plan.

D. **Land use intensity analysis.** If the transfer request involves the conversion of uses, the Director shall perform a land use intensity analysis to determine the floor area that could be developed with and without the transfer. For purposes of this analysis, theater use shall be allocated 15 square feet per seat. Hotel use shall be allocated the number of square feet per room at which it is included in the General Plan. When the General Plan does not specify intensity for hotel rooms, it shall be as determined by the Director.

E. **Council to consider.** Applications for transfer of development rights shall be considered by the Council. The Council shall approve a transfer of development rights only if it makes all of the findings in Section 20.58.050, below.

F. **Legal assurances.** A covenant or other legally binding agreement approved by the City Attorney shall be recorded against the donor site assuring that all of the requirements of the transfer of development rights will be met by the current and future property owners.

20.58.050 – Findings

When approving a transfer of development intensity the Council shall make all of the following findings:

A. The reduced density/intensity on the donor site provides benefits to the City, for example:
   a. The provision of extraordinary open space, public view corridor(s), increased parking, or other amenities;
   b. Preservation of an historic building or property, or natural resources;
   c. Improvement of the area's scale and development character;
   d. Reduction of local vehicle trips and traffic congestion; and
   e. More efficient use of land.

B. The transfer of development rights will not result in any adverse traffic impacts and would not result in greater intensity than development allowed without the transfer and the proposed uses and physical improvements would not lend themselves to conversion to higher traffic generating uses;

C. The increased development potential transferred to the receiver site will be compatible and in scale with surrounding development and will not create abrupt changes in scale or character; and

D. The receiver site is physically suitable for the development proposed taking into consideration adjacent circulation patterns, protection of significant public views and open space, and site characteristics, including any slopes, submerged areas, and sensitive resources.

– **This page intentionally left blank –**

Chapter 20.59 – Public Access in the Coastal Zone [New]

Sections:

20.59.010 – Purpose
20.59.020 – Applicability
20.59.030 – Protection or Provision of Public Access Required
20.59.040 – Determination of Public Access
20.59.050 – Development Standards
20.59.060 – Permit Requirements

20.59.010 – Purpose

This Chapter provides procedures and standards for the preservation, dedication, and improvement of public access to, and along the shoreline and coastal blufftops, in conjunction with development in the Coastal Zone. The intent is to ensure that public rights of access to the shoreline are protected as guaranteed by the California Constitution; to ensure public access to coastal blufftops; and to implement applicable policies of the General Plan and the Coastal Land Use Plan.

20.59.020 – Applicability

A. Development in the Coastal Zone. This Chapter applies to new development in the Coastal Zone located between the first public roadway paralleling the shoreline, unless exempt in compliance with Paragraph B (Exemptions), below, or waived in compliance with Subsection 20.59.060.B (Waiver of public access requirements). For the purposes of this Chapter, development shall mean "Development" as defined in Part 7 (Definitions).

B. Exemptions. The public access requirements of this Chapter shall not apply to the following new development in compliance with the Coastal Act (Public Resources Code Section 30212):

1. **Structure destroyed by disaster.** The replacement of a structure, other than a public works facility, destroyed by disaster, provided that the replacement structure:

   a. Conforms to applicable zoning district requirements in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards);

   b. Is for the same use as the destroyed structure;

   c. Not exceed the floor area, height, or bulk (i.e., total interior cubic volume as measured from the exterior surface of the structure) of the destroyed structure by more than 10 percent;

   d. Is sited in the same location on the affected property as the destroyed structure; and

e. Does not extend the replacement structure seaward on a sandy beach or beachfronting bluff lot.

2. Demolition and reconstruction. The demolition and reconstruction of a single-family residence, provided that the reconstructed residence:

a. Does not exceed either the floor area, height, or bulk (i.e., total interior cubic volume as measured from the exterior surface of the structure) of the former structure by more than 10 percent;

b. Is sited in the same location on the affected property as the former structure;

c. Does not extend seaward of the demolished residence on a sandy beach or beachfronting bluff lot; and

d. Does not include or necessitate a new or enlarged shoreline protective device within the economic life of the structure.

3. Improvements. Improvements to a structure that do not:

a. Change the intensity of its use;

b. Increase either the floor area, height, or bulk of the structure by more than 10 percent;

c. Block or impede access;

d. Result in a seaward encroachment by the structure; and

e. Include or necessitate a new or enlarged shoreline protective device within the economic life of the structure.

4. Repair and maintenance of a shoreline protective device. The reconstruction or repair of a bulkhead; provided that the reconstructed or repaired bulkhead is not seaward of the location of the former bulkhead.

5. Repair and maintenance. A repair or maintenance activity consistent with Public Resources Code Section 30212.b.(5) and with Subsection 20.66.020.E.3.d. (Repair and/or maintenance) and Subsection 20.66.020.E.4. (Ongoing routine repair and/or maintenance).

C. Conflict. In the event of a conflict between this Chapter and another provision in this Zoning Code or the Municipal Code, the more restrictive regulation shall control.

20.59.030 – Protection or Provision of Public Access Required

A. Protection of existing public access. Development shall not interfere with public right of access to the shoreline or coastal blufftops where the rights have been acquired through use or legislative authorization. Public access rights may include, but are not limited to, the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

B. Provision of new public access. Development located between the shoreline and the first public road paralleling the shoreline shall provide public access (i.e., lateral access and vertical access) to the shoreline or to coastal blufftops, unless exempt in compliance with Subsection 20.59.020.B (Exemptions) or waived by the review authority in compliance with Subsection 20.59.060.B (Waivers of Public Access Requirements). The type and extent of public access to be dedicated, granted, constructed, and/or maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of permit approval in compliance with Section 20.59.060 (Permit Requirements).

20.59.040 – Determination of Public Access

This Section provides procedures for identifying the location and type of existing public access to be protected or new public access to be provided.

A. Initial public access survey. An applicant shall submit an initial public access survey that indicates the presence of, or potential for, public access on a site or within 500 feet of a site, if required by the Director in compliance with Section 20.59.060 (Permit Requirements). The report shall be prepared by a qualified professional (e.g., landscape architect, engineer, etc.) and shall include the following:

1. **Description.** A description of the site's physical characteristics (e.g., topography, streams, etc.) and of existing public access features (e.g., improved or unimproved path or trail, stairwells, width of accessway(s), signage, parking, degree of connectivity with other public access in the vicinity, etc.) on the site or within 500 feet of the site;

2. **Photographs.** Photographs of public access features on the site or within 500 feet of the site; and

3. **Map.** A map depicting the boundaries of the site and the location of existing public access features on the site or within 500 feet of the site.

B. Public access impact report. If the initial public access survey indicates the absence of public access on the site or within 500 feet of the site, an applicant shall submit a detailed public access impact report. The report shall be prepared by a qualified professional (e.g., landscape architect, engineer, etc.) and shall include the following information:

1. **Historic public use.** Evidence of use of the site by members of the general public for access to the shoreline or coastal bluffs or for recreational use (active or passive), and the development's effects on public use of the site for access;

2. **Demand for access and recreation.** The development's effects upon the use and capacity of the identified access and recreation opportunities (e.g., the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs; the capacity of coastal access roads; public parking; and recreational support facilities and services; etc.);

3. **Obstructions.** Physical aspects of the development that may block or impede public access to and along the shoreline and to coastal parks, trails, or coastal bluffs, (e.g., placement of structures, private streets, shoreline protective structures, barriers, guardhouses, gates, fences, signs;

4. **Vessel launching, berthing, and storage.** The development's cumulative effects on vessel launching, berthing, and storage facilities and other facilities that provide public access;

5. **Shoreline processes.** The development's cumulative effects upon shoreline conditions (e.g., beach profile; the character, extent, accessibility and usability of the beach; erosion or accretion; character and sources of sand; wave and sand movement; etc.) that have the potential to adversely impact public access;

6. **Other impacts.** Other aspects of the development, which, individually or cumulatively, are likely to diminish the public's access to, and use of, the shoreline or coastal bluffs.

7. **Recommended accessways.** A recommendation of the location and size of new public accessway(s) on the site, or a plan to provide public access within 500 feet of the site;

8. **Map.** A map depicting the boundaries of the site and recommended new public accessway(s).

9. **Mitigation measures.** A description of mitigation measures, including identification of potential mitigation sites, that would minimize or mitigate residual impacts that cannot be avoided.

20.59.050 – Development Standards

This Section provides standards for the location and configuration of public access to ensure public safety and to protect public rights, rights of private property owners and leaseholders, and natural resource areas from overuse.

A. Site planning and design criteria.

1. **General.** Public access improvements shall be designed to:

   a. Maximize public access to and along the shoreline and coastal blufftops;

   b. Incorporate pedestrian, hiking, bicycle, and equestrian trails, where appropriate;

   c. Provide connections to beaches, parks, recreational facilities, and trail systems, where feasible;

   d. Ensure access to coastal view corridors, where feasible;

   e. Minimize alterations to natural landforms;

   f. Protect environmentally sensitive habitat areas; and

g. Protect private property rights.

2. Open and unobstructed. Public access shall be open and unobstructed.

3. Location in setback areas. Public access may be provided within required setback areas.

4. Privacy buffers. A 10-feet wide buffer area between a public accessway and a residential structure shall be provided on the site when necessary to protect the landowner's privacy or security as well as the public's right to use the accessway. The review authority may reduce the width of the buffer area where separation is achieved through landscaping, fences, or changes in grade elevation.

5. Barriers prohibited. Development designed to restrict access to and along the shoreline or coastal blufftops (i.e., barriers, gates, guardhouses, private streets, etc.) shall be prohibited.

6. Sensitive areas. Public access improvements shall be sited, designed, and maintained to avoid or minimize impacts to environmentally sensitive habitat areas (ESHAs), wetlands, and other sensitive resource areas in compliance with Chapter 20.44 (Resource Protection in the Coastal Zone).

7. Features of lateral accessways.

a. Location.

(1) A lateral accessway shall extend along the entire width of a lot.

(2) A lateral accessway shall be located on land, when feasible. A lateral accessway that consists of decking and/or boardwalks extending over the water or floating walkways may be allowed only when existing development makes onshore lateral access infeasible or as part of a comprehensive program to provide waterfront access.

b. Minimum width. Lateral accessways shall be the following minimum widths:

(1) Lots with dry sand or rocky coastal beaches. For lots with dry sand or rocky coastal beaches, a lateral accessway shall be a strip of land that extends landward from the mean high water line the greater of the following distances:

(a) 10 feet; or

(b) If the width of the beach is greater than 10 feet, to a fixed point at the most seaward of the primary extent of development, the toe of the bluff, or the first line of terrestrial vegetation. For purposes of this paragraph, the primary extent of development shall mean the intersection of sand

with toe of revetment, the vertical face of a bulkhead, or other appropriate boundary (e.g., drip line of a deck, etc.).

(2) Lots with shoreline protective devices. For lots with shoreline protective devices, a lateral accessway shall be a minimum of 10 feet in width as measured landward from the shoreline protective device.

(3) Lots on coastal blufftops. For lots on a coastal blufftops, a lateral accessway shall be a minimum of 10 feet in width as measured upland from the bluff edge.

c. Construction design. A lateral accessway may include open or enclosed unobstructed walkways; exterior decking and/or boardwalks; interior breezeways and/or walkways with a minimum vertical clearance of 8 feet above-grade, provided that the breezeways are located as close as possible to the water and are designed to provide the most direct, convenient connection between adjacent existing or potential lateral access. Exterior access is preferred over interior access.

8. Features of vertical public accessways.

a. Location. Where feasible, a minimum of one vertical accessway at every street stub, or where there are no street stubs at every 500 feet, shall link with lateral accessways along the bayward sides of structures.

b. Minimum width. A vertical accessway shall be a minimum of 10 feet in width.

B. Usage limits. Controls on the time, place, and manner of uses (e.g., limiting access to pass and repass; restricting hours of use; etc.) may be imposed in compliance with Section 20.59.060 (Permit Requirements).

C. Signage. Public accessways shall be identified by signs that conform to the coastal access signing program of the California Coastal Conservancy/Coastal Commission.

D. Removal of unauthorized structures. Unauthorized structures, including signs and fences, that inhibit public access shall be removed.

E. Parking.

1. Restrictions on public parking (e.g., the posting of “no parking” signs, painting curbs red, installation of physical barriers, etc.), shall be prohibited, except where the restrictions are needed to protect public safety and where no other feasible alternative exists to provide public safety. Development that results in restrictions on public parking shall provide an equivalent quantity of public parking nearby as mitigation for impacts to coastal access and recreation, where feasible.

2. Commercial or institutional development shall allow use of parking areas for public access outside of normal business hours (i.e., on weekends and holidays), where feasible. Parking areas may be used for motor vehicle parking, bicycle parking, or in conjunction with public transit or shuttles that serve coastal recreational areas.

3. Parking shall be provided by the developer in conjunction with new or improved vertical accessways, whenever feasible and consistent with site constraints, environmental constraints, and safety conditions.

F. Timing of access implementation.

1. Guarantee precedes permit issuance. The guarantee of public access in the form required in compliance with Section 20.59.060 (Permit Requirements) shall occur before issuance of construction permits or the start of construction activity not requiring a permit.

2. Construction of public access improvements. Construction of public access improvements shall occur at the same time as construction of the approved development, unless another time is established through conditions of development permit approval.

G. Interference with public use prohibited. After making an offer to dedicate public access in compliance with this Chapter, the property owner shall not interfere with use by the public of the areas subject to the offer before and after acceptance by the responsible entity.

H. Encroachments prohibited. Encroachments or the installation of private improvements into public accessways shall be strictly prohibited.

I. Prescriptive rights.

1. Location of development where prescriptive rights identified. The design and siting of development shall not interfere with the potential public rights based on historic public use; unless the review authority determines that replacement public access of an equivalent type, intensity, and area will be provided on, or reasonably adjacent to, the development site.

2. Condition not determinative of prescriptive rights. An access condition shall not serve to extinguish, adjudicate or waive potential prescriptive rights. The following language shall be added to the access condition in a permit with possible prescriptive rights:

"Nothing in this condition shall be construed to constitute a waiver of, or a determination on, an issue of prescriptive rights that may exist on the lot itself or on the designated easement."

20.59.060 – Permit Requirements

A. Application requirements. Permit applications for development that may affect public access shall include the information identified in Section 20.59.040 (Determination of Public Access), if required by the Director.

B. Waiver of public access requirements. The review authority may waive public access requirements if the review authority makes any of the following findings:

1. **Physical infeasibility.** Based on the public access impact report required in Section 20.59.040 (Determination of Public Access) or an engineering analysis (e.g., slope stability analysis, erosion rate estimates, etc.), all or a portion of the required public access is physically infeasible and design alternatives are incapable of overcoming topographical or site constraints. If continuous lateral access across the bayward portion of the lot is found to be infeasible, the contribution of an in-lieu fee, equivalent to the cost of construction of an accessway along the bayward edge of the proposed structure, shall be paid to the City.

2. **Security or public safety.** Marine sales and service equipment and operations present security or public safety concerns necessitating waterfront access detours in order to maintain facilities and services essential to the operation of the harbor, provided that public viewing areas and/or walkways are provided in suitable locations in the development to the maximum extent feasible.

3. **Adequate nearby access.** Adequate public access exists within 500 feet of the site; or

4. **Inconsistent with other policies or law.** Providing public access is inconsistent with:

   a. Public safety needs;

   b. Military security needs;

   c. Protection of fragile coastal resources;

   d. Policies of the General Plan or the Coastal Land Use Plan, other than those requiring access; or

   e. State or Federal law.

C. Guarantee of public access. As a condition of approval, the review authority shall require a guarantee of public access from an applicant, including its successors and assigns, in a form approved by the City Attorney, and recorded by the applicant. The guarantee of the public access shall identify the precise location and area to be set aside for public access. The review authority shall select the method of access guarantee in compliance with the following criteria:

1. **Deed restriction.** A deed restriction shall be used only where an owner, association, or corporation agrees to assume responsibility for maintenance of and liability for the public access area.

2. **Grant of fee interest or easement.** A grant of fee interest or easement shall be used when a public agency or private organization is willing to assume ownership, maintenance, and liability for the access.

3. **Offer to Dedicate.** An offer to dedicate shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for accessway maintenance and liability. An offer shall not be accepted until maintenance responsibility and liability is established.

D. Management and maintenance.

1. **Time, place, and manner controls.** The review authority may require controls on the time, place, and manner of public access when justified by site characteristics or development features (e.g., topographic and geologic conditions; the intensity of use and the capacity of the site to sustain the use; the fragility of natural resource areas; the need to protect the privacy or security of residential development; public safety services access; the provision of support facilities, etc.).

2. **Management plan.** The review authority may require a management plan in conjunction with a guarantee of public access where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site.

3. **Commencement of use of public access.** A dedicated public accessway shall not be required to be opened to public use until a public agency or private association approved by the review authority agrees to accept responsibility for maintenance and liability of the access, except incases where immediate public access is implemented through a deed restriction.

E. Subdivisions. When the General Plan or the certified Coastal Land Use Plan indicates the location of a public accessway within the boundaries of a proposed subdivision, the accessway shall be shown on the Tentative Map and offered for dedication to the City. When a public or private accessway is already in existence at the time a Tentative Map is filed, the Tentative Map shall identify the status of the accessway.

F. Findings. An access dedication or grant of easement that is required as a condition of approval shall be supported by substantial evidence in the record and findings shall explain how the adverse effects that have been identified will be alleviated or mitigated by the dedication or grant of easement.

G. Post-decision procedures. The Director shall forward copies of the recorded access documents to the Coastal Commission.

Part 4
Standards for Specific Land Uses

Table of Contents

Chapter 20.60 – Standards for Specific Land Uses 3

20.60.010 – Purpose 3
20.60.020 – Adult-Oriented Businesses 3
20.60.030 – Alcohol Sales – Off-Sale [Revised] 4
20.60.040 – Animal-Keeping [Revised] 8
20.60.050 – Animal Sales and Services [New] 10
20.60.060 – Bed and Breakfast Inns 11
20.60.070 – Child Day Care Facilities 12
20.60.080 – Drive-Through and Drive-Up Facilities 13
20.60.090 – Eating and Drinking Establishments [Revised] 14
20.60.100 – Emergency Shelters [New] 18
20.60.110 – Home Occupations 20
20.60.120 – Massage Establishments and Services [Revised] 21
20.60.130 – Mixed-Use Projects [New] 22
20.60.140 – Oil and Gas Facilities 23
20.60.150 – Outdoor Storage, Display, and Activities [Revised] 25
20.60.160 – Personal Property Sales in Residential Districts 26
20.60.170 – Recycling Facilities [New] 27
20.60.180 – Residential Care Facilities 28
20.60.190 – Residential Development Standards 30
20.60.200 – Satellite Antennas and Amateur Radio Facilities 30
20.60.210 – Senior Accessory Dwelling Units 34
20.60.220 – Time Share Facilities 35

Chapter 20.62 – Service Stations 37

20.62.010 – Purpose 37
20.62.020 – Permit Requirements 37
20.62.030 – Operational Standards 38
20.62.040 – Development Standards 39

Tables

Table 4-1 Animal-Keeping Standards 8
Table 4-2 Required Setbacks for Structures Housing Domestic Farm Animals 9

Chapter 20.60 – Standards for Specific Land Uses

Sections

20.60.010 – Purpose
20.60.020 – Adult-Oriented Businesses
20.60.030 – Alcohol Sales – Off-Sale [Revised]
20.60.040 – Animal-Keeping [Revised]
20.60.050 – Animal Sales and Services [New]
20.60.060 – Bed and Breakfast Inns
20.60.070 – Child Day Care Facilities
20.60.080 – Drive-Through and Drive-Up Facilities
20.60.090 – Eating and Drinking Establishments [Revised]
20.60.100 – Emergency Shelters [New]
20.60.110 – Home Occupations
20.60.120 – Massage Establishments and Services [Revised]
20.60.130 – Mixed-Use Projects [New]
20.60.140 – Oil and Gas Facilities
20.60.150 – Outdoor Storage, Display, and Activities [Revised]
20.60.160 – Personal Property Sales in Residential Districts
20.60.170 – Recycling Facilities [New]
20.60.180 – Residential Care Facilities
20.60.190 – Residential Development Standards
20.60.200 – Satellite Antennas and Amateur Radio Facilities
20.60.210 – Senior Accessory Dwelling Units
20.60.220 – Time Share Facilities

20.60.010 – Purpose

This Chapter provides site planning, development, and operational standards for a variety of specified land uses.

20.60.020 – Adult-Oriented Businesses

This Section provides standards to regulate adult-oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of adult-oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from these establishments (i.e., crime and degraded commercial and residential neighborhoods). The requirements of this Section are in addition to those provided in Municipal Code Chapter 5.96 (Adult-Oriented Business).

A. Zoning Districts. Adult-oriented businesses shall be allowed in compliance with Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) and where commercial uses area allowed in planned community districts.

B. Permit requirements. Adult-oriented businesses shall obtain a permit in compliance with Municipal Code Chapter 5.96 (Adult-Oriented Business) before any other permit is issued (e.g., building permit, development permit, etc.).

C. Location restrictions. An adult-oriented business shall not be located:

1. Within 500 feet of the boundary of any residential zoning district or residential use, including residential uses in mixed-use zoning districts; or

2. Within 1,000 feet of any lot upon which there is properly located a religious institution, public beach or park, school or City facility, including but not limited to City Hall, and Newport Beach libraries, police, and fire stations; or

3. Within 500 feet of another adult-oriented business.

D. Measurement. The distance of separation shall be measured using a straight line, without regard to intervening structures or objects, from the zoning district boundary line or the property line of the lot on which the adult-oriented business is located to the nearest property line of the lot upon which is located a residential use, place of worship, park, or school. If the residential use, place of worship, park or school is located on the same lot as the adult-oriented business, the distance between the two shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects.

20.60.030 – Alcohol Sales – Off-Sale [Revised]

The purpose of this Section is to preserve a healthy environment for residents and businesses by establishing a set of consistent standards for the safe operation of retail alcohol sales establishments. It is recognized that hospitality, entertainment, recreation and related businesses are a significant part of the City's economy, and that alcoholic beverage sales are important to the operation of these businesses. It is also recognized that alcohol abuse can create environments that jeopardize the continued success of these businesses and seriously affect the health, safety, and general welfare in surrounding areas, particularly residential neighborhoods.

This Section is intended to prevent alcohol-related problems (e.g., driving under the influence, assaults, domestic violence, public inebriation, littering, loitering, obstruction of pedestrian traffic, noise, traffic violations, illegal parking, interference with children on their way to and from school, interference with shoppers using the streets, defacement and damaging of public and private property, etc.). This Section provides a set of additional tools to reduce the costly and harmful effects of irresponsible alcohol sales and consumption on local businesses, residents, law enforcement, medical care, and educational, preventive, treatment and rehabilitation resources.

A. Operating standards.

1. Alcohol consumption on premises prohibited. Consumption of alcoholic beverages inside a retail alcohol sales establishment, outside the building, or elsewhere outside on the premises shall be prohibited.

2. Sales activities. Alcoholic beverages shall not be sold:

a. Outside the exterior walls of the alcohol sales establishment;

b. From drive-up or walk-up service windows; or

c. To persons in watercraft.

3. Litter and graffiti. The owner/operator shall:

a. Maintain the exterior of the premises, including signs and accessory structures, free of litter and graffiti at all times;

b. Provide for daily removal of trash from the premises and abutting sidewalks or alleys within 20 feet of the premises ; and

c. Remove graffiti within 48 hours of written notice from the City.

4. Security. The City's review authority may require the alcohol sales establishment to provide security personnel and/or surveillance devices.

5. Sales training.

a. Personnel. Owners, operators, and employees selling alcoholic beverages shall complete a certified training program in responsible methods and skills for serving and/or selling alcoholic beverages. A certified program shall meet the standards of a certifying/licensing body approved by the Department of Alcoholic Beverage Control.

b. Records. Records of each owner's, operator's and employee's successful completion of the certified training program shall be maintained on the premises and shall be presented to a representative of the City upon request.

6. Outdoor storage. The outdoor storage of boxes, equipment, materials, merchandise, and other similar items shall be prohibited.

7. Posted conditions of approval. The owner/operator shall maintain a copy of the most recent City permit conditions of approval and operating standards on the premises and shall post them where they are readily viewable by an employee, customer, or representative of a governmental agency. The posted copy shall be signed by the permittee.

8. Public telephones. Upon request of the Police Chief or as required by the ABC, a public telephone located on the premises or in an adjacent area under the control of the owner/operator shall be equipped with devices or mechanisms that prevent persons from calling into that public telephone.

B. Development standards.

1. Signs. Signs shall comply with Chapter 20.54 (Signs). In addition, the following shall apply:

a. Window signs shall not obstruct the view of the interior of the premises, (e.g., sales counter, cash register, employees, customers, etc.) from the exterior.

b. Loitering, open container, and other signs specified by the Alcoholic Beverage Control Act shall be posted as required by the ABC.

2. Site and floor plans. The site and floor plans of an alcohol sales establishment shall incorporate design features to reduce alcohol-related problems. The review authority may require the incorporation of preventive design features (e.g., openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of interior and exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior, etc.).

C. Permit requirements.

1. New permits. Permits and licenses required by Municipal Code Title 5 (Business Licenses and Regulations) shall be obtained for new alcohol sales establishments, in addition to permits required by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards).

2. Amended permits. An existing permit for an alcohol sales establishment shall be amended in the following circumstances:

a. Substantial change. When there is a substantial change in operation including **any** of the following:

(1) A change in type of retail liquor license from the Department of Alcoholic Beverage Control;

(2) An increase in the floor area or shelf space principally devoted to alcohol sales by 25 percent or more or by 250 square feet or more, whichever is less; or

(3) A reinstatement of alcohol sales after the ABC has revoked or suspended the existing ABC license for a period of longer than 30 days.

b. Objectionable conditions. When the establishment is operated or maintained under objectionable conditions that constitute a public nuisance, including **any** of the following:

(1) A pattern of documented violations of the Municipal Code, the Penal Code, or other State statutes; or

(2) A pattern of substantiated complaints of activity constituting evidence of a nuisance.

3. Required findings. In order to approve a new or amended permit for an alcohol sales establishment, the review authority shall find that the use is consistent with

the purpose and intent of this Section. This finding shall be in addition to the findings required by Section 20.66.090 (Conditional Use Permits and Minor Use Permits). In making the required finding, the review authority shall consider the following:

a. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.

b. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

c. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

d. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

4. Post-decision procedures.

a. Time limits. Notwithstanding the time limits in Section 20.68.070 (Time Limits and Extensions), an approved permit for an alcohol sales establishment shall expire within 12 months from the date of approval unless the California Department of Alcoholic Beverage Control issues or transfers the ABC license before the permit expiration date.

b. Extension of time. The review authority may grant a time extension for a permit for an alcohol sales establishment for a period not to exceed 12 months. An application for a time extension shall comply with Section 20.68.070 (Time Limits and Extensions).

c. Revocation. The review authority may revoke a permit for an alcohol sales establishment, upon making **one or more** of the following findings in addition to the findings required in Subsection 20.82.050.B (Revocations or changes):

(1) The establishment is being operated in an illegal or disorderly manner.

(2) Noise from the establishment violates Section 20.30.070 (Noise).

(3) The establishment fails to fully comply with the rules, regulations, and orders of the California State Department of Alcoholic Beverage Control, including a violation of, or failure to maintain, a valid ABC license.

d. Discontinuance. A permit for an alcohol sales establishment shall lapse if the use is discontinued for 90 consecutive days or if the ABC license for the establishment is revoked or transferred to a different location.

20.60.040 – Animal-Keeping [Revised]

This Section provides standards to ensure that the raising and maintenance of animals does not create an adverse impact on adjacent properties by reason of dust, noise, visual blight, odor, fumes, bright lights, or insect infestations.

A. Compliance with standards. Animal-keeping shall comply with the standards in Table 4-1 (Animal-Keeping Standards).

TABLE 4-1
ANIMAL-KEEPING STANDARDS

Type of Animal	Maximum Number of Animals per Site	Minimum Parcel Size	Minimum Setback from Lot Lines	Zoning Districts Where Allowed	Required Permit (2)
Household Pets					
Cats and/or dogs	Total of 3 animals over 4 months old	None	None	R-1 R-2 MR All MU	P
	Total of 4 animals over 4 months old	None	None	R-1 R-2	P
	Total of 6 animals over 4 months old	None	None	RA	P
Small household pets (e.g., birds; hamsters, guinea pigs, mice; nonpoisonous reptiles and snakes; rabbits, etc.)	Any combination up to 10 total	None	None	All	P
Pot-bellied pigs	One	None	None	R-A R-1	MUP (3)
Domestic Farm Animals					
Horses (noncommercial only)	One horse per each 10,000 sq ft, up to a maximum of 3 horses (1)	½ acre	See Subsection B (Required setbacks for domestic farm animals).	R-A	P
	4 or more horses (1)	1 acre	See Subsection B (Required setbacks for domestic farm animals).	R-A	MUP
Horses (commercial)	As determined by Conditional Use Permit			R-A	CUP

TABLE 4-1
ANIMAL-KEEPING STANDARDS

Type of Animal	Maximum Number of Animals per Site	Minimum Parcel Size	Minimum Setback from Lot Lines	Zoning Districts Where Allowed	Required Permit (2)
Goats, pigs, sheep, cows, and similar animals kept in corrals and stables	Total of 2 adult animals (1)	15,000 sq ft	See Subsection B (Required setbacks for domestic farm animals).	R-A	P
Poultry, fowl (not including roosters, cockerels,or peacocks)	10 animals per ½ acre	½ acre	See Subsection B (Required setbacks for domestic farm animals).	R-A	MUP
Other Animals					
Apiary	Prohibited – See Municipal Code Section 7.25.010.				
Aviary (noncommercial only)	Allowed in compliance with Municipal Code Section 7.15.010 (Birds).				
Wild animals	Allowed in compliance with Municipal Code Chapter 7.08 (Wild Animals).				

Notes:
1. Offspring are exempt until they are weaned.
2. P = Allowed without a development permit
   CUP = Conditional Use Permit required (Section 20.66.090)
   MUP = Minor Use Permit required (Section 20.66.090)
3. See also Municipal Code Section 7.12.010 (Keeping of Livestock).

B. Required setbacks for domestic farm animals.

1. Setbacks. Structures housing domestic farm animals shall comply with the setbacks in Table 4-2.

TABLE 4-2
REQUIRED SETBACKS FOR STRUCTURES HOUSING DOMESTIC FARM ANIMALS

Type of Setback	Minimum Distance from Public Rights-of-Way	Minimum Distance from Adjacent Properties within R-A Zoning District	Minimum Distance from Adjacent Properties in Other Zoning Districts	Minimum Distance from Dwelling Unit on Adjacent Property
Front	50 ft	---	---	
Side	20 ft	5 ft	25 ft	35 ft
Rear	20 ft	5 ft	25 ft	

2. **Outdoor exercise areas.** Animal exercise areas and pasturing areas (i.e., paddocks, runs, racecourses, and show grounds) may be located up to the lot line, except that those areas abutting a public right-of-way shall be set back a minimum of:

   a. 25 feet from a front lot line; and

   b. 10 feet from a side lot line.

C. Maintenance and operational standards.

1. **Applicable health and animal control regulations.** The regulations of the Orange County Health Department and the City's Animal Control Division shall apply to animal keeping.

2. **Enclosures.** All animals, except for cats, shall be confined at all times within a suitable enclosure (e.g., fences, pens, coops, cages, corrals, etc.).

3. **Maintenance.** Animal enclosures shall be maintained free from litter, garbage, and the accumulation of manure to discourage flies and other disease vectors. Manure shall not be allowed to accumulate within setback areas. Each site shall be continually maintained in a neat and sanitary manner.

4. **Noise control.** Animal keeping shall comply with the Municipal Code Chapter 7.20 (Noisy Animals).

D. Permit application review. Where Table 4-1 (Animal-Keeping Standards) requires a Minor Use Permit or a Conditional Use Permit, the review authority shall evaluate how the proposed animals will be housed and/or confined, and whether the location, size, and design of the area for animal keeping on the site will be adequate to allow compliance with the other standards of this Section without unreasonable effort on the part of the animal manager. In approving a Minor Use Permit or Conditional Use Permit, the review authority may limit the maximum number of animals allowed on the site as appropriate to the characteristics of the site, the surrounding land uses, and the species of animals proposed.

20.60.050 – Animal Sales and Services [New]

This Section provides standards for various animal sales and services establishments for the purpose of protecting residents from their potentially adverse effects. The keeping of dogs, cats, and other small animals that does not constitute an animal boarding/kennel facility, as defined by this Zoning Code, shall be subject to the requirements of Section 20.60.040 (Animal Keeping).

A. Animal boarding/kennels. The keeping of 4 or more dogs and/or cats in any combination over the age of three 3 months shall comply with Municipal Code Chapter 7.35 (Regulations of Kennels).

B. Animal grooming. Animal grooming facilities shall be entirely enclosed, soundproofed, and air-conditioned. Boarding of animals, outside runs or cages, outside trash containers, and offensive odors shall be prohibited.

C. Animal retail sales. Animal retail sales establishments shall be entirely enclosed and air-conditioned. Boarding of animals not offered for sale, outside runs or cages, outside trash containers, and offensive odors shall be prohibited. Grooming activities shall be incidental to the retail use.

D. Veterinary services. Animal hospitals/clinics shall be entirely enclosed, soundproofed, and air-conditioned. Outside runs or cages, outside trash containers, and offensive odors shall be prohibited. Animal cremation shall not be allowed. Grooming activities shall be incidental to the hospital/clinic use. Temporary boarding of animals shall be allowed as an accessory use.

20.60.060 – Bed and Breakfast Inns

This Section establishes standards for the establishment and operation of bed and breakfast inns.

A. Operational standards.

1. Operator occupancy. An operator of a bed and breakfast inn shall live on the premises.

2. Meals. Serving of meals shall be limited to registered guests only.

3. Sales. Accessory sales of goods and services shall be limited to registered guests only. In compliance with Business & Professions Code Section 24045.12, a bed and breakfast inn may sell alcohol to registered guests only, provided that the establishment has an approved ABC License Type 80 (On-Sale General B&B license).

4. Length of stay. Guests may occupy accommodations up to a maximum of 14 days in any 3-month period.

B. Design and development standards.

1. Number of guest rooms. A maximum of 6 guest rooms shall be allowed in a dwelling unit. The review authority may further limit the number of guest rooms in residential zoning districts to ensure preservation of the neighborhood's residential character.

2. Kitchen facilities. Separate kitchen facilities for guests shall not be provided.

3. Signs.

a. Residential zoning districts. Signs in residential zoning districts shall be limited to 1 sign no larger than 4 square feet identifying the name of the establishment. The review authority may approve an increase in the sign area up to a maximum of 6 square feet, if the review authority finds that the sign will not adversely impact the residential character of the neighborhood. Internally illuminated or luminous tube signs shall be prohibited. The maximum height of signs shall not exceed 6 feet.

b. Nonresidential zoning districts. Signs shall comply with Chapter 20.54 (Signs).

C. Other licenses and permits. Bed and breakfast inn owners/operators shall obtain the following licenses and permits from the City and any others required by State and local laws and ordinances:

1. Transient Occupancy Registration Certificate in compliance with Municipal Code Chapter 3.16 (Uniform Transient Occupancy Tax).

2. Business License in compliance with Municipal Code Chapter 5.04 (Business Licenses and Regulations).

D. Tsunami information and evacuation plans. Bed and breakfast inns in areas identified in General Plan Figure S1 (Coastal Hazards) as susceptible to tsunami inundation shall provide guests with information on tsunamis and evacuation plans.

20.60.070 – Child Day Care Facilities

This Section provides standards for day care facilities for children (i.e., small child day care homes (8 or fewer children), large child day care homes (9-14 children), and general child day care facilities (15 or more).

A. Licensing. The operator of a small or large child day care home shall obtain a license from the California Department of Social Services.

B. Care provider occupancy. Each small and large child day care home shall be the principal residence of the care provider, and the use shall be clearly residential in character, and be accessory to the use of the property as a residence.

C. Standards for large child day care homes. In addition to the requirements of Paragraphs A and B, above, large child day care homes shall comply with the following:

1. Separation requirement. A large child day care home within a residential zoning district shall not be located within 500 feet of another day care facility.

2. Drop-off/pick-up area. A minimum of 2 off-street parking spaces as a drop-off and pick-up area shall be provided, in addition to the spaces required for the dwelling unit. A driveway may be used to provide these spaces, subject to approval by the Traffic Engineer based on traffic and pedestrian safety considerations.

3. Noise. In order to protect adjacent residential dwellings from noise impacts, a facility within a residential zoning district shall only operate a maximum of 14 hours for each day between the hours of 6:00 a.m. and 8:00 p.m. and shall only conduct outdoor activities between the hours of 7:00 a.m. and 7:00 p.m.

D. Standards for general day care facilities. In addition to the requirements of Paragraph C, above, general child day care facilities shall comply with the following:

1. **Lot size.** The minimum lot size for a child day care center shall be 10,000 square feet.

2. **Separation.** The minimum separation between the main assembly building or the center and a residential zoning district shall be 30 feet.

3. **Play areas and pools.** Each facility shall provide indoor and outdoor play areas in compliance with State requirements. The on-site outdoor play area shall contain at least 75 square feet per child, and in no case shall be less than 450 square feet per facility. The outdoor play area shall not be located in the front yard. A 4-foot high fence shall enclose an outdoor play area and a 5-foot high fence shall enclose a pool.

20.60.080 – Drive-Through and Drive-Up Facilities

This Section provides standards for retail trade or service uses that provide drive-in/drive-through facilities. The intent of these standards is to mitigate problems of traffic, congestion, excessive pavement, litter, noise, and unsightliness.

A. **Circulation**. The Traffic Engineer may modify these standards to accommodate specific site conditions. Each drive-through aisle shall:

1. Be separated by curbing and landscaping from the circulation routes necessary for ingress to or egress from the property or access to a parking space.

2. Be for vehicle stacking only.

3. Provide at least:

   a. 100 feet of space before a menu/order board; and

   b. 50 feet of space before a pick-up/service window for an ATM or pharmacy.

4. Have a minimum 10-foot interior radius at curves and a minimum 12-foot width.

5. Be clearly designated by signs/pavement markings.

B. **Walkways.** Pedestrian walkways should not intersect the drive-through access aisles. If they do intersect drive-through access aisles, they shall be clearly visible and enhanced special paving or markings.

C. **Parking.** The provision of drive-through service facilities shall not justify a reduction in the number of off-street parking spaces required in compliance with Chapter 20.52 (Off-Street Parking and Loading).

D. **Signs and menu boards.**

1. Signs shall comply with Chapter 20.54 (Signs).

2. Menu-only boards may be provided in compliance with Subsection 20.54.080.K (Miscellaneous signs).

E. Screening.

1. Each drive-through aisle shall be appropriately screened with a combination of landscaping, low walls, and/or berms to prevent headlight glare from impacting adjacent residences, businesses, streets, and parking lots.

2. A minimum 8-foot high solid decorative wall shall be constructed on each property line that adjoins a residentially zoned or occupied parcel. The design of the wall and the proposed construction materials shall be subject to the approval of the Director. A minimum 5-foot landscaping strip shall be provided between the wall and any driveway.

20.60.090 – Eating and Drinking Establishments [Revised]

This Section provides standards for the establishment and operation of eating and drinking establishments.

A. Standards – all eating and drinking establishments.

1. Outdoor activities. Activities shall be conducted entirely within an enclosed structure, except for the following, which shall not be located between the activity and the side of a structure adjacent to a residential zoning district.

a. The checking of patrons' identification;

b. Valet parking activities;

c. Outdoor dining when in compliance with the standards in Subsection D (Standards -outdoor dining), below.

f. Outdoor smoking areas in compliance with State law.

g. Queuing of patrons which shall be managed to:

(1) Allow pedestrian passage on the sidewalk; and

(2) Not be adjacent to residential zoning districts and residential uses.

2. Outdoor storage. Outdoor storage of boxes, equipment, materials, merchandise, and other similar items shall be prohibited.

3. Solid waste storage. The review authority may require storage areas and receptacles that are in addition to the requirements for solid waste storage areas in Section 20.30.100 (Solid Waste and Recyclable Materials Storage).

B. Standards – on-sale alcohol sales.

1. Operational standards. In addition to the standards in Subsection A above, the following standards shall apply to eating and drinking establishments that sell, serve, or give away alcohol:

a. **Sales activities.** Alcoholic beverages shall not be sold, served, or given away:

(1) Outside of the exterior walls of the eating and drinking establishment;

(2) From drive-up or walk-up service windows; or

(3) To persons in watercraft.

b. **Litter and graffiti.** The owner/operator shall:

(1) Maintain the exterior of the premises, including signs and accessory structures, free of litter and graffiti at all times;

(2) Provide for daily removal of trash, from the premises and abutting sidewalks or alleys within 20 feet of the premises; and

(3) Remove graffiti within 48 hours of written notice from the City.

c. **Security.** The review authority may require the eating and drinking establishment to provide security personnel and/or surveillance devices.

d. **Sales training.**

1. Owners, operators, and employees selling, serving, or giving away alcoholic beverages shall complete a certified training program in responsible methods and skills for serving and/or selling alcoholic beverages. A certified program shall meet the standards of a certifying/licensing body approved by the Department of Alcoholic Beverage Control.

2. Records of each owner's, operator's and employee's successful completion of the certified training program shall be maintained on the premises and shall be presented to a representative of the City upon request.

e. **Posted conditions of approval.** The owner/operator shall maintain a copy of the most recent City permit conditions of approval on the premises and shall post them where they are readily viewable by an employee, customer, or representative of a governmental agency. The posted copy shall be signed by the permittee.

f. **Public telephones.** Upon request of the Police Chief or as required by the ABC, a public telephone located on the premises or in an adjacent area under the control of the owner/operator shall be equipped with devices or mechanisms that prevent persons from calling into that public telephone.

2. Development standards.

a. Signs. Signs shall comply with Chapter 20.54 (Signs). In addition, the following shall apply:

(1) Window signs shall not obstruct the view of the interior of the premises, (e.g., sales counter, cash register, employees, customers, etc.) from the exterior.

(2) Loitering, open container, and other signs specified by the Alcoholic Beverage Control Act shall be posted as required by the ABC.

b. Site and floor plans. The site and floor plans of an eating and drinking establishment that sells, serves, or gives away alcohol shall incorporate design features to reduce alcohol-related problems. The review authority may require the incorporation of preventive design features (e.g., openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of interior and exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior, etc.).

C. Standards - late-hour operations. To encourage appropriate patron conduct, the owner/operator of an eating and drinking establishment that sells, serves, or gives away alcohol shall post signs at clearly visible locations within the establishment and at both on-site and off-site parking areas under the owner/operator's control. The signs shall request patrons to keep noise to a minimum.

D. Standards - outdoor dining.

1. Public property. Outdoor dining on public property shall comply with Municipal Code Chapter 13.18 (Use of Public Sidewalks for Outdoor Dining) and the standards of the Public Works Department.

2. Private property. Outdoor dining on private property shall comply with the following standards:

a. Barriers. Appropriate barriers shall be placed between outdoor dining areas and parking, pedestrian, and vehicular circulation areas. Barriers shall serve only to define the areas and shall not constitute a permanent all-weather enclosure.

b. Associated elements. Physical elements (e.g., awnings, covers, furniture, umbrellas, etc.) that are visible from public rights-of-way shall be compatible with one another and with the overall character and design of the principal structure(s).

E. Standards - bars, nightclubs, and lounges. Bars, nightclubs, and lounges shall comply with the standards in Subsections A-D, above. In addition, the structure in which the bar, nightclub, or lounge is located shall be adequately soundproofed so that interior noise is not audible beyond the property line with the doors and windows closed.

F. Permit requirements.

1. New permits. Permits and licenses required by Municipal Code Title 5 (Business Licenses and Regulations) shall be obtained for new eating and drinking establishments, in addition to permits required by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards).

2. Amended permits. An existing permit for an eating and drinking establishment shall be amended in the following circumstances:

a. Substantial change. When there is a substantial change in operation including **any** of the following:

(1) An application for, or a change in type of, retail liquor license from the Department of Alcoholic Beverage Control;

(2) An increase in the floor area principally devoted to alcohol sales by 25 percent or more or by 250 square feet or more, whichever is less; or

(3) A reinstatement of alcohol sales after the ABC has revoked or suspended the existing ABC license for a period of longer than 30 days.

b. Objectionable conditions. When the establishment is operated or maintained under objectionable conditions that constitute a public nuisance, including **any** of the following:

(1) A pattern of documented violations of the Municipal Code, the Penal Code, or other State statutes; or

(2) A pattern of substantiated complaints of activity constituting evidence of a nuisance.

3. Review criteria.

a. Late-hour operations. When reviewing an application to allow late-hour operations, the review authority shall consider the following factors.

(1) The potential impacts of the late-hour operations upon adjacent residential uses and residents. For the purposes of this Subparagraph, “adjacent to residential” or “adjacent residential uses” shall mean within 100 feet of a residential use or zoning district as measured between the nearest property lines; and

(2) Occupancy loads of the use.

b. Outdoor dining. When reviewing an application to allow outdoor dining, the review authority shall consider the relation of outdoor dining areas to sensitive noise receptors (e.g., places of worship, hospitals, schools, and

residential uses). Mitigation measures shall be applied to eliminate potential impacts related to glare, light, loitering, and noise.

4. Required findings. In order to approve a new or amended permit for an eating or drinking establishment that will sell, serve, or give away alcohol, the review authority shall make the findings in Section 20.60.030 (Alcohol Sales – Off-Sale).

5. Post-decision procedures.

a. Time limits. Notwithstanding the time limits in Section 20.68.070 (Time Limits and Extensions), an approved permit for an eating or drinking establishment that will sell, serve, or give away alcohol shall expire within 12 months from the date of approval unless the California Department of Alcoholic Beverage Control issues or transfers the ABC license before the permit expiration date.

b. Extension of time. The review authority may grant a time extension for a permit for an eating or drinking establishment that will sell, serve, or give away alcohol for a period not to exceed 12 months. An application for a time extension shall comply with Section 20.68.070 (Time Limits and Extensions).

c. Revocation. The review authority may revoke a permit for an eating or drinking establishment that sells, serves, or gives away alcohol, upon making **one or more** of the following findings in addition to the findings required in Section 20.82.050.B (Revocations or changes):

(1) The establishment is being operated in an illegal or disorderly manner.

(2) Noise from the establishment violates Section 20.30.070 (Noise Standards).

(3) The establishment fails to fully comply with the rules, regulations, and orders of the California State Department of Alcoholic Beverage Control, including a violation of, or failure to maintain, a valid ABC license.

d. Discontinuance. A permit for an eating or drinking establishment that will sell, serve, or give away alcohol shall lapse if the use is discontinued for 90 consecutive days or if the ABC license for the establishment is revoked or transferred to a different location.

20.60.100 – Emergency Shelters [New]

This Section provides standards for the establishment and operation of emergency shelters in compliance with Government Code Section 65583.

A. Maximum number of beds. Each emergency shelter may have a maximum of 40 beds.

B. Parking. Off-street parking shall comply with Chapter 20.52 (Off-Street Parking and Loading). Non-operational and unregistered vehicles shall not be kept on site. Towing shall be the responsibility of the shelter operator.

C. Design and amenities.

1. Exterior waiting area. Each emergency shelter shall provide an exterior waiting area of at least 10 square feet per bed to accommodate clients and to prevent queuing into the public right-of-way. An exterior waiting area shall be physically separated from the public right-of-way.

2. Facility layout. Living, dining, and kitchen areas shall be physically separated from sleeping areas.

3. Sleeping area. Each emergency shelter shall provide at least 35 square feet of sleeping area per bed.

4. Bathroom facilities. Each emergency shelter shall provide facilities for personal care (i.e., bathroom and shower facilities).

5. Telephone services. The shelter shall provide landline telephone services separate from the office phone in order to provide privacy. Any payphones provided shall allow call-out service only.

6. Additional standards. Each emergency shelter shall comply with applicable Building Code, Fire Code, and State Department of Social Services licensing requirements.

D. Location restriction.

1. Minimum separation distance. An emergency shelter shall be located at least 300 feet away from another emergency shelter.

2. Measurement of separation distance. The distance of separation shall be measured in a straight line between the main entrances of each use without regard to intervening structures or objects.

E. Operational standards.

1. Length of stay. Hours of operation shall be limited to the hours between 6:00 p.m. and 8:00 a.m.

2. On-site management. Each emergency shelter shall provide on-site supervision at all times.

3. Congregation in neighborhood prohibited. The shelter operator shall:

a. Patrol the surrounding area within 800 feet for one hour after the closing of the shelter each morning to ensure that homeless shelter residents are not congregating in the neighborhood.

b. Regularly patrol the area surrounding the shelter site to ensure that homeless persons who have been denied access are not congregating in the neighborhood.

4. Contact information. The operator shall post information about how to contact the operator with questions or concerns regarding shelter operations.

5. Litter and graffiti. The owner/operator shall:

a. Maintain the exterior of the premises, including signs and accessory structures, free of litter and graffiti at all times;

b. Provide for daily removal of trash from the premises and abutting sidewalks or alleys within 20 feet of the premises; and

c. Remove graffiti within 48 hours of written notice from the City.

6. Controlled access. The facility and/or the premises shall be accessed by one entrance.

7. Supplemental services. Supplemental services (e.g., food, counseling, access to other social programs, etc.) may be offered on the inside of the premises.

20.60.110 – Home Occupations

This Section provides standards for the conduct of home occupations as an accessory use to ensure compatibility with the residential character of the neighborhoods where located and to prevent disturbances or annoyances to any reasonable person of normal sensitivity residing in the area.

A. Occupancy. A home occupation shall only be operated in a residence occupied by a single-housekeeping unit.

B. Location. A home occupation use shall be conducted in the principal dwelling unit; shall be excluded from a setback area, yard or accessory structure; and shall be clearly incidental and subordinate to the principal residential use.

C. Alterations. Alterations shall not be made in either the internal or external structural form of the residential structure or the external appearance for purposes of any home occupation. The removal of partitions or floors, in whole or in part, shall be construed as an alteration of the external or internal structural form and is, therefore, prohibited.

D. Signs. Evidence of a home occupation shall not be visible from off the lot where it is conducted. Advertising sign(s), displays of merchandise or stock-in-trade, or other identification of the business activity shall not be provided on the premises.

E. Employees. Employees of a home occupation shall be limited to permanent residents of the dwelling unit. This restriction shall not apply to independent contractors who make occasional or periodic visits to the site of the home occupation.

F. Storage. Equipment or materials used in a home occupation shall not be stored outside.

G. **Utilities.** Changes shall not be made in any noncommunications utility line, meter, or service to accommodate a home occupation and utility use shall not unreasonably exceed that normally or previously used at the residence.

H. **Performance standards.** Equipment or processes shall not emit radiation or create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property. In the case of electrical interference, equipment or processes shall not create visual or audible interference.

I. **Parking.** Parking shall comply with Chapter 20.52 (Off-street Parking and Loading Standards) and Section 20.50.060 (Nonconforming Parking).

J. **Traffic generation.** A home occupation shall not create pedestrian, automobile, or truck traffic significantly in excess of the normal amount in the neighborhood.

K. **Prohibited activities.** Vehicle repair or storage associated with the home occupation shall not be allowed. Storage of hazardous materials shall not be allowed.

L. **Visitors**. Home occupations shall not be open to visitors without prior appointments.

M. **State law.** Home occupations shall be subject to all other State and local laws and ordinances.

N. **Business licenses.** Applicable business licenses shall be obtained as required by Municipal Code Title 5 (Business Licenses and Regulations).

O. **Commercial filming activities.** Commercial filming activities may be allowed subject to approval of a film permit in compliance with Municipal Code Chapter 5.46 (Regulation of Commercial Film Production).

20.60.120 – Massage Establishments and Services [Revised]

This Section provides standards for the establishment, location, and operation of massage establishments operated as an independent use, in addition to the standards in Municipal Code Chapter 5.50 (Massage Establishments). These standards are intended to promote operation of legitimate massage services and to prevent problems of blight and deterioration, which accompany and are brought about by large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.

A. **Location requirements.** A massage establishment shall not be located:

1. Within 500 feet of a public or private school, park or playground, civic center, cultural site, or place of worship; or

2. Within 500 feet of another massage establishment site.

B. **Waiver of location restrictions.** A property owner may apply for a waiver of the location restrictions contained in Paragraph 1, above. The review authority, after a public hearing, may waive any location restriction, if all of the following findings are made:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Section will be observed;

2. The proposed use will not enlarge or encourage the development of an urban blight area; and

3. The proposed use will not adversely affect a place of worship, school, park, or playground.

20.60.130 – Mixed-Use Projects [New]

This Section provides standards and criteria for the development of mixed-use projects. The primary intent of these standards and criteria is to balance the needs of nonresidential uses for access, visibility, parking, loading, safety, and possibly extended hours of operation with the needs of residential uses for privacy, security, and relative quiet.

A. Development standards. In addition to the development standards provided in this Section, development standards for mixed-use projects are provided in:

1. Table 2-11 (Development Standards for MU-V (SP #8); MU-H1-MM (SP #5); MU-H1-DW; MU-H3; MU-H4 (SP #6) Mixed-Use Zoning Districts);

2. Table 2-12 (Development Standards for MU-W1 (SP #5) and MU-W2 (SP #6) Mixed-Use Zoning Districts); and

3. Other Sections in this Part 4 for specific uses (e.g., eating and drinking establishments, live/work uses, multi-unit uses, etc.) that may be part of the proposed mixed-use project.

B. Nonresidential uses required on ground-floor. All (i.e., 100 percent) of the ground floor street frontage of mixed-use structures shall be a minimum depth of 25 feet and shall be occupied by retail and other compatible nonresidential uses except:

1. As specified otherwise by Table 2-11 or Table 2-12 in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards); or

2. For common building entrances for residences on upper floors.

C. Open space.

1. Security. The common and private open spaces required for residential dwelling units shall be designed to limit intrusion by nonresidents.

2. Common open space. Mixed-use projects shall provide common open space for the residential uses. In general, common open space areas for residential uses shall be separated from nonresidential uses on the site. However, the sharing of common open space may be allowed by the review authority when it is clear that the open space will provide direct benefit to residents of the project. Common open space uses may be provided on rooftops for use by the residents of the project.

D. Sound mitigation. An acoustical analysis report, prepared by an acoustical engineer, shall be submitted to the Director describing the acoustical design features of the structure that will satisfy the exterior and interior noise standards. Projects shall be attenuated in compliance with the report.

E. Parking, loading, and access.

1. **Type and layout of parking facility.** Parking facilities shall be physically separated for nonresidential uses and residential uses, except for residential guest parking. If enclosed parking is provided for an entire mixed-use complex, separate areas/levels shall be provided for nonresidential and residential uses with separate building entrances, whenever possible, subject to confirmation and approval by the review authority.

2. **Loading areas.** Loading areas for nonresidential uses shall be located as far away as possible from residential uses and shall be completely screened from view from the residential portion of the project and streets. Loading areas shall be compatible in architectural design and details with the overall project. The location and design of loading areas shall mitigate nuisances from odors when residential uses might be impacted.

3. **Site access driveways.** Separate site access driveways shall be provided, whenever possible, for nonresidential and residential uses. Site access driveways shall incorporate distinctive architectural elements, landscape features, and signs to help differentiate access to nonresidential parking areas from access to residential parking areas.

F. Tenant notification. Project applicants and project owners shall notify residents, whether owners or tenants, of a mixed-use project in writing before they move in that they will be living in an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical residential area.

G. Location of trash. New mixed-use projects shall locate loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development to the greatest extent feasible.

20.60.140 – Oil and Gas Facilities

This Section provides standards for slant drilling operations for oil, gas, or other hydrocarbon substances and related support facilities where allowed in compliance with City Charter Section 1401 and this Section.

A. Drilling restrictions.

1. **Prohibited activities.** No person shall erect or construct oil drilling derricks or oil drilling equipment within the City, or shall drill from the surface or by subterranean drilling, for oil, petroleum, tar, gas or other hydrocarbon substances within the City, or shall build or establish refineries for the purpose of refining petroleum, oil, gas, tar or other hydrocarbon substances.

2. **Allowed activities.** Drilling for oil, petroleum, tar, gas or other hydrocarbon substances by slant drilling or subterranean drilling in and under the area described below shall be allowed; provided that the:

   a. Drilling sites shall be located outside of the City limits; and

   b. Drilling shall be at a vertical depth of at least 400 feet below the ground surface of the following described area:

      All that area lying northwesterly of the southeasterly line of 53rd Street, and the northeasterly and southwesterly prolongations of the southeasterly line of 53rd Street, as 53rd Street is laid out and shown upon a map of Ocean Front Tract, recorded in Book 4, Page 12 of Miscellaneous Maps, Records of Orange County, California, and a map of River Section, recorded in Book 4, Page 25 of Miscellaneous Maps, Records of Orange County.

B. Election required for designated area alteration.

1. Any proposed change in or expansion of the area in which slant drilling or subterranean drilling is allowed by Subsection A.2, above, shall first be submitted to the qualified electors of the City for approval or disapproval. If a majority of the qualified electors votes in favor of the question, then and only then shall the Council have the power to act on the question. This Section shall apply only to the boundaries of the City as they exist on April 13, 1954, together with any territory in the process of annexation on that date. This Section shall not apply retroactively to any drilling operation or contract entered into before the effective date of this Section [Insert date_____].

2. It is specifically declared that it is the intention of this Section that it shall apply solely to the question of a change in or expansion of the area in which slant or subterranean drilling is allowed and shall not apply to any other question involving the drilling for or production of oil, gas or other hydrocarbon substances within or under the City, or its tide and submerged lands.

C. Operational standards.

1. **Fire prevention.** Drilling operations shall be conducted so as to prevent fire that may endanger, injure or destroy the property of any person.

2. **Security guard.** A security guard shall be in constant charge and attendance for drilling operations. The leaving of any well, whether in operation or not, without a security guard in constant charge and attendance shall constitute a nuisance that may be abated in compliance with Municipal Code Chapter 10 (Public Nuisance Abatement).

3. **Well consolidation.** Consolidation of wells shall be in compliance with State law and the regulations of the State Department of Oil, Gas and Geothermal Resources (“DOGGR”).

20.60.150 – Outdoor Storage, Display, and Activities [Revised]

This Section provides standards for outdoor storage and display of materials, merchandise, and equipment and for outdoor activities on private property in nonresidential zoning districts. For regulations on outdoor storage in residential zoning districts, see Municipal Code Section 10.50.020 (Nuisance). Outdoor uses within the public right-of-way require an encroachment permit issued by Public Works in compliance with Municipal Code Title 13 (Streets, Sidewalks, and Public Property).

A. Outdoor storage in nonresidential zoning districts. Outdoor storage of merchandise, material, and equipment shall be allowed in nonresidential zoning districts only when accessory to an allowed use located on the same premises, provided the following criteria are met:

1. The storage area is screened in compliance with Section 20.30.020 (Buffering and Screening). The height of merchandise, materials, or equipment stored shall not exceed the height of the screening element(s).

2. Outdoor storage shall not be allowed in setback areas except in compliance with Subsection 20.30.090.D (Allowed encroachments into setback areas).

B. Outdoor display.

1. Outdoor display of the following merchandise, if for sale or rent on the premises, shall be allowed in nonresidential zoning districts, except along property lines that abut residentially zoned lots, without screening fences or walls. The display area shall be on private property and shall not encroach on required parking areas or landscaped areas.

   a. Flowers and plants;

   b. Clothing and apparel;.

   b. Food products;

   c. Handcrafted products and goods;

   d. Artwork and pottery;

   e. For-rent recreational equipment (e.g., bicycles, roller skates, surf boards, etc.);

   f. Operable boats, motor vehicles, motorcycles, and trucks;

   g. Limited on-site walkway displays adjacent to buildings; and

   h. Other merchandise that the Director finds to be similar in character, type, or nature to the merchandise listed above.

2. Merchandise that is for sale on the premises that is not listed in Subparagraph 1, above, may be displayed outdoors, provided that the display area is screened by fences, walls, landscaping, or a combination of these screening elements. The

height of merchandise, materials, or equipment displayed shall not exceed the height of the screening element(s).

3. The outdoor display/sales area shall be directly related to an allowed use occupying a primary structure on the same premises.

4. Outdoor storage shall not be allowed in setback areas except in compliance with Subsection 20.30.090.D (Allowed encroachments into setback areas).

5. Displayed merchandise shall not obstruct traffic sight areas; encroach upon landscaped areas, driveways, parking spaces, or pedestrian walkways; or otherwise create hazards for vehicle or pedestrian traffic.

6. The outdoor display of merchandise for sale or rent shall only be allowed during regular hours of operation, except for vehicle sales/rentals and nurseries.

7. Additional signs, beyond those normally allowed for the subject use, shall not be provided for the outdoor display and sales area.

C. Outdoor activity in commercial and mixed-use zoning districts.

1. Repair, installation, manufacturing, and assembly uses allowed in commercial and mixed-use zoning districts shall be conducted within a completely enclosed building.

2. Outdoor activity or work areas shall be allowed for uses other than those listed in Subparagraph 1, above, only when associated with an allowed use located on the same premises and when not encroaching on required parking areas or landscaped areas.

D. Outdoor activity in industrial zoning districts.

1. Outdoor activity and work areas shall be allowed only when associated with an allowed use located on the same premises.

2. Outdoor activity and work areas shall not be allowed within the required front or street side setbacks or within required parking areas or landscaped areas.

3. Outdoor activity and work areas shall be completely enclosed by fences, walls, structures, or a combination of these, that comply with Section 20.30.030 (Fences, Hedges, and Walls).

20.60.160 – Personal Property Sales in Residential Districts

This Section provides standards for personal property sales in residential zoning districts.

A. Number of days. Sales shall be conducted for a maximum time period of 3 consecutive days.

B. Number of times. Sales shall not be conducted more than 2 times in any 12 month period.

C. Hours. Sales shall be conducted only during daylight hours.

D. Public rights-of-way. Property shall not be stored, displayed, or offered for sale within public rights-of-way or on public property, except as provided by Municipal Code Section 10.08.030 (Use of Streets and Sidewalks for Commercial Purposes).

E. Household goods. Property displayed or offered for sale or trade shall be limited to used personal property from or on any residence or group of residences within the same neighborhood. New or used property acquired or consigned solely for the purposes of resale shall not be displayed or offered for sale or trade.

F. Food/beverages. Food or beverages shall not be offered for sale or trade.

G. Signs. Only 1 sign, not more than 3 square feet in area and not more than 4 feet in height in compliance with Table 2 (Temporary Signs), shall be displayed on the property of the residence where the personal property sale is being conducted. In no case, shall the sign be placed within a public right-of-way (e.g., sidewalk, street, etc.) or on public property.

H. Post-sale clean-up. All goods, materials, and signs associated with the garage and/or yard sale shall be removed within 24 hours of the end of the sale.

20.60.170 – Recycling Facilities [New]

This Section establishes standards and procedures for the siting and operation of various types and sizes of commercial recycling facilities.

A. Small collection facilities. A small collection facility shall:

1. Not exceed an area of 350 square feet or 3 parking spaces, not including space that would be periodically needed for the removal of materials or exchange of containers;

2. Be set back at least 10 feet from a public right-of-way and shall not obstruct pedestrian or vehicular circulation;

3. Accept only CRV glass, aluminum, or plastic containers, paper, and other recyclable items;

4. Not use power-driven processing equipment;

6. Not be located within 50 feet of a lot zoned or occupied for residential use;

7. Have containers and site fencing that are compatible in color and design and harmonious with the surrounding neighborhood;

8. Store materials in sturdy containers that are secured and maintained in good condition. Storage, excluding truck trailers, shall not be visible above the height of the required screen walls;

9. Be kept clean and free of litter;

10. Have signs as follows:

    a. Identification signs with a maximum area of 15 percent for each side of the structure or 12 square feet, whichever is less. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container;

    b. Signs that are compatible and harmonious with the character of their location; and

    c. Directional signs, consistent with Chapter 20.54 (Sign Standards) and without advertising message, installed with the approval of the Director if found necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way.

11. Not reduce available parking spaces below the minimum number required for the principal use.

B. Large collection facilities. A large collection facility shall:

1. Not be located within 100 feet of a residential use;

2. Be screened from public rights-of-way by solid masonry walls or located within an enclosed structure as required by the review authority;

4. Store materials in sturdy containers that are secured and maintained in good condition. Storage, excluding truck trailers, shall not be visible above the height of the required screen walls; and

5. Be kept clean and free of litter.

20.60.180 – Residential Care Facilities

This Section provides standards for residential care facilities granted a Conditional Use Permit in compliance with Section 20.66.090 (Use Permits in Residential Zoning Districts).

A. Smoking in outdoor areas. No staff, clients, guests, or any other users of a residential care facility may smoke in an area from which the second hand smoke may be detected on any parcel other than the parcel upon which the facility is located.

B. Management and operation.

1. The property shall be operated in compliance with applicable State and local law and in conformance with the management and operating plan and rules of conduct submitted as part of the application for a Conditional Use Permit or as identified in the conditions of approval for a Conditional Use Permit.

2. Each plan shall provide a phone number by which the operator may be contacted at all times.

3. If applicable, the permittee shall comply with the business license provisions of Municipal Code Title 5 (Business Licenses and Regulations).

C. Standards for unlicensed facilities. In order to ensure that unlicensed residential care facilities (small or general) are operating in a manner that is consistent with State and Federal law and established industry standards and to ensure that operators do not have a pattern or practice of operating similar facilities in violation of State or local law, the standards listed below shall apply:

1. If the facility is not be required to be licensed by the State of California, owners, managers, operators, and residents shall not provide any services onsite, which would require licensure of the facility under California law.

2. There shall be no more than 2 residents per bedroom plus 1 additional resident. Notwithstanding, upon request by the applicant for additional occupancy, the Hearing Officer has discretion to set occupancy limits based upon the evidence provided by the applicant that additional occupancy is appropriate at the site. In determining whether to set a different occupancy limit, the Hearing Officer shall consider the characteristics of the structure; whether there will be an impact on traffic and parking; and whether the public health, safety, peace, comfort, or welfare of persons residing in the facility or adjacent to the facility will be impacted.

3. If certification specific to the type of residential care facility is available from a governmental agency or qualified nonprofit organization, the facility shall receive the certification including, without limitation, certification by Orange County under its Adult Alcohol and Drug Sober Living Facilities Certification Program.

4. The names of all persons and entities with an ownership or leasehold interest in the residential care facility, or who will participate in operation of the facility, shall be disclosed in writing to the City, and the persons and entities shall not have a demonstrated pattern or practice of operating similar facilities in or out of the City in violation of State or local law.

5. The operator of the residential care facility shall provide a list of the addresses of all similar facilities in the State owned or operated by the operator within the past 5 years and shall certify under penalty of perjury that none of the facilities have been found by State or local authorities to be operating in violation of State or local law. The Director shall verify the information.

D. Services provided. No residential use may offer or provide services to persons not residing on the site.

20.60.190 – Residential Development Standards

The development standards in this Section shall apply to all single-unit and two-unit residential dwellings in addition to the standards provided in Chapter 20.18 (Residential Zoning Districts). This section does not apply in Planned Community Zoning Districts.

A. Third story limitations.

1. **Allowed floor area.** The maximum gross floor area of habitable space that may be located on a third story shall not be greater than 15 percent of the total buildable area of the subject property. For example, if the total buildable area of a lot is 2,232 square feet , then the maximum square footage of habitable space that may be located on the third floor is 334 square feet (2232 sq. ft. X 15% = 334 sq. ft.).

2. **Location of third floor structure.** Enclosed square footage located on the third floor shall be set back a minimum of 15 feet from the front and rear setback lines.

B. Usable open space.

1. **R-1 and R-2 zoning districts.** For each dwelling, the equivalent of 20 percent of the buildable area of the residential lot shall be provided as useable and accessible open space. A minimum of 25 percent of the required open space shall be provided at the second floor level.

2. **Qualified open space areas.** To qualify as required usable open space the space provided shall meet the following minimum requirements:

   a. Have a minimum horizontal dimension of at least 5 feet and a minimum vertical dimension of at least 7.5 feet;

   b. Be located within the buildable area of the lot;

   c. Be open to the outdoors on at least one side; however, a minimum of 50 percent of the required open space shall be open on at least 2 sides;

   d. Be located no higher than the second story; and

20.60.200 – Satellite Antennas and Amateur Radio Facilities

This Section provides standards for the location and installation of satellite antennas, amateur (noncommercial) radio communication facilities, and citizen band radio antennas that are intended for the private use of the property owner.

A. Purpose. The purpose of these regulations is to:

1. Preserve visual access to major natural features (e.g., the shoreline, coastal bluffs, the bay, etc.);

2. Reasonably accommodate amateur radio communications and avoid imposing unreasonable costs on amateur radio operators;

3. Avoid unreasonable limitation on the reception or transmission of satellite-delivered signals.

B. Exempt. In any zoning district, a ground-mounted or structure-mounted, receive-only radio antenna or satellite dish antenna that does not project above the roof ridge line and does not have a diameter greater than one meter (39 inches) shall be exempt from the regulations in this Section.

C. Development standards - Amateur radio antennas.

1. Lowering device. Amateur radio antennas, capable of a maximum extended height in excess of 40 feet, with the exception of whip antennas, shall be equipped with a motorized device and mechanical device, each capable of lowering the antenna to the maximum permitted height when not in operation.

2. Allowed height.

a. The height of an antenna shall be measured from existing grade at the point the mast touches, or if extended would touch, the ground.

b. When in operation, no part of any amateur radio antenna shall extend to a height of more than 75 feet above existing grade of the site on which the antenna is installed.

c. When not in operation, no part of any amateur radio antenna, excepting whip antennas, shall extend to a height of more than 28 feet measured above grade of the site on which the antenna is installed.

3. Number allowed. One amateur radio antenna structure and one whip antenna shall be allowed on each site.

4. Siting and setbacks. The antenna structure shall be located on site in a manner that will minimize the extent to which the structure is visible to nearby residents and members of the general public. Antenna structures shall satisfy this criteria if:

a. No portion of the antenna structure or mast is located within any required setback area; and

b. No portion of the antenna structure or mast obstructs or interferes with a public view identified in Section 20.30.080 (Public View Protection).

c. No portion of the antenna structure or mast is within the front 40 percent of that portion of the site that abuts a street; and

d. In the event a site abuts 2 or more streets, the mast is not located within the front 40 percent of that portion of the site where primary access is provided to the property.

D. Development standards - Satellite dish antennas.

1. Setbacks. A satellite dish antenna shall not be located in a required setback area, except that satellite dish antennas that do not exceed 6 feet in height may be located:

a. In a required side setback area behind the front setback line; and

b. In a required rear setback area where the rear setback area is not adjacent to an alley.

2. Number. A maximum of 1 satellite dish antenna shall be allowed on a site.

3. Color. Satellite dish antennas that are not screened shall be painted in a manner compatible with the structures on the site.

4. Sign. Signs shall not be posted or displayed on a satellite dish antenna.

5. Ground-mounted satellite dish antennas.

a. Size. The diameter of a ground-mounted dish antenna shall not exceed 10 feet.

b. Height. The height of any portion of a ground-mounted dish antenna shall not exceed 15 feet.

c. Location. In residential zoning districts, a ground-mounted dish antenna shall be located:

(1) On the rear one-half of the lot; or

(2) If a lot borders a public street and a waterway, beach, bluff, or park, in the middle one-third of the lot measured from the property line adjacent to the public street to the rear property line, mean high tide line, actual high tide line, or bulkhead line, whichever is closest to the property line adjacent to the public street.

d. Other requirements. Ground-mounted dish antennas shall not reduce areas required for parking, internal circulation, landscaping, or other development standard criteria.

6. Roof-mounted antennas.

a. Size. The diameter of a roof-mounted satellite dish antenna shall not exceed 10 feet.

b. Height. Roof-mounted antennas shall not exceed the height limit for the zoning district.

c. Location. Roof-mounted dish antennas shall be located:

(1) On the rear one-half of the lot or the rear one-half of the structure farthest from the primary access to the site, whichever is farthest from the front lot line; or

(2) If a lot borders a public street and a waterway, beach, bluff, or park, in the middle one-third of the lot measured from the lot line adjacent to the public street to the rear lot line, mean high tide line, actual high tide line, or bulkhead line, whichever is closest to the lot line adjacent to the public street; and

(3) In the case of a sloping roof, the antenna shall be mounted on the lower 2/3 of the roof plane to which it is attached.

d. Wiring. Electrical and antenna wiring shall be placed underground or otherwise screened from view.

e. Permanent mounting. For a land-based installation, dish antennas shall be permanently mounted and antenna may not be installed on a portable or movable structure.

E. Nonconforming antennas.

1. Amateur radio antennas. Amateur radio antennas, antenna structures, and masts in existence before April 27, 1988 shall be considered legal and nonconforming and may continue to be used without complying with this Section except as follows:

a. Amateur radio antennas, antenna structures, and masts that are a legal nonconforming use shall comply with the Subsection C.2 (Allowed Height), above, to the extent that they are capable of doing so without modifications.

b. Amateur radio antennas, antenna structures and masts may be enlarged, expanded, or relocated only if brought into compliance with this Section, unless the expansion, enlargement, or relocation is necessary to allow reasonable use of the amateur radio equipment served by the antenna. In that event, a Minor Use Permit shall be obtained in compliance with Section 20.66.090 before an expansion, enlargement, or relocation.

2. Satellite dish antennas. Satellite dish antennas in existence prior to July 26, 1989 shall be considered legal and nonconforming. Nonconforming satellite dish antennas may be enlarged, expanded or relocated only if the satellite dish antennas are brought into compliance with this Section, unless the expansion, enlargement, or relocation is necessary to permit reasonable use of the satellite dish antennas. In that event, a Minor Use Permit shall be obtained in compliance with Section 20.66.090 before an expansion, enlargement or relocation.

F. Permit and application requirements.

1. Amateur radio antennas, structures and masts and satellite dish antennas that comply with the development standards in this Section are allowed as an accessory use in all zoning districts.

2. Amateur radio antennas, structures and masts and satellite dish antennas that do not comply with the development standards in this Section shall require a Minor

Use Permit in compliance with Section 20.66.090 (Conditional Use Permits and Minor Use Permits).

3. The Zoning Administrator may waive or modify the development standards in this Section upon application for a Minor Use Permit. The Zoning Administrator shall issue a Minor Use Permit for an amateur radio antenna, structure, or mast, or a satellite dish antenna if the Zoning Administrator can make any of the following findings:

   a. Strict compliance with the development standards will result in unreasonable limitations on, or will prevent, reception or transmission of signals;

   b. The cost of strict compliance with the development standards would be excessive in light of the purchase and installation costs of the antenna; or

   c. Strict compliance with the development standards is not necessary to achieve the purposes of this Section.

20.60.210 – Senior Accessory Dwelling Units

A. Purpose. The purpose of this Section is to:

1. Establish procedures for the creation of granny units as defined in Part 7 (Definitions) and in California Government Code Section 65852.1, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

2. Prohibit the development of second units, as defined in Part 7 (Definitions), on single family residential lots as provided for in Government Code Section 65852.2.

B. Prohibitions. The creation of a second unit on all sites within the City where this Zoning Code and the General Plan allow only 1 dwelling unit is expressly prohibited. Nothing contained in this Section shall affect the creation of granny units under Government Code Section 65852.1 that are in compliance with the Municipal Code.

C. Development standards. The following standards shall be met before the occupancy of the granny unit in compliance with this Section:

1. Building height. Granny units shall comply with the maximum height limits in the zoning district in which they are located as provided in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards).

2. Setback requirements. Granny units shall comply with the setback requirements applicable to the zoning district in which they are located.

3. Minimum lot size. A minimum lot size of 5,450 square feet shall be required in order to establish a granny unit.

4. **Minimum floor area.** Each granny unit shall provide a minimum of 600 square feet of floor area and a maximum of 640 square feet of floor area as measured from within the surrounding perimeter walls of the unit.

5. **Owner occupancy required.** The principal dwelling unit or the granny unit shall be continuously occupied by at least 1 person having an ownership interest in the property.

D. Verification of Occupancy. Commencing with the final inspection of the granny unit by the Building Inspector and on an annual basis every year afterwards, the property owner shall submit to the Director the names and birth dates of any and all occupants of the granny unit to verify occupancy by a person or persons 60 years of age or older. Upon any change of tenants, the property owner shall notify the Director immediately. This information shall be submitted in writing and shall contain a statement signed by the property owner certifying under penalty of perjury that all of the information is true and correct.

E. Deed restriction and recordation required. After approval of a Minor Use Permit and before issuance of a Building and/or Grading Permit for a granny unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall state that under no circumstances shall the granny unit be rented to or otherwise occupied by any person or persons less than 60 years of age. The deed restriction document shall also contain all conditions of approval imposed by the review authority. This deed restriction shall remain in effect so long as the granny unit exists on the property.

F. Termination of use. In the event that the property owner desires to terminate the use of the granny unit and remove the deed restriction, building permits shall be obtained that restore the property to a single dwelling unit as defined in Part 7 (Definitions). The Director shall review and approve the plans before the issuance of the building permits to ensure compliance with the intent of this Section and the definition. Upon completion of the final inspection by the Building Official, the Director shall cause the deed restriction to be removed from the property by the County Recorder.

20.60.220 – Time Share Facilities

This Section provides regulations for time share developments.

A. Application requirements. In addition to the application requirements in Section 20.66.090 (Conditional Use Permit and Minor Use Permits), an application for a time share project shall include the following documents:

1. **Sales Plan.** A Sales Plan shall address the times, areas and methods that will be used to sell the time share project. Factors to be defined in the plan shall include the location, length, and marketing methods that will be used, distinguishing on site and off site marketing and signage; and an estimate of the potential numbers of individuals and automobiles expected during various stages of the sales effort. The plan also shall describe measures that will be implemented to reduce traffic during peak hours.

2. **Operating Plan.** An Operating Plan shall address the terms of the timeshare resort ownership interests, the types of private unit and common amenities, and the general financing, maintenance, and management arrangements of the resort that benefit the unit owners.

3. **Management Plan.** A Management Plan shall describe the methods employed by the applicant to guarantee the future adequacy, stability, and continuity of a satisfactory level of management and maintenance of a time share project.

4. **Contingency Plan.** A Contingency Plan shall address the actions to be taken by the applicant if the time share project is an economic failure or fails to sell 50 percent of the time share estates or uses within 2 years of receiving a permit to occupy the first unit.

B. Development Agreement. The City and the operator of a time-share project shall enter into a Development Agreement, under the provisions of Municipal Code Chapter 15.45 relating to the amount of tax payable to the City by a time-share owner for the right of occupancy of any time-share unit.

C. Development standards.

1. **Property development standards.** A time-share project shall comply with the standards for the zoning district in which it is located.

2. **Conversion of existing dwelling units prohibited.** The conversion of existing residential dwelling units into time-share units shall be prohibited.

3. **Minimum number of units.** Each time-share project shall have a minimum of 100 time-share units. Time-share projects consisting of less than 100 units, but developed or converted in conjunction with a resort hotel complex of 300 or more shall be considered to be in compliance with this requirement.

D. Required amenities. Time-share projects shall be developed with substantial recreational amenities (e.g., golf courses, tennis courts, swimming pools, etc.).

E. Modification or waiver. The review authority may modify or waive any of the standards contained in this Section if strict compliance with the standards is determined to be unnecessary to achieve the purpose and intent of this Section.

Chapter 20.62 – Service Stations

Sections:

20.62.010 – Purpose
20.62.020 – Permit Requirements
20.62.030 – Operational Standards
20.62.040 – Development Standards

20.62.010 – Purpose

This Chapter provides standards for the establishment and operation of new station operations and for the modification or expansion of existing service stations.

20.62.020 – Permit Requirements

A. Conditional Use Permit. A Conditional Use Permit shall be required for a new service station and for an existing service station when one or more of the following events occurs:

1. An expansion of 10 percent or more in floor area within any 12 month period or the cumulative expansion of more than 50 percent of floor area existing at the time of the effective date of this Chapter.

2. Any change in the land area on which the service station is located, whether by purchase, lease, business combination or acquisition, or similar method.

3. A renovation or any other development that would cost more than 50 percent of the value of the improvements on the parcel at the time of renovation, excluding land value.

4. The introduction of any of the accessory uses allowed under Subection 20.62.040.O (Accessory uses), or introduction of alcoholic beverage sales (see Section 20.60.030 (Alcohol Sales – Off Sale), or any similar change in the operational characteristics of the service station.

B. Application contents. The permit application shall contain the information and materials identified by the Director.

C. Required findings. In addition to the findings required by Section 20.66.090 for Conditional Use Permits, the review authority shall find that the project is consistent with the purposes of this Chapter and that the proposed site plan and architecture are consistent with the *City of Newport Beach Design Guidelines: Automobile Service Stations and Washing.*

20.62.030 – Operational Standards

The following standards shall apply to service stations and accessory uses.

A. Location of activities. Activities and operations shall be conducted entirely within an enclosed structure, except for the following, which shall be allowed unless otherwise conditioned by the Conditional Use Permit:

1. Sale and dispensing of motor vehicle fuel.

2. Incidental, minor maintenance commonly conducted at service islands (e.g., dispensing of air and water; replacement of windshield wipers, fuses, and lamps; replenishing motor vehicle fluids and lubricants; etc.).

3. Vending machines abutting a structure or in a kiosk enclosed on three sides.

4. Vacuuming, hand drying and hand waxing of vehicles.

B. Storage and display Outdoor storage and display of merchandise, materials, or equipment shall be limited to the following:

1. Display racks for automotive merchandise no more than 4 feet wide located at each service island.

2. Display racks for automotive merchandise located within 3 feet of the principal structure, provided that the display racks are limited to 1 display rack per frontage.

3. Temporary outdoor storage and display of merchandise, materials, or equipment for a maximum period of 72 hours per quarter of a calendar year. All other outdoor storage and display shall be in compliance with Section 20.60.150 (Outdoor Storage, Display, and Activities).

C. Parking and vehicle storage.

1. Off-street parking shall be in compliance with Chapter 20.52 (Off-Street Parking and Loading).

2. Vehicles or equipment in the process of being serviced may be stored outside for a maximum period of 7 days.

3. The parking of vehicles and equipment for purposes of sale shall be prohibited.

4. The storage of rental vehicles shall not occupy a parking space provided to meet the parking requirements of the service station or any other accessory use.

5. Vehicles shall not be parked or stored within the public right-of-way.

6. Fuel delivery trucks shall not obstruct the public right-of-way during delivery.

D. Non-automotive retail food and beverage sales. Up to 50 square feet of net public area may be used for the display and sale of non-automotive merchandise and ready-to-eat and prepackaged food and beverages, provided that in compliance with Section 20.62.040, below. Floor area used for vending machines shall not contribute to the floor area limit. Walk-in refrigeration units shall be prohibited.

E. Signs. Signs shall be in compliance with Chapter 20.54 (Sign Standards).

20.62.040 – Development Standards

This Section provides design and development standards for new service stations and for existing service stations meeting any of the criteria specified in Section 20.62.020 (Permit Requirements).

A. Location. Service station sites shall front on streets designated as major, primary or secondary on the City Master Plan of Streets and Highways unless the sites are part of or in conjunction with developments such as shopping centers in residential areas.

B. Minimum land area. The minimum land area for service stations shall be 1,500 square feet of land area for each fueling space, 1,000 square feet for each service bay or washing bay, and 3.33 square feet for each square foot of gross floor area used for retail and/or food and beverage sales.

C. Setbacks. The following setbacks shall be maintained:

	Required Setback (Feet)		
Structure	**Interior**	**Abutting a Street**	**Abutting an Alley**
Service islands	20	20	20
Canopies	5	5	5
Air and water dispensers	10	10	10
Automobile washing, maintenance and repair	18	30	30
Retail and office	0	15	10

D. Access.

1. Driveways shall be designed and located to ensure safe and efficient movement of traffic on and off the site to and from the lane of traffic nearest the curb. Driveways shall be located and constructed in compliance with the City's Driveway Approach Policy.

2. Driveways for service stations that are developed as part of or in conjunction with adjacent uses shall be located as part of the total circulation element of the adjacent uses.

3. On-site driveways all shall be a minimum of 25 feet for two way traffic or 18 feet for one way circulation.

4. Provisions for on-site queuing lanes shall be made. Queuing lanes shall not interfere with access to required parking spaces.

E. Utilities. Utilities shall be installed underground within the exterior property lines of the site.

F. Drainage and pollution control. Drainage to the street shall be by underground structures to avoid drainage across City walks or drive aprons, and shall be subject to approval by the Public Works Director. In addition, service stations shall incorporate pollution control best management practices (BMPs) designed to prevent or minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline, and other pollutants to stormwater system.

G. Site and architectural design. The site plan and architecture of the service station shall provide an attractive appearance that is compatible with and complimentary to the community and surrounding land uses and development and that is consistent with the *City of Newport Beach Design Guidelines: Automobile Service Stations and Washing.*

H. Landscaping.

1. Area required. A minimum of 15 percent of the site shall be landscaped with plant materials designed to provide beautification and screening. Planting areas shall include, but not be limited to, the following:

a. A minimum 5 foot-wide (inside dimension) planting areas between driveway approaches.

b. A minimum of 150 square foot landscaped area provided at the intersection of two property lines at a street corner. Landscape materials shall not exceed a height of 36 inches.

c. A minimum 5 foot-wide (inside dimension) planting area along interior property lines, except where openings are needed to facilitate vehicular circulation to adjacent properties.

d. A minimum of 30 percent of the required landscaping shall be provided within 20 feet of the street property lines.

2. Quantity of materials. Landscaped areas adjacent to street property lines shall be planted with a minimum of 1 tree and 3 shrubs per every 25 linear feet of street frontage. Landscaped areas adjacent to interior property lines shall be planted with a minimum of 1 tree and 3 shrubs per every 30 linear feet. These calculations establish the minimum number of required trees and shrubs and are not meant to imply linear or equal spacing. Required trees shall be 24-inch box

size, or larger. Required shrubs shall have a minimum mature growth height of 18 inches and shall be a minimum of 5-gallon in size upon installation.

3. **Quality of materials.** Plant materials shall be chosen for their screening qualities, beauty and durability. Plantings shall include a mixture of trees, shrubs and groundcovers. All plant materials shall conform to or exceed the plant quality standards of the latest edition of *American Standard for Nursery Stock* published by the American Association of Nurserymen, or the equivalent.

4. **Street trees.** City parkway areas shall be provided with groundcover and street trees in compliance with City standards.

5. **Barriers.** Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier.

6. **Irrigation.** Planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected.

7. **Maintenance of landscaping.**

   a. Landscape materials and landscaped areas shall be maintained in compliance with the approved landscape plan.

   b. Landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming.

   c. Landscaped areas shall be kept free of weeds and debris.

   d. Irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

8. **Sight distances.** Landscaping shall be located so as not to impede vehicular sight distance in compliance with Section 20.30.110 (Traffic Safety Visibility Area) and to the satisfaction of the Public Works Director.

9. **Required plans.** Landscape planting and sprinkler irrigation plans and specifications shall be submitted by the applicant and approved by the Director before the issuance of a building permit.

I. **Perimeter walls.** Service station sites shall be separated from abutting residentially zoned property or property used for residential purposes by 6 foot high masonry or concrete wall utilizing materials similar in color, module and texture to those utilized in the service station structure. The walls shall be reduced to 3 feet in height within adjacent street setback areas. The walls need not be installed when building walls or other acceptable walls already exist on the property lines.

J. **Lighting.** Exterior light sources shall be shielded from view and directed away from adjacent properties in compliance with Section 20.30.060 (Outdoor Lighting). Luminaries shall be of a low level, indirect diffused type and shall not exceed a height of 20 feet above existing grade.

K. **Rest rooms**. One men's rest room and one women's rest room shall be provided during business hours for use by service station customers. Rest rooms with exterior entrances shall be located so the entrances are in clear view of the station's service area, cashier station, or office.

L. **Refuse storage areas.** Refuse storage areas shall be enclosed by walls and integrated with the design of the service station in compliance with Section 20.30.100 (Solid Waste Recycling and Storage).

M. **Additional requirements.** As a condition of a Conditional Use Permit, the applicant shall provide the fuel supplier, the property owner and/or lessee each with a copy of the conditions embodied on the permit, and obtain a written receipt from each, so that there shall be no person operating the premises who is not aware of the conditions of operation. If, during an inspection of the premises, the City finds violations of the requirements of the Conditional Use Permit, the City shall notify both the fuel supplier and the service station operator in order to ensure compliance.

N. **Modification or waiver of standards.** The review authority may modify or waive any of the design and development standards contained in this Chapter for the establishment of new service stations and for the expansion or renovation of an existing service station upon finding that:

1. The strict compliance with the standards is not necessary to achieve the purpose and intent of this Chapter.

2. The project possesses compensating design and development features that offset impacts associated with the modification or waiver of standards.

3. The overall site plan and architectural design is consistent with the City of Newport Beach Design Guidelines: Automobile Service Stations and Washing.

O. **Accessory uses.**

1. **Accessory uses allowed.** The following uses may be allowed as accessory uses to a service station:

a. Convenience Markets.

b. Automobile Washing.

c. Vehicle/Equipment Repair, Limited.

d. Electronic Equipment Installation.

e. Vehicle Rentals.

f. Food Service.

P. **Standards for convenience markets.** The following additional standards shall apply to convenience markets operated in conjunction with service stations:

1. **Minimum floor area.** The sale of food and beverages and non-automotive merchandise shall require a minimum of 1,200 square feet of gross floor area, exclusive of vehicle service and washing areas.

2. **Mode of sale.** The sale of merchandise from drive-up windows shall be prohibited.

3. **Signs and displays.** Signs and displays shall not obstruct the sales counter, cash register, seller, and customer from view from the exterior.

4. **Arcade and game machines.** Arcade and games machines shall be prohibited.

5. **Security.** The review authority may require the applicant to provide a security program for the site.

6. **Alcoholic beverage sales.** See Section 20.60.030 (Alcohol Sales).

Q. Standards for food service. Food service provided in conjunction with service stations shall comply with the standards in Section 20.60.090 (Eating and Drinking Establishments) that are applicable to accessory food service establishments.

Part 5
Planning Permit Procedures

Table of Contents

Chapter 20.64 – Permit Application Filing and Processing [New] 3

20.64.010 – Purpose 3
20.64.020 – Authority for Land Use and Zoning Decisions 3
20.64.030 – Multiple Permit Applications 3
20.64.040 – Application Preparation and Filing 4
20.64.050 – Application Fees 5
20.64.060 – Initial Application Review 6
20.64.070 – Project Evaluation and Staff Reports 7
20.64.080 – Environmental Review 7

Chapter 20.66 – Permit Review Procedures 9

20.66.010 – Purpose 9
20.66.020 – Coastal Development Permits [New] 9
20.66.030 – Emergency Permits [New] 25
20.66.040 – Reasonable Accommodations 29
20.66.050 – Modification Permits [REVISED] 34
20.66.060 – Planned Development Permits [New] 36
20.66.070 – Site Development Reviews [New] 39
20.66.080 – Limited Term Permits [New] 44
20.66.090 – Conditional Use Permits and Minor Use Permits [New] 49
20.66.095 – Conditional Use Permits in Residential Zoning Districts 50
20.66.100 – Variances [REVISED] 55
20.66.110 – Zoning Clearances 57

Chapter 20.68 – Permit Implementation, Time Limits, and Extensions 59

20.68.010 – Purpose 59
20.68.020 – Use of Property 59
20.68.030 – Final City Action on Permits within the Coastal Zone 59
20.68.040 – Effective Date of Permits 59
20.68.050 – Applications Deemed Approved 60
20.68.060 – Performance Guarantees 60
20.68.070 – Time Limits and Extensions 61
20.68.080 – Changes to an Approved Project 62
20.68.090 – Resubmittals 63
20.68.100 – Covenants [New] 63

Chapter 20.70 – Planned Community District Procedures [20.35] 65

20.70.010 – Purpose 65
20.70.020 – Area Requirements 65
20.70.030 – PC District - Land Use Regulations 66

20.70.040 – PC District - Property Development Regulations 66
20.70.050 – Application Procedures 66
20.70.060 – Zoning Map Designator 69

Chapter 20.72 – Specific Plan Procedures [New] 71

20.72.010 – Purpose 71
20.72.020 – Intent 71
20.72.030 – Applicability 71
20.72.040 – Initiation and Presubmittal of Specific Plans 72
20.72.050 – Application Filing and Initial Review 72
20.72.060 – Preparation and Content 73
20.72.070 – Application Processing 73
20.72.080 – Adoption of Specific Plan 74
20.72.090 – Amendments 74

Tables

Table 5-1 Review Authority 4

Table 5-2 Review Authority for Site Development Review 41

Chapter 20.64 – Permit Application Filing and Processing [New]

Section:

20.64.010 – Purpose
20.64.020 – Authority for Land Use and Zoning Decisions
20.64.030 – Multiple Permit Applications
20.64.040 – Application Preparation and Filing
20.64.050 – Application Fees
20.64.060 – Initial Application Review
20.64.070 – Project Evaluation and Staff Reports
20.64.080 – Environmental Review

20.64.010 – Purpose

This Chapter provides procedures and requirements for the preparation, filing, and processing of the permit applications required by this Zoning Code.

20.64.020 – Authority for Land Use and Zoning Decisions

Table 5-1 (Review Authority), below, identifies the review authority responsible for reviewing and making decisions on each type of application required by this Zoning Code.

20.64.030 – Multiple Permit Applications

A. **Concurrent filing**. Any applicant for a project requiring more than one permit application (e.g., Conditional Use Permit, Tentative Map, etc.), shall file all related applications concurrently, together with all application fees required by Section 20.64.050 (Application Fees).

B. **Concurrent processing.** Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or denied by the highest review authority designated by this Zoning Code for any of the applications.

TABLE 5-1
REVIEW AUTHORITY

Type of Action	Applicable Code Chapter/ Section	Role of Review Authority (1)				
		Director	Zoning Administrator	Hearing Officer	Commission	Council (2)
Administrative and Legislative						
Interpretations	20.12.020	Determination (3)			Appeal	Appeal
Coastal Land Use Plan Amendments	20.80				Recommend	Decision (4)
Zoning Code Amendments	20.80				Recommend	Decision
Zoning Map Amendments	20.80				Recommend	Decision
Permits and Approvals						
Coastal Development Permits	20.66.020				Decision	Appeal
Conditional Use Permits	20.66.090				Decision	Appeal
Conditional Use Permits – Residential Zones Only	20.66.090			Decision	~~Decision~~	Appeal
Emergency Permits	20.66.030	Determination (3)				
Limited Term Permits	20.66.080		Decision (3)		Appeal	Appeal
Minor Use Permits	20.66.090		Decision (3)		Appeal	Appeal
Modification Permits	20.66.050		Decision (3)		Appeal	Appeal
Planned Development Permits	20.66.060				Decision	Appeal
Reasonable Accommodations	20.66.040			Decision	~~Appeal~~	Appeal
Sign Permits	20.54	Determination (3)			Appeal	Appeal
Site Development Review	20.66.070		Decision (3)		Decision	Appeal
Variances	20.66.100				Decision	Appeal
Zoning Clearances	20.66.110	Determination (3)			Appeal	Appeal

Notes:

(1) "Recommend" means that the review authority makes a recommendation to a higher decision making body; “Determination” and "Decision" means that the review authority makes the final determination or decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of a previous decision making body, in compliance with Chapter 20.78 (Appeals).

(2) The Council is the final review authority for the City.

(3) The Director or Zoning Administrator may defer action and refer the request to the Commission for consideration and final action.

(4) On Coastal Land Use Plan Amendments, the Californian Coastal Commission is the final decision making authority. See Chapter 20.80 (Amendments).

20.64.040 – Application Preparation and Filing

A. Pre-application conference.

1. A prospective applicant is strongly encouraged to request a pre-application conference with the Department before completing and filing a permit application.

2. The purpose of this conference is to generally:

   a. Inform the applicant of City requirements as they apply to the proposed project;

   b. Review the City's review process, possible project alternatives or revisions; and

   c. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project.

3. Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or denial of the permit application by any City staff. Failure by City staff to identify all required studies or all applicable requirements shall not constitute a waiver of those requirements.

B. Application contents. Each permit application required by this Zoning Code shall be filed with the Department on a City application form, together with all required fees and/or deposits and all other information and materials specified by the Director for the specific type of application.

C. Eligibility for filing. An application may only be filed by the owner of the subject property or authorized agent of the owner with the written consent of the property owner. The application shall be signed by the owner of record or by an authorized agent, if written authorization from the owner of record is filed concurrently with the application.

D. Rejection of application. If the Director determines that an application cannot lawfully be approved by the City the Director shall not accept the application for processing.

20.64.050 – Application Fees

A. Fee schedule. The Council shall establish a schedule of fees for the processing of the applications required by this Zoning Code, hereafter referred to as the City's Master Fee Schedule.

B. Timing of payment. Applications shall not be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for suspension of processing or issuance of any permit.

C. Refunds and withdrawals. Application fees cover City costs for public hearings, mailings, staff time and the other activities involved in processing applications. Therefore, no refund due to a denial shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

20.64.060 – Initial Application Review

A. Review for completeness. The Department shall review each application for completeness and accuracy before it is accepted as being complete. The determination of completeness shall be based on the City's list of required application contents and any additional written instructions provided to the applicant in any pre-application conference, and/or during the initial application review period.

1. Notification of applicant or authorized agent. Within 30 calendar days of application filing, the applicant or authorized agent shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete.

2. Appeal of determination. Where the Department has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the determination in compliance with Chapter 20.78 (Appeals).

3. Submittal of additional information.

a. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.

b. The time available to an applicant for submittal of additional information is limited by Subparagraph A. 4., below.

c. The additional specified information shall be submitted in writing.

d. Department review of the resubmitted information shall be accomplished in compliance with Subparagraph A. 1., above, along with another 30-day period of review for completeness.

4. Expiration of application.

a. If an applicant fails to provide the additional information specified in the letter within 60 days following the date the application was deemed incomplete, the application shall be deemed withdrawn without any further action by the City.

b. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.

5. Submittal of additional information.

a. During the course of the review process, the review authority may require the submittal of additional information or revised plans.

b. The applicant shall be notified in writing of any revisions or additional information required and shall submit the requested information to the Department within 30 days after the date of the notice or within the period of time designated by the review authority.

c. Failure to submit the required information within the 30-day period or within the period of time designated by the review authority may be cause for denial.

6. Environmental information. After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA), the City's CEQA guidelines, and Section 20.64.080 (Environmental Review), below.

B. Determination of Coastal Development Permit notice and hearing procedures. The Director shall make a determination in compliance with Subsection 20.66.020.E. (Projects exempt from Coastal Development Permit requirements) as to whether the development is categorically excluded for the purposes of notice, hearing, and appeal procedures, at the same time that completeness review occurs in compliance with Subsection A., above.

C. Referral of application. At the discretion of the Director, or where otherwise required by this Zoning Code or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project for their comment and/or input.

20.64.070 – Project Evaluation and Staff Reports

A. Department evaluation. The Department shall review all applications to determine whether they comply and are consistent with the provisions of this Zoning Code, the General Plan, the certified Coastal Land Use Plan, and other applicable provisions identified in Section 20.10.040 (Applicability of Zoning Code).

B. Department staff report. The Department shall provide a written recommendation to the applicable review authority recommending that the application should be approved, conditionally approved, or denied.

C. Staff report to include findings. Whenever this Zoning Code requires a set of findings to be true before granting approval of an application by the applicable review authority, it shall be the responsibility of the Department to present all relevant facts to support the findings.

D. Report distribution. Each staff report shall be furnished to the applicant at the same time as it is provided to the review authority before action on the application.

20.64.080 – Environmental Review

A. CEQA review. After acceptance of a complete application, the project shall be reviewed in compliance with the California Environmental Quality Act (CEQA) to determine whether:

1. The project is not a project as defined by CEQA;

2. The project is exempt from the requirements of CEQA;

3. A Negative Declaration may be issued;

4. A Mitigated Negative Declaration may be issued; or

5. An Environmental Impact Report (EIR) shall be required.

B. Compliance with CEQA. These determinations and, where required, the preparation of appropriate environmental documents, shall be in compliance with CEQA.

Chapter 20.66 – Permit Review Procedures

Sections:

20.66.010 – Purpose
20.66.020 – Coastal Development Permits [New]
20.66.030 – Emergency Permits [New]
20.66.040 – Reasonable Accommodations
20.66.050 – Modification Permits [REVISED]
20.66.060 – Planned Development Permits [New]
20.66.070 – Site Development Reviews [New]
20.66.080 – Limited Term Permits [New]
20.66.090 – Conditional Use Permits and Minor Use Permits [New]
20.66.100 – Variances [REVISED]
20.66.110 – Zoning Clearances

20.66.010 – Purpose

A. Permit review procedures. This Chapter provides procedures for the review and approval or denial of permit(s) and other applications established by this Zoning Code.

B. Subdivision review procedures. Procedures and standards for the review and approval of subdivision maps are found in Title 19 (Subdivisions).

C. Application filing and initial processing. Where applicable, the procedures of this Chapter are carried out after those described in Chapter 20.64 (Permit Application Filing and Processing) for each application.

20.66.020 – Coastal Development Permits [New]

A. Purpose.

1. This Section provides procedures for Coastal Development Permits to ensure that all public and private coastal development projects in the City's Coastal Zone, as depicted on the Zoning Map, are consistent with the certified Coastal Land Use Plan.

2. For purposes of this Section, the term development shall be as defined in Part 7 (Definitions) under development, coastal, as in coastal development project.

B. Coastal Development Permit required.

1. Except as otherwise provided in this Section, persons wishing to perform or undertake a coastal development project in the City's Coastal Zone, other than a facility subject to Public Resources Code Section 25500, shall obtain a Coastal Development Permit in compliance with this Section.

2. All coastal development projects shall conform to the conditions, plans, specifications, and terms of the permit. The requirements for obtaining a Coastal Development Permit shall be in addition to the requirements needed to obtain any other permits required by this Zoning Code, other applicable provisions identified in Section 20.10.040 (Applicability of Zoning Code), or from any Federal, State, regional, or local agency.

C. Projects located within more than one jurisdiction.

1. Projects located both within and outside the Coastal Zone. Where a proposed project site is located both within and outside the Coastal Zone, the following procedures shall apply:

a. For divisions of land, a Coastal Development Permit shall be required only for new lots or portions of new lots located within the Coastal Zone and the review shall be confined to those lots or portions of lots within the Coastal Zone.

b. For a coastal development project involving a structure or similar integrated physical construction partially located within the Coastal Zone, a Coastal Development Permit shall be required for the entire project.

c. The City may request, with the consent of the property owner, that the Coastal Commission make an adjustment to the boundary of the City's Coastal Zone in order to avoid bisecting a lot or to make the Coastal Zone boundary conform to readily identifiable natural or manmade features in compliance with Public Resources Code Section 30103 (b).

2. Projects of type or location subject to Coastal Commission appeal jurisdiction. If a portion of the approved coastal development project is of the type or in a location that makes the action by the City subject to appeal to the Coastal Commission, the City's action on the Coastal Development Permit for the entire project shall be subject to appeal to the Coastal Commission.

3. Projects located within both City and Coastal Commission permit jurisdictions. Where a proposed coastal development project is located within both the City's and Coastal Commission's Coastal Development Permit jurisdictions, Coastal Development Permits are required by both the City and the Coastal Commission. The following procedures shall apply:

a. For divisions of land, a Coastal Development Permit issued by the Coastal Commission shall be required only for new lots or portions of new lots located within the area subject to the Coastal Commission's jurisdiction.

b. For any coastal development project involving a structure or similar integrated physical construction, a Coastal Development Permit issued by the Coastal Commission shall be required for any structure located partially in the retained jurisdiction area.

4. Projects located within more than one local governmental jurisdiction.

a. If a coastal development project extends over the jurisdictional boundary between the City and another local government, the applicant shall obtain separate Coastal Development Permits from each jurisdiction.

b. An exception is possible for public agencies that may obtain one "Public Works Plan" approval from the Coastal Commission, instead of locally-issued Coastal Development Permits in compliance with Public Resources Code Section 30605.

D. Projects located in deferred certification areas. For coastal development projects located in deferred certification areas, the Coastal Commission retains permit jurisdiction.

E. Projects exempt from Coastal Development Permit requirements. The following coastal development projects are exempt from the requirement to obtain a Coastal Development Permit:

1. Pre-certification.

a. Development authorized by a Coastal Development Permit approved by the Coastal Commission before the effective date of certification of the Coastal Land Use Plan.

b. Development authorized in compliance with Coastal Commission Categorical Exclusion Order E-77-5 before the effective date of certification of the Coastal Land Use Plan.

2. Categorical exclusions. Coastal development projects determined to be categorically excluded (see Subsection G. (Exclusion), as depicted on the Permit and Appeal Jurisdiction Map.

3. Coastal Act exemptions. Coastal development projects determined to be exempt from the Coastal Development Permit requirements in compliance with Public Resources Code Section 30610.

a. Existing single-family dwellings. Improvements to existing single-family dwellings, including all fixtures and other exterior structures directly attached to the dwelling; ancillary structures normally associated with single-family dwellings (e.g., fences, garages, landscaping, storage sheds, and swimming pools) with the exception of the following classes of coastal development projects that involve a risk of adverse environmental effects:

(1) Improvements to any structure where either the structure or the improvement is located on a beach, in a wetland, or stream, seaward of the mean high tide line, within an environmentally sensitive habitat area, or in an area designated as highly scenic in the Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.

(2) A significant alteration of land forms including removal or placement of vegetation on a beach, sand dune, or wetland, or within 50 feet of the edge of a coastal bluff or stream, or in an environmentally sensitive habitat area.

(3) Expansion or construction of a water well or septic system.

(4) Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the Coastal Commission, when the improvements would constitute or result in any of the following:

(a) An increase in floor area of 10 percent or more within any 12-month period or an increase in floor area of 10 percent or less within any 12-month period where an improvement has previously been approved in compliance with Public Resources Code Section 30610(b) and/or this Subsection.

(b) The construction of an additional story or loft or increase in structure height of more than 10 percent within any 12-month period.

(c) The construction, placement, or establishment of any significant detached structure (e.g., a fence, garage, shoreline protective works, or docks).

(5) In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that shall be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using development not essential to residential use (e.g., a swimming pool or the construction or extension of any landscaping irrigation system).

(6) An improvement where the Coastal Development Permit issued for the original structure indicates that future additions would require a Coastal Development Permit.

b. Other existing structures and landscaping. Improvements to existing structures, other than single-family dwellings and public works facilities, including all fixtures and other structures directly attached to the structure, and landscaping, with the exception of the following classes of projects that might result in an adverse environmental impact, adversely affect public access, or involve a change in use contrary to the Coastal Act:

(1) Improvements to any structure where either the structure or the improvement is located on a beach, in a stream or wetland, or seaward of the mean high tide line, in an area designated as

highly scenic in the certified Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.

(2) A significant alteration of land forms including removal or placement of vegetation on a beach, sand dune, or wetland, or within 100 feet of the edge of a coastal bluff or stream, in an area designated as highly scenic in the certified Coastal Land Use Plan, or in an environmentally sensitive habitat area.

(3) Expansion or construction of a water well or septic system.

(4) Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the Coastal Commission, when the improvements would constitute or result in any of the following:

(a) An increase in floor area of 10 percent or more within any 12-month period or an increase in floor area of 10 percent or less within any 12-month period where an improvement has previously been approved in compliance with Public Resources Code Section 30610(b) and/or this Subsection.

(b) The construction of an additional story or loft or increase in structure height of more than 10 percent within any 12-month period.

(c) The construction, placement, or establishment of any significant detached structure (e.g., a fence, garage, shoreline protective works, or docks).

(5) In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that shall be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using improvement not essential to residential use (e.g., a swimming pool or the construction or extension of any landscaping irrigation system).

(6) An improvement where the Coastal Development Permit issued for the original structure indicates that future additions would require a Coastal Development Permit.

(7) An improvement to a structure that increases the intensity of use of the structure.

(8) An improvement made in compliance with a conversion of an existing structure from a multi-family dwelling unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium

conversion, stock cooperative conversion, or motel/hotel timesharing conversion.

c. Maintenance dredging. Maintenance dredging of existing navigation channels or moving dredged materials from those channels to a disposal area outside of the Coastal Zone, in compliance with a permit from the United States Army Corps of Engineers.

d. Repair and/or maintenance. Repair and/or maintenance activities, with the exception of the following activities that involve a risk of adverse environmental effects:

(1) A method of repair or maintenance of a bluff retaining wall, breakwater, culvert, groin, outfall, seawall revetment, or similar shoreline work that involves:

(a) Repair and/or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

(b) The placement, whether temporary or permanent, of rip-rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, estuaries, streams, wetlands, or on shoreline protective works;

(c) The replacement of 20 percent or more within any 12-month period of the materials of an existing structure with materials of a different kind; or

(d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any bluff or sand area or within 20 feet of coastal waters or streams.

(2) A method of routine maintenance dredging that involves:

(a) The dredging of 100,000 cubic yards or more within a 12-month period;

(b) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, or any sand area, or within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or

(c) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that shall be maintained for protection of structures, coastal access, or public recreational use.

(3) Repair and/or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of any coastal waters and streams that include:

(a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, or other beach materials or any other forms of solid materials; or

(b) The presence, whether temporary or permanent, of mechanized equipment or construction materials, except that the use of the equipment solely for routine beach cleaning and park maintenance shall not require a Coastal Development Permit.

(4) Non-exempt repair and/or maintenance activities governed by Subparagraph d. (Repair and/or maintenance), above, shall require a Coastal Development Permit, including regulations governing Emergency Permits in compliance with Section 20.66.030.

(5) The provisions of Subparagraph d., above, shall not be applicable to those activities specified in the document entitled Repair, Maintenance, and Utility Hookups, adopted by the Coastal Commission on September 5, 1978, unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat areas, wetlands, or public views to the ocean.

(6) Unless destroyed by a disaster, the replacement of 50 percent or more of a bluff retaining wall, breakwater, groin, revetment, seawall, or single-family residence, or any other structure constitutes a replacement structure requiring a Coastal Development Permit.

(7) The replacement of any structure, other than a public works facility, destroyed by a disaster, provided all of the following requirements are met:

(a) The use of the replacement structure is the same as the destroyed structure;

(b) The replacement structure does not exceed either bulk, floor area, or height, of the destroyed structure by more than 10 percent; and

(c) The replacement structure is sited in the same location on the affected property as the destroyed structure.

4. **Ongoing routine repair and/or maintenance.** In compliance with Code of Regulations Section 13252 (c), the following on-going routine repair and/or maintenance activities conducted by the City:

   a. **Beaches.** Periodic maintenance of public beaches landward of the mean high tide line and outside of dune habitat areas, including the cleaning and redistributing of sand using mechanized equipment.

   b. **Piers.** The repair and/or maintenance of existing public recreational piers including, but not limited to, resurfacing of pedestrian decks and the removal and replacement of existing pilings.

   c. **Storm berms.** The use of temporary sand dunes in shoreline areas to protect structures and infrastructure from wave uprush during storm events in a manner that minimizes significant impacts to coastal access and resources.

   d. **Storm drains.** Periodic inspection, cleaning, maintenance, and replacement of existing storm drain lines.

5. **Temporary events.**

   a. Temporary events (e.g., limited term activities [Section 20.66.080] or special events [Chapter 11.03 of the Municipal Code]) held in the Coastal Zone, unless the event meets all of the following criteria:

      (1) Occurs during the period between the day before the Memorial Day weekend (Friday) and the day after the Labor Day weekend (Tuesday);

      (2) Occupies any portion of a public sandy beach area; and

      (3) Involves a charge for general public admission where no fee is currently charged for use of the same area.

   b. A Coastal Development Permit may also be required for temporary events that do not meet all of the above criteria, but which, in the opinion of the Director, have the potential to result in significant adverse impacts to public access, recreation, and/or coastal resources.

6. **Utilities.** The installation, testing, and placement in service or the replacement of any necessary utility connection in compliance with Public Resources Code Section 30610(f).

7. **Emergency Permits.** Emergency work allowed by Public Resources Code Section 30600(e) when granted and preformed in compliance with Section 20.66.030 (Emergency Permits).

F. **Conversion of an existing structure.** The conversion of an existing structure from a multi-unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold, (e.g., condominium conversion, motel/hotel timesharing conversion, or stock cooperative conversion) shall be considered to constitute a risk of

adverse environmental effect, adversely affect public access, and/or involve a change in use contrary to Division 20 of the Public Resources Code and shall require approval of a Coastal Development Permit in compliance with Code of Regulations Section 13253(b)(8) and Public Resources Code Section 30610(b).

G. Exclusions.

1. Applicability.

a. Coastal development projects that will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast are excluded from the requirements of Coastal Development Permit processing as authorized by and in compliance with the procedures certified by the Coastal Commission.

b. Coastal development projects listed in this Subsection have been approved as categorical exclusions by the Coastal Commission. Excluded zoning districts as described below shall not require a Coastal Development Permit; provided, that a notice of exclusion is issued in compliance with this Subsection. Requirements for any other City permit are unaffected by this Subsection. Challenges to determination of exclusion may be made in compliance with Subsection Q. (Post decision procedures), below.

2. All residential zoning districts.

a. Residential zoning districts. This categorical exclusion is for the demolition and/or construction of residential structures and their appurtenant facilities and fixtures (including home occupations) located within all residential zoning districts and designated residential areas located within PC Districts located within the City's Coastal Zone.

b. Terms and conditions. The terms and conditions applied by the Coastal Commission to the categorical exclusion for residential zones are as follows:

(1) Exceptions. This categorical exclusion for residential zoning districts does not include the first row of lots located adjacent to the following:

(a) Bay;

(b) Beach;

(c) Wetlands; and

(d) The canyon edges of Buck Gully and Morning Canyon.

(2) Infill or replacement projects. Allowed coastal development projects shall be limited to infill or replacement and shall be in conformity with the character, scale, and size of the surrounding community.

(3) Parking. A minimum of 2 parking spaces shall be provided for each residential unit, regardless of size.

(4) Applicable zoning. Coastal development projects authorized in compliance with this exclusion shall conform to the zoning in effect on the date of issuance of the required Building Permit.

(5) Public trust. In the event that any competent agency or court determines that any lands excluded are subject to the public trust, this exclusion shall immediately become void as to those lands and any coastal development project undertaken on those lands shall be subject to the full permit requirements of the Coastal Act of 1976.

(6) Implementation. The City shall send a notice of the approval of a coastal development project in compliance with this exclusion to the Coastal Commission. The notice shall include a certification by the applicant that the approved project conforms to the terms and conditions of this exclusion and the issuance of the Building Permit shall not occur until 5 working days have elapsed following receipt of the completed form by the Coastal Commission.

3. All nonresidential and mixed-use zoning districts.

a. Nonresidential and mixed-use zoning districts.

(1) Demolition or construction of commercial and mixed use structures. This categorical exclusion is for the demolition and/or construction of commercial and mixed use structures and their appurtenant facilities and fixtures, including changes of use, located within all of the nonresidential zoning districts and designed commercial and mixed use areas located within PC Districts (e.g., CC, CG, CM, CN, CV, MU-V, MU-H1-MM, MU-H4, MU-W1, and MU-W2) within the City's Coastal Zone.

(2) Other allowed exclusions. The following commercial and mixed-use structures and uses are also excluded from the requirement for a Coastal Development Permit.

(a) Change of use from one allowed commercial use to another allowed commercial use in an existing structure.

(b) Outdoor sales, commercial sidewalk/parking lot sales, and outdoors display of merchandize in compliance with Section 20.60.150 (Outdoor Storage, Display, and Activities).

(c) Temporary (12 months or less; non-renewable) structures and uses installed or initiated in compliance with this Zoning Code and do not conflict with public access and public view policies.

(3) Exceptions. This categorical exclusion for nonresidential and mixed-use zoning districts does not include an improvement made that results in a conversion of an existing structure occupied by visitor-serving hotels, motels, or other similar lodging accommodations to any other use.

b. Terms and conditions. The terms and conditions applied by the Coastal Commission to the categorical exclusion for nonresidential and mixed-use zones are as follows:

(1) Infill or replacement projects. Allowed coastal development projects shall be limited to infill or replacement and shall conform to the character, scale, and size of the surrounding community.

(2) Applicable zoning. Coastal development projects authorized in compliance with this exclusion shall conform to the zoning in effect on the date of issuance of the required Building Permit.

(3) Implementation. The City shall send a notice of the approval of a coastal development project in compliance with this exclusion to the Coastal Commission. The notice shall include a certification by the applicant that the approved project conforms to the terms and conditions of this exclusion and the issuance of the Building Permit shall not occur until 5 working days have elapsed following receipt of the completed form by the Coastal Commission.

H. Determination of jurisdiction over development carried out before Coastal Land Use Plan certification.

1. Development approved by Coastal Commission. Coastal development projects authorized by a Coastal Commission-issued permit remain under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, and revocation.

2. Proposals pending at time of Coastal Land Use Plan certification.

a. A coastal development project, including one with an approval in concept that the City has approved before certification of the Coastal Land Use Plan and for which an application has been filed with the Coastal Commission may, at the option of the applicant, remain with the Coastal Commission for completion of the review. Coastal Commission review of any application shall be based upon the certified Coastal Land Use Plan; or

b. The applicant may resubmit the coastal development project to the City through an application for a Coastal Development Permit. A decision on the application shall be based upon the certified Coastal Land Use Plan.

I. Application filing, processing, and fees. An application for a Coastal Development Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director (e.g., initial site inventory, public view report, public access report, geologic report, etc.), together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection L. (Findings and decision), below.

J. Review of Coastal Development Permits.

1. Authority. The authority to approve, conditionally approve, or deny applications for Coastal Development Permits shall be in compliance with the following:

a. Council. The Council shall be the review authority on all applications for Coastal Development Permits filed concurrently with amendments to the General Plan, Coastal Land Use Plan, Zoning Code, or Zoning Map, or with new or amendments to development agreements, PC District development plans, or specific plans. The Council's action shall follow receipt and consideration of the Planning Commission's recommendation.

b. Planning Commission. The Planning Commission shall be the review authority on all applications for Coastal Development Permits filed concurrently with or subsequent to any other discretionary action required by this Zoning Code, unless authority for the discretionary action is specifically assigned to the Director or Zoning Administrator.

c. Hearing Officer. The Hearing Officer shall be the review authority for all applications for Coastal Development Permits filed concurrently with or subsequent to another discretionary action required by this Zoning Code where the authority is specifically assigned to the Hearing Officer or is delegated to the Hearing Officer by the Planning Commission or Council.

d. Director. The Director shall be the review authority for all applications requiring only a Coastal Development Permit or a Coastal Development Permit filed concurrently with or subsequent to another discretionary action required by this Zoning Code where the authority is specifically assigned to the Director or is delegated to the Director by the Planning Commission or Council.

e. Zoning Administrator. The Zoning Administrator shall be the review authority for all applications for Coastal Development Permits filed concurrently with or subsequent to another discretionary action required by this Zoning Code where the authority is specifically assigned to the Zoning Administrator or is delegated to the Zoning Administrator by the Planning Commission or Council.

f. Harbor Resources Manager. The Harbor Resources Manager shall have the authority to issue approvals in concept, as described in Subparagraph 4., below, for coastal development projects located totally or partially on tidelands or submerged lands (i.e., lands that are located

seaward of the City's Bulkhead Line and, therefore, adjacent to and outside of the City's various zoning districts).

2. **Emergency Permits.** The provisions of Section 20.66.030 (Emergency Permits) shall apply where the Director determines that an Emergency Coastal Development Permit (referred to in this Chapter as an "Emergency Permit") is necessary as an urgency measure to protect life and property from imminent danger or to restore, repair, or maintain public works, utilities, or services during and immediately following a disaster or serious accident within the Coastal Zone. The decision to issue an Emergency Permit may be made solely at the discretion of the Director.

3. **Coastal Commission permit authority.**

   a. **Coastal Commission.** Development on tidelands, submerged lands, and public trust lands as described in Public Resources Code Section 30519(b) and in deferred certification areas designated by the certified Coastal Land Use Plan shall require a Coastal Development Permit issued by the Coastal Commission in compliance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City.

   b. **Exception.** Permit authority on public trust lands, submerged lands, and tidelands that are determined by the Coastal Commission to be filled and developed and located within an area committed to urban uses shall be delegated to the City in compliance with Coastal Act Section 30613.

4. **Approval in concept.** Development in areas where the Coastal Commission retains Coastal Development Permit authority shall require conceptual approval from the Department before application to the Coastal Commission. An approval in concept indicates that the proposed coastal development project conforms in concept to all City use and development regulations, including any applicable discretionary actions, and, therefore, entitles the applicant to apply to the Coastal Commission for a Coastal Development Permit.

K. Notice and hearing requirements.

1. **Compliance with Chapter 20.76.** Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

2. **Waiver of public hearing requirement.** The Director may waive the requirement for a public hearing on a Coastal Development Permit application for a minor coastal development project.

   a. **Applicability.** For purposes of this Subparagraph, "minor project" shall mean a coastal development project that the Director determines to meet all of the following requirements:

      (1) The coastal development project is consistent with the certified Coastal Land Use Plan;

(2) The coastal development project requires no discretionary actions other than a Coastal Development Permit; and

(3) The coastal development project will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

b. Criteria for waiver. A public hearing may be waived for minor development if both of the following occur:

(1) Notice that a public hearing shall be held upon request by any person is provided by the City to all persons who would otherwise be required to be notified of a public hearing by Subsection 20.76.020 B. (Method of Notice Distribution) as well as any other persons known to be interested in receiving notice; and

(2) A request for a public hearing is not received by the City within 15 days from the date of the City sending the notice identified in Subparagraph (1), above.

c. Content of notice. The notice shall contain all information required by Subsection 20.76.020 A. (Content of Notice) and a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a Coastal Development Permit application.

L. Findings and decision.

1. General findings. The review authority may approve or conditionally approve an application for a Coastal Development Permit if, on the basis of the application, plans, materials, and testimony submitted, all of the following findings are first made:

a. The coastal development project is in compliance with the objectives of this Zoning Code;

b. The coastal development project conforms to all applicable sections of the certified Coastal Land Use Plan;

c. The coastal development project will not negatively impact public access to coastal resources;

d. The coastal development project will not negatively impact coastal views;

e. The coastal development project will not negatively impact sensitive coastal resources and environmentally sensitive areas; and

f. The coastal development project will not negatively impact the site's stability or structural integrity due to project design, location on the site, or other reasons.

2. Additional findings for projects in protected resource areas. Approval of coastal development projects within or adjacent to a Protected Resource Area identified in Chapter 20.44 (Resource Protection in the Coastal Zone) shall require that the review authority make all of the following findings, in addition to the findings identified in Subsection 1., above:

a. The resource will not be significantly degraded by the proposed coastal development project;

b. There is no feasible less environmentally damaging alternative; and

c. All feasible mitigation measures capable of reducing or eliminating project related impacts have been imposed on the coastal development project.

M. Effective date - notice of final action.

1. Effective date.

a. Coastal Development Permits shall not become effective for 14 days after being granted, and in the event an appeal is filed in compliance with Chapter 20.78 (Appeals), the permit shall not become effective unless and until a decision granting the Coastal Development Permit is made by the Planning Commission or Council.

b. The effective date of a Coastal Development Permit for a coastal development project that is subject to appeal to the Coastal Commission (see Chapter 20.78 [Appeals]) shall not become effective until at least the 11th working day following the receipt by the Coastal Commission of adequate notice of final City action in compliance with Subparagraph 2., below.

c. If the notice of final City action is received by the Coastal Commission before the 14th day following the granting of the Coastal Development Permit, the Coastal Development Permit shall not become effective until after the 14th day in compliance with Subparagraph a., above.

2. Notice of final City action.

a. Within 7 days following the date of the final City action on a Coastal Development Permit, a notice shall be sent to the applicant, to the Coastal Commission, and to any person who has specifically requested the notice by submitting a self-addressed, stamped envelope to the Department.

b. The notice shall be accompanied by a copy of any written findings adopted, the conditions of approval, and the procedures for appeal of the action to the Coastal Commission.

N. Waiver for *de minimis* development.

1. Authority. The Director may issue a written waiver from the Coastal Development Permit requirements of this Section for any coastal development project that is *de minimis*.

2. Determination of applicability. A proposed coastal development project is considered *de minimis* if the Director determines, based on a review of an application for a Coastal Development Permit, that the project satisfies all of the following requirements:

a. The coastal development project is not located within an appeal area or within an area where the Coastal Commission retains permit jurisdiction;

b. The coastal development project is consistent with the certified Coastal Land Use Plan;

c. The coastal development project requires no discretionary actions other than a Coastal Development Permit; and

d. The coastal development project will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

3. Required notice. Notice of the *de minimis* waiver shall be given in the following manner:

a. Mailed or delivered notice. At least 10 days before the decision, notice shall be mailed to:

(1) The applicant;

(2) The property owner;

(3) All owners of property and residents located within a 300-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject site, as shown on the last equalized assessment roll or, alternatively, from the other records that contain more recent addresses;

(4) An interested person requesting notice;

(5) The Council; and

(6) The Coastal Commission.

b. Posted notice. Notice shall be posted in not less than 1, or as determined by the Director, place on or close to the property at least 10 days before the decision.

4. **Contents of notice.** The notice of the *de minimis* waiver shall contain all of the following information:

   a. A statement that the coastal development project is located within the Coastal Zone;

   b. A description of the location of the project site and the purpose of the application;

   c. The general procedure concerning the submission of public comments either in writing or orally before the decision;

   d. A reference to application materials on file for detailed information;

   e. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held before the decision; and

   f. The date that the waiver may become effective.

5. **Effective date.** A waiver shall not take effect until after decision of the waiver is reported to the Planning Commission and Council in compliance with Section O. If the Planning Commission or the Council, on a majority vote, object to the decision of the waiver, the *de minimis* waiver shall not be effective and, instead, an application for a Coastal Development Permit shall be required.

O. Report to the Planning Commission and Council. The Director shall report a decision on a *de minimis* waiver or Coastal Development Permit to the Planning Commission and Council at the next regular meeting of each body or within 5 days of the decision, whichever occurs first.

P. Environmental review. Public notice and posting of environmental documents and the initial study and completion of all required documents shall be conducted in compliance with the State CEQA Guidelines and any environmental review guidelines adopted by the City in compliance with Section 20.64.080 (Environmental Review).

Q. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Coastal Development Permit application.

20.66.030 – Emergency Permits [New]

A. Purpose. This Section provides procedures for the issuance of an Emergency Coastal Development Permit (hereafter referred to in this Zoning Code as an "Emergency Permit") deemed necessary to perform work to resolve problems resulting from a situation falling within the term "emergency" as defined in Part 7 (Definitions).

B. Applicability.

1. When immediate action by a person or public agency is required to resolve an emergency, requirements to obtain the otherwise appropriate development permit may be waived by the Director upon receiving notification of the emergency, identification of the type of work required to resolve the emergency, and the location of the work to be performed, all in compliance with this Section.

2. The Director shall not grant an Emergency Permit for any development that lies within the Coastal Commission's continuing permit jurisdiction in compliance with the Public Resources Code Section 30519. In these areas and for these developments, a request for an Emergency Permit shall be made directly to the Coastal Commission.

C. Review authority. The Director shall have the sole discretion to grant Emergency Permits in compliance with this Section.

D. Method and content of notification. Notification of the emergency to the Director shall be by letter, if time allows, or by telephone, electronic or personal contact, if time does not allow. The person notifying the Director shall report to their best knowledge all of the following:

1. The nature and location of the emergency;

2. The cause of the emergency, insofar as this can be established;

3. The remedial, protective, or preventative work required to resolve the emergency;

4. The circumstances during the emergency that appeared to justify the proposed courses of action; and

5. The probable consequences of failing to take the action(s) necessary to resolve the emergency.

E. Verification.

1. The Director shall verify that an emergency does exist that necessitates the requested remedial, protective, or preventative work.

2. The Director shall verify the facts related to the emergency by the person or agency that made the notification, as time allows.

F. Public notice. The Director shall provide public notice of the proposed emergency actions by any means determined to be appropriate by the Director based on the nature of the emergency.

G. Required findings and conditions.

1. Findings. Before granting the Emergency Permit, the Director shall first find all of the following:

a. An emergency exists that requires action more quickly than allowed by City procedures customarily required for the processing of appropriate Coastal Development Permits;

b. Public comment has been considered regarding the emergency and the proposed action(s), if time allows;

c. The work is consistent with the nature of the emergency and the requirements of the certified Coastal Land Use Plan; and

d. The work authorized by the Emergency Permit qualifies for an emergency exemption under CEQA.

2. Conditions of approval.

a. If granted, an Emergency Permit shall be subject to necessary terms and conditions, including but not limited to the following:

(1) Language clearly indicating that the work accomplished under an Emergency Permit is considered temporary until the appropriate City required permit(s) is issued for the work;

(2) Completion of the approved work shall be accomplished within 30 days in compliance with Code of Regulations Section 13329.3; and

(3) A condition specifying the need to apply for the appropriate City required permit(s) once the emergency is resolved, or within 90 days following the date of issuance of the Emergency Permit, whichever occurs first.

b. The violation of any condition of approval shall constitute a violation of this Section and may constitute grounds for revocation of the Emergency Permit.

H. Contents of written permit. The Emergency Permit shall be a written document that contains all of the following information:

1. The date of issuance;

2. An expiration date;

3. The scope of the work to be performed;

4. Terms and conditions of the permit;

5. A provision stating that within 90 days following the issuance of the Emergency Permit, a follow-up, Coastal Development Permit application shall be submitted to the City in compliance with Section 20.66.020;

6. A provision stating that any development or structures constructed in compliance with the Emergency Permit shall be considered temporary until authorized by a follow-up Coastal Development Permit, and that the issuance of an Emergency Permit shall not constitute an entitlement to the construction of a permanent structure(s); and

7. A provision stating that the development authorized by the Emergency Permit shall be removed unless a complete application for a Coastal Development Permit for the development is filed within 90 days of approval of the Emergency Permit and is approved. If a Coastal Development Permit authorizing permanent retention of the development, or a portion of the development, is denied, then the development that was authorized by the Emergency Permit, or the denied portion of the development, shall be removed within 90 days following the date of denial.

I. Reporting.

1. The Director shall report, in writing or orally, to the Council and the Planning Commission at their next meeting that an Emergency Permit is in effect. The report shall state the nature of the emergency, the progress of the work to resolve the emergency, and any other pertinent information.

2. Copies of any written report shall be available at the Council and Planning Commission meetings and shall be mailed to all persons who have requested notification and associated reports in writing.

3. The Director shall report the issuance of an Emergency Permit to the Coastal Commission within three days following the date of issuance.

J. Time limits. Unless another expiration date is stated in the written permit, an approved Emergency Permit shall be valid for a maximum of 30 days following the date of issuance; provided, the permit shall expire and become void seven days following the date of issuance if it is not properly exercised, or if the emergency ceases to exist.

K. Permits required.

1. The responsible person or public agency shall apply for the appropriate City required permit(s) (e.g., Coastal Development Permit, etc.) otherwise required by this Zoning Code within 90 days following the date of issuance of the Emergency Permit or once the emergency is resolved, whichever occurs first.

2. Failure to file the necessary applications and obtain the City required permit(s) normally required by this Zoning Code shall result in enforcement action in compliance with Chapter 20.82 (Enforcement).

3. During the processing of the appropriate City required permit application(s), all work required to remedy the emergency may continue until the emergency is satisfactorily resolved.

20.66.040 – Reasonable Accommodations

A. Purpose. In compliance with Federal and State fair housing laws, it is the purpose of this Section to provide reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling.

B. Review authority.

1. The Hearing Officer, as defined in Article 8 (Glossary), is hereby designated to approve, conditionally approve, or deny all applications for a reasonable accommodation.

2. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval (e.g., Coastal Development Permit, Conditional Use Permit, etc.), then an applicant may request that the Hearing Officer hear the request for a reasonable accommodation at the same time as the other discretionary permit or approval.

3. If the applicant does not request a simultaneous hearing, then the request for a reasonable accommodation shall not be heard until after a final administrative decision has been made regarding the other discretionary permit or approval.

C. Application for Reasonable Accommodation.

1. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.

2. Application.

a. An application for a reasonable accommodation from a zoning regulation, policy, or practice shall be made on forms provided by the Department.

b. A fee shall not be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for the other discretionary permit(s) in compliance with the City's Master Fee Schedule.

3. Other discretionary permits. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval (e.g., Coastal Development Permit, Conditional Use Permit, etc.), then the applicant may file the request for reasonable accommodation together with the application for the other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.

4. Required submittals. In addition to materials required under other applicable provisions of this Zoning Code, an application for reasonable accommodation shall include all of the following:

a. Documentation that the applicant is:

(1) An individual with a disability;

(2) Applying on behalf of one or more individuals with a disability; or

(3) A developer or provider of housing for one or more individuals with a disability.

b. The specific exception or modification to the Zoning Code provision, policy, or practices requested by the applicant.

c. Documentation that the specific exception or modification requested by the applicant is the minimum necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence.

d. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by Subparagraph D. 2. (Findings), below can be made, so long as any request for information regarding the disability of the individuals benefited complies with Fair Housing Law protections and the privacy rights of the individuals affected.

D. Decision.

1. Hearing Officer action.

a. The Hearing Officer shall issue a written determination to approve, conditionally approve, or deny a request for reasonable accommodation, and the associated modification or revocation in compliance with Subparagraph D. 2. (Findings and decision), below.

b. The reasonable accommodation request shall be heard with, and subject to, the notice, review, approval, and appeal procedures identified for any other discretionary permit provided that, notwithstanding Chapter 20.78 (Appeals), the standard of review on appeal shall not be de novo and the Council shall determine whether the findings made by the Hearing Officer are supported by substantial evidence presented during the evidentiary hearing.

c. The Council, acting as the appellate body, may sustain, reverse, or modify the decision of the Hearing Officer or remand the matter for further consideration, which remand shall include specific issues to be considered or a direction for a de novo hearing.

2. Findings and decision.

a. The written decision to approve or deny a request for Reasonable Accommodation will be consistent with the all applicable Federal and State Acts and shall be based on consideration of all of the following findings:

(1) The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws;

(2) The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling;

(3) The requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law;

(4) The requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law; and

(5) The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

b. In making these findings, the review authority may approve alternative reasonable accommodations which provide an equivalent level of benefit to the applicant.

3. Relevant factors for need. The City may consider, but is not limited to, all of the following factors in determining whether the requested accommodation is the minimum necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling:

a. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;

b. Whether the individual(s) with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;

c. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants; and

d. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide an individual(s) with a disability an equal opportunity to live in a residential setting.

4. Relevant factors for alteration. The City may consider, but is not limited to, all of the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

a. Whether the requested accommodation would fundamentally alter the character of the neighborhood;

b. Whether the accommodation would result in a substantial increase in traffic or insufficient parking;

c. Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable specific plan; and

d. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

5. Coastal Zone properties. For housing located in the Coastal Zone, a request for reasonable accommodation in compliance with this Section may be approved by the City if it is consistent with the Coastal Land Use Plan and the required findings identified in Subparagraph D. 2. (Findings and decision), above, are made.

6. Rules while decision is pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

7. Effective date.

a. A reasonable accommodation shall not become effective until the decision to grant the accommodation shall have become final by reason of the expiration of time to make an appeal.

b. In the event an appeal is filed, the reasonable accommodation shall not become effective unless and until a decision is made by the Council on the appeal in compliance with Chapter 20.78 (Appeals).

E. Expiration, time extension, violation, discontinuance, and revocation.

1. Expiration.

a. Any reasonable accommodation approved in compliance with the terms of this Section shall expire within 24 months from the effective date of approval or at an alternative time specified as a condition of approval unless:

(1) A Building Permit has been issued and construction has commenced;

(2) A Certificate of Occupancy has been issued;

(3) The use is established; or

(4) A time extension has been granted.

b. In cases where a Coastal Development Permit is required, the time period shall not begin until the effective date of approval of the Coastal Development Permit.

2. Time extension. The Hearing Officer may approve a time extension for a reasonable accommodation for good cause for a period(s) not to exceed three years. An application for a time extension shall be made in writing to the Director no less than 30 days or more than 90 days before the expiration date.

3. Notice. Notice of the Hearing Officer's decision on a time extension shall be provided in compliance with Chapter 20.76 (Public Hearings). All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as identified in Subparagraph 4. (Appeal of determination), below.

4. Appeal of determination. A time extension for a reasonable accommodation shall be final unless appealed to the Council within 14 calendar days of the date of mailing of the determination. An appeal shall be made in writing and shall be noticed and heard in compliance with Chapter 20.78 (Appeals), as modified by Subparagraph D. 1. (Hearing Officer action), above.

5. Violation of terms. Any reasonable accommodation approved in compliance with the terms of this Section may be revoked if any of the conditions or terms of the reasonable accommodation are violated, or if any law or ordinance is violated in connection with the reasonable accommodation.

6. Discontinuance.

a. A reasonable accommodation shall lapse if the exercise of rights granted by it are discontinued for at least 180 consecutive days.

b. If the person(s) initially occupying a residence vacates, the reasonable accommodation shall remain in effect only if the Director determines that:

(1) The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this Zoning Code; and/or

(2) The accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling.

c. The Director may request the applicant or the successor(s)-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities.

d. Failure to provide the documentation within 10 days of the date of a request by the City shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodation.

7. Revocation. Procedures for revocation shall be as identified in Chapter 20.82 (Enforcement).

F. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Reasonable Accommodation application.

20.66.050 – Modification Permits [REVISED]

A. Purpose. The purpose of this Section is to provide relief from specified development standards of this Zoning Code when so doing is consistent with the purposes of this Code and does not negatively impact the community.

B. Review authority and allowable modifications. The Zoning Administrator shall approve, conditionally approve, or deny applications for Modification Permits for not more than a 10 percent deviation from the standard being modified, and applicable only to the following, subject to the findings indentified in Subsection E. (Required findings), below:

1. Height modifications from exceptions identified in Part 3 (Site Planning and Development Standards).

a. Chimneys, rooftop architectural features, solar equipment, and vents in excess of the exception to the allowed height limits identified in Part 3 (Site Planning and Development Standards);

b. Flag poles in excess of the exception to the allowed height limits; and

c. Heights of fences, hedges, or walls.

2. Setback modifications.

a. Encroachments in front, side, or rear setback areas while still maintaining the minimum clearances required by Section 20.30.090 (Setback Regulations and Exceptions). Exceptions include the following:

(1) Modifications shall not be allowed for encroachments into alley setbacks; and

(2) Modifications shall not be allowed for encroachments into bluff and canyon setback areas.

c. Structural appurtenances or projections which encroach into front, side, or rear setback areas.

3. Other modifications.

a. Distances between structures located on the same lot;

b. Landscaping standards in compliance with Chapter 20.44 (Landscaping Standards);

c. Maximum allowed roof area for roof mounted equipment that exceeds the allowed height limits identified in Part 3 (Site Planning and Development Standards); and

d. Size or location of parking spaces, access to parking spaces, and landscaping within parking areas.

C. Application filing and fees. An application for a Modification Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection E. (Required findings), below.

D. Notice and hearing requirements. Notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

E. Required findings. The Zoning Administrator may approve or conditionally approve a Modification Permit if, on the basis of the application, materials, plans, and testimony (orally and/or in writing) submitted, the Zoning Administrator first finds all of the following:

1. The requested modification will be compatible with existing development in the neighborhood;

2. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use;

3. There are no alternatives to the Modification Permit, which could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants or to the general public; and

4. The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, or the City or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

F. Duties of the Zoning Administrator.

1. Review.

a. The Zoning Administrator shall review each application to ensure that the proposal is consistent with the purpose and intent of this Zoning Code, this Section, all applicable regulations and policies, and sound planning practices.

b. The Zoning Administrator shall refer each application to the Building Department and Public Works Department, and to other City departments as determined to be appropriate by the Zoning Administrator.

c. Each department shall submit written recommendations to the Zoning Administrator in a timely manner.

2. Rendering of decision. After the conclusion of the hearing on an application for a Modification Permit, the Zoning Administrator shall render a decision within 15 days, unless both the applicant and the Zoning Administrator consent to a later date.

3. Referral to Commission.

a. The Zoning Administrator may refer a Modification Permit application to the Commission for consideration and final action.

b. The procedure for notice and hearings held by the Commission on referred applications shall be in compliance with the same provisions as identified in this Section and as specified in Chapter 20.76 (Public Hearings).

G. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Modification Permit application.

20.66.060 – Planned Development Permits [New]

A. Purpose. The purpose of this Section is to provide a process for approving a Planned Development Permit which is intended to:

1. Ensure efficient use of land and a better living environment. Provide a method whereby land may be designed and developed as a unified site by taking advantage of efficient site planning techniques thereby resulting in a more efficient use of land, a better living environment, excellence of design, and related enhanced amenities than is otherwise possible through strict application of the development standards identified in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards);

2. Ensure high standards of environmental quality. Ensure development which meets high standards of environmental quality, public health and safety, the efficient use of the City's resources, and the purpose, intent, goals, policies, actions, and land use designations of the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone; and

3. **Provide for enhanced amenities.** Incorporate a program of enhanced amenities (e.g., enhanced landscaping, additional and enhanced open space, improvements to an existing public facility [e.g., park or trail, etc.]) than typically required by this Zoning Code.

B. Applicability.

1. **Allowed in all zoning districts.** A Planned Development Permit may be requested for any zoning district.

2. **Minimum site area.** A Planned Development Permit may only be requested for a site(s) with a minimum of 1 acre.

3. **Uses only allowed in base zoning district.** A Planned Development Permit may not authorize a use that is not allowed in the base zoning district.

4. **Adjustment of standards.**

   a. The permit may adjust, where necessary and justifiable, all applicable development standards identified in this Zoning Code, with the exception of an increase in the applicable density or intensity. Height adjustments shall be limited to those identified in Section 20.30.050 (Height Limits and Exceptions).

   b. Residential projects with increased density or intensity standards may only be approved in compliance with Chapter 20.32 (Density Bonus).

C. Application filing, processing, and fees. An application for a Planned Development Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

D. Review authority. The Commission may approve, conditionally approve, or deny the Planned Development Permit application, based upon the findings contained in Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing.

1. **Application consistent with the purpose of Section.** Each Planned Development Permit application shall be reviewed by the Director to ensure that the application is consistent with the purpose and intent of this Section.

2. **Public notice and hearing provisions.**

   a. Notice of hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

   b. A public hearing shall be required for the Commission's action on a Planned Development Permit application.

F. Findings and decision. The Commission may approve or conditionally approve a Planned Development Permit application only after first finding all of the following:

1. The proposed development would:

   a. Include only uses allowed within the base zoning district;

   b. Be substantially consistent with the purpose, intent, goals, policies, actions, and land use designations of the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone;

   c. Be substantially consistent with the purpose and intent of the base zoning district;

   d. Include sustainable improvement standards and protection of environmental resources; and

   e. Be compatible with other development within the zoning district and general neighborhood of the proposed project.

2. The project would produce a development of higher quality and greater excellence of design than which might otherwise result from using the standard development regulations;

3. The subject site is adequate in terms of size, shape, topography, and circumstances to accommodate the proposed development;

4. The project, as conditioned, will not have a substantial adverse effect on surrounding properties or allowed uses;

5. The project includes improved quality of life provisions and enhanced amenities, including an additional and appropriate variety of structure placement and orientation opportunities, appropriate mix of structure sizes, high quality architectural design, common open space, landscaping, parking areas, private open space, public art, recreational amenities for adults and/or children, private or separated entrances, sustainable improvement standards (e.g., energy efficient building design, construction, and operation; convenient pedestrian and bicycle circulation; water and resource conservation), etc; and

6. The design, location, operating characteristics, and size of the project would be compatible with the existing and future uses in the vicinity, in terms of aesthetic values, character, scale, and view protection.

G. Minor changes by Director.

1. Minor changes in the Planned Development Permit that do not involve an increase in the number of dwelling units or intensity of other use or a change of use may be approved by the Director in compliance with Section 20.68.080 (Changes to an Approved Project).

2. Proposed changes that are not deemed minor shall be subject to review and approval by the original review authority.

H. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Planned Development Permit application.

20.66.070 – Site Development Reviews [New]

A. Purpose. The purpose of Site Development Review is to provide a process for the review of specific development projects in order to:

1. Ensure consistency with General Plan policies related to the preservation of established community character, and expectations for high quality development;

2. Respect the physical and environmental characteristics of the site;

3. Ensure safe and convenient access and circulation for pedestrians and vehicles;

4. Allow for and encourages individual identity for specific uses and structures;

5. Encourage the maintenance of a distinct neighborhood and/or community identity;

6. Minimize or eliminates negative or undesirable visual impacts;

7. Ensure protection of significant views from public right(s)-of-way in compliance with Section 20.30.080 (Public View Protection); and

8. Allow for different levels of review depending on the significance of the development project.

B. Applicability.

1. Site Development Review approval shall be required before the issuance of a Building or Grading Permit for any new structure identified in Table 5-2, below, except for those projects listed in Subparagraph 2., below.

2. The following types of projects and structures shall require the issuance of a Zoning Clearance in compliance with Section 20.66.110, rather than a Site Development Review:

   a. Accessory structures;

   b. Fences and/or walls;

   c. The reconstruction or remodeling of existing structures (including facade improvements) that increase the gross floor area by at least 25 percent or 2,500 square feet, whichever is less, or to increase structure height;

d. Residential construction: 1 to 4 dwelling units, without a tentative or parcel map; and

e. Nonresidential construction: Up to a maximum of 9,999 square feet of gross floor area.

3. The applicable review authority shall be as specified in Table 5-2 (Review Authority for Site Development Review), below.

TABLE 5-2
REVIEW AUTHORITY FOR SITE DEVELOPMENT REVIEW

Type of Construction Activity	Role of Review Authority (1) (2)	
	Zoning Administrator (Minor Review)	Planning Commission (Major Review)
Residential construction: 5 to 20 dwelling units, without a tentative or parcel map.	Decision	Appeal
Residential construction: 5 or more dwelling units, with a tentative or parcel map and 21 or more dwelling units, without a tentative or parcel map.		Decision
Mixed-Use projects: 1 to 4 dwelling units and nonresidential construction of up to a maximum of 9,999 square feet of gross floor area.	Decision	Appeal
Mixed-Use projects: 5 or more dwelling units and nonresidential construction of 10,000 square feet or more of gross floor area.		Decision
Nonresidential construction: 10,000 to 19,999 square feet of gross floor area.	Decision	Appeal
Nonresidential construction: 20,000 square feet or more of gross floor area.		Decision

Note:

(1) "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 20.78 (Appeals).

(2) The review authority may defer action and refer the request to the next higher review authority for the final decision.

C. Application filing, processing, and review.

1. Application filing.

a. Filing. An application for a Site Development Review shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing).

b. Contents. The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.

c. Evidence. It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection F. (Findings and decision), below.

2. Application review. Each application for a Site Development Review shall be reviewed to ensure that the application is consistent with: the purpose of this Section; applicable development standards of this Zoning Code; and adopted criteria and policies applicable to the use or structure.

a. A Site Development Review is initiated when the Department receives a complete application package including the required information and materials specified by the Director and any additional information required

by the applicable review authority in order to conduct a thorough review of the project.

b. Upon receipt of a complete application the applicable review authority shall conduct a review of the location, design, site plan configuration, and effect of the proposed project on adjacent properties by comparing the project plans to established development standards, and adopted criteria and policies applicable to the use or structure.

c. The following criteria shall be considered during the review of a Site Development Review application:

(1) Compliance with this Section, the General Plan, this Zoning Code, the certified Coastal Land Use Plan, any applicable specific plan, and other applicable criteria and policies related to the use or structure;

(2) The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;

(3) The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;

(4) The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;

(5) The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and

(6) The protection of significant views from public right(s)-of-way and compliance with Section 20.30.080(Public View Protection).

D. Review authority.

1. Other discretionary approval required. If the project also requires another discretionary approval (e.g., Coastal Development Permit, Conditional Use Permit, Variance, etc.), then the applicable review authority shall be the authority identified in Table 5-1 (Review Authority) for the other discretionary approval.

2. Site Development Review only. If the project only requires a Site Development Review, then the applicable review authority shall be the authority identified in Table 5-2 (Review Authority for Site Development Review) for the Site Development Review.

3. **Referral to the Commission.** If the Site Development Review application submitted is of significant consequence or magnitude or involves potential public controversy, the Zoning Administrator may defer action and refer the application to the Commission for review and decision.

E. Public notice and hearing provisions.

1. **Zoning Administrator.** A public hearing shall not be required for the Zoning Administrator's decision on a Site Development Review application.

2. **Commission.**

a. A public hearing shall be required for the Commission's decision on a Site Development Review application.

b. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

F. Findings and decision. The review authority may approve or conditionally approve a Site Development Review application, only after first finding that the proposed development is:

1. Allowed within the subject zoning district;

2. In compliance with all of the applicable criteria identified in Subparagraph C. 2. c., above; and

3. Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.

G. Minor changes by Director.

1. Minor changes in a Site Development Review that do not involve an increase in structure area or height, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Section 20.68.080 (Changes to an Approved Project).

2. Proposed changes that are not deemed minor shall be subject to review and approval by the original review authority.

H. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Site Development Review application.

20.66.080 – Limited Term Permits [New]

A. Purpose. The purpose of this Section is to consider applicant requests for uses of limited duration (e.g., interim, non-permanent, and/or seasonal in nature) that would be compatible with adjacent and surrounding uses when conducted in compliance with this Section.

B. Applicability.

1. Limited duration uses. A Limited Term Permit allows limited duration uses that might not meet the development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary or limited nature.

2. Limited Term Permit required. Limited duration uses shall not be conducted, established, or operated in any manner without the approval and maintenance of a valid Limited Term Permit in compliance with this Section.

C. Exempt limited duration uses. The following limited duration uses are exempt from the requirement for a Limited Term Permit. Uses that do not fall within the categories defined below shall comply with Subsection D. (Allowed limited duration uses), below.

1. Construction yards - on-site.

a. On-site contractors' construction yard(s), including temporary storage and office trailers, in conjunction with an approved construction project on the same lot.

b. One adult caretaker may be present during non-construction hours for security purposes.

c. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit.

2. Emergency facilities. Emergency public health and safety needs/land use activities, as determined by the Council or authorized by Municipal Code Title 5.

3. Personal property (e.g., garage and/or yard) sales on private property. Personal property sales conducted on private property when conducted in compliance with Section 20.60.160 (Personal Property Sales in Residential Districts).

4. Special events. Special events, as that term may be defined in Municipal Code Section 11.03.020 (General Provisions), but only upon the issuance of a Special Event Permit.

D. Allowed limited duration uses. The following limited duration uses are allowed, subject to the issuance of a Limited Term Permit, and only when conducted in compliance with Subsection H. (Conditions of approval), below.

1. **Contractors' construction yards - off-site.** Off-site contractors' construction yard(s), in conjunction with an approved construction project. The permit may be effective for up to 12 months, or the expiration of the Building Permit.

2. **Off-site parking for marine activities.** Off-site parking for uses requiring a Marine Activities Permit in compliance with Municipal Code Chapter 17.10 for the duration of the permit or for not more than 12 months, whichever is less.

3. **Seasonal sales.** Seasonal sales including holiday boutiques, Halloween pumpkin sales and Christmas tree sale lots only by businesses holding a valid Business License; provided, the activity may only be held from October 1st through October 31st, of the same year for the Halloween pumpkin sales, and from the day after Thanksgiving through December 26th for Christmas tree sales.

4. **Limited duration sales and/or work trailers.** A trailer or mobile home may be used for limited duration sales activities (e.g., model home sales, etc.) or as a limited duration work site for employees of a business.

   a. A trailer or mobile home may be used:

      (1) During construction or remodeling of a permanent commercial, industrial, and mixed-use structure, when a valid Building Permit is in force; or

      (2) Upon demonstration by the applicant that the limited duration work site is a necessity, while a permanent work site is being obtained.

   b. A permit for limited duration trailer(s) may be granted for up to 12 months and may be extended for a longer period in conjunction with a valid Building Permit.

5. **Limited duration structures.** A limited duration classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 12 months in the commercial, industrial, and mixed-use zoning districts.

6. **Limited duration use of a vacant lot.** The limited duration use of a vacant lot with non-permanent structural improvements, for a use typically allowed subject to the approval of a Conditional Use Permit or Minor Use Permit, may be approved for a maximum time period of 12 months in the commercial, industrial, and mixed-use zoning districts.

7. **Other similar limited duration uses.** Similar limited duration uses which, in the opinion of the Director, are compatible with the subject zoning district and surrounding uses.

E. Application filing, processing, and review.

1. **Filing.** An application for a Limited Term Permit shall be filed with the Department in the following manner:

a. Application required. Applications for a Limited Term Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing).

b. Application before operation. A complete application shall be filed with the Department at least 30 days before the date that the proposed limited duration use is scheduled to take place.

c. No similar activities for 30 days. The same or very similar limited duration use shall not be allowed to operate on the same lot for at least 30 days following termination of the previous use.

d. Not within 180 days. Applications shall not be filed or accepted if final action has been taken within the previous 180 days by the Zoning Administrator to deny an application for the same or substantially the same permit.

2. Contents. The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.

3. Evidence. It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection G. (Findings and decision), below.

4. Project review procedures. Following receipt of a completed application, the Director shall review the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Section.

5. Public hearing requirements.

a. Up to 90 days. A public hearing shall not be required for a Limited Term Permit application for a limited duration use that is proposed to operate for up to 90 days.

b. 90 days or more.

(1) A public hearing shall be required for a Limited Term Permit application for a limited duration use that is proposed to operate for 90 days or more.

(2) Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

F. Review authority.

1. Limited Term Permits may be approved, conditionally approved, or denied by the Zoning Administrator, in compliance with this Section.

2. The Zoning Administrator may instead refer the application for a Limited Term Permit to the Commission for consideration and final action when, in the Zoning Administrator's judgment, there may be public interest, controversy, or issues requiring a public forum due to the nature of the request.

3. If referred to the Commission, the Commission shall conduct a public hearing on the application. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

G. Findings and decision. The Zoning Administrator (or the Commission on a referral) may approve or conditionally approve a Limited Term Permit application, only after first finding all of the following:

1. The operation of the requested limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use;

2. The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;

3. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;

4. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and

5. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the certified Coastal Land Use Plan for sites located within the City's Coastal Zone, Municipal Code, and other City regulations.

H. Conditions of approval. In approving a Limited Term Permit application, the review authority may impose conditions which are deemed necessary to ensure that the permit would be in full compliance with the findings required by Subsection G. (Findings and decision), above. These conditions may address any pertinent factors affecting the operation of the limited duration use, and may include the following:

1. Fixed period of time. Unless otherwise stated in the permit, a provision for a fixed period of time not to exceed 30 days for a limited duration use not occupying a structure, including promotional activities, or 12 months for all other limited duration uses or structures, or for a shorter period of time as requested by the applicant and determined appropriate by the Zoning Administrator;

2. Operating hours and days. Regulation of operating hours and days;

3. Temporary pedestrian and vehicular circulation. Provision for adequate temporary pedestrian and vehicular circulation, parking facilities (including vehicular ingress and egress), and public transportation, if applicable;

4. **Regulation of nuisance factors.** Regulation of nuisance factors including prevention of glare or direct illumination on adjacent lots, dirt, dust, erosion, gases, heat, noise, odors, smoke, soil contamination, trash, and vibration;

5. **Regulation of temporary structures.** Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;

6. **Sanitary and medical facilities.** Provision for sanitary and medical facilities, as appropriate;

7. **Waste collection, recycling, and/or disposal.** Provision for solid, hazardous, and toxic waste collection, recycling, and/or disposal;

8. **Police/security and safety measures.** Provision for police/security and safety measures, as appropriate;

9. **Signs.** Regulation of signs in compliance with Chapter 20.54 (Sign Standards);

10. **Performance bond or other security.** Submission of a performance bond or other security measures, satisfactory to the Director, to ensure that any temporary facilities or structures used would be removed from the site within a reasonable time following the cessation of the use and that the property would be restored to its former condition, or better, as determined by the Director, to ensure that any changes to the site would not limit the range of possible future uses otherwise allowed by this Zoning Code;

11. **Compliance with applicable provisions.** A requirement that the approval of the requested Limited Term Permit is contingent upon compliance with applicable provisions of the Municipal Code and the successful granting of all required permits from any other department or governing agency; and

12. **Other conditions.** Other conditions which would ensure the operation of the limited duration use in an orderly and efficient manner, and in full compliance with the purpose of this Section.

I. Condition of site following limited duration use. Each site occupied by a limited duration use shall be cleaned of debris, litter, or any other evidence of the limited duration use upon completion or removal of the use, and shall continue to be used in compliance with this Zoning Code.

J. Extension of Limited Term Permit. The Zoning Administrator may extend the time limit for the Limited Term Permit, upon request of the applicant and for good cause shown, up to a maximum time equal to the original approval, but not to exceed 12 additional months, with a maximum of 24 months total, in compliance with Section 20.68.070 (Time Limits and Extensions).

K. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Limited Term Permit application.

20.66.090 – Conditional Use Permits and Minor Use Permits [New]

A. Purpose. A Conditional Use Permit or Minor Use Permit provides a process for reviewing uses and associated operational characteristics that may be appropriate in the applicable zoning district, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.

B. Applicability. A Conditional Use Permit or Minor Use Permit is required to authorize proposed nonresidential uses located in nonresidential zoning districts identified by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as being allowable in the applicable zoning district subject to the approval of a Conditional Use Permit or Minor Use Permit. For Conditional Use Permits for uses located in residential zoning districts see Section 20.66.095, below.

C. Review authority and related procedures.

1. **Conditional Use Permits.** Conditional Use Permits for nonresidential uses shall be approved, conditionally approved, or denied by the Commission.

2. **Minor Use Permits.**

   a. Minor Use Permits for both residential and nonresidential uses shall be approved, conditionally approved, or denied by the Zoning Administrator.

   b. The Zoning Administrator may instead choose to refer any Minor Use Permit application to the Commission for consideration and final action.

D. Application filing, processing, and review. An application for a Conditional Use Permit, or Minor Use Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. Project review and notice and hearing requirements. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Zoning Code.

1. **Conditional Use Permits.** The Commission shall conduct a public hearing on an application for a Conditional Use Permit before a decision on the application.

2. **Minor Use Permits.** The Zoning Administrator shall conduct a public hearing on an application for a Minor Use Permit before a decision on the application.

3. **Notice and hearing requirements.** Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.76 (Public Hearings).

F. Findings and decision. The review authority may approve or conditionally approve a Conditional Use Permit or Minor Use Permit only after first finding all of the following:

1. The use is consistent with the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone;

2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;

3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;

4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and

5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

G. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Conditional Use Permit or Minor Use Permit application.

20.66.095 – Conditional Use Permits in Residential Zoning Districts

A. Purpose. The purpose of this Section is as follows:

1. To promote the public health, safety, and welfare and to implement the goals and policies of the General Plan by ensuring that conditional uses in residential neighborhoods do not change the character of the neighborhoods as primarily residential communities.

2. To protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery. In doing so, the City seeks to avoid the overconcentration of residential care facilities so that these facilities are reasonably dispersed throughout the community and are not congregated or overconcentrated in any particular area so as to institutionalize that area.

B. Applicability. A Conditional Use Permit is required to authorize proposed uses identified by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as being allowable in the applicable residential zoning district subject to the approval of a Conditional Use Permit.

C. Review authority. Conditional Use Permits for uses located in residential zoning districts shall be approved, conditionally approved, or denied by the Hearing Officer.

D. Conditional Use Permits to continue a nonconforming use.

1. Any person whose use of property in a residential zoning district has been rendered nonconforming may seek the issuance of a Conditional Use Permit, in compliance with this Section, to continue the use so long as the application for that permit is completed and filed within 90 days following _____ __, 2008.

2. If any person fails to file an application for a Conditional Use Permit within the 90-day period, the permit to continue the use may not be sought or issued.

E. Application contents. In addition to the application requirements contained in Subsection 20.66.090.D. (Application filing, processing, and review), above, an application for a Conditional Use Permit for a site located in a residential zone, or in an area where residential uses are provided for in Planned Community Districts or specific plan districts, shall contain all of the following information:

1. Applicant information. The name and address of the applicant, including the name and address of the lessee, if the property is to be leased and is someone other than the applicant; and the name and address of the owner of the property for which a Conditional Use Permit is requested. If the applicant and/or lessee or owner is an association, corporation, firm, or partnership, then the applicant/lessee shall provide the additional names and addresses as follows and the persons shall also sign the application:

a. Every general partner of the partnership;

b. Every owner with a controlling interest in the corporation; or

c. The person designated by the officers of a corporation as identified in a resolution of the corporation that is to be designated as the permit holder for the Conditional Use Permit.

2. Characteristics of proposed use. Hours of operation, types of activities, and typical attendance at activities.

3. Facility users. Number and types of users of the facility (including clients, staff, students, visitors, etc., as appropriate).

4. List of similar facilities. A list of addresses of all facilities similar to that for which a Conditional Use Permit is requested in the State of California owned or operated by the applicant(s) within the past five years and whether the facilities have been found by State or local authorities to be operating in violation of State or local law.

5. List of similar uses. A list of other uses of the same type located in the City and the authorized capacity of the use, if any, as determined by a third party entity. The applicant shall provide evidence of the need for the use by the residents of the City based on published sources. The City may complete an independent review of this data, at the applicant's expense, to determine whether there is a need for the use by its residents.

6. **License and permit history.** The license and permit history of the applicant(s), including whether the applicant(s), in previously operating a similar use in this or another City, county, or state under license and/or permit has had the license and/or permit revoked or suspended, and the reason(s) for the revocation or suspension.

7. **Location map.** A location map showing all conditional uses located within three blocks of the subject site, including property addresses and a site plan showing uses and structures on adjacent parcels.

8. **Operations and management plan.** An operations and management plan to ensure compliance with State and local law. If the Conditional Use Permit is for a residential facility or a commercial facility that accommodates overnight stays, the operations and management plan shall also indicate the number of persons in each bedroom, maximum number of occupants, typical length of stay, any guest or client rules of conduct, and procedures for the disposal, if any, of medical waste.

9. **Transportation and parking.** Expected parking demand and vehicular use; availability of public transportation or other means to transport facility users; if applicable, routes utilized to transport facility users off-site.

F. Project review and notice and hearing requirements. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Zoning Code.

1. **Public hearing required.** The Hearing Officer shall conduct a public hearing on an application for a Conditional Use Permit before a decision on the application.

2. **Notice and hearing requirements.** Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.76 (Public Hearings).

G. Approval, modification, or revocation of Conditional Use Permit.

1. A Hearing Officer is hereby designated to approve, conditionally approve, or deny applications for Conditional Use Permits, and the modification or revocation of the Conditional Use Permits, in compliance with the procedures identified in this Section.

2. Decisions of the Hearing Officer may be appealed to the Council in compliance with Chapter 20.78 (Appeals). Notwithstanding Chapter 20.78, the standard of review shall not be de novo and the Council shall determine whether the findings made by the Hearing Officer are supported by substantial evidence presented during the evidentiary hearing. The Council acting as the appellate body may sustain, reverse, or modify the decision of the Hearing Officer or remand the matter for further consideration, which remand shall include either specific issues to be considered or a direction for a de novo hearing.

H. Development and operational standards. The following standards are applicable to uses granted a Conditional Use Permit in compliance with this Section.

1. **Management and operation plan.** The property shall be operated in compliance with applicable State and local law and in compliance with the management and operating plan and rules of conduct submitted as part of the application for a Conditional Use Permit or as identified in the conditions of approval for a Conditional Use Permit. Each plan shall provide a phone number by which the operator may be contacted at all times. If applicable, the permittee shall comply with the Business License provisions of Municipal Code Title 5.

2. **Operational standards.** In order to ensure that unlicensed residential care facilities (small or general) are operating in a manner that is consistent with Federal and State law and established industry standards and to ensure that operators do not have a pattern or practice of operating similar facilities in violation of State or local law, all of the standards listed below shall apply:

   a. If the facility is not be required to be licensed by the State, managers, operators, owners, and residents shall not provide any services on-site, which would require licensure of the facility in compliance with State law.

   b. There shall be no more than two residents in each bedroom plus one additional resident. Notwithstanding, upon request by the applicant for additional occupancy, the Hearing Officer has the discretion to set occupancy limits based upon the evidence provided by the applicant that additional occupancy is appropriate at the site. In determining whether to set a different occupancy limit, the Hearing Officer shall consider the characteristics of the structure, whether there will be an impact on traffic and parking, and whether the public health, safety, peace, comfort, or welfare of persons residing in the facility or adjacent to the facility will be impacted.

   c. If certification specific to the type of facility is available from a governmental agency or qualified nonprofit organization, the facility shall receive the certification including, without limitation, certification by Orange County under its Adult Alcohol and Drug Sober Living Facilities Certification Program.

   d. The names of all persons and entities with an ownership or leasehold interest in the facility, or who will participate in operation of the facility, shall be disclosed in writing to the City, and these persons and entities shall not have a demonstrated pattern or practice of operating similar facilities in or out of the City of Newport Beach in violation of State or local law.

   e. The operator of the residential facility shall provide a list of the addresses of all similar facilities located in the State of California owned or operated by the operator within the past five years and shall certify under penalty of perjury that none of these facilities have been found by State or local authorities to be operating in violation of State or local law. The Director shall verify this information.

3. **Smoking not allowed.** Clients, guests, staff, or any other users of the facility shall not smoke in an area from which the second hand smoke may be detected on any parcel other than the parcel upon which the facility is located.

I. Findings and decision. In addition to the findings required by Subsection 20.66.090 F. (Findings and decision), above, the Hearing Officer shall make all of the following findings before approving or conditionally approving an application for a Conditional Use Permit in a residential zone or in an area where residential uses are provided for in Planned Community Districts or specific plan districts:

1. The use conforms to all applicable provisions of Subsection H. (Development and operational standards), above;

2. The project includes sufficient on-site parking for the use, and traffic and transportation impacts have been mitigated to a level of insignificance;

3. The property and existing structures are physically suited to accommodate the use;

4. The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood (e.g., creating an overconcentration of residential care uses in the vicinity of the proposed use). In making this finding or sustaining the finding, the Hearing Officer and/or Council shall consider, as appropriate, all of the following factors:

   a. The proximity of the use location to parks, schools, other residential care facilities, outlets for alcoholic beverages and any other uses which could be affected by or affect the operation of the subject use;

   b. The existence of substandard physical characteristics of the area in which the use is located (e.g., limited available parking, lot widths, narrow streets, setbacks, short blocks), and other substandard characteristics which are pervasive in certain areas of the City of Newport Beach, including portions of Balboa Island, Balboa Peninsula, Corona Del Mar, Lido Isle, Newport Heights, and West Newport, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Commission on September 20, 2007 and on file with the Director; and

   c. Whether, in light of the factors applied in Subparagraphs I. 4. a. and I. 4. b., above, it would be appropriate to apply the American Planning Association standard of allowing only one or two of these uses in each block.

      (1) Median block lengths in different areas of Newport Beach widely range from 300 feet in the Nonstandard Subdivision Areas to as much as 1,422 feet in standard subdivision areas.

      (2) The average calculable block length in much of the standard subdivision areas is 711 feet and the calculable median block length is 617 feet.

(3) The Hearing Officer shall apply the American Planning Association standard in all areas of Newport Beach in a manner which eliminates the differences in block lengths

(4) In making this determination, the Hearing Officer shall be guided by average or median block lengths in standard subdivisions of the City.

(5) The Hearing Officer shall retain the discretion to apply any degree of separation of uses which the Hearing Officer deems appropriate in any given case.

(6) A copy of the American Planning Association standard is on file with the Director.

5. The operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area;

6. Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties; and

7. Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.

J. Conditions of approval. In approving or conditionally approving an application for a Conditional Use Permit, the Hearing Officer may impose conditions which are deemed necessary and suitable to ensure compatibility of the proposed use with all other uses in the vicinity.

K. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Conditional Use Permit application.

20.66.100 – Variances [REVISED]

A. Purpose. A Variance provides a process for City consideration of requests to waive or modify certain standards of this Zoning Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. Applicability. A Variance may be granted to waive or modify any requirement of this Zoning Code except: allowed uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

C. Review authority. A Variance application shall be reviewed and approved, conditionally approved, or denied by the Commission.

D. Application filing and processing. An application for a Variance shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing requirements.

1. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section and all other applicable requirements of this Zoning Code.

2. The review authority shall conduct a public hearing on an application for a Variance before a decision. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

F. Findings and decision. The review authority may approve or conditionally approve a Variance only after first making all of the following findings:

1. There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) which do not apply generally to other properties in the vicinity under an identical zoning classification;

2. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;

3. Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;

4. Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;

5. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and

6. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, any applicable specific plan, or the certified Coastal Land Use Plan for sites located within the City's Coastal Zone.

G. Precedents. Each application shall be reviewed on an individual case-by-case basis and the granting of a prior Variance is not admissible evidence for the granting of a new Variance.

H. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Variance application.

20.66.110 – Zoning Clearances [New]

A. Purpose. Zoning Clearance is the procedure used by the City to verify that a proposed use or structure complies with the list of activities allowed in the applicable zoning district of this Zoning Code and the development standards and other provisions identified in Section 20.10.030 applicable to the proposed use or structure.

B. Applicability. Where Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) or another provision of this Zoning Code requires a Zoning Clearance as a prerequisite to establishing a use or structure, a Zoning Clearance shall be required at the time of the Director's review of any of the following:

1. Initiation of a use. A Zoning Clearance shall be obtained before the initiation or commencement of any use of land not requiring the construction of a structure.

2. Change of use. Whenever a use is proposed to be changed, whether or not the new use involves a new lessee, operator, or owner, a Zoning Clearance shall be obtained.

3. Building Permit, Grading Permit, or other construction permit. A Zoning Clearance shall be obtained before the City issues a new or modified Building Permit, Grading Permit, or other construction-related permit required for the alteration, construction, modification, moving, or reconstruction of any structure.

C. Review and approval.

1. The Department shall issue the Zoning Clearance after first determining that the request complies with all Zoning Code provisions and other adopted criteria and policies applicable to the proposed use or structure.

2. An approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director.

D. Referral to Commission. The Department may defer action and refer the Zoning Clearance request to the Commission for consideration and final action.

E. Appeal to Commission. The Department's action on a Zoning Clearance request may be appealed to the Commission in compliance with Chapter 20.78 (Appeals).

Chapter 20.68 – Permit Implementation, Time Limits, and Extensions

Sections:

20.68.010 – Purpose
20.68.020 – Use of Property
20.68.030 – Final City Action on Permits within the Coastal Zone
20.68.040 – Effective Date of Permits
20.68.050 – Applications Deemed Approved
20.68.060 – Performance Guarantees
20.68.070 – Time Limits and Extensions
20.68.080 – Changes to an Approved Project
20.68.090 – Resubmittals
20.68.100 – Covenants [New]

20.68.010 – Purpose

This Chapter provides requirements for the implementation or "exercising" of the permits and other approvals required by this Zoning Code, including time limits and procedures for granting extensions of time.

20.68.020 – Use of Property

Required construction permits (e.g., Building, Grading, and other construction permits) may be issued following the effective date of the permit in compliance with Section 20.68.040, below.

A. **Compliance required.** Grading shall not be commenced and no structure shall be altered, enlarged, erected, moved, or rebuilt subject to the provisions of this Part, except in compliance with the approved permit and associated conditions.

B. **Director's determination.** Conformity shall be determined by the Director, or in the case of disagreement with the applicant, by the applicable review authority.

20.68.030 – Final City Action on Permits within the Coastal Zone

Final City action on permits for sites located within the City's Coastal Zone shall be documented by the Notice of Final Local Action which the City sends to the Coastal Commission.

20.68.040 – Effective Date of Permits

A. **Non-Coastal Development Permit.** The approval of any permit for a project that is not appealable to the Coastal Commission shall become effective on the 15th day following the actual date of application approval by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 20.78 (Appeals).

B. **Coastal Development Permits** The approval of any permit for a project that is appealable to the Coastal Commission shall become effective upon the expiration of the

Coastal Commission's 10-working-day appeal period which begins the day after the receipt by the office of the California Coastal Commission of the City's Notice of Final Local Action, and where no appeal of the review authority's action has been filed by 2 Coastal Commissioners, the applicant, or any aggrieved person in compliance with the Coastal Act.

20.68.050 – Applications Deemed Approved

A permit application that is deemed approved by operation of law shall be subject to all applicable provisions of this Zoning Code, which shall be satisfied by the applicant before a Building or Grading Permit is issued or a use not requiring a Building Permit is established.

20.68.060 – Performance Guarantees

A. Deposit of security.

1. As a condition of approval of a Coastal Development Permit, Conditional Use Permit, Limited Term Perm, Minor Use Permit, Modification Permit, Planned Development Permit, or Variance, or upon a finding that the City's health, safety, and welfare warrant, the review authority may require the execution of a covenant to deposit security in a reasonable amount to ensure the faithful performance of one or more of the conditions of approval of the permit in the event that the applicant fails to perform.

2. The security shall, as required by law or otherwise at the option of the City, be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.

3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director.

4. Security required in compliance with this Section shall be payable to the City.

B. Release of security. Upon satisfactory compliance with all applicable provisions of this Section, the security deposit shall be released.

C. Failure to comply.

1. Upon failure to perform any secured condition, the City may execute the condition, or cause it to be done, and may collect from the applicant, and surety in case of a bond, all costs incurred, including administrative, engineering, legal, and inspection costs.

2. The unused portion of the security shall be refunded to the applicant after deduction of the cost of the work.

3. To the extent that the Director can demonstrate that the applicant willfully breached an obligation in a manner that the applicant knew, or should have known, would create irreparable harm to the City, the entire amount of the bond or deposit may be withheld.

4. The Director's determination may be appealed to the Council by the applicant by filing an appeal with the City Clerk within 15 days after the decision to withhold the bond, in compliance with Chapter 20.78 (Appeals).

20.68.070 – Time Limits and Extensions

A. Time limits.

1. Unless a condition of approval or other provision of this Zoning Code establishes a different time limit, any permit or approval not exercised within 24 months from the actual date of review authority approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below.

2. The permit shall not be deemed "exercised" until at least one of the following has first occurred:

   a. A Grading Permit has been issued and grading has been substantially completed;

   b. A Building Permit has been issued and construction has commenced, and has continued to maintain a valid Building Permit by making satisfactory progress as determined by the Building Official;

   c. A Certificate of Occupancy has been issued;

   d. The use is established; or

   e. A time extension has been granted in compliance with Subsection B., below.

3. In cases where a Coastal Development Permit is required, the 24 month time limit shall not begin until the effective date of approval of the Coastal Development Permit.

4. If a project is to be developed in pre-approved phases, each subsequent phase shall be exercised within 24 months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below.

5. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit shall be exercised before the expiration of the Tentative Map, or the permit shall expire and become void and of no further effect.

6. Once exercised, any use that has been abandoned for at least 180 days or changed shall be deemed void.

B. Extensions of time. Upon written request by the applicant, the Director, or the Commission under a referral or appeal, may extend the time for an approved permit or approval to be exercised.

1. **Filing and review of request.** The applicant shall file a written request for an extension of time with the Department no less than 30 days or more than 90 days before the expiration date of the permit, together with the filing fee required by the City's Master Fee Schedule.

2. **Action on extension request.** A permit or approval may be extended as follows for no more than 3 additional 12-month periods beyond the expiration of the original approval; provided, the Director, or the Commission under a referral or appeal, first finds that there have been no changes in the conditions or circumstances of the site or project so that there would have been grounds for denial of the original project.

C. Effect of expiration. After the expiration of a permit or approval in compliance with Subsection A. (Time limits), above, no further work shall be done on the site and no further use of the site shall occur until a new permit or approval and any required Building Permit or other City permits or approvals are first obtained.

20.68.080 – Changes to an Approved Project

Development or a new use authorized through a permit granted in compliance with this Zoning Code shall be established only as approved by the review authority, and in compliance with any conditions of approval, except where a change to the project is approved in the following manner.

A. Application. An applicant shall request a proposed change in writing, and shall also furnish appropriate supporting information and materials explaining the reasons for the request.

B. Minor changes approved by the Director without a public hearing.

1. The Director may authorize one or more minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, where the Director first finds that the changes:

   a. Are consistent with all applicable provisions of this Zoning Code;

   b. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a Negative Declaration or Environmental Impact Report for the project;

   c. Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and

   d. Do not result in an expansion or change in operational characteristics of the use.

2. The Director may choose to refer any requested change to the original review authority for review and final action.

C. Changes approved by original review authority. A proposed change that does not comply with the criteria identified in Subsection B. (Minor changes approved by the Director without a public hearing), above, may only be approved by the original review authority for the project through a new permit application filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing) and the applicable provisions of Chapter 20.66 (Permit Review Procedures).

20.68.090 – Resubmittals

A. Resubmittal after denial with prejudice. For a period of 12 months following the actual date of denial with prejudice by the applicable review authority, or, if appealed, the actual date of denial by the applicable review authority considering the appeal, of a discretionary permit or amendment, no application for the same or substantially similar permit or amendment shall be filed for the same site, or any portion thereof.

B. Exception to Subsection A., above. The Director may allow exception to Subsection A., above, based on one or more of the following findings:

1. New evidence material to a revised decision will be presented which was unavailable or unknown to the applicant at the previous hearing(s) and which could not have been discovered in the exercise of reasonable diligence by the applicant.

2. There has been a substantial and permanent change of circumstances since the previous hearing(s), which materially affects the applicant's real property.

3. A mistake was made at the previous hearing(s) which was a material factor in the denial(s) of the previous application.

C. Resubmittal after denial without prejudice. There shall be no limitation on subsequent applications for a site where a project was denied without prejudice.

D. Director's determination, appeal.

1. The Director shall determine whether a new application is for a permit or amendment that is the same or substantially similar to a previously approved or denied permit or amendment, and shall either process or reject the application in compliance with this Section.

2. The Director's determination may be appealed to the Commission, in compliance with Chapter 20.78 (Appeals).

20.68.100 – Covenants [New]

A. Applicability. When necessary to achieve the land use goals and policies of the General Plan, the City may require a property owner to record a covenant and/or other limitation(s) in favor of the City. A covenant:

1. May be required to provide for necessary emergency access, landscaping, light and air access, open space, parking, public view protection, shoreline and blufftop access, solar access, wetland and ESHA habitat protection, etc., or limitation(s) or restriction(s) on the use of property; and

2. Shall be imposed as a condition of approval by the review authority.

B. Form of covenant. The form of the covenant shall be approved by the City Attorney, and the covenant shall:

1. Describe the real property to be benefitted by the covenant;

2. Identify the City permit or approval that relied on or required the covenant; and

3. Identify the purposes of the covenant.

C. Recordation. A covenant shall be recorded in the County Recorder's Office.

D. Effect of covenant.

1. From and after the time of its recordation, a covenant shall provide notice to all persons to the extent afforded by the recording laws of the State.

2. The burdens of the covenant shall be binding on, and the covenant shall benefit all successors-in-interest to the real property.

E. Enforceability. A covenant shall be enforceable by the successors-in-interest to the real property benefitted by the covenant, and the City. This Section shall not create standing in any person, other than the City, and any owner of the real property burdened or benefitted by the covenant, to enforce or to challenge the covenant or any requested amendment or release.

F. Release of covenant. A covenant may be released by the Director, or by another appropriate review authority in the event of an appeal, at the request of any affected person, including the City.

1. Process for release. The release of a covenant shall require that the review authority first:

a. Conduct a noticed public hearing in compliance with Chapter 20.76 (Public Hearings); and

b. Find that the covenant on the site is no longer necessary to achieve the land use goals of the City.

2. Recordation. A notice of the release of the covenant shall be recorded by the Director in the County Recorder's Office.

3. Fees. The applicant for a release of a covenant shall pay the fee for the processing of the release in compliance with the City's Master Fee Schedule.

Chapter 20.70 – Planned Community District Procedures [20.35]

Sections:

20.70.010 – Purpose
20.70.020 – Area Requirements
20.70.030 – PC District - Land Use Regulations
20.70.040 – PC District - Property Development Regulations
20.70.050 – Application Procedures
20.70.060 – Zoning Map Designator

20.70.010 – Purpose

The Planned Community (referred to in this Chapter as the PC) District is intended to:

A. **Classification and development of land.** Provide for the classification and development of land as coordinated, comprehensive projects in order to take advantage of the superior environment which can generally result from large scale community planning.

B. **Diversification of uses**. Allow diversification of uses as they relate to each other in a physical and environmental arrangement while ensuring substantial compliance with the spirit, intent, and provisions of this Zoning Code.

C. **Development plan and text materials.** Include various types of uses, consistent with the General Plan or the certified Coastal Land Use Plan for sites located within the City's Coastal Zone, through the adoption of a development plan and text materials which identify land use relationships and associated development standards.

20.70.020 – Area Requirements

A. **Minimum acreage.**

1. In order to meet the objectives identified in Section 20.70.010 (Purpose), above, an application for a PC District shall contain a minimum of 25 acres of unimproved land area or 10 acres of improved land area.

2. The Council may waive these minimum acreage requirements.

B. **Improved land area defined.** The term "improved land area" as used in this Section shall mean parcels of land with permanent structures affixed to the land, the improvements occupying a land area amounting to at lest 10 percent of the total acreage of the PC District at the time of application for a Zoning Map amendment, excluding areas of public works or improvements and public rights-of-way.

20.70.030 – PC District - Land Use Regulations

A. Existing uses.

1. Uses existing at the time of establishment of a PC District shall be allowed to continue as nonconforming uses, in compliance with Chapter 20.50 (Nonconforming Uses, Structures), unless the uses are incorporated as part of the approved PC development plan as allowed for in Subparagraph 2., below.

2. Existing uses shall either be incorporated as part of the development plan or shall terminate in compliance with a specific abatement schedule submitted and approved as part of the development plan.

3. Existing uses which are prohibited by any provisions of this Zoning Code shall be terminated before final approval of the development plan.

B. New uses.

1. A use, other than a use existing at the time of establishment of a PC District, shall not be allowed in a PC District except in compliance with a valid PC development plan.

2. An allowed use authorized by this Zoning Code and consistent with the General Plan and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone may be included in an approved PC development plan.

3. The Zoning Administrator may approve uses and structures in compliance with Section 20.66.080 (Limited Term Permits).

20.70.040 – PC District - Property Development Regulations

Property development regulations applicable to residential, commercial, industrial, and mixed use districts shall also apply to corresponding portions of PC Districts, unless specifically waived or modified by an approved PC District development plan. Where conflict in provisions occurs, the regulations specified in this Chapter or in the development plan(s) approved in compliance with this Chapter shall apply.

20.70.050 – Application Procedures

If initiated by a property owner(s), the PC District and associated development plan application shall comply with all of the following.

A. Reclassification. An application for classification to a PC District, and/or the adoption of a development plan, shall be filed in compliance with Chapter 20.64 (Permit Application Filing and Processing) and Chapter 20.80 (Amendments). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.

B. Development plan.

1. Initiation of development plan. A PC District development plan may be initiated in the following manner:

a. Council. By the Council, with or without a recommendation from the Commission;

b. Commission. By the Commission; or

c. Property owner(s). By the filing of a development plan application with the Department by the owner(s) or authorized agent(s) of property for which the development plan is sought. If the property is held in more than one ownership, all owners or their authorized agents shall join in filing the application.

2. Conditional Use Permit serves as development plan. Where existing uses have been established by a Conditional Use Permit before the adoption of a PC District and the uses are to be retained, the Conditional Use Permit as approved or subsequently amended shall constitute the required development plan.

3. Development plan required. No new or expanded uses shall occur without an approved PC District development plan.

C. Development plan contents. Unless specifically waived by the Director, a PC District development plan application shall contain all of the following information, plans, and materials:

1. Land use map clearly illustrating the distribution, location, and extent of uses proposed within the area covered by the development plan, including open space areas;

2. Land use tables clearly illustrating the uses as allowed, conditionally allowed, or not allowed, including any special requirements applicable to specific uses;

3. Development standards clearly indicating the proposed acreages, densities and intensities, gross floor area, lot coverage, off-street parking, structure heights, and a circulation plan, along with accompanying text identifying the property development regulations which constitute the standards of development designed to govern those sectors specified in the development plan. The standards shall contain definitions and information concerning requirements for landscaping, lighting, screening, setback line designations, signs, storage, and other information which the Director shall require to ensure substantial compliance with the intent of this Chapter;

4. Protection measures for land forms and public views;

5. Sustainable improvement standards (e.g., energy efficient building design, construction, and operation; convenient pedestrian and bicycle circulation; water and resource conservation);

6. Distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, sewage disposal, solid waste disposal, storm drainage, water, and other essential facilities proposed to be located within the development plan area and needed to support the proposed uses;

7. Standards and criteria by which development would proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;

8. A program of implementation measures, programs, regulations, and public works projects, necessary to carry out the proposed uses, infrastructure, and development and conservation standards and criteria;

9. A map of the development plan area showing sufficient topographical data to indicate clearly the character of the terrain, the type, location, and condition of mature trees and other vegetation, and a conceptual grading plan for the subject property;

10. A discussion of the relationship of the proposed development plan to the goals, policies, and actions of the General Plan and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone; and

11. Additional information deemed to be necessary by the Director based on the characteristics of the area to be covered by the development plan, applicable goals, policies, and actions of the General Plan or the certified Coastal Land Use Plan for sites located within the City's Coastal Zone, or any other issue(s) determined by the Director to be significant.

D. Review of development plans.

1. Director's review. Following receipt of a completed application, the Director shall review the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Chapter.

2. Notice and hearing requirements.

a. Public hearings shall be required for the Commission's recommendation and the Council's action on a PC District development plan.

b. The public hearings shall be scheduled once the Director finds the application complete in compliance with Section 20.64.060 (Initial Application Review).

c. Noticing of the hearings shall be provided and the hearings shall be conducted in compliance with Chapter 20.76 (Public Hearings).

3. Environmental review required. The development plan shall be subject to environmental review as identified in Section 20.64.080 (Environmental Review).

4. **Staff report.** A written staff report shall be prepared for the development plan which shall include detailed recommendations and, if appropriate, suggested changes to the text and/or diagrams of the development plan, as determined to be necessary to make it acceptable for adoption.

E. Development plan amendments.

1. **Process for amendment.** A PC District development plan may be amended through the same procedure specified by this Chapter for the adoption of a development plan.

2. **Frequency of amendments.** A development plan may be amended as often as deemed necessary by the Council.

20.70.060 – Zoning Map Designator

Each PC District shall be shown on the Zoning Map with a "PC" designator, numbered and identified sequentially by order of enactment.

– **This page intentionally left blank –**

Chapter 20.72 – Specific Plan Procedures [New]

Sections:

20.72.010 – Purpose
20.72.020 – Intent
20.72.030 – Applicability
20.72.040 – Initiation and Presubmittal of Specific Plans
20.72.050 – Application Filing and Initial Review
20.72.060 – Preparation and Content
20.72.070 – Application Processing
20.72.080 – Adoption of Specific Plan
20.72.090 – Amendments

20.72.010 – Purpose

The purpose of this Chapter is to provide a process for preparing, processing, reviewing, adopting, and amending specific plans.

20.72.020 – Intent

A. **General Plan implementation**. After the Council has adopted the General Plan, or any amendment, the Department may, or as directed by the Council, shall prepare specific plans for the systematic implementation of the General Plan. A specific plan may not be adopted or amended unless first found consistent with the General Plan.

B. **Adopted by ordinance.** A specific plan adopted by ordinance shall replace the base zoning district(s) for the subject property, and the development standards and criteria identified in the specific plan shall take precedence over the general standards and criteria contained in this Zoning Code.

C. **Adopted by resolution**. A specific plan adopted by resolution shall be applied as criteria and the applicable standards contained in this Zoning Code shall take precedence over the development standards identified in the specific plan.

20.72.030 – Applicability

A. **Specific plan required.** When required by the General Plan, the certified Coastal Land Use Plan for sites located within the City's Coastal Zone, or this Zoning Code to systematically implement the General Plan or certified Coastal Land Use Plan for any part of the City, a specific plan shall be prepared, processed, approved and implemented, or denied, in compliance with this Chapter.

B. **Flexibility and innovation**. A specific plan is designed to provide for flexibility, innovative use of land resources and development, a variety of housing and other development types, and an effective and safe method of pedestrian and vehicular circulation.

C. Commission and Council review. An application for a specific plan shall be considered by the Commission and Council.

20.72.040 – Initiation and Presubmittal of Specific Plans

A specific plan may be initiated in the following manner:

A. Council. By the Council, with or without a recommendation from the Commission;

B. Commission. By the Commission; or

C. Property owner(s). By an application being filed by the owner(s) of one or more lots which would be the subject of the specific plan. If initiated by a property owner(s), the following shall first occur.

1. A pre-application conference with the Director before the filing of a specific plan application, in compliance with Subsection 20.64.040.A. (Pre-application conference).

2. Public meeting(s) required.

   a. Before the preparation of the specific plan, at least one public/neighborhood meeting shall be held to identify potential community impacts and concerns relating to the proposed plan.

   b. Public notice of the meeting shall be in compliance with Chapter 20.76 (Public Hearings).

20.72.050 – Application Filing and Initial Review

If initiated by a property owner(s), the specific plan application shall comply with all of the following.

A. Filing. An application for a specific plan, together with the required fee in compliance with the City's Master Fee Schedule, shall be filed with the Department in compliance with Chapter 20.64 (Permit Application Filing and Processing).

B. Contents. The application shall include all of the information and materials specified by the Director and Subsection 20.72.060.B. (Required information), below, for specific plan applications.

C. Project review procedures. Following receipt of a completed application, the Director shall review the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Chapter.

D. Notice and hearing requirements.

1. Public hearings shall be required for the Commission's recommendation and the Council's action on a specific plan or an amendment.

2. The public hearings shall be scheduled once the Director finds the application complete in compliance with Section 20.64.060 (Initial Application Review).

3. Noticing of the hearings shall be provided and the hearings shall be conducted in compliance with Chapter 20.76 (Public Hearings).

20.72.060 – Preparation and Content

If initiated by a property owner(s), the specific plan application shall comply with the following.

A. Organization of specific plan. The applicant shall prepare a draft specific plan for review by the City that includes detailed information in the form of text and diagram(s).

B. Required information. Unless specifically waived by the Director, a draft specific plan application shall contain all of the following information, plans, and materials:

1. The distribution, location, and extent of uses proposed within the area covered by the specific plan, including open space areas;

2. The distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, sewers, solid waste disposal, water, and other essential facilities proposed to be located within the specific plan area and needed to support the proposed uses;

3. Standards and criteria by which development would proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;

4. A program of implementation measures, including financing, regulations, programs, and public works projects, necessary to carry out the proposed uses, infrastructure, and development and conservation standards and criteria;

5. A discussion of the relationship of the specific plan to the goals, policies, and actions of the General Plan or the certified Coastal Land Use Plan for sites located within the City's Coastal Zone; and

6. Additional information deemed to be necessary by the Director based on the characteristics of the area to be covered by the plan, applicable goals, policies, and actions of the General Plan or the certified Coastal Land Use Plan for sites located within the City's Coastal Zone, or any other issue(s) determined by the Director to be significant.

20.72.070 – Application Processing

If initiated by a property owner(s), the draft specific plan shall be processed in the same manner as required for General Plans by State law, and as follows.

A. Director's evaluation.

1. After the filing of a draft specific plan, the Director shall review the draft plan to determine whether it is in compliance with the provisions of this Chapter.

2. If the draft plan is not in compliance, it shall be returned to the applicant with written specification(s) as to why it does not comply, and with suggested revisions to ensure compliance.

3. When a draft plan is returned by the applicant to the Department and the Director determines it is complete and in compliance with this Chapter, the plan shall be deemed to be accepted for processing, in compliance with Section 20.64.060 (Initial Application Review).

B. Environmental review required. The draft specific plan shall be subject to environmental review as identified in Section 20.64.080 (Environmental Review).

C. Staff report. A written staff report shall be prepared for the draft specific plan which shall include detailed recommendations and, if appropriate, suggested changes to the text and/or diagrams of the specific plan, as determined to be necessary to make it acceptable for adoption.

20.72.080 – Adoption of Specific Plan

The specific plan shall be adopted by ordinance or by resolution of the Council.

20.72.090 – Amendments

A. Process for amendment. A specific plan may be amended through the same procedure specified by this Chapter for the adoption of a specific plan.

B. Frequency of amendments. The specific plan may be amended as often as deemed necessary by the Council.

Part 6
Zoning Code Administration

Table of Contents

Chapter 20.74 – Administrative Responsibility 3
20.74.010 – Purpose 3
20.74.020 – City Council 3
20.74.030 – Planning Commission 3
20.74.040 – Hearing Officer [New] 4
20.74.050 – Zoning Administrator 5
20.74.060 – Planning Director 5

Chapter 20.76 – Public Hearings 7
20.76.010 – Purpose 7
20.76.020 – Notice of Public Hearing for Non-Coastal and Appealable Coastal Development [New] 7
20.76.030 – Notice of Public Hearing for Non-Appealable Coastal Development [New] 9
20.76.040 – Hearing Procedure 10
20.76.050 – Decision 10

Chapter 20.78 – Appeals 13
20.78.010 – Purpose 13
20.78.020 – Appeals 13
20.78.030 – Filing and Processing of Appeals 13
20.78.040 – Appeal to the Coastal Commission [New] 15
20.78.050 – Judicial Review of City Decision 16

Chapter 20.80 – Amendments 17
20.80.010 – Purpose 17
20.80.020 – Initiation of Amendment 17
20.80.030 – Processing, Notice, and Hearing 17
20.80.040 – Commission Recommendation 18
20.80.050 – Council Decision 18
20.80.060 – Coastal Land Use Plan Amendments [New] 18
20.80.070 – Prezoning – Annexations 20
20.80.080 – Effective Dates 20

Chapter 20.82 – Enforcement 21
20.82.010 – Purpose 21
20.82.020 – Permits and Approvals 21
20.82.030 – Inspections 21
20.82.040 – Initial Enforcement Action 22
20.82.050 – Legal Remedies 22
20.82.060 – Recovery of Costs 23

20.82.070 – Additional Permit Fees 24
20.82.080 – Reinspection Fees 24
Chapter 20.84 – Use of Property 26
20.84.010 – Purpose and Applicability 26

Chapter 20.74 – Administrative Responsibility

Sections:

20.74.010 – Purpose
20.74.020 – City Council
20.74.030 – Planning Commission
20.74.040 – Hearing Officer [New]
20.74.050 – Zoning Administrator
20.74.060 – Planning Director

20.74.010 – Purpose

This Chapter describes the authority and responsibilities of the Newport Beach City Council, Planning Commission, Zoning Administrator, and Planning Director in the administration of this Zoning Code.

20.74.020 – City Council

A. Duties and functions. The City Council (referred to in this Zoning Code as the Council) shall perform the duties and functions prescribed in this Zoning Code, which include the following:

1. **Final review authority on legislative acts.** To make final City decisions on legislative acts (e.g., General Plan and amendments, Coastal Land Use Plan and amendments, specific plans and amendments, zoning amendments), Final Maps in compliance with Municipal Code Title 19 (Subdivision Code), and other applicable policy or ordinance matters related to the City's planning process. Additionally, the Council shall be the final review authority on all concurrent applications filed with legislative act applications; and

2. **Appeals.** To hear and decide appeals filed from Hearing Officer and Commission decisions in compliance with Chapter 20.78 (Appeals).

B. Imposition of conditions. In making decisions on applications, the Council may impose conditions it deems necessary to implement the General Plan, Coastal Land Use Plan, and the Municipal Code standards that apply to development and to further the public health, safety and general welfare of the community.

20.74.030 – Planning Commission

A. Appointment. The Planning Commission (referred to in this Zoning Code as the Commission) shall consist of 7 members appointed by the Council in compliance with Article VII of the City Charter.

B. Duties and functions. The Commission shall perform the duties and functions prescribed by State law, the City Charter, and this Zoning Code, including the following:

1. Approve, conditionally approve, or deny the applications prescribed by this Zoning Code (e.g., Conditional Use Permits, Planned Development Permits, Variances, etc.) and Tentative Tract Maps in compliance with Municipal Code Title 19 (Subdivision Code);

2. Review the effectiveness and appropriateness of this Zoning Code and recommend amendments or changes to the Council as it deems appropriate;

3. Provide recommendations to the Council for final decisions on legislative acts (e.g., General Plan and amendments, Coastal Land Use Plan and amendments, specific plans and amendments, zoning amendments), and other applicable policy or ordinance matters related to the City's planning process. Additionally, the Commission shall provide recommendations to the Council on all concurrent applications filed with legislative act applications; and

4. Hear and decide appeals for all Zoning Administrator decisions and Director determinations in compliance with Chapter 20.78 (Appeals).

C. Imposition of conditions. In making decisions on applications, the Commission may impose conditions it deems necessary to implement the General Plan, Coastal Land Use Plan, and the Municipal Code standards that apply to development and to further the public health, safety and general welfare of the community

20.74.040 – Hearing Officer [New]

A. Appointment. The Hearing Officer(s) shall be appointed by the Council.

B. Duties and functions. The Hearing Officer(s) shall perform the duties and functions prescribed by State law, the City Charter, and this Zoning Code, including the following:

1. Conditional Use Permits. Approve, conditionally approve, or deny Conditional Use Permits for uses and sites located in residential zoning districts in compliance with Section 20.66.095 (Conditional Use Permits in Residential Zoning Districts).

2. Nonconforming uses. Approve, conditionally approve, or deny requests for extensions of time of abatement periods for nonconforming uses located in residential zoning districts in compliance with Section 20.50.100 (Abatement Periods).

3. Reasonable Accommodations. Approve, conditionally approve, or deny requests for Reasonable Accommodations in compliance with Section 20.66.040 (Reasonable Accommodations).

C. Imposition of conditions. In making decisions on applications, the Hearing Officer(s) may impose conditions it deems necessary to implement the General Plan, Coastal Land Use Plan, and the Municipal Code standards that apply to development and to further the public health, safety and general welfare of the community

20.74.050 – Zoning Administrator

A. Appointment. The Director shall appoint a qualified Department staff member to serve as the Zoning Administrator who shall serve at the discretion of the Director.

B. Duties and functions.

1. The Zoning Administrator shall have the authority to investigate and make decisions on the applications identified in Table 5-1 (Review Authority) in compliance with this Zoning Code and the Municipal Code as well as the following:

   a. Condominium conversions involving 4 or fewer units, through the approval of a tentative parcel map, in compliance with Chapter 20.83 and Title 19 (Subdivision Code);

   b. Lot line adjustments, in compliance with Title 19 (Subdivision Code); and

   c. Tentative parcel maps, in compliance with Title 19 (Subdivision Code).

2. The primary role of the Zoning Administrator is to make decisions on applications in compliance with this Zoning Code.

3. The above listed duties and functions shall be performed in compliance with Section 20.64.020 (Authority for Land Use and Zoning Decisions).

C. Imposition of conditions. In making decisions on applications, the Zoning Administrator may impose conditions it deems necessary to implement the General Plan, Coastal Land Use Plan, and the Municipal Code standards that apply to development and to further the public health, safety and general welfare of the community

20.74.060 – Planning Director

A. Appointment. The Planning Director (referred to in this Zoning Code as the Director) shall be appointed by the City Manager.

B. Duties and functions. The Director shall:

1. Have the responsibility to perform all of the functions designated by State law;

2. Perform the duties and functions prescribed in this Zoning Code. The role of the Director is to manage the Planning Department and make determinations on the matters specified in this Zoning Code as "subject to the determination of the Director."

3. Delegate the responsibilities of the Director to Department staff as deemed appropriate.

– **This page intentionally left blank –**

Chapter 20.76 – Public Hearings

Sections:

20.76.010 – Purpose
20.76.020 – Notice of Public Hearing for Non-Coastal and Appealable Coastal Development [New]
20.76.030 – Notice of Public Hearing for Non-Appealable Coastal Development [New]
20.76.040 – Hearing Procedure
20.76.050 – Decision

20.76.010 – Purpose

This Chapter provides procedures for public hearings required by this Zoning Code. When a public hearing is required, advance notice of the hearing shall be given and the hearing shall be conducted in compliance with this Chapter.

20.76.020 – Notice of Public Hearing for Non-Coastal and Appealable Coastal Development [New]

This Section provides notice requirements for both non-coastal projects and coastal development projects that are appealable to the Coastal Commission in compliance with Public Resources Code Section 30603.

A. Content of notice. Notice of a public hearing shall include all of the following applicable information.

1. Hearing information.

a. The date, time, and place of the hearing and the name of the review authority;

b. A brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard);

c. The phone number, street address, and website of the City, where an interested person could call or visit to obtain additional information;

d. A statement that an interested person or authorized agent may appear and be heard at the public hearing and the procedures for appeal; and

e. A statement that if a person challenges the subject project in court, that person may be limited to raising only those issues that the person or someone else speaking on their behalf, raised at the public hearing (described in the notice) or in written correspondence delivered to the City, at, or before, the public hearing.

2. Project information.

a. The name of the applicant;

b. The City's file number(s) assigned to the application;

c. A general explanation of the matter to be considered;

d. A general description, in text and/or by diagram, of the location of the property that is the subject of the hearing; and

e. If a Negative Declaration or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the local CEQA guidelines, the hearing notice shall include a statement that the review authority will also consider approval or recommend approval of the Negative Declaration or certification of the Environmental Impact Report.

3. Coastal Zone information. The notice shall also include a statement, if applicable, that the project is located within the City's Coastal Zone.

B. Method of notice distribution. Notice of a public hearing required by this Zoning Code shall be given as specified below. Publication, mailing, and posting shall be as follows.

1. Publication.

a. Notice. Notice for all matters, except for a Coastal Land Use Plan amendment, shall be published at least once in a newspaper of general circulation in the City at least 10 calendar days before the scheduled hearing.

b. Coastal Land Use Plan amendment notice. Notice for a Coastal Land Use Plan amendment shall be published at least once in a newspaper of general circulation in the City at least 10 working days before the scheduled hearing.

2. Mailing. Notice shall be mailed or delivered at least 10 days before the scheduled hearing to all of the following:

a. Project site owners and applicant. The owners of the property being considered in the application, or the owners' agent, and the applicant or the applicant's agent;

b. Local agencies. Each local agency expected to provide schools, water, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;

c. Nearby property owners. All owners of property located within a 300-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain

and provide to the Department the names and addresses of all owners required by this Section;

d. Nearby residents. For projects located within the Coastal Zone, notice shall also be mailed or delivered to each dwelling unit located within a 100-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot. It shall be the responsibility of the applicant to obtain and provide to the Department the addresses of all dwelling units required by this Section;

e. Persons requesting notice. A person who has filed a written request for notice with the Director and has paid the required fee for the notice; and

f. Coastal Commission. The Coastal Commission, if the proposed project is located within the Coastal Zone.

3. Posting of a sign and notice. Notice shall be posted on or close to the subject property at least 10 days before the scheduled public hearing in the following manner:

a. One or more signs shall be posted as determined by the Director.

b. The size and location of the sign(s) shall be as determined by the Director.

c. The project applicant shall be responsible for maintaining the sign(s) in a satisfactory condition.

d. The project applicant shall remove all sign(s) at the end of the appeal period.

4. Alternative to mailing. If the number of property owners to whom notice would be mailed in compliance with Subparagraph B. 2. c., above, is more than 1,000, the Director may choose to provide the alternative notice specified by State law.

5. Failure to receive notice. The failure of any person or entity to receive notice given in compliance with this Section shall not invalidate the actions of the applicable review authority.

20.76.030 – Notice of Public Hearing for Non-Appealable Coastal Development [New]

This Section provides notice requirements for Coastal Development Permits that are not appealable to the Coastal Commission in compliance with Public Resources Code Section 30603 and which are not categorically excluded in compliance with Subsection 20.66.020.E. (Project exempt from Coastal Permit requirements).

A. Public notice required. Code of Regulations, Title 14, Section 13568(b), requires that public notice shall be given for all development located within the Coastal Zone (except that which is categorically excluded). The public notice shall be given regardless of whether this Zoning Code requires a public hearing before the development can be approved, conditionally approved, or denied. Public notice requirements for projects

requiring a public hearing are provided in Subsection 20.76.020.A. (Content of notice), above.

B. Distribution of notice. At least 10 days before the City's scheduled hearing on the application, the City shall provide notice to:

1. All persons who have requested to be on the mailing list for the particular project or for decisions by the City within the Coastal Zone;

2. All property owners and residents located within a 100-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain and provide to the Department the names and addresses of owners and residents required by this Section; and

3. The Coastal Commission.

C. Content of notice. The notice shall contain the information required for public notices in compliance with Subsection 20.76.020 A. (Contents of notice), above, and the following:

1. The date the application will be acted upon by the City's review authority;

2. The City's general procedure concerning the submission of public comments either in writing or orally before the decision is rendered; and

3. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held before the decision is rendered.

20.76.040 – Hearing Procedure

A. Time and place of hearing. A hearing shall be held at the date, time, and place for which notice was given.

B. Continued hearing. A hearing may be continued without further notice, provided the official or chair of the review authority announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.

C. Deferral of final decision. The review authority may announce a tentative decision, and defer their action on a final decision until appropriate findings and/or conditions of approval have been prepared.

20.76.050 – Decision

A. Decision.

1. The review authority may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a later meeting agenda in compliance with Section 20.76.040 (Hearing Procedure), above.

2. The Director or Zoning Administrator, as applicable, may instead refer the matter to the Commission for a determination.

B. Effective date of decision.

1. The decision of the applicable review authority is final and effective on the 14th day following the date the decision is rendered, unless an appeal is filed in compliance with Chapter 20.78 (Appeals).

2. The decision of the Council on any matter except for a Coastal Land Use Plan amendment or an appealable coastal development project specified in Section 20.74.020 (Notice of Public Hearing for Non-Coastal and Appealable Coastal Development), above, shall be final.

– **This page intentionally left blank –**

Chapter 20.78 – Appeals

Sections:

20.78.010 – Purpose
20.78.020 – Appeals
20.78.030 – Filing and Processing of Appeals
20.78.040 – Appeal to the Coastal Commission [New]
20.78.050 – Judicial Review of City Decision

20.78.010 – Purpose

The purpose of this Chapter is to provide procedures for the appeal of determinations and decisions of the Director, Zoning Administrator, Hearing Officer, and Planning Commission, and to establish provisions for appeals to the California Coastal Commission.

20.78.020 – Appeals

A. Director. Determinations of the Director may be appealed to the Planning Commission.

B. Zoning Administrator. Decisions of the Zoning Administrator may be appealed to the Planning Commission.

C. Hearing Officer. Decisions of the Hearing Officer may be appealed to the Council.

D. Planning Commission. Decisions of the Commission may be appealed to the Council.

E. Coastal Development Permits. Coastal Development Permits approved by the City may be appealed to the Coastal Commission in compliance with Section 20.78.040 (Appeals to the Coastal Commission), below.

20.78.030 – Filing and Processing of Appeals

A. Eligibility. Appeals may be initiated by any interested party.

B. Timing and form of appeal. An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.

1. General appeals.

a. An appeal shall be filed with the Director or City Clerk, as applicable, within 14 days following the date the action or decision was rendered.

(1) Appeals addressed to the Commission shall be filed with the Director on forms provided by Department; and

(2) Appeals addressed to the Council shall be filed with the City Clerk on forms provided by the Clerk.

b. An appeal shall be accompanied by the filing fee identified in the City's Master Fee Schedule.

2. Appeal by 2 Coastal Commissioners. An appeal of a City decision on a Coastal Development Permit by 2 Coastal Commissioners shall be subject to Section 20.78.040, below.

C. Report, scheduling, noticing, and conduct of hearing.

1. When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority identified in Section 20.78.020 (Appeals), above.

2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.76 (Public Hearings).

3. Conduct of hearing.

   a. The public hearing on an appeal shall be conducted "de novo," except as may be otherwise specified in this Zoning Code, in that the decision that has been appealed has no force or effect as of the date on which the appeal was filed.

   b. The review authority is not bound by the decision that has been appealed or limited to the issues raised on appeal.

   c. The review authority shall hear testimony of the appellant, the applicant, and any other interested party.

   d. The review authority shall consider the same application, plans, and project related materials that were the subject of the original decision, unless otherwise deemed relevant by the review authority.

D. Decision on appeal.

1. The review authority may, based upon findings of fact about the particular case:

   a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal. Adopted findings shall identify the reasons for the action on the appeal;

   b. Adopt additional conditions of approval that may address issues or concerns other than those that were the basis of the appeal; or

   c. Deny the permit approved by the previous review authority, even where the appellant only requested a change or elimination of one or more conditions of approval.

2. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the previous review authority for further consideration.

3. In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.

20.78.040 – Appeal to the Coastal Commission [New]

A final action taken by the City on a Coastal Development Permit application for appealable development as defined in Subsection A., below, may be appealed to the Coastal Commission in compliance with this Section.

A. Appealable development - Public Resources Code Section 30603(a). A decision by the City on a Coastal Development Permit application within the appeal areas depicted on the Permit and Appeal Jurisdiction Map or a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission.

B. Status of appellant.

1. Who may appeal. An appeal may be filed by an applicant, an aggrieved person, or 2 members of the Coastal Commission in compliance with Public Resources Code Section 30625.

2. Aggrieved person defined. As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing held before the Director, Zoning Administrator, Hearing Officer, Planning Commission, or Council in connection with the decision or appeal of any project, or who by other appropriate means before a hearing, informed the City of the nature of their concerns, unless for good cause was unable to do either.

C. Exhaustion of City appeals required. An applicant or other aggrieved person may appeal a City decision on a Coastal Development Permit application to the Coastal Commission only after exhausting all appeals to the Planning Commission and Council in compliance with this Chapter. This limitation shall not apply to any circumstance identified in Code of Regulations Section 13573, including:

1. An appellant was denied the right of appeal under this Chapter because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subdivision 2 of the Code of Regulations; or

2. An appeal of a City decision was filed by 2 members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with Code of Regulations Section 13573(b). The appeal shall be suspended where the City decision has been appealed. If the final action by an appellate body modifies or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal of that decision if deemed appropriate and necessary.)

D. Grounds for appeal to Coastal Commission - Public Resources Code Section 30603. The grounds for an appeal to the Coastal Commission of a City decision on a Coastal Development Permit application are as follows:

1. For approval of a Coastal Development Permit as described in Subsection A., above, an allegation that the project does not conform to the standards of the

City's certified Coastal Land Use Plan or the public access policies of the Coastal Act;

2. For elimination or modification of a condition(s) of approval for a Coastal Development Permit, an allegation that the condition(s) was not needed or should be adjusted; or

3. For denial of a development described in Subsection A., above, an allegation that the project conforms to the standards of the City's certified Coastal Land Use Plan and the public access policies of the Coastal Act.

E. Notice of final action on appeals within the Coastal Zone. Where an appeal has been filed and decided on a project that is appealable to the Coastal Commission in compliance with this Section, the City shall provide notice of the final action.

F. Time limit for filing an appeal to the Coastal Commission. An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within 10 working days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Chapter and the Coastal Act.

G. Notice to City of appeal to Coastal Commission. An appellant shall notify the City when appealing to the Coastal Commission by providing the City a copy of the appeal within 5 days of filing the appeal.

20.78.050 – Judicial Review of City Decision

A person shall not seek judicial review of a City decision on a permit or other matter in compliance with this Zoning Code until all appeals to the Planning Commission and Council have been first exhausted in compliance with this Chapter and, where applicable, all appeals to the Coastal Commission allowed by the Coastal Act.

Chapter 20.80 – Amendments

Sections:

20.80.010 – Purpose
20.80.020 – Initiation of Amendment
20.80.030 – Processing, Notice, and Hearing
20.80.040 – Commission Recommendation
20.80.050 – Council Decision
20.80.060 – Coastal Land Use Plan Amendments [New]
20.80.070 – Prezoning – Annexations
20.80.080 – Effective Dates

20.80.010 – Purpose

This Chapter provides procedures for the amendment of the Coastal Land Use Plan (text or map) and this Zoning Code (e.g., text or map).

20.80.020 – Initiation of Amendment

An amendment may be initiated in the following manner:

A. **Council.** By the Council, with or without a recommendation from the Commission;

B. **Commission.** By the Commission; or

C. **Property owner(s).** An amendment to the Coastal Land Use Map or Zoning Map may also be initiated by the filing of an amendment application with the Department by the owner(s) or authorized agent(s) of property for which the amendment is sought. All owners or their authorized agents shall join in filing the application.

20.80.030 – Processing, Notice, and Hearing

If initiated by the filing of an amendment application:

A. **Process.** The application shall be processed in compliance with Chapter 20.64 (Permit Application Filing and Processing).

B. **Notice.** Notice of the public hearings shall be provided in compliance with Chapter 20.76 (Public Hearings).

C. **Hearing.**

1. The applicable review authority shall conduct one or more public hearings regarding the amendment.

2. The public hearings shall be conducted in compliance with Chapter 20.76 (Public Hearings).

20.80.040 – Commission Recommendation

The Commission shall recommend approval, approval with modifications, or denial of the amendment to the Council.

A. Approval or approval with modifications.

1. If approved, the Commission shall make and file a report of its findings and recommendations with the Council.

2. Failure of the Commission to take action on the proposed amendment shall be deemed to be approval of the proposed amendment by the Commission.

B. Denial by the Commission. If the proposed amendment is denied, no further action shall be taken, unless appealed to the Council in compliance with Chapter 20.78 (Appeals).

20.80.050 – Council Decision

A. Time of hearing. The decision of the Council shall be rendered within 60 days after the receipt of a report and recommendation of approval from the Commission or within 60 days after the filing of an appeal of the Commission's action to deny the amendment.

B. Notice of appeal. Notice shall be given to the Commission of the appeal, and the Commission shall submit a report of its findings and recommendations to the Council specifying the reasons for the Commission's decision, or the Commission shall be represented at the hearing.

C. Council's decision. Upon receipt of the Commission's recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment.

D. Referral. If the Council proposes to adopt a substantial change to the amendment not previously considered by the Commission, the proposed change shall be first referred to the Commission for its recommendation.

20.80.060 – Coastal Land Use Plan Amendments [New]

A. Amendment procedure. The certified Coastal Land Use Plan or any portion may be amended only in compliance with the procedures identified in Sections 20.80.020 through 20.80.050, above.

B. Findings for Coastal Land Use Plan amendments. An amendment to the certified Coastal Land Use Plan may be approved by the City only if all of the following findings are first made.

1. The proposed amendment is consistent with the General Plan, certified Coastal Land Use Plan, Coastal Act, and any applicable specific plan; and

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

C. Coastal Act requirements.

1. Compliance with Coastal Act required. An amendment to the certified Coastal Land Use Plan approved by the Council in compliance with this Chapter shall be prepared for submittal, filed with the Coastal Commission, and processed and decided by the Coastal Commission in compliance with the Coastal Act.

2. Submittal to the Coastal Commission.

a. Frequency of submittals. Only three submittals of proposed Coastal Land Use Plan amendments shall be allowed in any single calendar year. However, there are no limitations on the number of amendments included in each of the three submittals.

b. Submittal. Submittal of a Coastal Land Use Plan amendment shall be made in compliance with the resolution adopted by the Council and submitted by the City to the Coastal Commission in compliance with Code of Regulations Section 13551.

c. Contents. The contents of the Coastal Land Use Plan amendment application shall be in compliance with Code of Regulations Section 13552.

3. Notice of availability. Notice of the availability of the review draft of the Coastal Land Use Plan amendment shall be made as soon as the draft is available, but at a minimum of at least 6 weeks before final City action on the document in compliance with Code of Regulations Section 13515(c).

D. Following action by Coastal Commission.

1. Action by Coastal Commission. After certification of a Coastal Land Use Plan amendment, the Coastal Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the City in compliance with Code of Regulations Section 13544.5 (Effective Date of Certification of a Land Use Plan).

2. Action by the City. The City shall then:

a. Acknowledge receipt of the Coastal Commission's resolution of certification including any terms or modifications which may have been required for final certification;

b. Consider the terms and modifications; and

c. Take appropriate action regarding the terms and modifications.

20.80.070 – Prezoning – Annexations

A. **Prezoning required.** Before the annexation to the City of any property, the sponsor of an annexation shall file an application for prezoning of the subject property to be annexed and the City shall establish the zoning which will be in effect on the effective date of the annexation.

B. **Same as Zoning Code amendments.** The process for prezoning property to be annexed to the City shall be the same as is specified in this Chapter for Zoning Code amendments.

C. **Compliance required.** The zoning shall be in compliance with the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone.

20.80.080 – Effective Dates

A. **Zoning Code**. An amendment to this Zoning Code shall become effective 30 days after approval by the City, or as stated in the adopting ordinance, and, if required, certification by the Coastal Commission.

B. **Coastal Land Use Plan.** An amendment to the certified Coastal Land Use Plan shall not become effective until final certification by the Coastal Commission, in compliance with the Public Resources Code and the Coastal Commission Administrative Regulations, and final approval by the Council.

Chapter 20.82 – Enforcement

Sections:

20.82.010 – Purpose
20.82.020 – Permits and Approvals
20.82.030 – Inspections
20.82.040 – Initial Enforcement Action
20.82.050 – Legal Remedies
20.82.060 – Recovery of Costs
20.82.070 – Additional Permit Fees
20.82.080 – Reinspection Fees

20.82.010 – Purpose

This Chapter establishes provisions which are intended to ensure compliance with the requirements of this Zoning Code and any conditions of a planning permit or approval, to promote the City's planning efforts, and for the protection of the public health, safety, and welfare of the City.

20.82.020 – Permits and Approvals

A. Compliance with Zoning Code. All departments, officials, and public employees of the City who are assigned the authority or duty to issue approvals or permits shall only do so in compliance with the provisions of this Zoning Code.

B. Permits deemed void. An approval or permit issued in conflict with the provisions of this Zoning Code shall be deemed void.

20.82.030 – Inspections

A. Pre-approval inspections.

1. Every applicant seeking a permit or any other action in compliance with this Zoning Code shall allow the City officials handling the application access to any premises or property which is the subject of the application.

2. Denial of access may be grounds for denial.

B. Post-approval inspections.

1. If the permit or other action is approved in compliance with this Zoning Code, the owner or applicant shall allow appropriate City officials access to the premises in order to determine continued compliance with the approved permit and/or any conditions of approval imposed on the permit.

2. Denial of access may be grounds for revocation.

20.82.040 – Initial Enforcement Action

This Section describes the procedures for initiating enforcement action in cases where the Director has determined that real property within the City is being used, maintained, or allowed to exist in violation of the provisions of this Zoning Code.

A. Objective of procedures. It is the objective of these procedures to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Chapter may be avoided.

B. Procedures are not exclusive. These procedures are not exclusive, and other enforcement procedures may be employed by the Director after or instead of these procedures where the Director determines that this Section would be ineffective in securing the correction of the violation(s) within a reasonable time.

C. Notice of Violation. The Director shall provide the record owner of the subject site and any person in possession or control of the site with a written Notice of Violation, which shall include the following information:

1. A description of each violation and citations of applicable Zoning Code provisions being violated;

2. A time limit for correcting the violation;

3. A statement that the City may charge the property owner for all administrative costs associated with the abatement of the violations; and

4. A statement that the property owner may request and be provided a meeting with the Director to discuss possible methods and time limits for the correction of the violations.

20.82.050 – Legal Remedies

A. Municipal Code Title 1. The City may choose to undertake any one or all of the following actions to correct and/or abate any nuisances or violations of this Zoning Code or as provided in the enforcement provisions specified in Municipal Code Title 1 (General Provisions).

B. Revocations or changes. Permits or Variances found to be violating any of the provisions of the approved permit or Variance may be revoked or changed in compliance with this Subsection.

1. Revocations. The City's action to revoke a permit or Variance shall have the effect of terminating the permit or Variance and disapproving the privileges granted by the original approval.

2. Changes. The City's action to change a permit or Variance instead of revoking it may include any aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be necessary to ensure

that the permit or Variance is operated or implemented in a manner consistent with the original findings for approval.

3. Hearings and notice.

a. The original review authority for a permit or Variance shall hold a public hearing to revoke or change the permit or Variance.

b. Ten days before the public hearing, notice shall be mailed or delivered in writing to the applicant for the permit or Variance being considered for revocation or change, and owner of the property for which the permit or Variance was granted. The only exception to the 10-day notice provision shall be for Limited Term Permits that, because of their short-term nature, shall only require a 24-hour notice.

4. Review authority's action. A permit or Variance may be revoked or changed by the original review authority, if the review authority first makes any one of the following findings:

a. The permit or approval was issued in error or circumstances under which the permit or approval was granted have been changed to an extent that one or more of the findings that justified the original approval can no longer be made and the public health, safety, and welfare require the revocation;

b. The permit or approval was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval;

c. One or more of the conditions of the permit or approval have not been substantially fulfilled or have been violated;

d. An improvement authorized in compliance with the permit or approval is in violation of any applicable code, law, ordinance, regulation, or statute; or

e. The improvement/use allowed by the permit or approval has become detrimental to the public health, safety, or welfare or the manner of operation constitutes or is creating a nuisance.

20.82.060 – Recovery of Costs

This Section establishes procedures for the recovery of administrative costs, including staff and City Attorney time expended on the enforcement of the provisions of this Zoning Code, or any permit or approval issued in compliance with this Zoning Code, in cases where no permit is required in order to correct a violation.

A. Record of costs.

1. The Department shall maintain records of all administrative costs incurred by responsible City departments, associated with the investigation of violations and

enforcement of this Zoning Code, and shall recover the costs from the property owner in compliance with this Section.

2. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Council.

B. Notice. Upon a determination that recovery of costs is warranted for a violation of any of the provisions of this Zoning Code, the Director shall notify the record owner or any person having possession or control of the property by mail, of the existence of the violation(s), the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the City Attorney.

20.82.070 – Additional Permit Fees

A person who establishes a land use, or alters, constructs, demolishes, enlarges, erects, maintains, or moves any structure without first obtaining a permit or approval required by this Zoning Code, shall pay the additional permit fees established by the City's Master Fee Schedule for the correction of the violations, before being granted a permit or approval for a use or structure on the site.

20.82.080 – Reinspection Fees

A. Amount and applicability of reinspection fee.

1. A reinspection fee shall be imposed on each person who receives a Notice of Violation, notice and order, or letter of correction of any provision of this Zoning Code or the Municipal Code, adopted Building Code, or State law.

   a. The fee amount shall be established by the City's Master Fee Schedule.

   b. The fee may be assessed for each inspection or reinspection conducted when the particular violation for which an inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter.

2. The fee shall not apply to the original inspection to document the violations and shall not apply to the first scheduled compliance inspection made after the issuance of a notice or letter, whether or not the correction has been made.

B. Continuation of the original case.

1. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the provisions of this Zoning Code, the Municipal Code, or any permit or approval issued in compliance with this Zoning Code for less than 180 consecutive days, the violation shall be deemed a continuation of the original case, and all inspections or reinspections, including the first inspection for the repeated offense, shall be charged a reinspection fee.

2. This fee is intended to compensate for administrative costs for unnecessary City inspections, and is not a penalty for violating this Zoning Code or the Municipal Code.

3. The reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this Zoning Code in compliance with Municipal Code Sections 1.04.010 (Violations, Penalties and Enforcement) and 1.05.020 (Authority and Fines), or costs incurred by the City for the abatement of a public nuisance.

Chapter 20.84 – Use of Property

Section:

20.84.010 – Purpose and Applicability

20.84.010 – Purpose and Applicability

Permits shall not be issued for any structure involved in an approved application until and unless the same shall have become final in compliance with Section 20.68.040 (Effective Date of Permits).

Part 7
Definitions

Table of Contents

Chapter 20.86 – Definitions [Revised] **3**
20.86.010 – Purpose of Part 3
20.86.020 – Definitions of Specialized Terms and Phrases 3
"A" Definitions **3**
"B" Definitions **11**
"C" Definitions **13**
"D" Definitions **17**
"E" Definitions **21**
"F" Definitions **24**
"G" Definitions **26**
"H" Definitions **27**
"I" Definitions **29**
"J" Definitions **30**
"K" Definitions **30**
"L" Definitions **31**
"M" Definitions **33**
"N" Definitions **36**
"O" Definitions **37**
"P" Definitions **39**
"Q" Definitions **42**
"R" Definitions **43**
"S" Definitions **47**
"T" Definitions **51**
"U" Definitions **52**
"V" Definitions **52**
"W" Definitions **56**
"X" Definitions **57**
"Y" Definitions **57**
"Z" Definitions **57**

List of Figures

Figure 7-1 - Dormer Types 19
Figure 7-2 – Lot Types 32
Figure 7-3 - Setbacks 48

Chapter 20.86 – Definitions [Revised]

Sections:

20.30.010 – Purpose of Part
20.30.020 – Definitions of Specialized Terms and Phrases

20.86.010 – Purpose of Part

This Part provides definitions of terms and phrases used in this Zoning Code that are technical or specialized, or that may not reflect common usage. If the definitions in this Part conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Code. If a word is not defined in this Part, or elsewhere in this Zoning Code, the most common dictionary definition is presumed to be correct.

20.86.020 – Definitions of Specialized Terms and Phrases

As used in this Zoning Code, the following terms and phrases shall have the meaning ascribed to them in this Part, unless the context in which they are used clearly requires otherwise.

"A" Definitions

Abandon. To cease or suspend from developing or maintaining a structure or use for a stated period of time.

ABC. See "Alcoholic Beverage Control."

Abutting/adjoining. Contiguous to. Having district boundaries or lot lines in common (i.e., not separated by an alley, public or private right-of-way, or street). See "Adjacent."

Access. A safe, adequate, and usable way of approaching or entering a property or use, including ingress (the right to enter) and egress (the right to exit).

Accessory Dwelling Unit (Land Use). See "Dwelling Unit, Accessory."

Accessory Equipment.

- Air conditioning equipment
- Pool and spa equipment
- Solar collection devices
- Satellite antennas and amateur radio facilities that are exempt from regulation in compliance with Section 20.60.200 (Satellite Antennas and Amateur Radio Facilities)

Accessory Structure (Land Use).

Nonresidential Accessory Structure. An attached or detached structure that is a part of, and clearly incidental and secondary to, a nonresidential structure and that does not change the character of the nonresidential structure. Illustrative examples of these structures include:

- decks
- garages
- gazebos
- kiosks and carts for selling beverages, food, clothing, phones, toys, etc.
- outdoor fireplaces
- outdoor kitchens
- outdoor play equipment
- patios
- platforms
- porches
- refuse collection structures/trash enclosures
- spas and hot tubs
- storage or work sheds
- swimming pools
- tennis and other on-site sport courts
- terraces
- walls
- workshops

Residential Accessory Structure. An attached or detached structure that is a part of, and clearly incidental and secondary to, a residence and that does not change the character of the residential structure. Does not include granny units (see “Accessory Dwelling Units”).Illustrative examples of these structures include:

- carports
- decks
- garages
- gazebos
- greenhouses (noncommercial)
- outdoor play equipment
- patios
- platforms
- porches
- spas and hot tubs
- storage or work sheds
- studios
- swimming pools
- tennis and other on-site sport courts
- terraces
- walls
- workshops

Accessory Use (Land Use).

Nonresidential Accessory Use. A use that is at all times a part of, and clearly incidental and secondary to, a principal use; that does not change the character of the nonresidential use; and that does not necessitate an increase in required number of parking spaces. Includes the retail sales of various products or the provision of services in a defined area that is located within a health care, hotel, office, or industrial complex for the purpose of serving employees or customers; and that is typically not visible from public streets. Does not include Accessory Alcohol Sales, Off-Sale or On-Sale (see "Alcohol Sales"). Illustrative examples of these uses include:

- ATMS
- child day care
- dry cleaning (collection/pick-up only)
- food service establishments
- gift shops
- live entertainment and dancing
- newsstands
- pharmacies
- travel services
- vending machines

Residential Accessory Use. A use that is a part of, and clearly incidental and secondary to, a residence; located on the same lot as a residence; and that does not change the character of the residential use. Illustrative examples of these uses include:

- Home occupations
- Personal property sales (i.e., garage or yard sales)

Adjacent. The condition of being near to, or close to, but not having a common boundary or dividing line. Properties that are separated by a public access easement, alley, public or private right-of-way, street (other than arterial highways or commuter roadways identified in the Circulation Element of the General Plan), or by a creek, river, stream, or other natural or artificial waterway shall be considered as adjacent to one another. See "Abutting/adjoining."

Adjoining. See "Abutting/adjoining."

Adult Day Care (Land Use). See "Day Care."

Adult-Oriented Businesses (Land Use). See Municipal Code Chapter 5.96 (Adult-Oriented Business).

Affordable Housing Agreement. An agreement entered into between the City and a developer that restricts the rental or sale of affordable units to very low- income, low-income, and/or moderate-income households.

Affordable Housing Cost.

1. For purposes of Chapter 20.32 (Density Bonus), see California Health and Safety Code Section 50052.5.

2. For purposes of Chapter 20.34 (Inclusionary Housing), a maximum price that is no more than 3 times the State income limits for very low-income, low-income, or moderate-income households.

Affordable Housing Implementation Plan (AHIP). A plan that specifies how a new residential development project will meet the City's affordable housing goal as stated in the Housing Element of the General Plan. An AHIP indicates what proportion of the total number of housing units in a new residential development project are affordable to very low-income, low-income, and moderate-income households.

Affordable Rent.

1. For purposes of Chapter 20.32 (Density Bonus), see California Health and Safety Code Section 50053.

2. For purposes of Chapter 20.34 (Inclusionary Housing), an annual rent that does not exceed 30 percent of maximum income level for very low-income, low-income, or moderate-income households, as adjusted for household size. In determining the maximum household income for a given affordable unit, it is assumed that each bedroom is occupied by two persons, except for efficiency units (one person).

Affordable Unit. An ownership or rental housing unit, including senior housing, affordable to very low-income, low-income, and moderate-income households.

Agent. A person authorized in writing by the property owner to represent and act for a property owner in contacts with City employees, committees, Commissions, and the Council, regarding matters regulated by this Zoning Code.

Air Pollution. The presence of contaminants in the air in concentrations that exceed naturally occurring quantities and are undesirable or harmful.

Airport Area. An area of the City that encompasses the properties adjacent to John Wayne Airport (JWA) and that is in close proximity to the Irvine Business Complex and University of California, Irvine as depicted on General Plan Figure LU22 (Airport Area).

Alcohol Sales, Off-Sale (Land Use). An establishment that sells, serves, or gives away alcoholic beverages for consumption off the premises and that is applying for or has obtained an ABC License Type 20 (off-sale beer & wine-package store) or License Type 21 (off-sale general-package store). The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee. Does not include an establishment that sells alcoholic beverages as an accessory line of merchandise. See "Alcohol Sales, Off-Sale, Accessory Only."

Alcohol Sales, Off-Sale, Accessory Only (Land Use). An establishment that has **all of** the following characteristics:

1) Alcoholic beverages will be or are sold, served, or given away for consumption off the premises where sold, served, or given away;

2) The establishment is applying for or has obtained an ABC License Type 20 (off-sale beer & wine - package store) or License Type 21 (off-sale general - package store); and

3) The sale of alcoholic beverages are accessory to the retail sale of food products or beverages. Illustrative examples include convenience stores, drug stores, grocery stores, and supermarkets.

Alcohol Sales, On-Sale. An establishment that sells, serves, or gives away alcoholic beverages for consumption on the premises and that is applying for or has obtained any ABC Licenses for on-site consumption. The establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the licensee. May includes "Bars, Lounges, and Nightclubs", "Eating and Drinking Establishments", or "Alcohol Sales, On-Sale, Accessory Only".

Alcohol Sales, On-Sale, Accessory Only (Land Use). An establishment that has **all of** the following characteristics:

1) Alcoholic beverages will be or are sold, served, given away for consumption on-site;

2) The establishment is applying for or has obtained a restricted license, seasonal license, or similar special purpose license (e.g., ABC License Type 51 (Club); ABC License Type 57 (Special On-Sale General); ABC License Type 60 (On-Sale Beer – Seasonal), etc.); and

3) The sale of alcoholic beverages is only accessory to a commercial recreation use. Illustrative examples include snack bars and concession stands at recreation facilities.

Alcoholic Beverage. A fermented or distilled beverage including alcohol, spirits, liquor, wine, beer, and every other liquid or solid containing alcohol, spirits, wine or beer that contains one half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

Alcoholic Beverage Control (ABC). California State Department of Alcoholic Beverage Control.

Alley. A public or private roadway or easement, generally not more than 30 feet wide, that provides vehicle access to the rear or side of lots having other public street frontage and that is not intended for general traffic circulation.

Allowed Use. See "Use, Allowed."

Alquist-Priolo Earthquake Fault Zoning Act. California state law (Public Resources Code Section 2621 et seq.) that mitigates the hazard of surface faulting to structures for human occupancy.

Alteration. A change, addition, or modification in construction or occupancy of an existing structure.

Alteration, Structural. A change or replacement in the supporting members of a structure (e.g., bearing walls, columns, beams, girders, foundations, etc.).

Alternative Transportation Modes. A mode of travel that serves as an alternative to the single-occupant motor vehicle (e.g., carpooling, ridesharing, vanpooling, public transit, bicycling, walking, etc.).

Ambulance Services (Land Use). A privately-owned facility for the dispatch, storage, and minor maintenance of emergency medical care vehicles.

Animal Keeping (Land Use).

Animal, Domestic Pet. A type of animal that is customarily kept by humans for companionship and that lives in or near human habitation (e.g., cats, dogs, gerbils, hamsters, guinea pigs, rabbits, nonpoisonous reptiles and snakes, etc.). Includes pot-bellied pigs.

Animal, Domestic Farm. An animal, other than a household pet, that is customarily considered to be livestock and is kept for noncommercial education or recreation purposes (e.g., fowl, goats, pigs, sheep, horses, cattle, etc.). Does not include pot-bellied pigs.

Animal, Wild. An animal that is not customarily confined or cultivated by man for domestic or commercial purposes but kept for display. Includes an animal that may be imported, transported, or possessed only by first obtaining a California Department of Fish and Game Permit, as required in California Code of Regulations Title 14, Section 671 (Importation, Transportation and Possession of Live Restricted Animals).

Animal Sales and Services (Land Use).

1. **Animal Boarding/Kennel.** An establishment where more than 3 dogs over the age of four months, 3 cats over the age of four months, or three other animals are treated, conditioned, boarded, raised, or offered for sale for any form of compensation including donations by a person or entity. See Municipal Code Chapter 7.35 (Regulation of Kennels).

2. **Animal Grooming.** An establishment that bathes, clips, or combs animals for the purpose of enhancing their aesthetic value or health.

3. **Animal Retail Sales.** Retail sales and boarding of animals offered for sale.

4. **Veterinary Service.** An establishment where veterinarians provide medical and surgical treatment to animals and accessory boarding services.

Antenna. A device used to transmit and/or receive radio or electromagnetic waves between earth and/or satellite-based systems (e.g., reflecting discs, panels, microwave dishes, whip antennas, antennas, etc.)

Amateur Radio Antennas. An antenna that is used for the purpose of transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission.

Antenna Structure. A supporting mast or tower for an antenna.

Mast. A pole of wood or metal used to support an amateur radio antenna and maintain it at the proper elevation.

Satellite Dish Antenna. A parabolic and/or disk shaped antenna of either solid or mesh construction, intended for the purposes of receiving communications from an orbiting satellite, transceiving or transmitting signals or communications to a satellite, as well as supporting equipment necessary to install or mount the antenna.

Whip Antenna. An antenna, consisting of a single, slender, rod-like element less than 1 wavelength long, that is supported only at or near its base.

Apartment. One or more rooms of a structure designed for and rented as the home, residence, or sleeping place of one or more persons living as a Single Housekeeping Unit, in a structure containing at least 5 units used for the same purpose, all under one ownership. See "Dwelling, Multi-Unit."

Appeal Area. That portion of the Coastal Zone, designated in compliance with California Coastal Act Section 30603 and approved by the Coastal Commission, in which City decisions on Coastal Development Permits may be appealed to the Coastal Commission. The appeal area(s) is/are depicted on the Permit and Appeal Jurisdiction Map. (See Part 8, Figures P-1 through P-3)

Applicant. Owner(s) or owner-authorized lessee(s) of property, or prospective owner(s)/lessee(s) who have contracted to purchase or lease property contingent upon their ability to acquire the necessary permits, or their agent(s) (see "Agent"), or who are seeking to obtain a development permit. This term includes the successor(s)-in-interest.

Approval in Concept. As defined in Subsection 20.66.020.J.4 (Approval in concept), a statement that a proposed development project conforms in concept to all applicable City land use and property development regulations and standards, including applicable discretionary actions, and therefore entitles an owner to apply to the Coastal Commission for a Coastal Development Permit.

Area, Buildable. The area of a development site, excluding the minimum front, side, and rear setback areas and other identified nonbuildable areas (e.g. fuel modification areas, ESHA buffer areas, steep slopes, setbacks from bulkheads, etc.).

Area, Gross Floor. The total enclosed square footage of all floors within a structure, as measured to the outside face of the exterior walls, and including halls, stairways, service and mechanical equipment rooms, internal shafts, and attic areas having a height of more than 6 feet 6 inches. Does not include "Garages" or "Basements".

Area, Lot. See "Lot Area."

Area Median Income. The median income, adjusted for family size, applicable to Orange County, established by the U.S. Department of Housing and Urban Development, and published annually by the California Department of Community Development in the California Code of Regulations, Title 25, Section 6932 (or its successor provision).

Area, Net Public. The total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment.

Artist's Studio (Land Use). Work space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft, and producing custom-made works. Does not include handicraft industries (see "Handicraft Industries").

Assembly/Meeting Facilities, Public or Private (Land Use). A facility for public or private assembly and meetings. May include incidental serving of alcoholic beverages. Illustrative examples of these uses include:

- banquet rooms
- civic and private auditoriums
- community centers
- conference/convention facilities
- meeting halls for clubs and other membership organizations
- places of worship, including limited associated accessory uses (i.e., religious school activities that are not full-time and residences for clergy [see "Caretaker Residence"]), and excluding schools with regular daily sessions
- sports stadiums and arenas
- yacht clubs

Also includes functionally related internal facilities (i.e., kitchens, multi-purpose rooms, storage, etc.) Does not include conference and meeting rooms that are accessory and incidental to another principal use and typically used only by on-site employees and clients, and that occupy less floor area on the site than the principal use they support. Does not include sports or other commercial entertainment facilities (see Commercial Entertainment and Recreation"). Does not include funeral homes and mortuaries (see "Funerals Homes and Mortuaries"). Related on-site facilities including day care centers and schools are separately defined (see "Day Care, General" and "Schools, Public and Private").

ATM (Automated Teller Machine) (Land Use). An automated device used by the public to conduct banking and financial transactions electronically (i.e., withdrawing cash from, or depositing cash or checks into, a bank, savings, credit union, credit card or similar account). Does not apply to retail point-of-sale transactions within a fully enclosed structure.

Attic. An unfinished enclosed area that is not habitable and that is located between roof framing and the adjacent ceiling/side walls of immediately adjacent habitable rooms. Sometimes used for storage or mechanical equipment.

Awning. An ornamental roof-like cover that is attached to the side or wall of a structure and projects over a window, doorway, or pedestrian walkway for protection from the sun or weather. See "Canopy" and "Patio Cover."

"B" Definitions

Balcony. A platform that projects from the wall of a structure, typically above the first level; is not supported by columns or pillars; and is surrounded by a rail or parapet. See "Deck."

Bars. See "Eating and Drinking Establishments."

Basement. That portion of a structure between its floor and ceiling that is wholly below-grade, except for 8 inches that may extend above-grade.

Bay Window. A window or series of windows that project outward from a wall of a structure forming a bay or alcove in a room within. This definition includes bow, oriel, greenhouse, and similar projecting windows.

Beach. The expanse of sand, gravel, cobble, or other loose material that extends landward from the mean low water line to the place where there is distinguishable change in physiographic beach form, or to the line of permanent vegetation. The seaward limit of a beach (unless specified otherwise) is the mean low water line.

Bed and Breakfast Inns (Land Use). See "Visitor Accommodations."

Bedroom. An enclosed space in a structure that is designed to be used for sleeping purposes; that meets the room dimension requirements of the most recent edition of the California Building Code; that is not accessed directly from the garage; and that has one or more windows.

Berm. A mound or embankment of earth. Also a nearly horizontal portion of the beach or backshore formed by the deposit of material by wave action.

Best Management Practices (BMPs). Activities, practices, facilities, and/or procedures that when implemented to their maximum efficiency will prevent or reduce pollutants in discharges; and a program, technology, process, siting criteria, operational methods or measures, or engineered system that, when implemented, prevents, controls, removes, or reduces pollution. Examples of BMPs include public education and outreach, proper planning of development projects, as well as stormwater treatment and detention facilities.

Block. An area of land that is bounded on all sides by streets, or by streets and a beach or bulkhead, or by streets and a cul-de-sac, or by another form of termination of the street.

Bluff.

> **Bluff.** A high bank or bold headland that slopes down to a body of water or a plain. A bluff may consist of a gently sloping upper area and a steeper lower area or sea cliff. The term "coastal bluff" refers to the entire slope between a marine terrace or upland area and the shoreline. The term "sea cliff" refers to the lower, near vertical portion of a coastal bluff. A bluff may be currently subject to marine erosion or may have been historically (generally within the last 200 years) subject to marine erosion.
>
> **Bluff Edge.** The upper termination of a bluff. In cases where the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes related to the

presence of the steep bluff face, the bluff edge shall be defined as that point nearest the bluff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a steplike feature at the top of the bluff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Bluff edges typically retreat landward due to erosion, landslides, development of gullies, or by grading (cut). In areas where the bluff top or bluff face has been cut or notched by grading, the bluff edge shall be the landwardmost position of either the current of historic bluff edge. In areas where fill has been placed near or over the historic bluff edge, the original natural bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Bluff Face. The downward gradient of a bluff surface between the bluff edge and the toe of the bluff.

Bluff Toe. For bluffs subject to marine erosion, the point at which the landward extent of the mean high water line of the sea meets the face of the bluff. For bluffs not subject to marine erosion, the point where the downward slope of the bluff face first decreases to a grade of less than 33%.

Bluff and Canyon Setback Line. A line that is established in order to govern the location of buildings, structures, or uses within lots that abut or include bluffs or canyons. The line is depicted on the Setback Maps. (See Part 8, Figures S1 through …)

Boarding or Rooming House. A residence or dwelling unit, or part thereof, wherein a room or rooms are rented under 2 or more separate written or oral rental agreements, leases or subleases or combination thereof, whether or not the owner, agent or rental manager resides within the residence. See “Group Residential.”

Buffer, Habitat. A development setback that provides essential open space between development and protected habitat. Buffers keep disturbance at a distance, accommodate errors in the estimation of habitat boundaries, and provide important auxiliary habitat that may be used, for example, for foraging, maintenance of pollinators, or refuge from high tides.

Buildable Area. See “Area, Buildable.”

Building. A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, chattels, or property of any kind. See “Structure.”

Building Code. Municipal Code Title 15 (Buildings and Construction).

Building Materials and Services (Land Use). Retailing or wholesaling of building supplies or equipment (e.g., fixtures, glass, lawn and garden supplies, lumber, nursery stock, paint, tools, wallpaper, etc.) where the majority of display, sales, and storage activities occur indoors. Rental activities are incidental to the sales activities. Does not include “Contractor’s Storage Yards,” “Retail Sales, General,” or "Wholesaling.”

Building Site. A lot or adjoining lots that constitute a site eligible for building development under the requirements of Municipal Code Title 19 (Subdivision Code) and this Zoning Code.

Business Park. A development that contains a number of separate office buildings, accessory and supporting uses, and open space all designed, planned, constructed, and maintained on a integrated and coordinated basis.

Bulk Merchandise (Land Use). See "Retail Sales."

Bulkhead. Vertical walls built into and along the Harbor shoreline to prevent the erosion of land into the water and to protect the land from wave, tide and current action by the water, similar to a "retaining wall" on land. Bulkheads may be directly bordered by water, or may have sloped stones (riprap) or sand beach between the bulkhead and the water and land areas.

Bulkhead Line. Harbor land/water perimeter lines that are established in Newport Harbor by the Federal government and for the purpose of defining the permitted limit of filling or solid structures that may be constructed in the Harbor.

"C" Definitions

Calendar Day. A 24-hour time period measured from midnight to midnight. See "Working Day."

California Environmental Quality Act (CEQA). A state law (California Public Resources Code Section 21000 et seq.).

Canopy. A rooflike cover, supported from the ground or from the floor or walls of a structure, for protection from the sun or weather. Does not include "Carport." See "Awning" and "Patio Cover."

Canyon.

> **Canyon.** A deep narrow valley with precipitous sides formed by the downward cutting of streams through resistant rock.
>
> **Canyon Base.** The point where the downward slope of the canyon face first decreases to a grade of less than xx%.
>
> **Canyon Edge.** The upper termination of a canyon. In cases where the top edge of the canyon is rounded away from the face of the canyon as a result of erosional processes related to the presence of the canyon face, the canyon edge shall be defined as that point nearest the canyon beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the canyon. In a case where there is a steplike feature at the top of the canyon face, the landward edge of the topmost riser shall be taken to be the canyon edge.
>
> **Canyon Face.** The downward gradient of a canyon surface between the canyon edge and base.

Caretaker Residence (Land Use). A permanent residence on the site of a nonresidential use. The residence is secondary or accessory to the principal nonresidential use of the site and houses a caretaker employed for security purposes or to provide 24-hour care or monitoring of people, plants, animals, equipment, facilities, or other conditions on the site. Includes an official residence maintained by a place of worship as a benefit to the spiritual leader (e.g., imam, minister, monk, rabbi, etc.).

Carport. A structure or portion of a structure, open or enclosed by walls or doors on not more than three sides, that is designed and intended to shelter 1 or more parking spaces.

Carwashes. See "Vehicle/Equipment Services (Land Use)."

Categorical Exemption. As defined by Section 15354 of the State CEQA Guidelines (Title 14, California Code of Regulations), an exemption from CEQA for a class of projects based on a finding by the Secretary of Resources that the class of projects does not have a significant effect on the environment.

Categorical Exclusion Area. That portion of the Coastal Zone within an exclusion area boundary adopted in compliance with the California Coastal Act (Public Resources Code Sections 30000 et seq.) and depicted on the Permit and Appeal Jurisdiction Map. See "Permit Appeal and Jurisdiction Map."

Categorical Exclusion Order. An decision issued by the California Coastal Commission in compliance with the Coastal Act (Public Resources Code Section 30610(e)), in which the Coastal Commission excludes certain categories of development from requirements to obtain coastal development permits from the Coastal Commission. A categorical exclusion order automatically terminates upon the effective date of the delegation of development review authority to a local government in compliance with California Code of Regulations Section 13249(b).

Catering Service (Land Use). An establishment that prepares and delivers food and beverages for off-site consumption, without facilities for on-site pick-up or consumption. See "Eating and Drinking Establishments."

Certificate of Compliance. A certificate issued by the Director certifying that a lot was legally created, as described in Chapter 19.80 (Certificates of Compliance) in Municipal Code Title 19 (Subdivisions).

Change of Use. A discontinuance of a use and the substitution of a different use.

Child Day Care. See "Day Care."

City. The City of Newport Beach.

City Council. The Newport Beach City Council, referred to in this Zoning Code as the "Council."

City Manager. An individual designated by the City Council as City Manager, or a duly designated representative of the City Manager.

Coastal Access. See "Public Access."

Coastal Commission. The California Coastal Commission, the State agency established by State law responsible for carrying out the provisions of the California Coastal Act of 1976, as amended (Public Resources Code Sections 30000 et seq.) and for appellate review of decisions rendered by a City review authority.

Coastal Development. See "Development."

Coastal Land Use Plan (CLUP). A plan derived from the Land Use Element of the General Plan that identifies the permitted uses of land in the Coastal Zone and provides policies for protection of coastal resources and coastal access. It is one component of the City's Local Coastal Program (LCP) ("Local Coastal Program").

Coastal View. See "Public View."

Coastal Zone. A geographic zone adjacent to the shoreline, the land and water area boundaries of which are determined by the California Coastal Act of 1976, as amended (Public Resources Code Sections 30000 et seq.).

Commercial Filming. Commercial motion picture or video photography at the same location more than 6 days per quarter of a calendar year, as regulated by Municipal Code Chapter 5.46 (Regulation of Commercial Film Production).

Commercial Recreation and Entertainment (Land Use). Establishments providing participant or spectator recreation or entertainment, either indoors or outdoors, for a fee or admission charge. Does not include "Adult-Oriented Businesses" or "Bars, Lounges, and Nightclubs." Illustrative examples of commercial recreation and entertainment uses include:

- arcades or electronic games centers having three or more coin-operated game machines
- amusement parks
- bowling alleys
- billiard parlors
- cinemas
- golf courses
- ice/roller skating rinks
- internet cafes
- miniature golf course
- pool rooms
- scale-model courses
- smoking lounges (cigars, hookah, etc.)
- sports stadiums and arenas
- tennis/racquetball courts
- theaters

Commission. The City of Newport Beach Planning Commission, referred to in this Zoning Code as the "Commission."

Common Interest Development. Any of the following:

1) A community apartment project;

2) A condominium project;

3) A planned development; or

4) A stock cooperative.

Common Open Space. See "Open Space."

Communication Facility (Land Use). An establishment that provides commercial and public communications services (e.g., radio and television broadcasting and receiving stations and studios, etc.) with facilities contained entirely within structures. Does not include transmission and receiving apparatus, including antennas and towers (see "Wireless Telecommunications Facilities").

Compatibility. The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict. Elements affecting compatibility include: intensity of occupancy, pedestrian or vehicular traffic generated, volume of goods handled, and environmental effects (e.g., air pollution, glare, hazardous materials, noise, vibration, etc.).

Conditional Use. A use of land identified by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as being allowed in a particular zoning district subject to the approval of a Conditional Use Permit in compliance with Section 20.66.090 (Conditional Use Permits and Minor Use Permits).

Condominium. A form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in common with other owners. Includes a condominium project, community apartment project, or stock cooperative, as defined in California Civil Code Section 1351.

> **Condominium Project.** An entire lot proposed to be used or divided, as land or airspace, into two or more units as a condominium.
>
> **Condominium Unit.** The particular area of land or airspace that is designed, intended, or used for exclusive possession or control by individual owners or occupiers.

Congregate Care Home. Age-segregated housing built specifically for the elderly that provides services to its residents, the minimum of which is usually an on-site meal program, but which may also include housekeeping, laundry, social activities, counseling, and transportation (sometimes referred to as "assisted living facilities"). Does not include "Convalescent Facilities."

Contour. A line on a topographic map or bathymetric (depth) chart representing points of equal elevation with relation to a datum (point or set of points). Contour lines are usually spaced into intervals for easier comprehension and utilization.

Contractor's Storage Yards (Land Use). Indoor and/or outdoor storage facilities operated by, or on behalf of, a contractor licensed by the State of California (e.g., building contractors, landscape contractors, sign contractors, etc.) for storage of large equipment, vehicles, and/or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and structures for related offices and repair activities.

Convalescent Facility (Land Use). An establishment that provides care on a 24-hour basis for persons requiring regular medical attention (may also be referred to as a "nursing home" or "hospice"). Does not include facilities providing emergency medical services or surgical services ("Emergency Health Facilities," "Hospitals," or Outpatient Surgery Facilities").

Convenience Market. A retail establishment that sells prepackaged food items, beverages and small convenience items (e.g., periodicals, tobacco, miscellaneous household and pharmaceutical goods, etc.) primarily for off-site consumption; that typically has late hours of operation; that is in a relatively small structure located along heavily traveled streets. This term excludes delicatessens and other specialty food shops and establishments that carry a sizeable assortment of fresh fruits, fresh vegetables, and fresh-cut meat or fish. Includes an establishment located within or associated with another use (e.g., service stations).

Conversion. For the purposes of Chapter 20.36 (Conversion or Demolition of Affordable Housing), a change of a residential dwelling, including a mobile home, to a condominium, cooperative, or similar form of ownership; or a change of a residential dwelling, including a mobile home, to a nonresidential use.

County. The County of Orange in the State of California.

Coverage. See "Site Coverage."

Cultural Institution (Land Use). A public or private institution that displays or preserves objects of community or cultural interest in one or more of the arts or sciences. Illustrative examples of these uses include:

- libraries
- museums

Cumulative Effect. The effect of an individual project in combination with the effects of past projects, other current projects, and probable future projects.

"D" Definitions

Day. Unless otherwise specified, a calendar day. See "Calendar Day."

Day Care (Land Use). Nonresidential, nonmedical care and supervision of 14 or fewer persons on a less than 24-hour basis.

1. **Child Day Care.**

   a. **Child Day Care, Small (8 or fewer children).** Day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for 8 or fewer children. Children under the age of 10 years who reside in the dwelling count as children served by the day care facility.

   b. **Child Day Care, Large (9 to 14 children).** Day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for 9 to 14 children. Children under the age of 10 years who reside in the dwelling count as children served by the day care facility.

   c. **15 or more children.** See "Day Care, General" for facilities serving 15 or more children.

2. Adult Day Care.

a. Adult Day Care, Small (6 or fewer adults). Day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for 6 or fewer adults.

b. Adult Day Care, Large (7 to 14 adults). Day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for 7 to 14 adults.

c. 15 or more adults. See "Day Care, General" for facilities serving 15 or more adults.

Day Care, General (Land Use). An establishment that provides nonmedical care for 15 or more persons on less than a 24-hour basis, including nursery schools, preschools, and day care centers for children or adults. General day care establishments may be accessory to an industrial, commercial, or institutional use.

Deck. A platform, either free-standing or attached to a structure, that is supported by pillars or posts. See "Balcony."

Dedication. The conveyance by an owner or developer of private land for public use and the acceptance of land for public use by the governmental agency having jurisdiction over the public function for which it will be used.

Dedication Fee, In-lieu of. Cash payments that may be required of an owner or developer as a substitute for a dedication of land, usually calculated in dollars per lot, and referred to as "in lieu fees" or "in lieu contributions."

Demolition.

1. For the purposes of Chapter 20.36 (Conversion or Demolition of Affordable Housing), the demolition of a residential dwelling, including a mobile home, or a mobile home lot in a mobile home park, that has not been declared to be a public nuisance under Health and Safety Code Section 17000 et seq. or under this Zoning Code or the Municipal Code.

2. For the purposes of all other Sections of this Zoning Code, the deliberate removal or destruction of the frame or foundation of a portion of a structure.

Density. The number of dwelling units per unit of land; usually density is expressed "units per acre," or "minimum land area per unit." Thus, the density of a development of 100 units occupying 20 acres is 5 units per acre.

Density Bonus. As defined by Government Code Section 65915 *et seq.*, an increase over the maximum density otherwise allowed by the applicable zoning district that is granted to the owner/developer of a housing project who agrees to construct a prescribed percentage of dwelling units that are affordable to very-low and low-income households.

Detached Structure. See "Structure, Detached" and also "Dwelling Unit, Detached."

Development. On land, in or under water, the placement or erection of solid material or a structure; discharge or disposal of dredged material or of gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of materials; change in the density or intensity of use of land, including, but not limited to, subdivision in compliance with the Subdivision Map Act (commencing with Government Code Section 66410), and another division of land, including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of a structure, including a facility of a private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes and kelp harvesting.

Development Permit. Authority granted by the City to use or develop a specified site for a particular purpose, as established by Part 5 (Planning Permit Procedures) of this Zoning Code.

Director. The City of Newport Beach Planning Director, referred to as the "Director."

Discretionary Decision. A decision requiring the exercise of judgment, with or without deliberation, on the part of the decision-making authority in the process of approving or disapproving a particular activity, as distinguished from situations where the decision-making authority merely has to determine whether there has been conformity with fixed standards or objective measurements contained in applicable statutes, ordinances, or regulations. Examples of discretionary permits include Coastal Development Permits and Conditional Use Permits. See “Ministerial Decision.”

Dormer. An extension projecting from the slope of a roof, usually provided with its own roof and housing a window or series of windows. A dormer is located below the highest point of a roof. Examples of typical dormers include eyelid or eyebrow dormers (i.e., with an arched roof that gives it the appearance of an eyelid; gable dormers (i.e., with a gable roof); and shed dormers (i.e., with a shed roof). See Figure 7-1 (Dormer Types).

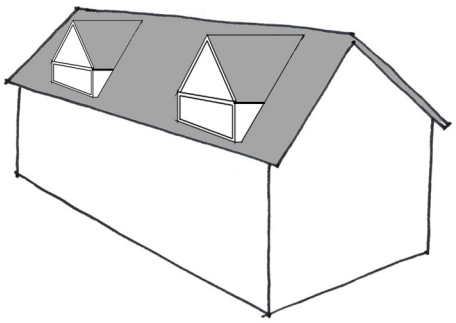


Figure 7-1 - Dormer Types

Drive-Through Facility (Land Use). Establishments that provide services accessible to persons who remain in their motor vehicles.

Driveway. A designated passageway providing vehicular access between a street and a garage or carport, a designated parking area, or other driveway or street. A driveway shall not be considered a street.

Dune. Ridge or mound of loose, wind-blown material, usually sand.

Dune Habitat. Stands of dense to sparse annual and perennial herbs, grasses, or shrubs occurring on sand dunes along the coast. Dune habitat is considered a sensitive plant community and is listed as rare or threatened or is otherwise protected by the U.S. Fish and Wildlife Service, California Department of Fish and Game, California Coastal Commission, or the City.

Duplex. See "Dwelling, Two-Unit."

Dwelling, Multi-Unit (Land Use). A structure or development containing 3 or more dwelling units, each of which is for occupancy by one or more persons living as a Single Housekeeping Unit (see "Single Housekeeping Unit"). Includes: triplexes, (structures under one ownership with 3 dwelling units in the same structure), fourplexes (structures under one ownership with 4 dwelling units in the same structure) and apartments (5 or more units under one ownership in a single structure or complex) (see "Apartments"); and common ownership, attached unit projects including condominiums (see "Condominiums"). Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems. Does not include duplexes (see "Dwelling, Two Unit").

Dwelling, Single-Unit (Land Use). A structure containing 1 dwelling unit located on a single lot for occupancy by one Single Housekeeping Unit (see "Single Housekeeping Unit"). Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems.

> **Attached Single-Unit Dwelling.** A dwelling that is attached to another dwelling, excluding accessory dwellings. Each dwelling is owned in fee, located on an individual lot, and is joined to another dwelling along a single lot line. Each dwelling is totally separated from the other by an unpierced wall extending from ground to roof.
>
> **Detached Single-Unit Dwelling.** A dwelling that is not attached to another dwelling, excluding an accessory dwelling unit (see "Accessory Dwelling Unit"). The dwelling is owned in fee and is located on an individual lot.

Dwelling, Two-Unit (Land Use). A structure(s) located on a single lot and containing 2 dwelling units, each of which is for occupancy by 1 Single Housekeeping Unit (see "Single Housekeeping Unit"). Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems.

Dwelling Unit. An area within a structure on a lot that:

1) Contains separate or independent living facilities for one or more persons, with area or equipment for sleeping, sanitation and food preparation, and that has independent exterior access to ground level; or

2) Is being utilized for residential purposes by one or more persons separately or independently from occupants of other areas within the structure.

Facilities for food preparation. A room or part of a room used, intended, or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen. The meaning of "kitchen" shall exclude a bar or butler's pantry.

Independent access. An arrangement of dwelling units so that each dwelling unit has an entrance directly into the unit that is separate from the entrance into another unit.

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. The unit is intended for the sole occupancy of 1 or 2 adult persons who are 60 years of age or older. The floor area of the unit does not exceed 640 square feet.

"E" Definitions

Easement. A grant of one or more property rights by the property owner for use by the public, or another person or entity. Examples include right-of-way easements, utility easements, or view easements. Typically easements are recorded against real property by an instrument or subdivision map. See "Right-of-Way."

Eating and Drinking Establishments (Land Use).

Accessory Food Service. A type of food service establishment that:

1. Sells food and/or beverages as an accessory use in a retail, office, or institutional structure;

2. Does not change the character of the principal use;

3. Does not sell, serve, or give away alcoholic beverage;

4. Does not have an entrance separate from the principal use; and

5. Has hours of operation that are the same as those of the principal use.

Bars, Lounges, and Nightclubs. An establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premise license from the California State Department of Alcoholic Beverage Control (ABC) (i.e., ABC License Type 42 [On Sale Beer & Wine-Public Premises], ABC License Type 48 [On Sale General-Public Premises], and ABC License Type 61 [On Sale Beer-Public Premises]). Persons under 21 years of age are not allowed to enter and remain

on the premises. The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee.

Fast Food. An establishment whose design or principal method of operation includes **four or more** of the following characteristics:

1) 45 percent or more of the floor area is devoted to food preparation, employee work space, and customer service area;

2) A permanent menu board is provided from which to select and order food;

3) A chain or franchise restaurant;

4) Customers pay for food before consuming it;

5) A self-service condiment bar is provided;

6) Trash receptacles are provided for self-service bussing; and

7) Furnishing plan indicates stationary seating arrangements.

A fast food establishment may or may not have late hour operations (see "Late Hour Operations"). Alcoholic beverages are not sold, served, or given away on the premises. If alcoholic beverages are sold, served, or given away on the premises, the use shall be considered a food service use. See "Food Service."

Food Service, No Late Hours. An establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and that has **all of** the following characteristics:

1) Establishment DOES NOT have late hour operations (see "Late Hour Operations");

2) Customers order food and beverages from individual menus;

3) Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and

4) Customers pay for food and beverages after service and/or consumption.

Food Service, Late Hours. An establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and that has **all of** the following characteristics:

1) Establishment DOES have late hour operations (see "Late Hour Operations");

2) Customers order food and beverages from individual menus;

3) Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and

4) Customers pay for food and beverages after service and/or consumption.

Late Hour Operations. Facilities that provide service after 11:00 p.m.

Outdoor Dining. An outdoor dining area contiguous and accessory to a food service establishment.

Take-Out Service, Limited. An establishment that sells food or beverages and that has **all of** the following characteristics:

1) Sales are primarily for off-site consumption;

2) Customers order and pay for food at either a counter or service window;

3) Incidental seating up to 6 seats may be provided for on-site consumption of food or beverages; and

4) Alcoholic beverages are not sold, served, or given away on the premises.

Typical uses include bakeries, candy, coffee, nut and confectionery stores, ice cream and frozen dessert stores, small delicatessens, and similar establishments.

Take-Out Service Only. An establishment that offers a limited variety of food or beverages and that has **all of** following characteristics:

1) Sales are for off-site consumption;

2) Seating is not provided for on-site consumption of food or beverages; and

3) Alcoholic beverages are not sold, served, or given away on the premises.

Economic Life. The period of time during which a structure may reasonably be expected to perform the function for which it was designed or intended. For the purposes of this Zoning Code, the economic life of a structure shall be 75 years.

Emergency Health Facility (Land Use). Establishments that provide emergency medical service (i.e., outside normal physician office hours or before a physician appointment is available) with no provision for overnight or continuing care on an inpatient basis. Also includes "urgent care" facilities and walk-in clinics. Does not include hospitals (see “Hospitals”).

Emergency Shelter (Land Use). As defined in Health and Safety Code Section 50801(e), housing with minimal supportive services for homeless persons (e.g., food, counseling, access to other social programs, etc.).

Emergency Work. Work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by a natural or man-made disaster.

Encroachment. An intrusion of development on public property, on environmentally sensitive lands, or into required setback areas.

Enlargement of Use. The expansion of a land use activity on a site or within a structure so that the use/activity occupies more floor or site area than before the expansion.

Entertainment, Commercial. An establishment (indoors or outdoors) where entertainment is provided for a fee for the pleasure of the patrons, either independent of or in conjunction with another use.

Entertainment and Excursion Services. Commercial vessels engaged in the carrying of passengers for hire for hire for the purposes of fishing, whale watching, diving, educational activities, harbor and coastal tours, dining/drinking, business or social special events and entertainment.

Environmental Assessment. A detailed statement setting forth the environmental effects and considerations pertaining to a project as specified in the California Environmental Quality Act, and may mean either a draft or a final EIR, or an Initial Study leading to a Negative Declaration.

Environmental Impact Report (EIR). An informational document used to assess the physical characteristics of an area and to determine what effects will result if the area is altered by a proposed action, prepared in compliance with the California Environmental Quality Act (CEQA).

Environmentally Sensitive Habitat Area (ESHA). As defined in Public Resources Code Section 30107.5, an area in the Coastal Zone in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. See "Environmental Study Area (ESA)."

Environmental Study Area (ESA). An undeveloped area that may contain natural habitats capable of supporting sensitive biological resources, as identified in Figure NR-2 (Environmental Study Areas) in the General Plan. See "Environmental Study Area."

Establishment. A business.

Exaction. A contribution or payment required as an authorized precondition for receiving a permit for development.

Exclusion Area. See "Categorical Exclusion Area."

Exclusion Order. See "Categorical Exclusion Order."

Explosives. A substance defined as an explosive by Health and Safety Code Sections 12000 et seq., and for which a permit is required by the Health and Safety Code.

"F" Definitions

Factor of Safety. The ratio of the ultimate breaking strength of the material to the force exerted against it. In terms of slope stability analysis, the factor of safety is determined by dividing the resisting forces by the driving force. The forces resisting a potential landslide are essentially the strength of the rocks or soils making up the bluff. The forces driving a potential landslide are the weight of the rocks as projected along a potential slide surface.

Fair Housing Laws. The Federal Fair Housing Act, the Americans with Disabilities Act, and California's Fair Employment and Housing Act, as each Act may be amended from time to time, and each Act's implementing regulations.

Family. One or more persons living together as a Single Housekeeping Unit in a dwelling unit (see "Single Housekeeping Unit").

Fault. A rock fracture accompanied by displacement.

Fault, Active. A fault that has moved within the last 11,000 years and that is likely to move again within the next 100 years.

Fault, Inactive. A fault that shows no evidence of movement in the last 11,000 years and no potential for movement in the relatively near future.

Fault, Potentially Active. A fault that last moved within the Quaternary Period (the last 2,000,000 to 11,000 years) before the Holocene Epoch (11,000 years to the present); or a fault that, because it is judged to be capable of ground rupture or shaking, poses an unacceptable risk for a proposed structure.

Fence. A structure, solid or otherwise, that is a barrier and used as a boundary or means of protection, confinement, or concealment. Does not include hedges, shrubs, trees, or other natural growth.

Fill. Material (e.g., earth, clay, sand, concrete, rubble, wood chips, bark, waste, etc.), including pilings placed for the purpose of erecting structures, that is placed, stored, or dumped upon the surface of the ground resulting in an increase in the natural surface elevation.

Final Map. A subdivision map prepared in compliance with Subdivision Map Act, Article 2, Chapter 2, and approved in compliance with Subdivision Map Act, Article 4, Chapter 3, that is used to complete the subdivision of five or more lots.

Financial Institutions and Related Services (Land Use). Establishments that solicit, receive, or accept money or its equivalent on deposit and loan money as a regular business. Typical examples include federal or state-regulated banks, savings and loan associations, savings banks, credit unions, and lending establishments, with automatic teller machines (ATMs) as an accessory use. Does not include mortgage broker, accounting, financial investment, or similar offices (“Office, Business,” “Office, Corporate,” or “Office, Professional”).

Finding(s). The result(s) of an investigation and the basis upon which decisions are made. Findings are used by government agents and bodies to justify action taken by the entity.

Finished Floor/Surface. The surface of a floor after the final installation or application of floor coverings or other surfacing materials.

Finished Grade. See “Grade, Finished.”

First Public Road Paralleling the Sea. The road that is nearest the sea (see “Sea”) and that meets all of the following criteria.

1. The road is lawfully open and suitable for uninterrupted use by the public.

2. The road is maintained by a public agency.

3. The road contains an improved all-weather surface open to motor vehicle traffic in at least one direction.

4. The road is not subject to any restrictions on use by the public except during an emergency or for military purposes.

5. The road connects with other public roads providing a continuous access system and generally parallels and follows the shoreline so as to include all portions of the sea where the physical features (e.g., bays, lagoons, estuaries, wetlands, etc.) cause the waters of the sea to extend landward of the generally continuous coastline.

Floor, First. See “Ground Floor.”

Floor Area, Gross. See “Area, Gross Floor.”

Food Processing (Land Use). Establishments engaged in the manufacturing or processing of food or beverages for wholesale distribution.

Fourplex. See “Dwelling, Multi-Unit.”

Frontage. See “Lot Frontage.” The property line of a lot that abuts a street right-of-way.

Fuel Modification Zone. A strip of land where combustible native or ornamental vegetation must be modified and partially or totally replaced with drought-tolerant, fire-retardant plants.

Funeral Homes and Mortuaries (Land Use). Establishments engaged in the provision of service involving the care, preparation, or disposition of human dead other than in cemeteries. May or may not include crematories and/or mortuaries. No internment is provided on site. May include areas for assembly services and living quarters for funeral home/mortuary manager (see “Caretaker Residence”).

“G” Definitions

Garage. A structure or portion of a structure, completely enclosed by walls or doors on all sides, that is designed or used to shelter 1 or more parking spaces. Does not include a carport (see “Carport”).

Garage, Public. See "Parking Facilities, Commercial."

Garage Sale. See “Personal Property Sales.”

Garage, Storage. See "Vehicle/Equipment Services.”

Gazebo. A detached, covered, freestanding, open-air structure designed for recreational use only and not for habitation. See "Accessory Structure."

General Plan. The City of Newport Beach General Plan, and all amendments thereto, as adopted by the City Council under the provisions of Government Code Sections 65300 et seq., and referred to in this Zoning Code as the "General Plan."

Governmental Facility (Land Use). A structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public (e.g., city hall, community recreation center, post office, library, etc.).

Grade, Existing. The surface of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project.

Grade, Finished. The surface of the ground or pavement at a stated location as it exists after completion of a project.

Grade, Natural. The unaltered natural surface of the ground at a stated location.

Granny Unit. See “Accessory Dwelling Unit.”

Greenhouse Window. See “Bay Window.”

Gross Floor Area. See “Area, Gross Floor.”

Ground Floor. The first floor of a structure that is at ground level or street level. Does not include a “Basement.”

Group Residential. Shared living quarters, occupied by 2 or more persons not living together as a single housekeeping unit (“Single Housekeeping Unit”). Includes, without limitation, boarding or rooming houses (see “Boarding or Rooming Houses”), dormitories, fraternities, sororities, parolee-probationer homes (see “Parolee-Probationer Homes”), and private residential clubs. Excludes residential care facilities (see “Residential Care Facilities”).

“H” Definitions

Habitat. The physical location or type of environment in which an organism or biological population lives or occurs.

Habitable Space (Room). A room meeting the requirements of the California Building Code (CBC) for sleeping, living, cooking, or dining purposes, excluding enclosed places (e.g., closets, bath or toilet rooms, hallways, laundries, pantries, storage spaces, utility rooms, etc.).

Handicraft Industry (Land Use). Establishments engaged in on-site production of goods by hand involving the use of hand tools and small-scale equipment (e.g., drills and saws, hammers and chisels; paint brushes and sprayers; pottery wheels and kilns; sewing machines; spinning wheels, etc.) and the incidental direct sale to consumers of only those goods produced on-site. Illustrative examples of these products include:

- candles
- ceramics
- costume novelties
- jewelry
- mosaics
- musical instruments
- needlework
- pottery
- quilting
- small glass, metal art, and craft products
- sporting and athletic goods
- stained glass
- toys
- wood carving

Harbor. See "Newport Bay."

Hazardous Materials. An injurious substance, including, but not limited to, pesticides, herbicides, toxic metals and chemicals, liquefied natural gas, explosives, volatile chemicals, nuclear fuels, and substances on the comprehensive master list of hazardous substances compiled and maintained by the California Department of Health Services.

Health/Fitness Club (Land Use).

Small. An indoor facility of 2,000 square feet or less in size where passive or active exercises and related activities are performed using minimal muscle-building equipment or apparatus for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. Examples of uses include Pilates, personal training, and yoga and studios.

Large. A full service fitness center, gymnasium, or health and athletic club that is over 2,000 square feet in size and may include the following: aerobic classes and other indoor sports activities; indoor handball, racquetball, or tennis courts; locker rooms and showers; sauna, spa, or hot tub facilities; swimming pools, weight rooms; etc.

Hearing Officer. A person designated to conduct hearings as provided in Section 20.74.040.

Hedge. A group of shrubs or trees planted in a line or in groups forming a compact, dense, barrier that protects, shields, separates, or demarcates an area from view. For purposes of this definition, a shrub is a perennial woody plant smaller than a tree, having multiple permanent stems branching from or near the base and lacking a single trunk; a bush. See "Fence."

Height. A vertical dimension established and measured in compliance with Section 20.30.050 (Height Limits and Exceptions).

Heliport and Helistop (Land Use).

1. **Heliport.** An area used for the landing, parking, or takeoff of helicopters including operations facilities (e.g., fueling, loading and unloading, maintenance, storage, terminal facilities, etc.).

2. **Helistop.** A single pad used for the landing, parking, or takeoff of one helicopter and other facilities as may be required by Federal and State regulations, but not including operations facilities (e.g., fueling, loading and unloading, maintenance, storage, terminal facilities, etc.).

Home Occupation (Land Use). The conduct of a business within a dwelling unit or residential site occupied by a single housekeeping unit, with the business activity being incidental and clearly accessory to the principal residential use of the property. Does not include "Residential Care Facilities." See Section 20.60.110 (Home Occupations).

Hospital (Land Use). An establishment that provides medical, surgical, psychiatric, or emergency medical services to sick or injured persons, on an inpatient or outpatient basis. Includes facilities for training, research, and administrative services for patients and employees. May include accessory pharmacy uses and food service uses. Does not include walk-in clinics ("Emergency Health Facilities").

Hotel. See "Visitor Accommodations."

"I" Definitions

Individual with a Disability. As more specifically defined under the Fair Housing Laws (see "Fair Housing Laws"), a person who has a physical or mental impairment that limits one or more major life activities; a person who is regarded as having that type of impairment; or a person who has a record of that type of impairment, not including current, illegal use of a controlled substance.

Industry (Land Use). Establishments engaged in the manufacturing of finished parts or products, either from raw materials or previously prepared materials, within an enclosed structure. Includes processing, fabrication, assembly, treatment, testing (e.g., laboratories), packaging, incidental office storage, sales, and distribution of the parts or products; and laundry and dry cleaning plants. Excludes vehicle/equipment rentals ("Vehicle/Equipment Rentals"), vehicle/equipment repair ("Vehicle/Equipment Repair"), vehicle/equipment sales ("Vehicle/Equipment Sales"), and vehicle/equipment services ("Vehicle/Equipment Services").

Small. Establishments located in facilities that are 5,000 square feet or less in size.

Large. Establishments located in facilities that are over 5,000 square feet in size.

Marine-Related. Establishments primarily engaged in the manufacture of marine-related parts or products. Does not include "Boat Yards" (see "Marine Services").

In Situ. A Latin phrase meaning "in place." Archaeologically it refers to an artifact or object being found in its original, undisturbed position.

Integral Facilities (Land Use). Any combination of two or more Residential Care (Small Licensed, Small Unlicensed, or General) facilities that may or may not be located on the same or contiguous lots, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated

components of one operation shall be considered one facility for purposes of applying Federal, State, and local laws to its operation. Examples of Integral Facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants in more than one licensed or unlicensed facility.

Integral Uses (Land Use). Any two or more licensed or unlicensed residential care programs commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such Integral Use shall be considered one use for purposes of applying Federal, State, and local laws to its operation.

Intensity. Relative measure of development impact as defined by physical and operational characteristics (e.g., number of dwelling units per acre, amount of parking required, amount of traffic generated, etc.).

Invasive. See "Noninvasive Plant."

"J" Definitions

Jetty. An artificial barrier perpendicular to the shoreline used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment, or to protect a harbor area from storm waves.

Jurisdiction. The limits or territory within which a particular power may be exercised.

"K" Definitions

Kennel and Animal Boarding. See "Animal Sales and Services."

"L" Definitions

Laboratory (Land Use). An establishment that provides medical or dental laboratory services or photographic or analytical services. Other laboratories are classified under "Industry."

Landscaping. An area devoted to or developed and maintained with native or exotic plantings, lawn, ground cover, gardens, trees, shrubs, and other plant materials, and associated decorative outdoor landscape elements.

Landmark Structure. A structure constructed before December 12, 1950 and listed on the National Register of Historic Places.

Landmark Theater. A structure constructed for use as a cinema or theater that has the following characteristics:

1) Constructed on or before December 12, 1950;
2) Contains a single screen or stage;
3) Designed to seat more than 300 people.

Late Hour Operations. See "Eating and Drinking Establishments."

Live Entertainment (Land Use). Entertainment provided by one or more live performers, including musical, theatrical, dance, cabaret, or comedy acts. For purposes of this definition, a disc jockey or a person whose performance consists of selecting or manipulating prerecorded music is considered a performer. Does not include "Adult Oriented Businesses." Does not include live, unamplified musical accompaniment to dining, in a restaurant by no more than 2 performers, including patrons, without dancing.

> **Amplified.** The increase in the degree of sound level of voices or instruments through electronic devices and equipment (e.g., amplifiers, loudspeakers, microphones, etc.).
>
> **Unamplified.** Voices or instruments without sound boosting electronic devices and equipment.

Live-Work Unit (Land Use). A structure or spaces within structures that are used jointly for commercial and residential purposes.

Local Coastal Program (LCP). The documents that comprise the City of Newport Beach Local Coastal Program, in compliance with the Coastal Act.

Lot. The basic unit of land development. A designated area of land established by plat, subdivision, lot line adjustment, or as otherwise permitted by law, to be used, developed, or built upon as a unit. Typically a lot is indicated upon a final map, parcel map, lot line adjustment map, certificate of compliance, or record of merger filed in the Office of the County Recorder. Types of lots include the following. See Figure 7-2 (Lot Types).

> **Corner Lot.** A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 135 degrees. If the intersection angle is more than 135 degrees, the lot is considered an interior lot. The front lot line of a corner lot abuts

the shortest street property line, unless otherwise determined by the Director in compliance with Section 20.30.090 (Setback Regulations and Acceptions).

Flag Lot. A lot not meeting minimum lot frontage requirements and where access to the private or public street is provided by a narrow private access way that is between abutting lots and that is owned in fee.

Interior Lot. A lot abutting only one street.

Key Lot. An interior lot, the front of which abuts the side property line of a corner lot.

Reversed Corner Lot. A corner lot, the rear of which abuts the side of another lot.

Through Lot. A lot with frontage on two generally parallel streets. May be an interior lot having frontage on more than one street or a corner lot having frontage on more than two streets. Each street frontage of an interior lot and the two shortest street frontages of a corner lot shall be deemed a front lot line.

Waterfront Lot. A lot with one or more lot lines abutting the waterfront of Newport Bay, the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport.

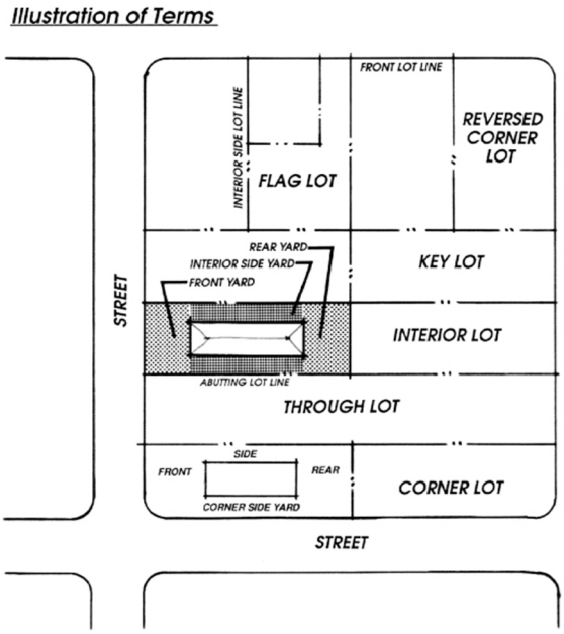


Figure 7-2 – Lot Types

Lot Area. The total area within the exterior lines of a lot excluding public access corridors, vehicular easements, and areas to be included in future street rights-of-way or other public facilities or uses established by easement, dedication, or ordinance.

Lot Depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line; or for irregularly shaped lots where the side lot lines converge to a point at the rear of the lot, the horizontal distance from the midpoint of the front lot line to a line 10 feet long within the lot, parallel to and at a maximum distance from the front lot line.

Lot Frontage. The property line of a lot that abuts a street right-of-way.

Lot Line. A recorded boundary of a lot. Types of lot lines include the following.

> **Front Lot Line.** On an interior lot, a lot line separating the lot from the street or the waterfront, if there is no street. For corner lots, the shortest side fronting upon a street is considered the front of the lot regardless of which street is used for vehicle or pedestrian access, or street address. Where two lot lines abutting a street are substantially the same length, the Director shall determine the location of the front lot line. For a through lot, both lot lines are front lot lines and the lot is considered to have no rear lot line.
>
> **Interior Lot Line.** A lot line not abutting a street or alley.
>
> **Rear Lot Line.** A lot line, not a front lot line, that is parallel or approximately parallel to the front lot line and that does not intersect the front lot line. For irregularly shaped lots where the side lot lines converge to a point at the rear of the lot, the rear lot line is a line 10 feet long within the lot, parallel to and at a maximum distance from the front lot line
>
> **Side Lot Line.** A lot line that is not a front or rear lot line.

Lot Line Adjustment. As provided in the Subdivision Map Act (Government Code Section 66412(d)), a lot line adjustment relocates one or more lot lines between two or more existing adjacent lots, where land taken from one lot is added to an adjacent lot and where no more lots are created than originally existed.

Lot Width. The horizontal distance between the side lot lines, measured at right angles to the line that defines the lot depth at a point midway between the front and rear lot lines.

Lounge (Land Use). See "Eating and Drinking Establishments."

Low-Income Household. A household whose income is between 50% and 80% of the Orange County median income, adjusted for actual household size, as determined by the California Department of Housing and Community Development.

"M" Definitions

Maintenance and Repair Services (Land Use). Establishments that provide home appliance and/or electronic or office equipment repair and maintenance, or building maintenance services.

Does not include maintenance and repair of vehicles (see "Vehicle/Equipment Repair") or boats, ships, or vessels (see "Marine Sales and Services").

Map Act. See "Subdivision Map Act."

Marina (Land Use). A commercial berthing facility (other than moorings or anchorage) in which five or more vessels are continuously wet-stored (in water) and/or dry-stored (on land/racks) for more than 30 days. May include on-shore support facilities (e.g., administrative offices, bathrooms, laundry facilities, storage lockers, picnic areas, snack bar, etc.).

Marine Activities Permit. A permit issued to commercial users of Newport Harbor in compliance with Municipal Code Title 17 (Harbor Code).

Marine and Wildlife Preserve (Land Use). An area of land or water, essentially unimproved, that is set aside, dedicated, designated, or reserved for protection from an activity that would significantly alter the open space or passive recreational value or ecological integrity, balance, or character. Includes wetlands, vernal pools, floodplains, riparian forests, riparian corridors, and habitat for multiple species of wildlife; preserves, and lands that are in need of being preserved for their habitat and/or open space values. Does not include parks, playgrounds, and athletic fields for active recreational uses ("Parks and Playgrounds"), or the same facilities that are privately-owned, or commercial facilities ("Commercial Recreation and Entertainment").

Marine Rentals and Sales (Land Use). Establishments engaged in renting, selling or providing supplies and equipment for commercial fishing, pleasure boating, or related activities.

1. **Boat Rentals and Sales (Land Use).** An establishment that rents or sells vessels, including storage and incidental maintenance. See "Vessel." Does not include "Marine Services."

2. **Marine Retail Sales (Land Use).** An establishment that provides supplies and equipment for commercial fishing, pleasure boating, or related activities. Examples of goods sold include navigational instruments, marine hardware and paints, nautical publications, nautical clothing (e.g., foul-weather gear), and marine engines. Does not include uses in which fuel for boats and ships is the primary good sold (see "Marine Services.").

Marine Services (Land Use).

1. **Boat Storage.** Storage of operative or inoperative boats or ships.

2. **Boat Yard.** Construction, maintenance, or repair of boats or ships, including the sale, installation, and servicing of related equipment and parts.

3. **Entertainment and Excursion Services.** An establishment that provides vessels engaged in the carrying of passengers for hire for the purposes of entertainment or excursions (e.g., fishing, whale watching, diving, educational activities, harbor and coastal tours, dining/drinking, business or social special events and entertainment, etc.).

4. **Marine Service Station.** A retail establishment that sells gasoline, diesel, and alternative fuels, lubricants, parts, and accessories for vessels and other convenience items.

5. **Water Transportation Service.** An establishment that provides vessels to carry passengers for hire who are traveling to destinations within and outside of Newport Harbor.

Market-Rate Unit. A dwelling unit in a residential project that is not an affordable unit.

Massage. The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Massage Establishment (Land Use). See definition in Municipal Code Section 5.50.010.

Massage Service, Accessory (Land Use). A massage establishment that is regulated by State law and operated as an accessory use in conjunction with an approved health club, athletic club, gym, or hotel or in conjunction with a medical office or chiropractic office. For the purpose of this definition, an accessory use shall mean a use that is not more than 25 percent of the floor area of the related health or athletic activities of the primary use. Does not include "Adult-Oriented Businesses."

Master Fee Schedule. A resolution adopted by the City Council from time to time that sets fees for services provided by the City.

Mean High Water. The 19-year average of the higher high water heights. For diurnal tides, high water and higher water are the same.

Mean Low Water. The 19-year average of all low water heights (if the tide is either semidiurnal or mixed) or the lower low water heights if the tide is diurnal. For diurnal tides low water and lower low water are the same.

Medical Clinic. See "Offices, Medical and Dental (Land Use)."

Merger. The process authorized by the Subdivision Map Act to combine two or more adjacent lots into a single lot of record.

Ministerial Decision. A decision involving only the use of fixed standards or objective measurements and no exercise of discretion by the public official. Examples of ministerial permits include Zoning Clearances or Building Permits. See "Discretionary Decision."

Mitigate. To ameliorate, alleviate, or avoid.

Mitigated Negative Declaration. Same as a Negative Declaration, with the addition of identified mitigation measures and a Mitigation Monitoring Program.

Mitigation Measure. A measure imposed on a project to ameliorate, alleviate, or avoid adverse impacts on the environment. Consistent with Section 15370 of the *State Guidelines for Implementation of the California Environmental Quality Act.*

Mobile Home. A trailer, transportable in one or more sections; that is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974; that is over 8 feet in width and 40 feet in length, with or without a permanent foundation and not including recreational vehicle, commercial coach or factory-built housing. A mobile home on a permanent foundation is included under the definition of "Single-Unit Dwelling."

Moderate-Income Household. A household whose income is between 80% and 120% of the Orange County median income, adjusted for actual household size, as determined by the California Department of Housing and Community Development.

Monitoring. The systematic collection of physical, biological, or economic data or a combination of these data in order to confirm or verify compliance regarding project operation or to evaluate project performance.

Motel. See “Visitor Accommodations.”

Multi-Unit Dwelling. See “Dwelling, Multi-Unit.”

Municipal Code. The Municipal Code of the City of Newport Beach, as amended.

“N” Definitions

Nail Salon (Land Use). An establishment where 25 percent or more of the work stations are used to provide manicure and/or pedicure services.

National Register of Historic Places. An official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures, and objects significant in the nation’s history or whose artistic or architectural value is unique.

Natural Communities Conservation Plan (NCCP). A plan for multi-species habitat conservation that is a collaboration of federal and state resource agencies, local governments, special districts, and private property owners. The plan covers nearly 38,000 acres in coastal southern California. In July of 1996, the City became a signatory agency in the Orange County Central-Coastal NCCP Subregional Plan.

NAVD 88. See “North American Vertical Datum of 1988.”

Negative Declaration. A written statement describing the reasons that a proposed project will not have a significant adverse effect on the environment and therefore does not require the preparation of an EIR, in compliance with the California Environmental Quality Act (CEQA). See “Mitigated Negative Declaration.”

Net Public Area. See “Area, Net Public.”

Newport Bay/Harbor.

Back Bay. See “Upper Newport Bay” below.

Lower Newport Bay. The area of the Bay southerly of the Coast Highway.

Newport Bay. The estuary consisting of the Lower Newport Bay and the Upper Newport Bay. The terms “Newport Bay” and “Newport Harbor” are often used interchangeably.

Newport Harbor. The water area within the Lower Newport Bay and within the Upper Newport Bay, exclusive of the Upper Newport Bay Marine Park. See “Newport Bay” above.

Upper Newport Bay. The area of the Bay northerly of the Coast Highway Bridge. The terms “Upper Newport Bay” and “Back Bay” are often used interchangeably.

Nightclub. See “Eating and Drinking Establishments.”

Noise. An undesired sound.

Nonconforming Lot. A lot that was legally created before the adoption of this Zoning Code or that legally existed at the time of annexation, and that does not conform to current Code provisions/standards (e.g., access, area or width requirements, etc.) prescribed for the zoning district in which the lot is located.

Nonconforming Structure. A structure that was lawfully erected, but that does not conform to the property development regulations for the zoning district in which the structure is located by reason of adoption or amendment of this Zoning Code or by reason of annexation of territory to the City.

Nonconforming Use. A use of a structure or land that was lawfully established and maintained, but that does not conform to the use regulations for the zoning district in which it is located by reason of adoption or amendment of this Zoning Code or by reason of annexation of territory to the City.

Noninvasive Plant. A plant that does not invade a habitat to the detriment of native species.

Nonresidential Zoning District. See “Zoning District, Nonresidential.”

North American Vertical Datum of 1988 (NAVD 88). A fixed reference for elevations determined by geodetic leveling created by the National Geodetic Survey.

Nursery School/Pre-School. See "Day Care Facilities."

Nursing Home. See “Convalescent Facilities.”

“O” Definitions

Off-Street Loading Facility. A site, or portion of a site, devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

Off-Street Parking Facility. A site, or portion of a site, devoted to parking of motor vehicles, including parking structures, parking spaces, aisles, access drives, and landscaped areas. See "Parking Facility."

Offer to Dedicate (OTD). An offer by a landowner to grant a public access easement across their property for future public recreational use.

Office, Business (Land Use). An office where common business services are provided to the general public (e.g., consumer services [e.g., auto club, entertainment ticket sales, etc.], insurance, investment, real estate, tax preparation, travel, utility company offices, etc.). Typically, these uses have a higher rate of walk-in traffic than a professional office and visits are often made without an appointment. Does not include "Financial Institutions and Related Services," "Office, Corporate," "Office, Professional," or "Postal Services.,"

Office, Corporate (Land Use). A use where internal administration services for large organizations (e.g., the headquarters, regional offices, or administrative offices for a corporation, etc.) are provided.

Office, Medical and Dental (Land Use). A use where medical and/or dental services are provided. Includes facilities for the diagnosis and treatment of human patients and laboratories incidental to the office use.

Office, Professional (Land Use). A use where professional services (e.g., accounting, architectural, engineering, legal, planning, psychological, psychiatric, etc.) are provided. Typically, these uses serve visitors on an appointment only basis and walk-in traffic is minimal. Does not include "Assembly/Meeting Facilities," "Financial Institutions and Related Services," "Office, Business," "Office, Medical and Dental," or "Postal Services."

Oil and Gas Drilling. *The digging or boring for the purpose of exploring for, developing, or producing oil, gas, or other hydrocarbons, for the purpose of injecting liquids or gas for stimulating oil or gas recovery, repressurizing, or pressure maintenance of oil or gas reservoirs, or disposing of oil field waste fluids. [May be deleted if use tables changed to refer to City Charter.]*

Oil and Gas Well. *Any perforation through the Earth's surface designed to find and release both petroleum oil and gas hydrocarbons. [May be deleted if use tables changed to refer to City Charter.]*

Slant Drilling. *The practice of drilling non-vertical wells (sometimes also known as directional drilling). [May be deleted if use tables changed to refer to City Charter.]*

Open Space (Land Use). A lot or area of land or water set aside, designated, dedicated, or reserved for public or private use or enjoyment.

> **Common Open Space.** The land area within a residential development that is not individually owned or dedicated for public use and that is designed, intended, and reserved exclusively for the shared enjoyment or use by all the residents and their guests. Does not include enclosed spaces/facilities (e.g., community center, meeting rooms, etc.). Illustrative examples include:
>
> - areas of scenic or natural beauty
> - barbecue areas

- habitat areas
- hiking, riding, or off-street bicycle trails
- landscaped areas
- play areas
- swimming pools
- tennis courts
- turf areas

Private Open Space. An outdoor or unenclosed area directly adjoining and accessible to a dwelling unit, reserved for the exclusive private enjoyment and use of residents of the dwelling unit and their guests (e.g., balcony, deck, porch, terrace, etc.). Boundaries are evident through the use of fences, gates, hedges, walls, or other similar methods of controlling access and maintaining privacy.

Usable Open Space. An outdoor or unenclosed area within a residential development on the ground, or on a roof, balcony, deck, porch or terrace, designed and accessible for outdoor living, active or passive recreation, pedestrian access, or landscaping. Parking facilities, driveways, utility or service areas, required front or street side setback areas, and sloped or submerged land do not constitute usable open space.

Outdoor Storage and Display (Land Use). The storage of various materials outside of a building, either as an accessory or primary use.

Outpatient Surgery Facility (Land Use). An establishment, separate from or not within a hospital, that offers planned surgical procedure(s) on an outpatient basis, with no overnight stays. See "Overnight."

Overnight. The period between 6:00 p.m. of one day and 7:00 a.m. of the next day. See "Day."

"P" Definitions

Parcel. See "Lot."

Parcel Map. The subdivision map described by the Subdivision Map Act, Article 3, Chapter 2, which is required to complete a subdivision of 4 or fewer lots.

Parking, Shared. A public or private parking area used jointly by two or more uses.

Parking Structure (Land Use). A structure that is open for public use for parking of motor vehicles; that is composed of one or more levels; and that may be totally below grade (as in an underground parking garage) or either partially or totally above grade. A fee may or may not be charged. Does not include "Garages" or "Carports."

Parking Space. An unobstructed space or area other than a street or alley that is permanently reserved, maintained, and accessible for the parking of 1 motor vehicle.

Parking Space, Tandem. A pair of parking spaces (i.e., 2 spaces) arranged one behind the other.

Parks and Recreational Facilities (Land Use).

Recreation, Active. A type of outdoor recreation or activity that requires the use of organized play areas (e.g., baseball, football, softball, and soccer fields; swimming pools; tennis and basketball courts; children's play equipment, etc.).

Recreation, Passive. A type of outdoor recreation or activity that can be carried out with little alteration or improvement to existing topography of a site, with the use of existing natural resources, and with a minimal impact (e.g., bicycling, hiking, jogging, walking, bird-watching, picnicking, etc.)

Parolee-Probationer. A parolee-probationer includes: (i) any individual who has been convicted of a federal crime, sentenced to a United States prison, and received conditional and revocable release in the community under the supervision of a federal parole officer; (ii) any individual who has served a term of imprisonment in a State prison and who is serving a period of supervised community custody, as defined in Penal Code Section 3000, and is under the jurisdiction of the California Department of Corrections, Parole and Community Services Division; (iii) an adult or juvenile sentenced to a term in the California Youth Authority and who has received conditional and revocable release in the community under the supervision of a Youth Authority Parole Officer; or (iv) any individual who has been convicted of a felony, sentenced to any correctional facility, including County correctional facilities, and is under the jurisdiction of any federal, state, or County parole or probation officer. For the purposes of this definition, "felony" means a felony as defined by any California or United States statute.

Parolee-Probationer Home (Land Use). Any residential structure or dwelling unit, whether owned and/or operated by an individual or a for-profit or nonprofit entity, which houses 2 or more parolees-probationers unrelated by blood, marriage, or legal adoption, in exchange for monetary or nonmonetary consideration given and/or paid by the parolee-probationer and/or any public or private entity or person on behalf of the parolee-probationer. Does not include "Residential Care Facilities."

Patio. A paved outdoor area that is used for lounging, dining, etc.

Patio Cover. A solid-roof or open-roof structure that covers a patio, platform, or deck area. A patio cover may be detached from, or attached to, another structure. See "Awning" and "Canopy."

Permit and Appeal Jurisdiction Map. Permit and Appeal Jurisdiction Map. A map depicting those areas where the Coastal Commission retains permit and appeal jurisdiction and those areas that are categorically excluded from requirements to obtain a Coastal Development Permit; provided that development conforms to the conditions of the Exclusion Order. See "Appeal Area" and "Categorical Exclusion Area." (See Part 8, Figures P-1 through P-3)

The exclusion only excludes a category of development from permitting, not everything.

Person. An individual, organization, partnership, limited liability company, or other business association or corporation, including a utility, and a federal, state, local government, or special district or agency.

Personal Property Sales (Land Use). The sale or offering for sale to the general public of miscellaneous personal property, as regulated by Section 20.60.160 (Personal Property Sales). The term "personal property sales" includes "estate sales," "garage sales," "lawn sales," and "yard sales." Does not include "sidewalk sales" (see "Outdoor Storage, Display, and Activities.").

Personal Services (Land Use). Establishments that provide recurrently needed services of a personal nature. Illustrative examples of these uses include:

- barber and beauty shops
- clothing rental shops
- day spas
- dry cleaning pick up stores with limited equipment
- healing arts (acupuncture, aromatherapy, etc.) with no services qualifying under "Massage Establishments"
- laundromats (self service laundries)
- shoe repair shops
- tailors and seamstresses
- tanning salons
- tattoo services and body piercing studios

Personal Storage (Mini-Storage) (Land Use). A structure or group of structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces.

Pharmacy, Medical Supplies (Land Use). An establishment that sells medical equipment and supplies for home health care (e.g., scales, walking aids, bathroom safety aids; skin and personal care products; braces, supports, and splints; bandages and tape; etc.)

Planning Commission. The Newport Beach Planning Commission, referred to throughout this Zoning Code as the "Commission."

Postal Service (Land Use). An establishment that provides commercial postal services directly to the customer, including letter and parcel mailing, post office box rental, and related services.

Principal Structure. See "Structure, Principal."

Principal Use. See "Use, Principal."

Principal Zoning District. See "Zoning District, Principal."

Printing and Duplicating Services (Land Use). Establishments that provide printing and duplicating services using blueprint, photocopy, and offset printing and similar equipment, including small-scale photo processing. Does not include photographic laboratories and industrial printing and publishing plants.

Private Open Space. See "Open Space."

Project. An enterprise involving the development, structural modification, or redevelopment of commercial, industrial, mixed-use, residential, or other properties.

Protective Structure. A structure built parallel to the bluff edge, bluff toe, canyon edge, canyon toe, or shoreline (e.g., retaining wall, vertical seawall, riprap, revetment, bulkhead, etc.) for the purposes of protecting a structure or other upland property.

Public Access. The ability of the public to pass to and from the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, coastal blufftops, and coastal recreation areas and trails.

1. **Vertical access:** Provides public access from the first public road to the shoreline or bluff edge, or perpendicular to the shoreline or bluff edge.

2. **Lateral access:** An accessway for public access and use along the shoreline or bluff edge.

Public Park and Playground (Land Use). Land owned or operated by a municipality, school district, county, state, or other governmental unit and designed to serve the recreation needs of the residents of the City. Includes parks, play lots, playgrounds, athletic fields, sports courts. May also include passive outdoor recreation areas that are located in conservation areas ("Conservation Areas"). Does not include the same facilities that are privately-owned or commercial facilities ("Commercial Recreation and Entertainment").

Public Trust Lands. All lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public Trust Lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the Public Trust at any time (California Code of Regulations, Section 13577). See "Tidelands" and "Submerged Lands."

Public View.

1. **Coastal View Road.** A vantage point along a public road or corridor as designated on General Plan Figure NR 3 (Coastal Views).

2. **Public View.** A vista of features seen from a public vantage point, including bodies of water, beaches, coastline, islands, ridges, bluffs, canyons, geologic features, and landmarks. The term "view" does not mean an unobstructed panorama of these features.

3. **Public View Point.** A public vantage point as designated on General Plan Figure NR 3 (Coastal Views).

"Q" Definitions

Qualified Biologist. A person who has earned a minimum of a Bachelor of Science degree in biology or a related field from an accredited college or university and has demonstrated field experience evaluating land use impacts on marine or wildlife species and their habitats. Biologists who conduct wetland delineations shall have completed the U.S. Army Corps of Engineers' "Reg IV" wetland delineation training, or the equivalent, and shall have the demonstrated ability to independently conduct wetland delineations.

Queue Space. A temporary waiting area for motor vehicles or persons obtaining a service or other activity.

"R" Definitions

Recreational Vehicle (RV). A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational, emergency, or other occupancy.

Recreational Vehicle (RV) Park. See "Visitor Accommodations."

Recycling Facilities (Land Use). A variety of facilities involved with the collection of recyclable materials. A "certified" recycling or processing facility is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. Recyclable material includes reusable materials that can be reconstituted, remanufactured, or reused in an altered form, including glass, metals, paper, and plastic. Recyclable material does not include refuse or hazardous materials. This land use does not include storage containers located on a residentially, commercially, or industrially designated site used solely for the recycling of material generated on the site.

1. **Collection facility (large).** A facility that occupies an area of more than 350 square feet and/or includes permanent structures where the public may donate, redeem, or sell recyclable materials.

2. **Collection facility (small).** A facility that occupies an area of 350 square feet or less where the public may donate, redeem, or sell recyclable materials.

Research and Development (Land Use). Establishments engaged in industrial or scientific research, including product testing. Includes electronic research firms or pharmaceutical research laboratories. Excludes manufacturing, except of prototypes, and medical testing and analysis.

Residential Care, Accessory.

Residential Care Facilities (Land Use).

General Licensed (7 or more persons). A place, site or building, or groups of places, sites or buildings, licensed by the State, in which 7 or more individuals with a disability reside who are not living together as a single housekeeping unit (see "Single Housekeeping Unit") and in which every person residing in the facility (excluding the licensee, members of the licensee's family, or persons employed as facility staff) is an individual with a disability. Does not include "Group Residential."
Licensed vs. Unlicensed.

General Unlicensed (7 or more persons). A place, site or building, or groups of places, sites or buildings, which is not licensed by the State, and is not required by law to be

licensed by the State, in which 7 or more individuals with a disability reside who are not living together as a single housekeeping unit (see "Single Housekeeping Unit") and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include "Group Residential."

Limited Licensed (6 or fewer persons). State licensed facilities that provide care, services, or treatment in a community residential setting for 6 or fewer adults, children, or adults and children and which are required by State law to be treated as a single housekeeping unit for zoning purposes. Small licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units (see "Single Housekeeping Unit"). Does not include "Group Residential."

Small Unlicensed (6 or fewer persons). A place, site or building, or groups of places, sites or buildings, which is not licensed by the State of California and is not required by law to be licensed by the State, in which 6 or fewer individuals with a disability reside who are not living together as a single housekeeping unit and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include "Group Residential."

Responsible Authority. See "Review Authority."

Restaurant. See "Eating and Drinking Establishments."

Retail Sales (Land Use).

General. Retail establishments, completely enclosed within structures, engaged in selling goods or merchandise to the general public. Examples of these establishments and lines of merchandise include:

- antiques
- appliances
- artists' supplies
- automotive parts and accessories
- bakeries (retail only)
- bicycle sales and rentals
- books
- cameras and photographic supplies
- carpeting and floor covering
- clothing and accessories
- convenience market
- drug and discount stores
- electronic equipment
- fabrics and sewing supplies
- florists and houseplant stores (indoor sales only)
- gift shops
- grocery store
- handcrafted items
- hardware
- hobby materials
- jewelry
- kitchen utensils
- locksmiths
- luggage and leather goods
- medical supplies and equipment
- musical instruments, parts and accessories
- newsstands
- office supplies
- orthopedic supplies
- paint and wallpaper
- pharmacies
- religious goods
- secondhand clothing sales
- shoe stores
- small wares
- specialty food and beverage
- specialty shops
- sporting goods and equipment
- stationery
- supermarket
- tobacco
- toys and games
- travel services

Bulk Merchandise. Retail establishments engaged in selling goods or merchandise to the general public as well as to other retailers, contractors, or businesses, and rendering services incidental to the sale of the goods. Bulk retail is differentiated from general retail by either of the following characteristics:

1. A high volume of sales of related and/or unrelated products in a warehouse setting (i.e., “big box” retail).

2. The sale of goods or merchandise that require a large amount of floor space and that are warehoused and retailed at the same location.

Examples of items for sale include:

- Electrical and heating fixtures and supplies
- Furniture
- Groceries
- Household appliances
- Household furnishings
- Household products
- Lumber
- Nursery stock
- Personal care products

Does not include “Marine Sales”, “Warehousing,” “Wholesaling,” or “Vehicle Sales.”

Retaining Wall. A wall used to support or retain an earth embankment or area of fill.

Review Authority. The individual or official City body identified by this Zoning Code as having the responsibility and authority to review and approve or disapprove ministerial and discretionary permit applications described in this Zoning Code. Includes Newport Beach City Council (“Council"), the Planning Commission ("Commission"), the Planning Director ("Director"), the Zoning Administrator (“Zoning Administrator”), and the Planning Department ("Department").

Right-of-Way. An area of land acquired by reservation, dedication, prescription, or condemnation for public road, crosswalk, pedestrian walkway, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, or other similar uses.

Riparian. Consists of trees, shrubs, or herbs that occur along watercourses or water bodies. The vegetation is adapted to flooding and soil saturation during at least a portion of its growing season.

"S" Definitions

Scenic Area. Places on, along, within, or visible from coastal view roads, trails, beaches, and parklands that offer scenic vistas of the beach and ocean, coastline, mountains, and coastal canyons.

Schools, Public and Private (Land Use). A public or private academic educational institution or schools providing specialized education/training Illustrative examples of these uses include:

- art school
- boarding school
- business, secretarial, and vocational school
- community college, college, or university
- computers and electronics school
- culinary arts
- dance school
- drama school
- driver education school
- elementary, middle, or high schools
- language school
- military academy
- music school
- photography school
- professional school (law, medicine, etc.)
- seminaries/religious ministry training facility
- tutoring centers

Also includes facilities that offer specialized programs in personal growth and development (i.e., arts, communications, diet centers, environmental awareness, management, etc.). Does not include part-time religious instruction at places of worship or preschools and child day care facilities (see "Day Care, General"). See "Studio - Art, Dance, Martial Arts, Music, etc."

School, related to medical professions (Land Use). An establishment that provides specialized on-site training of technical medical skills (e.g. anesthesiology technician, cardiovascular technician, dental assistant, emergency medical technician, medical laboratory technician, MRI technician, optical technician, pharmacy technician, phlebotomy technician, ultrasound technician, x-ray technician, etc.).

Sea. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through a connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, and creeks and excluding flood control and drainage channels.

Second Unit. A dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site.

Security. Bonds, cash deposits, letters of credit, and/or other instruments acceptable to the City that are used to guarantee specific performance.

Senior Citizen Housing Development. A residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units and that conforms to Civil Code 51.3 (4).

Sensitive Species. Includes those plant and animal species considered threatened or endangered by the U.S. Fish and Wildlife Service and/or the California Department of Fish and Game according to Section 3 of the Federal Endangered Species Act.

Endangered. A species in danger of extinction throughout all, or a significant portion of, its range.

Threatened. A species likely to become an endangered species within the foreseeable future throughout all, or a portion of, its range.

Service Station. See “Vehicle/Equipment Services.”

Service Station Fueling Space. A temporary parking space immediately adjacent to a fuel dispensing unit.

Setback. The distance by which a structure, parking area, or other feature must be separated from a lot line or other designated point or line. See "Setback Area" and Figure 7-4 (Setbacks).

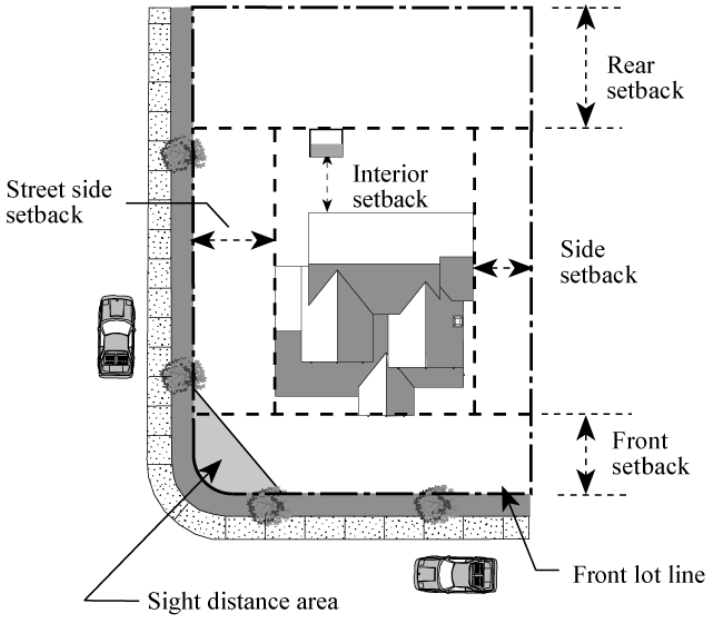


Figure 7-3 - Setbacks

Setback Area. An area within a lot that is established for the purpose of governing the location of structures on a lot. A setback area is located between a setback line and the nearest relevant parallel lot line and is unobstructed and unoccupied from the ground upward, except for encroachments allowed in compliance with Section 20.30.090 (Setback Regulations and Exceptions). See Figure 7-3 (Setbacks). See “Yard.”

1. **Front Setback Area.** An area that extends across the full width of a lot between the front lot line and the required front setback line.

2. **Rear Setback Area.** An area that extends the full width of a lot between the rear lot line and the required rear setback line.

3. **Side Setback Area.** An area that extends from a front setback line to a rear setback line between the side lot line and the required side setback line.

Setback Line. Within a lot, a line established to indicate the boundary of a specified front, side, or rear setback area. A setback line may be parallel to and equidistant from a lot line (front, back, and side) or from a current or future public right-of-way, whether acquired in fee, easement, or otherwise; or may be coterminous with the lot line. See the development standards tables in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) for the minimum required horizontal distance between a lot line and a setback line. See "Lot Line."

Shopping Center. A grouping of retail business and service uses on a single site with common parking facilities.

Shoreline. Intersection of the sea with land; the line that delineates the shoreline on nautical charts and surveys published by the National Oceanic and Atmospheric Administration and that approximates the mean low water line from the time the chart was prepared. See "Sea."

Shoreline Protective Structure. See "Protective Structure."

Short-Term Lodging (Land Use). See "Visitor Accommodations – Residential."

Signs. See Chapter 20.54 (Signs).

Single Housekeeping Unit. The functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities (e.g., meals, chores, household maintenance, expenses, etc.) and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Single-Unit Dwelling. See "Dwellings."

Site. A lot or adjoining lots under single ownership or single control, considered as a unit for the purposes of development or other use.

Site Coverage. The percentage of a site covered by structures and accessory structures and by decks more than 30 inches in height.

Site Plan. A drawing of a lot, drawn to scale, showing the actual measurements, the size and location of existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other information.

Skylight. The portion of a roof that is glazed to admit daylight, including the mechanical fastening required to hold the glazing and to provide a weatherproofing barrier.

Slope. Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent or ratio. Slope is determined using the following equation:

Slope = (V / H) x 100, where
V = vertical distance between the highest elevation and lowest elevation of a straight line drawn perpendicular to the sloping surface;
H = horizontal distance of a straight line drawn perpendicular to the sloping surface.

Solar Equipment. A solar collector or solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or for power generation.

Solid Waste. Garbage, refuse, rubbish, or other discarded materials, including garbage with insufficient liquid content to be free flowing, generally disposed of in landfills or incinerated.

Special Events (Land Use). See Municipal Code Chapter 11.03.

Specific Plan. Under Government Code Section 65450 et seq., a policy statement and implementation tool adopted by the City Council that addresses a single project or planning problem. A specific plan may include detailed regulations, conditions, programs, and/or proposed legislation that may be necessary or convenient for the systematic implementation of a General Plan element(s).

Stream. A topographic feature that at least periodically conveys water through a bed or channel having banks. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

Street. A public or private vehicular right-of-way (e.g., local streets, commuter roadways, arterials, etc.), but not including alleys, driveways, or off-road bikeways.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Includes “Building.”

1. **Structure, Accessory.** See “Accessory Structures.”

2. **Structure, Attached.** A structure that is connected to another structure by means of a wall, roof, stairway, atrium, breezeway, or other structural connection.

3. **Structure, Detached.** A structure that does not have a wall or roof in common with another structure.

4. **Structure, Principal.** A structure in which the principal use of the lot and/or building site is conducted.

Studio - Art, Dance, Martial Arts, Music, etc. (Land Use). A small-scale instructional facility that typically accommodates one student or a group of students at a time, in no more than one instructional space. Examples of these small-scale facilities include: instruction and training in the arts, martial arts, gymnastics, etc.; photography and the processing of photographs produced only by users of the studio facilities; production studios for individual filmmakers, musicians, painters, sculptors, photographers, and other artists. Larger facilities are included

under the definition of "Schools – Public and Private." These uses may also include accessory retail sales of products related to the services provided.

Submerged Lands. Lands that lie below the line of mean low tide (from California Code of Regulations, Section 13577). See "Public Trust Lands."

Subdivision. See Municipal Code Title 19 (Subdivisions).

Subdivision Map Act. Division 2, Title 7 of the California Government Code, commencing with Section 66410, as amended, regarding the subdivision of real property.

Supermarket (Land Use). A retail establishment that generally maintains a minimum gross floor area of 10,000/15,000 square feet and carries a broad range of food products (e.g., fresh fruits; fresh vegetables; baked goods, meat, poultry, and/or fish products; frozen foods; processed and prepackaged foods, etc.). May include accessory uses (coffee kiosks, ATM's, banks, etc.). Does not include "Convenience Market."

Surface, Finished. See "Finished Surface."

"T" Definitions

Tandem Parking Space. See "Parking Space, Tandem."

Temporary Events (Land Use). See Section 20.66.080 (Limited Term Permits). Does not include Special Events (see "Special Events").

Temporary Structures (Land Use). See Section 20.66.080 (Limited Term Permits)

Temporary Uses (Land Use). See Section 20.66.080 (Limited Term Permits).

Tidelands. Lands that are located between the lines of mean high tide and mean low tide (from California Code of Regulations, Section 13577). See "Public Trust Lands."

Time Share Facility (Land Use). See "Visitor Accommodations."

Traffic Safety Area. A triangular area as described in Section 20.30.110 (Traffic Safety Visibility Area).

Transportation Demand Management (TDM). A strategy for reducing demand on the road system by reducing the number of vehicles using the roadways and/or increasing the number of persons per vehicle. TDM attempts to reduce the number of persons who drive alone on the roadway during the commute period and to increase the number in carpools, vanpools, buses and trains, walking, and biking. TDM can be an element of Transportation Systems Management (TSM) (see "Transportation Systems Management (TSM)").

Transportation Systems Management (TSM). Individual actions or comprehensive plans to reduce traffic congestion by increasing the efficiency of the transportation system itself.

Examples include improved traffic signal timing, coordination of multiple traffic signals, or spot improvements that increase capacity of the roadway system.

Triplex. See "Dwelling, Multi-Unit."

Tsunami. A long period wave, or seismic sea wave, caused by an underwater disturbance (e.g., volcanic eruption, earthquake,, etc.).

Two-Unit Dwelling. See "Dwelling, Two-Unit."

"U" Definitions

Unit. See "Dwelling Unit."

Usable Open Space. See "Open Space."

Use. The purpose for which land or a structure is, arranged, designed, intended, maintained, or occupied.

Use, Accessory. See "Accessory Use."

Use, Allowed. A use of land identified by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as a permitted or conditional use that may be established with a development permit, subject to compliance with all applicable provisions of this Zoning Code.

Use, Principal. The predominant use of a lot, building, or structure.

Use, Nonconforming. See "Nonconforming Use."

Utility (Land Use). A facility for the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication, and telephone cable services by public utilities, and includes facilities for the generation of electricity. Does not include utilities in the public right-of-way (see Municipal Code Chapter 13.20 [Public Rights-of-way]) and does not include "Wireless Telecommunication Facilities" (see Municipal Code Chapter 15.70 [Wireless Telecommunication Facilities]).

"V" Definitions

Variance. A discretionary entitlement that waives or relaxes the development standards of this Zoning Code, in compliance with Section 20.66.100 (Variances).

Vehicle/Equipment Rentals (Land Use).

General. Rental of automobiles, construction equipment, motorcycles, recreational vehicles, trucks, and similar vehicles and equipment, including on-site storage and incidental maintenance that does not require pneumatic lifts. Does not include boat rentals (see "Marine Rentals and Sales").

Limited. Limited to the rental of bicycles, tricycles, quadricycles, or similar pedal-propelled or battery-propelled equipment. May also include the maintenance, minor repair, and on-site storage of the equipment offered for rent.

Office Only. Rental of automobiles, motorcycles, recreational vehicles, trucks, and other types of transportation vehicles. Does not include the on-site storage of or incidental maintenance of vehicles. Does not include boat rentals (see "Marine Rentals and Sales").

Vehicle/Equipment Sales (Land Use).

General. Sale of automobiles, construction equipment, motorcycles, recreational vehicles, trucks, and similar vehicles and equipment, including display, storage, maintenance, repair, and incidental rental of the vehicles and equipment. May include the sale, installation, and servicing of related equipment and parts. Does not include boat sales (see "Marine Rentals and Sales").

Limited. Limited to the sale of automobiles, including display, storage, minor maintenance, and incidental rental. Does not include maintenance and/or repair requiring pneumatic lifts. Does not include boat sales (see "Marine Rentals and Sales").

Vehicles Sales, Office Only. Limited to an office for the sale of automobiles. Does not include on-site inventory, display, storage, maintenance, or repair of automobiles. May be subject to parking requirements of the Department of Motor Vehicles.

Vehicle/Equipment Repair (Land Use).

General. Major repair of automobiles, motorcycles, recreational vehicles, or trucks. Examples of uses include body and fender shops; brake shops; full-service motor vehicle repair garages; machine shops; painting shops; tire sales and installation shops; towing services; and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping. Does not include boat repair (see "Marine Services").

Limited. Minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans, or similar size vehicles. Examples of uses include brake adjustments and repairs; installation of electronic equipment (e.g., alarms, stereos, etc.); servicing of cooling, electrical, fuel, and exhaust systems; oil and lube shops; wheel alignment and balancing. Does not include boat repair. See "Marine Services."

Vehicle/Equipment Services (Land Use).

1. **Automobile Washing/Detailing.** Establishments engaged in the washing, waxing, or cleaning of automobiles or similar light vehicles.

Full Service. A car wash establishment where operating functions are performed entirely by an operator/owner with the use of washing, waxing, and drying equipment supplemented with manual detailing by the operator/owner.

Self Service or Accessory. An establishment where washing, drying, polishing, or vacuuming of an automobile is done by the car driver or occupant.

2. **Service Station.** An establishment engaged in the retail sale of gasoline, diesel, and alternative fuel, lubricants, parts, and accessories, including incidental "minor" maintenance and repair of automobiles and light trucks, vans, or similar size vehicles. Does not include body and fender work or "heavy" repair of trucks or other motor vehicles (see “Vehicle/Equipment Repair, General”).

3. **Vehicle Storage.** Storage of operative or inoperative vehicles, including tow yards (i.e., outdoor storage facilities for the temporary storage of towed vehicles), impound yards, and storage lots for automobiles, trucks, buses, and recreational vehicles. Does not include vehicle/equipment repair activities (see “Vehicle/Equipment Repair”) or vehicle dismantling or salvage.

Very Low-Income Household. A household whose income is 50% or less of the Orange County median income, adjusted for actual household size, as determined by the California Department of Housing and Community Development.

Vessel. Every type of watercraft that is used or capable of being used as a means of transportation on water. This includes all vessels of any size home-ported, launched/retrieved, or visiting in Newport Harbor, arriving by water or land, and registered or unregistered under State or Federal requirements, except a seaplane on the water.

Visitor Accommodations, Residential (Land Use).

1. **Bed and Breakfast Inn.** A dwelling unit that offers guest rooms or suites for a fee for less than 30 days, with incidental eating and drinking service provided from a single kitchen for guests only.

2. **Short-Term Lodging.** A dwelling unit that is rented or leased as a Single Housekeeping Unit (see “Single Housekeeping Unit”) for a period of less than 30 days, subject to the requirements of Municipal Code Chapter 5.95 (Short-Term Lodging Permits).

Visitor Accommodations, Nonresidential (Land Use).

1. **Hotel.** An establishment that provides guest rooms or suites for a fee to transient guests for sleeping purposes. Access to units is primarily from interior lobbies, courts, or halls. Related accessory uses may include conference and meeting rooms, restaurants, bars, and recreational facilities. Guest rooms may or may not contain kitchen facilities for food preparation (i.e., refrigerators, sinks, stoves, and ovens). Hotels with kitchen facilities are commonly known as extended stay hotels. A hotel operates subject to taxation under Revenue and Taxation Code Section 7280.

2. **Motel.** An establishment that provides guest rooms for a fee to transient guests for sleeping purposes. Guest rooms do not contain kitchen facilities. A motel is distinguished from a hotel primarily by direct independent access to, and adjoining parking for, each guest room. A motel operates subject to taxation under Revenue and Taxation Code Section 7280.

3. **Recreational Vehicle (RV) Park.** A lot upon which two or more recreational vehicle sites are located, established, or maintained for occupancy for a rental fee by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

5. **Time Share Facilities.**

   Time Share Project. A development in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of an ownership interest in a lot, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to time share estate, interval ownership, vacation license, vacation lease, club membership, time share use, hotel/condominium, or uses of a similar nature.

   Time Share Estate. A right of occupancy in a time share project that is coupled with an estate in the real property.

   Time Share Interval. The period or length of time of occupancy in a time share unit.

   Time Share Unit. Each portion of the real property or real property improvement in a project that is divided into time share intervals.

   Time Share Use. A license or contractual or membership right of occupancy in a time share project that is not coupled with an estate in the real property.

Visitor-Serving Retail (Land Use). Retail establishments engaged in selling goods or merchandise to tourists and visitors. Examples of these establishments and lines of merchandise include:

- antiques
- appliances
- art galleries
- artists' supplies
- bakeries (retail only)
- bicycle sales and rentals
- books
- cameras and photographic supplies
- clothing and accessories
- convenience market
- drug and discount stores
- gift shops
- handcrafted items
- hobby materials
- jewelry
- luggage and leather goods
- newsstands
- pharmacies
- specialty food and beverage
- specialty shops
- sporting goods and equipment
- tobacco
- toys and games
- travel services

"W" Definitions

Warehousing (Land Use). Establishments engaged in providing facilities for the storage of furniture, household goods, products, or other commercial goods. Includes cold storage. Does not include personal storage (mini storage) facilities offered for rent or lease to the general public ("Personal Storage-Mini-Storage"); or warehouse facilities in which the primary purpose of storage is for wholesaling ("Wholesaling").

Small – Establishments located in facilities that are 5,000 square feet or less in size.

Large – Establishments located in facilities that are over 5,000 square feet in size.

Water Transportation Services (Land Use). See "Marine Services."

Waterfront Lot. See "Lot, Waterfront."

Water Course. A natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite channel, bed and banks, and includes an area adjacent thereto subject to inundation by reason of overflow or flood water.

Wetlands – WITHIN Coastal Zone. Lands that may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. [Section 30121, Coastal Act.] Also includes land

where the water table is at near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes and types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentration of salts or other substances in the substrate. These wetlands can be recognized by the presence of surface water or saturated substrate at some during each year and their location within, or adjacent to vegetated wetland or deepwater habitats. [Section 13577 (b)(1) of the California Code of Regulations.]

Wetlands – OUTSIDE the Coastal Zone. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. [Joint definition of the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency]

Wholesaling. An establishment that sells and/or distributes merchandise to retailers; to industrial, commercial, institutional, or professional businesses; or to other wholesalers; or acts as an agent or broker and buys merchandise for, or sells merchandise to, retailers, businesses, or other wholesalers. Does not include “Retail Sales” or “Warehousing.”

Wireless Telecommunication Facility. See Municipal Code Chapter 15.70 (Wireless Telecommunication Facilities.”

Working Day. A day when work is normally done as distinguished from a Saturday, Sunday, legal holiday, or other day the City is not open for business. See “Calendar Day.”

“X” Definitions

Xeriscaping. A set of landscape design and maintenance principles and horticultural practices that promote efficient use of water. The term “xeriscape” is a registered trademark of the National Xeriscape Council and means water-conserving, drought-tolerant landscaping.

“Y” Definitions

Yard. The area between a lot line and a principal structure. May be the same size as or larger than a required setback area.

“Z” Definitions

Zoning District. A residential, commercial, industrial, mixed-use, special purpose, or overlay district established by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) within which certain land uses are allowed or prohibited, and certain site planning and development standards are established (e.g., setbacks, height limits, site coverage requirements, etc.).

(i.e.,

Zoning District, Principal. The zoning district applied to a site by the Zoning Map, to which an overlay zoning district may also be applied. See “Overlay Zoning District.”