City of Sebastopol
Planning Commission

Meeting Date:	October 10, 2017
Agenda Item:	8A
To:	Planning Commission
From:	Kenyon Webster, Planning Director
Subject:	Draft Zoning Ordinance Amendments
Recommendation:	Receive Consultant Presentation; Conduct Public Hearing; Formulate Any Revisions to Draft

Introduction:

This staff report addresses the attached proposed comprehensive Zoning Ordinance Amendments. The amendments address specific policy revisions called for by the new General Plan as well as ideas generated at a series of City Council Housing Subcommittee meetings. A number of the revisions address topics about which the Commission provided policy direction this spring.

After receiving a presentation from the City's consultant De Novo Planning Group, the Commission should conduct a public hearing, and begin discussing the revisions.

Background:

After years of effort, a new General Plan was adopted on November 15, 2016. The new General Plan calls for a variety of changes to the Zoning Ordinance. Under State law, the Zoning Ordinance is required to be consistent with the General Plan.

In spring of this year, the Commission discussed a variety of General Plan policies calling for Zoning Ordinance revisions. The attached amendment package responds to this direction, addresses a variety of other issues, and also includes a number of amendments intended to facilitate housing development, in response to General Plan direction as well as ideas generated in the series of community meetings conducted by the City Council's Housing Subcommittee.

While most factors affecting housing availability and affordability are beyond the City's control, zoning regulations and procedures are an area where the City can take policy action. Development standards, as well as lengthy review processes impact housing development. The proposed amendments include a variety of relatively aggressive regulatory and procedural changes to facilitate housing development. These changes would allow denser development, lower parking requirements (one of the key factors in

development design/feasibility), expand allowances for housing in non-residential districts, and in some cases would provide reduced processing requirements.

De Novo Planning Group, the City's consultant, has provided a detailed memorandum (attached) discussing the proposed Zoning Ordinance amendments. Background information on several topics is also provided.

The De Novo memorandum also suggests an order for Commission discussion of the amendments. It is anticipated that the Commission's review will take several meetings.

Environmental Review:

The primary purpose of the Zoning Ordinance update project is to implement policy provisions of the new General Plan so as to make the Zoning Ordinance consistent with the General Plan, as is required by State law.

The General Plan was the subject of a full Environmental Impact Report which was certified by the City Council in conjunction with General Plan adoption. Thus, the potential environmental impacts of the Zoning Ordinance revisions have been addressed by the General Plan EIR.

Public Comment:

A notice regarding the hearing was published in the Sonoma West newspaper. In addition to posting the agenda and staff report, including the amendments, on the City web site, the Planning Department emailed a newsletter with information about the Zoning Ordinance update to over 700 persons who have expressed interest in planning/City affairs, and also emailed information about the hearing to the Housing Subcommittee mailing list. The Planning Department has not received any comments on this matter from the public, as of writing the staff report.

Recommendation:

It is recommended that the Planning Commission receive the consultant's presentation, conduct a public hearing to hear comments from any interested members of the public, discuss the matter, and provide direction for any revisions to the draft Zoning Ordinance amendments prior to their transmittal to the City Council.

Attachments:

De Novo memorandum
Attachment A Draft Zoning Ordinance amendments
Attachment B Parking requirements comparison
Attachment C Inclusionary housing comparison
Attachment D Formula business standards information
Attachment E Chapter 16.24 revisions

FOCUSED ZONING CODE UPDATE

MEMORANDUM

TO:	Kenyon Webster
FROM:	Beth Thompson and Elise Carroll, De Novo Planning Group
SUBJECT:	Zoning Code Update Review Package
DATE:	October 10, 2017

INTRODUCTION

The purpose of this meeting is to receive input from the Planning Commission regarding the Zoning Code Update. The proposed revisions to the Zoning Code are shown in Attachment A.

It is anticipated that the Planning Commission will review the Zoning Code Update over the course of several meetings. We anticipate reviewing the Zoning Code in the following order:

- Zoning Districts and General Provisions (SMC 17.10 through 17.160)
- Residential Provisions (SMC 17.200 through 17.280)
- Commercial, Office, and Industrial Provisions (SMC 17.300 through 17.360)
- Administrative and Permit Procedures (SMC 17.400 through SMC 17.470)
- Definitions (SMC 17.08) will be reviewed as applicable throughout the review of the above topics
- Zoning Map

Please note that there will be a meeting to review the Zoning Map. Prior to that meeting, the Planning Commission will be presented with a Zoning Map Memo that identifies locations where the existing zoning is not consistent with the General Plan Land Use Map and parcels with uses that do not conform to the existing zoning. A revised Zoning Map will be provided for Planning Commission consideration.

DISCUSSION

Zoning Code Reorganization

Sections 17.50 through 17.370 have been reorganized to provide a more orderly framework to the Zoning Code. While most of the reorganization involved relocating sections to provide a more organized Zoning Code, the zoning approvals and permits sections were extensively revised to clarify requirements and remove redundant discussions.

In order to reduce the number of footnotes associated with each table, particularly the tables summarizing permitted uses and development standards. In some cases, standards were added to the body of the table or to the narrative text of the applicable section of the code. In other cases, the footnotes did not seem necessary as they just pointed to specific code sections that also apply to the use/action.

The Zoning Code Update is organized as follows:

Introduction and Definitions

Chapter 17.04 – Zoning Code for the City of Sebastopol
Chapter 17.08 – Definitions

Zoning Districts

Chapter 17.10 – Zoning Districts
Chapter 17.20 – Residential Districts
Chapter 17.25 – Commercial, Office, and Industrial Districts
Chapter 17.30 – Community Facilities Districts
Chapter 17.40 – PC - Planned Community Overlay District
Chapter 17.44 – Wetlands Districts (W, WS Combining, WF Combining)
Chapter 17.46 – ESOS – Environmental and Scenic Open Space Combining District

General Provisions

Chapter 17.100 – General Height, Yard Encroachment, Creek Setback, Community Garden, and Recycling and Waste Collection Area Requirements (Formerly Chapter 17.60 and Chapter 17.224; *Note: move studio apartment density (17.60.055) and maximum density during construction (17.60.060) to Residential Provisions and move provisions relating to service stations and car washes (17.60.090) and outdoor uses (17.60.100) to Commercial, Office, and Industrial Provisions*)
Chapter 17.110 - Off-Street Parking (formerly Chapter 17.220)
Chapter 17.120 – Sign Regulations (formerly Chapter 17.230)
Chapter 17.130 - Telecommunications Facilities And Minor Antennas (formerly Chapter 17.50)
Chapter 17.140 - Small Wind Turbine Towers (formerly Chapter 17.50)
Chapter 17.150 – Cultural Heritage (formerly Chapter 17.370)
Chapter 17.160 - Nonconforming Uses (formerly Chapter 17.200)

Residential Provisions

Chapter 17.200 – Density Allowances (formerly studio apartment density (17.60.055) and maximum density during construction (17.60.060)
Chapter 17.210 – Manufactured Homes (formerly Chapter 17.260)
Chapter 17.220 - Accessory Dwelling Units (formerly Section 17.110.030)
Chapter 17.225 – Temporary Care Unit (new)
Chapter 17.230 - Small Lot Subdivisions (formerly Chapter 17.245)
Chapter 17.240 - Condominium Conversion (formerly Chapter 17.50)
Chapter 17.250 - Inclusionary Housing (formerly Chapter 17.240)
Chapter 17.255 - Affordable Housing Density Bonus (formerly Chapter 17.242)
Chapter 17.260– Home-based Businesses (this will include Home Occupations, Cottage Food Operations, Large Family Day Care, Bed and Breakfast Inns, and Short-Term Vacation Rentals (new)) (formerly Chapters 17.110, 17.210, 240, and 250)
Chapter 17.280 - Park And Recreation Land Dedication And Fees (formerly Chapter 17.70 - new)

Commercial, Office, Industrial, and Other Non-Residential Provisions

Chapter 17.300 –Outdoor Uses (formerly 17.60.110, also includes commercial outdoor barbecues – 17.60.110 - new, and commercial bee keeping (17.60.120 – new)
Chapter 17.310 – Public Art in New Development and Major Remodels in all Commercial and Industrial Zones (formerly Chapter 17.360)
Chapter 17.320 - Transitional Sites (formerly Section 17.110.040)

Chapter 17.330 - Outdoor Music And Noise In The Downtown (formerly Chapter 17.90 - new)
Chapter 17.340 - Formula Businesses (formerly Chapter 17.150)
Chapter 17.345 – Service Stations and Car Washes (formerly Section 17.60.090)
Chapter 17.350 - Alcohol Use Permit Criteria (formerly Chapter 17.120)
Chapter 17.355 - Mobile Food Truck Regulations (new)
Chapter 17.360 - Medical Cannabis Dispensaries (formerly Chapter 17.140)

Administrative and Permit Procedures
Chapter 17.400 – Procedures and Administration – General Provisions (formerly Chapter 17.250)
Chapter 17.405 – Administrative Permit (new)
Chapter 17.410 – Adjustment Procedure (formerly Chapter 17.255)
Chapter 17.415 – Use Permit Procedure (formerly Chapter 17.260)
Chapter 17.420 – Variance Procedure (formerly Chapter 17.270)
Chapter 17.425 - Reasonable Accommodation Under the Fair Housing Acts (formerly Chapter 17.275)
Chapter 17.430 – Temporary Use Permits (formerly Chapter 17.280)
Chapter 17.435 – Downtown Noise Permits (new)
Chapter 17.440 – Development Agreements (formerly Chapter 17.290)
Chapter 17.445 – General Plan and Zoning Amendment Procedure (formerly Chapter 17.300)
Chapter 17.450 – Design Review Procedure (formerly Chapter 17.310)
Chapter 17.455 – Administrative Appeal Procedure (formerly Chapter 17.320)
Chapter 17.460 – Public Hearing Procedure (formerly Chapter 17.330)
Chapter 17.470 – Enforcement/Penalties (formerly Chapter 17.340)

Growth Management
Chapter 17.500 – City Growth Management Program (formerly Chapter 17.350)

Residential Districts

The residential district names were revised to reflect the Planning Commission recommendation that the districts be numbered rather than RE, RA, RR, RSF, etc. The numbering of the districts reflects the maximum density allowed in each district.

Two new residential districts have been added. R-10.89 was added to allow small lot single family developments. The former RD district was split into two districts: R-14.52A will continue to allow duplex and single family uses while R-14.52B is intended to accommodate triplex and fourplex uses, in addition to duplex and single family uses.

Housing Subcommittee

Changes were made throughout the Zoning Code Update to implement a range of ideas discussed at the series of Housing Subcommittee meetings as well as policies in the new General Plan. The recommendations are summarized below and the associated changes to the Zoning Code Update are identified in italics.

1. Allow accessory dwelling units of up to 1,200 sq. ft. on parcels of 15,000 sq. ft. or greater, where there are at least four off-street parking spaces on the site.

   Addressed in revisions to SMC 17.220.020.D.1.

2. Reduce setback requirements for detached two-story accessory dwelling units to be the same as one-story accessory dwelling units (current Code requires two story units to meet the same requirements as the main house, but also requires a lower height).

   Addressed in revisions to SMC 17.220.020.D.5.

3. Consistent with new General Plan density standard changes, reduce minimum lot sizes and widths in single family residential zones as follows:
   a. In RA district, change minimum lot size from 20,000, to 18,000 sq. ft. and minimum lot width from 100 feet to 80 feet
   b. In RSF-1 district, change minimum lot size from 10,000, to 8,000 sq. ft. and minimum lot width from 80 feet to 70 feet.
   c. In RSF-2 and RD, change minimum lot size from 6000, to 5000 sq. ft. and minimum lot width from 60 feet to 50 feet.

   Addressed in revisions to Table 17.20-2.

4. Consider a new small lot single-family zone and apply it to existing smaller-lot areas. Requirements may include a 4,000 sq. ft. minimum lot size, 40-foot minimum lot width, and reduced setbacks, such as 15' front, 20' rear, and 4' side setbacks.

   The R-10.89 district was added to SMC 17.20 to accommodate smaller single family lots and Table 17.20-20 was revised to identify standards for the new R-10.89 district. Revisions to the Zoning Map to implement this district will be addressed under a separate memo to the Planning Commission.

5. Allow the Small Lot Subdivision provisions to apply to Medium and High Density areas (presently limited to RSF-1, RSF-2, and RD districts). Use of these provisions may incentivize projects in the higher density residential zones.

   Addressed in revisions to SMC 17.230.010.

6. Eliminate the constraining unit square footage standards in the Small Lot Subdivision chapter of the Zoning Ordinance. These appear to act as a disincentive to use of the Small Lot Subdivision provisions.

   Addressed in revisions to reduce the minimum and maximum lot sizes at SMC 17.230.050 and deleted the standards for allowable square footage, which required a minimum average house size based on the average lot size in a project.

7. Change the definition of 'mixed-use' development to decrease the proportion of commercial space required in mixed-use developments in selected non-residential zones from 25% to a lower percentage, or change the requirement to be for ground-floor, street-front commercial to a specified depth such as 30 feet.

   The mixed use definition was updated to increase the allowed percentage of residential square footage.

8. Rather than requiring mixed-use, allowing housing-only development in selected commercially-zoned locations (where there is a high proportion of existing residential uses, such as South Main, Healdsburg Avenue, Petaluma Avenue). So, this could apply to the O and CO zones.

   Addressed in revisions to SMC 17.220.030 and Table 17.25-1.

9. Via a Use Permit, allow housing-only development in other non-residential districts if certain findings are made---like will not create substantial adverse effect on street-front commercial vitality, will be compatible with adjacent uses and development, etc.

   Addressed in revisions to SMC 17.220.030 and Table 17.25-1.

10. Parking Requirements:
    a. Reduce 1-bedroom parking requirement from 1.5 spaces, to 1.25 spaces.
    b. Reduce 2- to 3-bedroom parking requirement from 2.0 spaces, to 1.75 spaces.
    c. Reduce 4+-bedroom parking requirement from 3 spaces, to 2.75 spaces.
    d. Reduce senior housing requirement from 0.75 spaces, to 0.5 spaces per unit.
    e. Reduce assisted living requirement from 1 space per unit for the first 25 units, and .75 spaces per unit thereafter, to.5 spaces per unit.
    f. Increase downtown residential parking discount from 20%, to 30%.
    g. Increase allowed compact parking proportion from 40%, to 50%.
    h. Allow tandem parking for all single-family, and for multi-family development if spaces are assigned.
    i. Allow street-front parking to count towards multi-family parking requirements.

    These recommendations were considered in conjunction with a review of the parking requirements of other jurisdictions. Parking requirements by use and the Central Core District residential discount were adjusted in Table 17.110-1; the 1-bedroom and 2- to 3-bedroom requirements were reduced by slightly more than required by the Housing Subcommittee. The compact parking proportion is addressed at SMC 17.110.020.C.5. The tandem parking allowance is addressed at SMC 17.110.010.I.5. Street-front parking is allowed to count toward the multifamily requirement is allowed at SMC 17.110.010.B.

11. Modify Inclusionary Ordinance to allow satisfaction by use of land trust deed restriction on 20 percent of the lots/units in ownership developments.

    Addressed in revisions at SMC 17.250.030.B.8.

Very Small Homes

Based on the discussion with the Planning Commission, very small homes are accommodated in the same manner as other housing units of the same type (i.e., site-built homes constructed according to the California Building Standards Code, manufactured housing, and mobile homes) rather than defining very small homes as a separate use. With this approach, very small homes are permitted in the same manner and location as other larger homes of the same type. In order to make provisions for very small homes, the following changes were made to the Zoning Code:

- The “Dwelling, single family” definition was revised to require housing to be built to applicable standards and the minimum size requirements were removed. This means that smaller homes are permitted as shown in Table 17.20-1 as long as the applicable City standards and federal and State codes are met.
- The “Dwelling, temporary” definition was added to allow temporary housing (recreational vehicles and park trailers as defined by State code) that is not attached to a permanent foundation. SMC 17.xxx
- The R-10.89 district was added to allow smaller single family lots, which could accommodate very small homes.

- The R-MH minimum lot size was reduced from 5 to 1.5 acres to accommodate parks oriented toward very small homes.
- The Small Lot Subdivision provisions were revised to allow smaller minimum lot sizes and remove the average home size requirement based on the average lot size.
- A very small home that is built on-site or is a manufactured home, factory-built home, or mobilehome placed on a permanent foundation is treated in the same manner as a single family home or as an accessory dwelling unit if there is already a primary unit on the parcel. A very small manufactured home or mobile home may also be located within a mobile home park.
- A very small home that is a recreational vehicle or park trailer can be a temporary care unit on a residential lot or can be located in a mobile home park.
- A development of solely tiny houses could be constructed under the Small Lot Subdivision provisions or as a Mobile Home Park.

Industrial Uses

The warehouse, research, and other definitions were reviewed to see if the City is precluding current, emerging, or innovative uses. While it appears no new uses should be defined to accommodate commercial and industrial uses, the "Research and Development" definition was revised to ensure that maker spaces are specifically allowed and the "Office" definition was revised to include co-working space.

Employee Housing, Small

The employee housing, small use was deleted from Table 17.20-1: this use is addressed through the definition and should be permitted consistently with the applicable residential use.

Commercial-Industrial District

The C-M District was added to SMC 17.25 to accommodate the Barlow and similar developments and Tables 17.25-1 and 17.25-2 were updated to reflect the Commission's discussion on this topic.

Commercial, Office, and Industrial Standards

SMC 17.25.030.B. was added to ensure human-scale, pedestrian-oriented commercial development and to preclude auto-oriented strip commercial development.

Residential Development in the Non-Residential Districts

SMC 17.25.030.C. was added to address residential uses, including mixed-use projects and high density residential development permitted in the R-24.89 district. The standards allow mixed-use, with the requirement that ground-floor non-residential uses are located along primary street frontages, which is intended to ensure that the non-residential component is pedestrian-friendly and contributes to the economic vitality of the area. Residential-only projects permitted in the R-24.89 district are allowed as a conditionally permitted use subject to findings that the project will not create a substantial adverse effect on commercial uses or street-front vitality and that the project is compatible with nearby uses.

Community Gardens

SMC 17.100.090 was added to establish provisions for community gardens. Community gardens are defined in SMC 17.08 and addressed in Tables 17.20-1 and 17.25-1.

Parking Requirements

SMC 17.110 was revised to update the City's parking requirements. Parking requirements are summarized in Table 17.110-1; while the table is new, it summarizes existing parking requirements that had been described in the text of this section so only the changes to the parking requirements are shown in track changes.

Parking standards were added for electric vehicle charging stations (see SMC 17.110.040 and Table 17.110-1) and for rideshares (see SMC 17.110.050 and Table 17.110-1) to encourage non-vehicle transportation and to reduce single occupancy vehicle commutes. Bicycle parking requirements were increased slightly, as shown in Table 17.110-1 to encourage non-vehicle transportation. Vehicle parking requirements were reduced for duplex, triplex, fourplex, multifamily and attached single family, senior citizen housing, and assisted living facilities as previously described.

SMC 17.110.030.B. was added to establish provisions for an in-lieu parking fee for the Downtown area as shown in Figure 110.-1. While the City has not adopted an in-lieu fee, the Commission recommended that a fee program be provided for the Downtown. This revision will provide the framework for and facilitate adoption of such as fee.

Attachment B summarizes parking requirement of other jurisdictions.

Temporary Care Unit

SMC 17.225 was added to provide standards for temporary care units in order to accommodate persons to care for an infirm or aging person in an at-home environment. Definitions for temporary care unit and temporary dwelling unit were added to SMC 17.08.

Inclusionary Housing Requirements

The inclusionary housing requirements at SMC 17.250 were revised to raise the threshold to developments of five or more parcels or dwelling units in order to reduce the burden on small residential projects and facilitate housing development. Attachment C identifies the thresholds of nearby communities for comparison purposes. SMC 17.250 was also revised to remove the exemption for rental housing developments since the Governor's signing of Assembly Bill (AB) 1505 made it legal for jurisdictions to require rental developments to provide a percentage of units for occupancy by extremely low, very low, low, or moderate income households.

AB 1505 requires an inclusionary ordinance for rental developments to provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. SMC 17.250 has been updated to provide for satisfaction of the rental inclusionary housing requirement through payment of in-lieu fees or off-site construction of the units. This is noted for Planning Commission consideration as providing similar alternatives to the on-site requirement for for-sale housing would also reduce potential burdens on new residential development in the City.

SMC 17.250.150 was deleted as accessibility for disabled persons is addressed by the California Building Standards Code.

Short-Term Vacation Rentals (17.260.060)

SMC 17.260.060 was added to address short-term vacation rentals and associated definitions were added to SMC 17.08. Criteria are established to provide protections for neighboring uses, addressing compatibility of the use with the neighborhood, parking, noise, occupancy, and management (owner or authorized agent) requirements, without being overly restrictive of vacation rental uses. Vacation rentals must comply with the City's business license and transient occupancy tax requirements. This section also establishes a mechanism for handling complaints and enforcing applicable requirements.

Vacation rentals are divided into three categories: hosted vacation rentals, nonhosted vacation rentals, and accessory dwelling units. Hosted vacation rentals that rent two or fewer bedrooms are permitted with an administrative permit to encourage and accommodate this use, which does not reduce the overall housing stock in the City. Nonhosted rentals with guest occupancy 30 days or less a year are permitted with an administrative permit, while nonhosted rentals with guest occupancy 31 days or more per year require a conditional use permit in order to address potential concerns with reducing the City's housing stock if homes are used as vacation rentals throughout the year rather than residences. Use of an accessory dwelling unit as a vacation rental requires a conditional use permit regardless of the number of guest occupancy days per year.

The short-term vacation rental provisions were reviewed to ensure that there was not overlap with the standards for bed and breakfast inns. A use is considered a bed and breakfast if more than two rooms are rented out, and the operator must reside on the premises. The vacation rental definition applies to two or fewer rooms being rented (hosted rental) or when the operator does not reside on the premises (nonhosted vacation rental). The Commission may wish to review the vacation rental standards and determine if any of the standards should also be applied to bed and breakfast inns.

Park and Recreation Land Dedication and Fees

Chapter 17.280 was added to establish the City's parkland requirements for residential development and provide a mechanism for collecting and using fees paid in-lieu of providing on-site parkland.

Commercial Outdoor Barbecues

SMC 17.300.040 was added to establish requirements for the operation of commercial outdoor barbecues. Table 17.25-1 was updated to specify where commercial outdoor barbecues are allowed and Table 17.25-2 was updated to identify setbacks for commercial outdoor barbecues.

Beekeeping

SMC 17.300.050 was added to establish requirements for bee keeping. SMC 17.08 was updated to define "Bee keeping, amateur" and "Bee keeping, commercial". Tables 17.20-1 and 17.25-1 were updated to identify where beekeeping is allowed. The Commission had directed that only commercial bee keeping be addressed. However, amateur bee keeping was also addressed to clarify that it is a permitted use.

Downtown Outdoor Noise and Music

Chapter 17.330 was added to establish permit requirements for events in the Downtown that create outdoor noise or music that exceed the standards established at SMC 8.25.060. SMC 17.330 identifies the number of days and time of day that noise levels may be exceeded, maximum noise levels allowed, and requirements to attenuate noise.

Formula Businesses

The formula business requirements were revised to prohibit formula business uses on the ground-floor street front (SMC 17.340.040.A.). The 25 or more businesses was reviewed and no revisions were determined to be necessary. The threshold resulted from extensive Planning Commission and City Council discussions. The intent of that number was to categorize businesses of greatest concern, like McDonalds and Walmart, as formula businesses, but not to target smaller, more regional businesses, like for example Mary's Pizza or another area business that people welcomed here, Sole Desire. While there may be some formula businesses with 25 or more locations that are appropriate for Sebastopol, those businesses can be approved with a use permit and the City retains its discretion in evaluating formula businesses on an individual bases. Attachment D provides additional information regarding formula business ordinances.

Service Stations and Car Washes

SMC 17.345.010 was updated to identify site design and other requirements requirements for service stations and car washes and to include standards specific to car washes.

Wine Tasting

SMC 17.350.080.B. was added to establish criteria for wine tasting establishments.

Mobile Food Trucks

SMC 17.355 was added to address mobile food trucks. All mobile food trucks are required to have a City business license. Mobile food trucks operating within the public right-of-way or short-term on public or private property are not required to have a use permit or other planning approval, but must comply with standards that address hours of operation, distance from restaurant buildings, and requirements to ensure that parking and traffic are not disrupted. This chapter also provides for mobile food truck courts, which allow for long-term or regular operation of mobile food trucks on individual pads with individual utility hook-ups, on private property. Standards for mobile food truck courts include requirements for individual pads and services and provision of pedestrian-oriented amenities and an on-site restroom.

Permit and Approvals

SMC 17.400 through 17.470 addresses the process for all zoning approvals. SMC 17.400 has been updated to identify the process for review of applications. Rather than identifying the public notice, public hearing, and decision-making authority requirements separately for each permit, which resulted in inconsistent public hearing and notice requirements in some situations, general requirements are consolidated at SMC 17.400.

SMC 17.400.030.C. identifies the procedures for making decisions on applications and, in Table 17.400-1, summarizes the decision-making authority and identifies the applicable SMC chapter for each type of permit. SMC 17.400.050 identifies the public notice, public comment period, public hearing requirement, and decision-making procedures. SMC 17.405 was added to establish a mechanism for Planning Director approval of administrative permits. SMC 17.435 was added to establish a mechanism for downtown noise permits. Appeal procedures are identified at SMC 17.455; descriptions of and references to these procedures were removed from the previous sections as all appeals should be addressed as identified at SMC 17.455.

Subdivision and Parcel Maps with 4 or fewer parcels

SMC 16.24 was revised to allow Planning Commission approval of tentative subdivision maps and tentative parcel maps with four or fewer parcels. See Attachment E for revisions to SMC 16.24.

Streamlining Development Review

SMC 17.100.020.B. was revised to allow the Design Review Board to approve features up to 10 feet in excess of height limits, based on specific findings.

SMC Tables 17.20-1 and 17.20-2 were updated to provide Planning Director approval of certain conditional uses, including animal hospitals (office only) in the O, M, and O/LM districts, exercise facilities in the CN, CO, and CG districts, artist studios in the O and CO districts, restaurant (table or counter service) in the O district, light industrial in the O/LM district, , and SMC 17.400 was amended to provide a process for Planning Director approval of conditional use permits, where allowed by the SMC. The Planning Commission may wish to identify additional conditional uses appropriate for Planning Director approval.

SMC 17.250 was revised to exempt development projects of four units or less (rather than two units or less) from the inclusionary housing requirements.

SMC 17.400 and 17.405 were revised to provide a mechanism for Planning Director approval of administrative permits.

SMC 16.24 was revised to allow Planning Commission approval of tentative subdivision maps and tentative parcel maps with four or fewer parcels.

ATTACHMENTS

Attachment A – Zoning Code Update

Attachment B – Parking Requirements of Select Jurisdictions

Attachment C – Inclusionary Housing Requirements of Nearby Jurisdictions

Attachment D – Formula Business Information

Attachment E – Chapter 16.24 Update

ATTACHMENT A

ZONING CODE UPDATE

Chapter 17.04

ZONING CODE FOR THE CITY OF SEBASTOPOL

Sections:

17.04.010 Adoption of Zoning Code.

There is hereby adopted a Zoning Code for the City of Sebastopol, State of California, said Zoning Code being a districting plan as provided by law. This Zoning Code consists of the Zoning Map and certain designated zoning districts and regulations for each, as well as general requirements, which control the uses of land, population density, uses and locations of structures, height and bulk of structures, the areas and dimensions of building sites, requirements for off-street parking, and attendant regulations within such zoning districts.

17.04.030 Prior rights and violations.

The enactment of this code shall not terminate or otherwise affect variances, use permits, or other approvals authorized under the provisions of any ordinance repealed, suspended, or revised by the adoption of this code, nor shall any prior violation of any such prior ordinance be excused by the adoption of this code.

17.04.040 Fees.

The City Council shall set, by resolution, and may amend and revise from time to time, in accordance with State law, fees for processing the various applications authorized or required by this code. All required fees shall be considered nonrefundable, and shall be paid at the time an application is filed. No processing of any application shall commence until the fee(s) is paid in full.

17.04.050 Title and scope.

This title may be cited as the “City of Sebastopol Zoning Code” The City’s official Zoning Map, entitled “The Zoning Map of the City of Sebastopol,” which is on file in the Planning Department, is hereby incorporated by reference as part of this code. The boundaries of the zoning districts as set forth on the Zoning Map are hereby confirmed adopted and established, and may be changed in accordance with the provisions of this code.

17.04.060 Purpose.

The Zoning Code is adopted to promote and protect the public health, safety, peace, comfort, convenience, and general welfare and, for the specified purposes more particularly described as follows:

A. To implement the General Plan of the City of Sebastopol including the growth management policies.

B. To provide a definite and comprehensive zoning plan for development of the City and to guide, control, and regulate the future growth of the City in accordance with such plan and the City’s General Plan.

C. To protect the character and the social and economic stability of the land uses within the City, and to assure the orderly and beneficial development thereof.

D. To minimize disagreements between private individuals or groups or other disagreements which might result from incompatible or inappropriate adjacent land uses.

E. To maintain and enhance desirable characteristics of neighborhoods, to provide for open space for light and air, to prevent undue concentration of population, to promote orderly community development, and to otherwise promote the implementation of the Sebastopol General Plan.

F. To promote efficient use of land, thereby minimizing unnecessary cost of development.

17.04.070 Interpretation.
When interpreting and applying the provisions of this title, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

17.04.080 Applicability of Zoning Code.
A. The Zoning Code shall apply, to the extent permissible under other laws, to all property within the City of Sebastopol except dedicated streets, alleys, paths or other dedicated rights-of-way, whether such property is in private or public ownership, except that projects of the City of Sebastopol approved by the City Council shall not be subject to this code.

B. Except as specifically herein provided, it is not intended by the adoption of this code to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance, or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the erection, construction, establishment, moving, alteration, or enlargement of any building or improvement.

C. Except as specifically herein provided, it is not intended by the adoption of this code to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that in cases in which this title imposes a greater restriction than is imposed or required by such existing provisions of law or ordinance or by such rules, regulations, or permits or by such easements, covenants or agreements, the provisions of this code shall control.

17.04.090 Conformity with Zoning Code required.
Except as otherwise allowed by the Zoning Code, no uses shall be established, substituted, expanded, constructed, altered, moved, or otherwise changed, and no lot lines shall be created or changed, except in conformity with the Zoning Code.

Chapter 17.08

DEFINITIONS

Sections:

17.08.010 Purpose - Applicability.

The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Code. The meaning and construction of words and phrases as hereinafter set forth shall apply throughout the Zoning Code, except where the context of such words or phrases clearly indicates a different meaning or construction.

17.08.020 General rules for construction of language.

A. The particular shall control the general.

B. In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.

C. The word “shall” is always mandatory and not discretionary. The word “may” is discretionary.

D. The word “permitted” means permitted without the requirement for a use permit, but subject to all applicable regulations.

E. The words “conditionally permitted” mean permitted subject to the granting of a use permit, and subject to all other applicable regulations.

F. All public officials, bodies, and agencies to which reference is made are those of the City of Sebastopol unless otherwise indicated.

17.08.030 Definitions “A”

“Accessory use, structure, or building” means a use or structure subordinate to the principal use of a lot, or of a principal building on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building, and which accessory use or structure is typically associated, or otherwise, is compatible with the principal permitted uses and/or structures authorized under zoning regulations applicable to the property. Accessory dwelling units allowed for in this title shall not be considered accessory structures or buildings. In residential districts, accessory buildings are permitted only if constructed simultaneously with or subsequent to the same main building on the same lot. Also see definition of ‘secondary use.’

In residential districts accessory buildings are allowed; provided, that they conform to the requirements as follows:

1. Exclusive of garage and storage areas, the maximum square footage of accessory structures shall not exceed 400 square feet. If the total enclosed structure exceeds 400 square feet, storage areas shall be accessible from the outside of the structure.

2. Two rooms maximum, exclusive of bath facilities and closets.

3. No showers, except for use in conjunction with a swimming pool.

4. No bathtubs.

5. Sinks and toilets may be included.

6. No cooking facilities unless in conjunction with a built-in barbecue, rotisserie, or charcoal broiler; provided, that when such facilities are constructed the accessory building will be limited to one room.

7. Two accessory buildings are permitted; provided, that the combined area does not exceed 400 square feet over and above garage and storage areas and meets all other requirements of this title and the Building Code (SMC Title 15).

8. Accessory structures shall not be used for human habitation.

9. In residential districts, accessory structures shall not be located in a required front yard, or within the required rear yard of a through lot.

10. If structurally attached to a principal structure, the accessory structure shall conform to the setback requirements for the principal structure.

“Accessory Use Types.” In addition to the principal uses expressly included therein, each use classification type shall be deemed to include such uses as are customarily associated with and are appropriate, incidental, and subordinate to, such a principal use. Such accessory uses include, but are not limited to, the uses indicated below:

1. Off-street parking and loading serving a principal use, whether located on the same lot or on a different lot, but only if the facilities involved are reserved for the residents, employees, patrons, or other persons participating in the principal use.

2. Home occupations, subject to the provisions of SMC ~~Chapter~~ 17.26~~1~~0.020 ~~SMC~~.

3. Operation of an employee cafeteria by a firm engaging in a principal nonresidential use on the same lot.

4. Sale of goods on the same lot as a principal civic use, but only if such goods are available only to persons participating in the principal use.

5. Production of goods for sale by a firm engaged in a principal commercial use on the same lot, but only if:

   a. All goods so produced are sold at retail by the same firm on the same lot; and

   b. Such production does not occupy more than 50 percent of the total floor area and open sales, display, storage, and service area occupied by such firm on the lot; and

   c. Such production does not in any case occupy more than 2,000 square feet of such floor area and open area.

6. Storage of goods sold by a principal commercial use, or used in or produced by a principal industrial use, engaged in by the same firm on the same lot.

7. Operation of an administrative office of a firm engaged in a principal manufacturing use on the same lot, but only if such office does not occupy more than 50 percent of the total floor area and open sales, display, storage, and service area occupied by such firm on the lot.

8. Wholesale sale or retail sale to the buyers of custom order of goods produced by a principal manufacturing use engaged in by the same firm on the same lot.

9. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.

10. For residential uses, yard or garage sales, not more than seven days per year.

“Advertising message” means that copy of a sign describing products or services being offered.

“Affordable housing” means housing affordable to households with very low, low, or moderate incomes as defined in this chapter.

“Affordable housing project” means a housing development in which all of the units are deed-restricted for occupancy to very low-, low-, and moderate-income households. In non-residential districts, such projects may include up to 25% of non-residential square footage.

“Agriculture, indoor growing or harvesting” means the growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain, and similar food and fiber crops in a greenhouse, warehouse, or other structure.

“Agricultural, outdoor growing or harvesting” means the growing and harvesting of shrubs, plants, trees, flowers, vines, fruits, vegetables, hay, grain and similar food and fiber crops outdoors.

“Alley” means a dedicated public way intended primarily to provide secondary vehicular access to abutting properties.

“Alteration” means any enlargement, addition, relocation, repair, remodeling, change in the number of dwelling units, development of or change in an open area, but excluding painting, ordinary maintenance for which no building permit is required, and demolition or removal.

“Animal, domestic” means a small animal of the type generally accepted as household pets, including dogs, rabbits, goats, cats, birds, and the like, but not including bees, roosters, hens, ducks, geese, poultry, sheep, swine, horses, cattle and the like, or other animals determined by the Planning Commission to be inappropriate as a household pet, either generally or in a particular situation or setting.

“Animal hospital” means an establishment for the care and treatment of animals, including veterinary offices, where all facilities are within an enclosed building, except for any exercise runs.

“Animal hospital, office only” means an establishment for the care and treatment of animals, including veterinary offices, where all facilities are within an enclosed building, and there are no exterior animal-related uses such as dog runs or kennels.

“Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

1. “Antenna, building-mounted” means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building-mounted mast less than 13 feet tall and six inches in diameter, or structure other than a telecommunications tower.

2. “Antenna, ground-mounted” means any antenna with its base placed directly on the ground or a mast less than 13 feet tall and six inches in diameter.

3. “Antenna, vertical” means a vertical type antenna without horizontal cross-sections greater than one-half inch in diameter.

“Antenna, minor” means any of the following:

1. A ground- or building-mounted receive-only radio or television antenna including any mast;

2. A ground- or building-mounted citizens band radio antenna including any mast;

3. A single ground- or building-mounted whip (omni) antenna without a reflector less than four inches in diameter whose total height includes any mast to which it is attached;

4. A ground- or building-mounted panel antenna with a face area of less than four and one-half square feet;

5. A ground- or building-mounted satellite dish no greater than 10 feet in diameter; or

6. A ground-, building-, or tower-mounted antenna operated by a Federally licensed amateur radio operator as part of the Amateur Radio Service.

"Minor antenna, non-commercial" uses are separated into four classes:

Minor antennas, Class A. Noncommercial minor antennas that meet the requirements of SMC 17.13~~0~~0.020 through 17.13~~0~~0.060, and comply with the following, as appropriate:

1. Ground-mounted antennas may not exceed 20 feet in height, except that citizens band radio antennas or a ground- or tower-mounted antenna operated by a Federally licensed radio operator as a part of the Amateur Radio Service may not exceed 30 feet in height.

2. Building-mounted antennas may not exceed 15 feet (including any mast height) on a building that does not exceed 35 feet in height.

Minor antennas, Class B. Noncommercial minor antennas that meet the requirements of SMC 17.13~~0~~0.020 through 17.13~~0~~0.060, obtain site plan approval from the Planning Director, and comply with the following, as appropriate:

1. Ground-mounted antennas may not exceed 35 feet in height, except that citizens band radio antennas or a ground- or tower-mounted antenna operated by a Federally licensed radio operator as a part of the Amateur Radio Service may not exceed 75 feet in height.

2. Building-mounted antennas may not exceed 20 feet (including any mast height) on a building that does not exceed 35 feet in height, except that citizens band radio antennas or a ground- or tower-mounted antenna operated by a Federally licensed radio operator as a part of the Amateur Radio Service may not exceed 40 feet in height on a building that does not exceed 35 feet in height.

Minor Antennas, Class C. Noncommercial minor antennas that do not meet all of the requirements of SMC 17.13~~0~~0.020 through 17.13~~0~~0.060.

Minor antennas, Class D. Noncommercial minor antennas that exceed the permitted heights for ground-mounted or building-mounted antennas, except that they may not exceed 100 feet in height.

"Artist work studios and arts-related fabrication" means a 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. There may be incidental retail sales of items produced on the premises. This category may also include incidental instruction.

"Authorized agent" means the person specifically authorized by an owner to represent and act on behalf of the owner and to act as an operator, manager and contact person of a non-hosted vacation rental, and to provide and receive any notices identified in this section on behalf of the owner, applicant, permittee, or authorized agent.

"Automotive gas or fueling station" means a retail business selling gasoline and/or other motor vehicle fuels, and related products.

"Automotive Sales, Service, and Repair." Automotive sales, repair, and service uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. New and/or used auto sales.

2. New and/or used trailer/recreational sales.

3. Automotive rental service.

4. Automotive service stations.

5. Automotive repair garages.

6. Automotive or truck wash.

7. Tire sales and service.

8. Fast service oil change.

17.08.040 Definitions "B"

"Bed and breakfast inn" means a residential structure in which guests are lodged on an overnight basis for compensation, and in which meals may be served in conjunction with said lodging. There shall be a maximum of five guest rooms in residential zones and 10 guest rooms in nonresidential zones. Residential structures with two or fewer guest rooms for rent are exempt from the requirements for bed and breakfast inns.

"Bedroom" means a private room in a dwelling unit planned and intended for sleeping, separated from other rooms by a door, accessible to a bathroom without crossing another bedroom, and having a closet for clothing storage and other related purposes.

"Bee keeping, amateur" means an apiary site made or prepared for the use of bees which is owned and operated by a person who possesses nine (9) or fewer colonies and is not in the business of beekeeping.

"Bee keeping, commercial" means an apiary site made or prepared for the use of bees which is owned and operated by a person, persons, or businesses who possesses nine (9) or greater colonies and is in the business of beekeeping.

"Boarding or lodging house" means a residential structure, other than a hotel or motel, in which lodging and/or meals for three or more persons is provided for compensation, whether directly or indirectly.

"Building" means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property.

"Building frontage" means the width of a building fronting on a street, excluding alleys, service ways and private accesses.

"Building inspector" means the building official or his duly authorized deputy assistant.

"Building, main" means a building in which is conducted the principal use of the lot or parcel on which it is situated.

"Building site" means a lot or parcel of land, in single or joint ownership, and occupied or to be occupied by a main building and accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required by the terms of this title and having its principal frontage on a street, road, or highway.

"Business frontage" means that primary frontage within a parcel of land such as in a shopping center which is the user's place of business.

17.08.050 Definitions "C"

"Canopy or marquee" means a permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, glass, plastic, or wood.

"Combining district" means a zoning district that is applied in combination with other district designations.

"Commercial use" means a use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over a period of time.

"Community Assembly Civic Uses." Community assembly civic uses include the activities typically performed by, or at, the following institutions or installations and similar uses as determined by the Planning Commission:

1. Churches, temples, and synagogues.

2. Food service and other concessions within public parks.

3. Public, parochial, and private nonprofit clubs, lodges, meeting halls, and recreation centers.

4. Public and parochial playgrounds and playing fields.

5. Temporary nonprofit festivals.

"Community care facility" means a facility, place or building which is maintained and operated to provide nonmedical residential care, day care, or home finding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, developmentally disabled, mentally disordered children and adults, court wards and dependents, neglected or emotionally disturbed children, alcohol- or drug-addicted children or adults, battered adults or children, and aged persons and serves 13 or more persons.

"Community Care Residential."

1. "Small community care residential" means a home which provides the following services to six or fewer persons, including those that reside in the home: intermediate care facility, developmentally disabled-nursery, congregate living health facility, pediatric day health, respite care facility, foster homes, rest homes and homes for the aged, and alcoholism and drug abuse recovery or treatment facilities.

2. "Large community care residential" means a home which provides the following services to seven to 12 persons, inclusive, and including those that reside in the home: intermediate care facility, developmentally disabled-nursery, congregate living health facility, foster homes, pediatric day health, respite care facility, rest homes and homes for the aged.

"Community Garden" means an area of land used to grow and harvest non-commercial food crops by individuals or collectively by members of a group, and may be arranged into multiple plots.

"Community Education Civic Uses."

1. “Small community education civic” includes the activities typically performed by the following institutions, involving six or fewer persons, clients, or students and similar uses as determined by the Planning Commission:

a. Public, parochial, and private day care centers.

b. Public, parochial, and private nursery schools and kindergartens.

c. Public, parochial, and private elementary, junior high, and high schools.

2. “Large community education civic” includes the activities typically performed by the following institutions, involving seven or more persons, clients, or students and similar uses as determined by the Planning Commission:

a. Public, parochial, and private day care centers.

b. Public, parochial, and private nursery schools and kindergartens.

c. Public, parochial, and private elementary, junior high, and high schools.

3. “Large community education civic, adult” includes colleges, universities, professional, vocational, and art schools, seminaries, and similar uses.

“Community Non-assembly Civic Uses.” Community non-assembly cultural civic uses include the activities performed by the following institutions and similar uses as determined by the Planning Commission:

1. Public, parochial, and private nonprofit museums.2. Public, parochial, and private nonprofit libraries.

“Conditional use” means a use of property that may be permitted only by use permit and which use must comply with all terms and conditions of the permit.

“Conditional use permit (use permit)” means a permit which may be granted under the provisions of this code and which, when granted, authorizes a particular use to be made of a particular premises, subject to compliance with all the terms and conditions contained in the permit.

“Convenience Sales and Service.” Convenience sales and service uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Barber and beauty shops.

2. Shoe repair shops.

3. Drug stores/pharmacies.

4. Florists.

5. Launderettes.

6. Cleaners (pick-up station only).

7. Tailors.

8. Other personal service uses.

9. Food stores.

10. Professional offices.

11. Video stores.

12. Copy center/mail pick-up.

13. Physical therapy offices, yoga studios, exercise facilities, and similar uses of 1,000 square feet or less.

17.08.060 Definitions "D"

"Demolition." For the purposes of this title, "demolition" involves the whole or substantial removal of a structure or part thereof as determined by the Building Official and Planning Director. The City shall generally consider a structure to have been demolished if at least one-half of its exterior walls have been removed.

"District, base" means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, as set forth and specified in this code.

"District, combining" means a district whose regulations supplement or supersede one or more of the regulations of the primary base zoning district.

"Drive-through use" means an establishment that sells products or provides services to occupants in vehicles, including drive-in or drive-up windows and drive-through services whether with an attendant or employee or by automation. This includes non-restaurant drive-through uses, as well as restaurant drive-through uses. A drive-through business that serves a use not related to a restaurant, fast-food restaurant or formula fast-food restaurant includes the operation of a drive-through service at a bank or financial institution, food sales, personal services, and retail sales (e.g., department store, pharmacy). Drive-through restaurants include drive-through businesses that operate in conjunction with a restaurant, fast-food restaurant or formula fast-food restaurant. Drive-through uses are prohibited, except for specified existing uses. This definition does not encompass automotive service stations, oil change businesses, car washes, or similar uses as determined by the Planning Commission.

"Dwelling" or "dwelling unit" means a room or group of internally connected, habitable rooms that have sleeping, cooking, and sanitation facilities, but not more than one kitchen occupied by or intended for one household on a long-term basis. A "dwelling" is the same as an independent housekeeping unit.

"Dwelling groups" means a group of two or more detached or semi-attached, one-family, two-family, or multiple-family dwellings occupying a parcel of land, in one ownership and having any yard or court in common.

"Dwelling, accessory" (same as "accessory dwelling unit" or "second unit") means a residential dwelling unit which provides complete independent living facilities and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as another dwelling is situated. Accessory dwelling units may be constructed within, be attached to, or be detached from the principal dwelling unit.

"Dwelling, multiple-family" means a building or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the same residence of two or more families living independently of each other and doing their own cooking in such building.

"Dwelling, permanent" means a room or group of internally connected rooms that have sleeping, cooking, and sanitation facilities, but not more than one kitchen, which constitutes an independent housekeeping unit, occupied by or intended for one or more permanent residents on a long-term basis (30 days or more), and is constructed on a permanent foundation, with permanent utility connections.

"Dwelling, single-family" means a detached or attached building designed for, or used exclusively for, residence purposes by one family. All single-family dwellings shall meet the following minimum standards:

~~1. All dwelling units must be at least 14 feet in width or diameter (excluding eaves) and at least 650 square feet in floor area, except "accessory dwelling units" shall adhere to the size requirements set forth in SMC 17.110.030.~~

1~~2~~. Housing shall be built to applicable standards:

a. Manufactured homes and m~~M~~obile homes shall meet the requirements of the California Health and Safety Code (Sections 18000, et seq.), including compliance with~~be certified under~~ the National Manufactured Home Construction and Safety Standards Act of 1974.

b. Factory built housing shall meet the California Building Standards Code, California Health and Safety Code (Sections 19960, et seq.), and Title 25 California Code of Regulations Sections 4000 et seq. requirements.

c. All other housing shall meet the requirements of the California Building Standards Code.

~~3~~2. All units shall be attached to a permanent foundation.

"Dwelling, temporary" means a detached structure that: is designed or used for residence purposes by one family, may be moved under its own power, towed, or on a trailer, is not attached to a permanent foundation, and is not occupied on a permanent basis. Temporary dwellings are limited to the following:

1. Recreational vehicles as defined by California Health and Safety Code Section 18010 and that meet the requirements of California Health and Safety Code Sections 18000 et seq.

2. Park trailers as defined by California Health and Safety Code Section 18009.3 and that meet the requirements of California Health and Safety Code Sections 18000 et seq.

"Dwelling, two-family" means a building containing not more than two kitchens and that is designed and/or used to house not more than two families, living independently of each other.

"Dwelling Unit, Principal." A "principal dwelling unit" or "principal unit" is an existing or proposed single-family home, duplex, triplex, apartment house, or condominium. A principal dwelling unit must be located on the same parcel as a proposed accessory dwelling unit.

17.08.070 Definitions "E"

"Employee housing (agricultural)" means housing for commercial agricultural employees as described in California Health and Safety Code Sections 17021.5 and 17021.6, and employee housing as defined in California Health and Safety Code Section 17008 and the other applicable provisions of the Employees

Housing Act at California Health and Safety Code Section 17000 et seq., and to include a residential safety management plan.

“Employee housing (six or fewer employees)” means employee housing, as defined by California Health and Safety Code Section 17008, for six or fewer employees. Employee housing (six or fewer employees) that is consistent with California Health and Safety Code Section 17021.5 is considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwelling of the same type in the same zone.

“Exercise facilities” means a training facility, including health clubs, that may include exercise equipment for the purpose of physical exercise by human beings, and may provide instruction in weight training, bodybuilding, yoga, and cardiovascular training, as well as general health and fitness instruction.

“Extensive Commercial.” Extensive commercial uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Animal hospital.

2. Outdoor sales.

3. Theaters.

4.Exercise facilities greater than 1,000 sq. ft.

5. Saloon/bar.

6. Night club.

7. Lumberyard.

8. Outdoor recreation.

9. Winery.

10. Dry cleaner.

11. Coffee roastery.

12. Mini- or micro-brewery.

“Extensive Impact Civic Uses.” Extensive impact uses include the activities typically performed by, or the maintenance and operation of, public and public utility corporation yards, reservoirs and water tanks, and similar uses as may be determined by the Planning Commission. (Ord. 1085 ß 2, 2016)

17.08.080 Definitions “F”

Family Day Care Homes.

1. “Small family day care home” means a home which provides day care for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in California Health and Safety Code Section 1597.44. The use of a single-family residence as a small family day care home shall be considered a residential use of property and is subject only to those restrictions that apply to other single-family dwellings in the same zone consistent with California Health and Safety Code Section 1597.45.

2. “Large family day care home” means a home which provides family day care for s up to 14 children, including children under the age of 10 years who reside at the home, as set forth in California Health and Safety Code Section 1597.465.

“Farmers’ market, outdoor” consists of a Certified California Farmers’ Market, pursuant to the requirements of Division 17, Chapter 10.5, Article One of the California Food and Agricultural Code and Title 3, Division 3, Chapter 1, Subchapter 4, Article 6.5 of the California Code of Regulations, or their successor provisions, which is held outdoors.

“Flood elevation, 100-year” means Flood hazard areas identified on the FEMA Flood Insurance Rate Map which are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood.

“Floor area” means the total of the gross horizontal areas of all floors, including usable basements and cellars, within the outer surfaces of the exterior walls of buildings, or the centerlines of party walls separating such buildings or portions thereof, but not including any area within the building utilized for off-street parking spaces. If exterior walls exceed 12 inches in thickness, the calculation may be performed using an assumed wall thickness of 12 inches.

“Floor area ratio (FAR)” means the measure of the intensity of nonresidential uses which is the maximum gross floor area of a building permitted on a site divided by the total area of the site, expressed in decimals to one or two places.

“Food Sales”. Food sales uses include stores that sell food, such as a vegetable and fruit store, bakery, and meat market.

“Frontage” means a front lot line; also the length thereof.

“Frontage of property” means any lineal dimension of a parcel of property abutting on a public street or way.

17.08.090 Definitions “G”

Group Home. See “Community care facility”

17.08.100 Definitions “H”

“Health care civic uses” includes the activities typically performed by the following institutions, and similar uses as determined by the Planning Commission:

1. Health clinics.

2. Hospitals.

3. Centers for observation or rehabilitation, with full-time supervision or care.

“Health care facility” means a facility, place or building which is maintained and operated to provide health care. Health care facilities shall include, but not necessarily be limited to, hospitals, nursing homes, intermediate care facilities, clinics, and home health agencies, all of which are licensed by the State Department of Health Services, and defined in the California Health and Safety Code.

“Height, building” means the maximum allowable height shall be measured as the vertical distance from the natural grade of the site to an imaginary plane located the allowed number of feet above and parallel to the grade. The natural grade shall not be artificially raised to gain additional building height.

"Home occupation" means an accessory activity of a nonresidential nature, which is performed within a living unit, accessory structure located on the premises, or within a garage attached thereto and reserved therefor, by an occupant of the living unit, and which is customarily incidental to the residential use of the living unit.

"Homeless shelter" means a residential facility operated by a provider which provides temporary accommodations to persons or families with low income for a period of generally not more than six months. Such use may also provide meals, counseling and other services, as well as common area for users of the facility. Such facility may have individual rooms, but is not developed with individual dwelling units.

"Hostel" means a place where travelers may stay for a limited duration at low cost in a facility that is licensed or otherwise recognized by a national or international hostel organization that may include dormitory-like sleeping accommodations.

"Hotel" means a residential building other than a bed and breakfast inn containing six or more guest rooms which are used, rented or hired for sleeping purposes by transient guests or travelers for generally less than 30 consecutive days. Such uses may also include accessory uses such as beauty and barber shops, restaurants, florists, small shops, and indoor athletic facilities. Hotel includes "motel" uses.

"Household" means one or more persons, whether or not related by blood, marriage or adoption, jointly occupying a dwelling unit in a living arrangement characterized by the sharing of common living areas, including area and facilities for food preparation.

17.08.110 Definitions "I"

"Incidental food service" means a retail use for the on-site consumption of food and/or beverages where less than 250 square feet (interior and exterior) is utilized for on-site consumption of any food or beverage, including seating, counter space, or other eating arrangement.

"Industrial, general" includes the following uses, and similar uses as may be determined by the Planning Commission:

1. Food processing.

2. Meat products processing and packaging, not including the slaughtering of animals or the rendering of fats or oils.

"Industrial, Heavy" includes the following uses, and similar uses as may be determined by the Planning Commission.

1. Manufacturing, compounding, processing, assembly, packaging, treatment, or fabrication of articles of merchandise from bones, garbage, offal, or dead animals.
2. Fat rendering.
3. Stocking or slaughtering of animals.
4. Storage and/or distribution of natural or liquid gas and other petroleum derivatives in bulk.
5. Manufacturing or storage of acid, cement, fertilizer, gas, flammable fluids, glue, gypsum, lime or plaster of Paris. Asphalt or concrete batch plants, gravel processing plants, and related storage facilities.

"Industrial, Light" includes the following uses, and similar uses as may be determined by the Planning Commission.

1. Manufacture, assembly or packaging of products from previously prepared materials such as cloth, fiberglass, plastic, paper, leather, precious or semiprecious metals or stones.

2. Commercial, large-scale photographic developing and processing.

3. Research, development, and testing laboratories and facilities.

4. Manufacturing, assembly or packaging of products such as cameras and photographic equipment, but excluding film, professional or scientific instruments, medical or dental instruments and appliances, handicraft, art objects and jewelry.

"Inhabited area" means any residence, any other structure regularly occupied by people, or any outdoor area used by people on a regular basis.

17.08.111 Definitions "J"

"Junk yard" means the use of more than 100 square feet of the area of any lot or the use of any portion of that half of any lot, which half adjoins any street for the storage of junk, including scrap metals, salvage or other scrap materials or for the dismantling or "wrecking" of automobiles or other vehicles, or machinery, whether for sale or storage.

17.08.112 Definitions "K"

"Kennel, animal boarding" means a commercial facility for the grooming, keeping, boarding or maintaining of five or more domestic animals (four months of age or older), except for dogs or cats or domestic animals for sale in pet shops, or patients in animal hospitals.

17.08.113 Definitions "L"

"Laboratory—Medical, Analytical" means a facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

"Live-work dwelling unit" means a residential use providing an integrated housing unit and work space, occupied by a single household, that accommodates joint residential occupancy and work activity, and which includes complete kitchen space and sanitary facilities as well as working space reserved for and regularly used by one or more occupants of the unit in conjunction with an approved home occupation. The nonresidential ground floor portion of the unit shall comprise no less than one-third of the ground floor space, not including stairwells.

"Loading space" means an off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of vehicles while loading or unloading merchandise or materials.

"Lot" means a recorded lot or parcel of real property under single ownership, lawfully created as required by the applicable Subdivision Map Act and City ordinance requirements, including this title and SMC Title 16, Subdivisions.

"Lot area" means the area of a lot measured horizontally between bounding lot lines.

"Lot, corner (exterior)" means a lot situated at the intersection of two or more streets which streets have an angle or intersection of not more than 135 degrees.

"Lot coverage" means the maximum area of a lot, expressed as a percentage of a lot's total area, that may be encumbered by structures over 30 inches in height, exclusive of eaves, cornices and the like.

Wheelchair ramps and lifts and other features providing access for the disabled, open arbors, and solar energy equipment shall not be considered lot coverage.

"Lot, flag" means a lot having only its access strip fronting on a public street.

"Lot, interior" means a lot other than a corner lot.

"Lot, key" means an interior lot adjacent to a corner lot, the side line of which is contiguous with the rear lot line of the corner lot.

"Lot line" means the property line bounding the lot:

1. "Lot line, front" means the line separating the lot from the street. In the case of a corner lot, the front line is the shorter of any two adjacent street lot lines.

2. "Lot line, rear" means the line opposite to, and most distant from, the front lot line, other than a side lot line.

3. "Lot line, side" means a lot line which is neither a front or rear lot line.

"Lot, through" means a lot, other than a corner lot, having frontage on two parallel, or approximately parallel, streets. The "front" yard of a through lot shall be the street frontage from which the residence is addressed, or in the case of a vacant lot, the street frontage from which the neighboring properties are addressed.

"Lot width" means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and the rear lot lines.

"Low-income housing" means housing that is affordable to a household whose combined income is at or between 50 percent to 80 percent of the median income for Sonoma County, as established by HUD or the California Department of Housing and Community Development.

"Lumberyard" means an area used for the storage, distribution, and sale of lumber and lumber products, but not including the manufacture, re-manufacture, or fabrication of lumber, lumber products or firewood.

17.08.114 Definitions "M"

"Manufactured housing" means a residential building, dwelling unit or habitable room thereof which is either wholly constructed or partially assembled on a site in accordance with the State Health and Safety Code. Architectural and design review requirements for manufactured housing shall conform to the applicable standards for other types of dwellings, but shall not exceed those allowed under Government Code Section 65852.3.

"Manufacturing, Commercial~~-~~" means the fabrication, processing, assembly, or blending of organic or inorganic materials and/or substances into new products and are usually directed to the wholesale market or industrial uses. Commercial manufacturing uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Creameries.

2. Small-scale wineries.

3. Commercial laundries/cleaning and dyeing.

4. Light machine shops.

5. Sheet metal shops.

6. Light manufacturing.

7. Blacksmith.

8. Planing mills.

9. Glass manufacturing and sales.

10. Small-scale food processing.

"Maximum credible earthquake" means the maximum earthquake predicted to affect a given location based on the known lengths of the active faults in the vicinity.

"Mechanical equipment" includes electrical, heating, ventilation, plumbing, cooking, air conditioning, and pool and spa equipment.

"Mezzanine" means an intermediate floor, placed within a room, open to a room below it, the area of which does not exceed one-third of the floor below. A mezzanine shall not be considered a story.

"Mixed-Use Residential." Mixed-use residential uses include the allowance of permanent residential uses such as multiple-family residences or live-work dwelling units in conjunction with nonresidential uses allowed in the zoning district; or in the case of planned community projects as a separate but integral part of a commercial and/or industrial development and where, generally, the residential square footage does not exceed more than ~~75~~ 85 percent nor less than 25 percent of the square footage of the project.

"Mobile food truck" means a motorized vehicle from which food or drink (prepared on-site or pre-packaged) is sold or served to the general public, whether consumed on-site or elsewhere. They are retail food facilities and health regulated businesses subject to SMC 17.355.

"Mobile home" means a structure transportable in one or more sections which, in the traveling mode, is eight feet or more in width, or 40 feet or more in length, or, when erected, is 650 or more square feet in area, and which is built on a permanent chassis.

"Mobile home Park" means an area or parcel of land where one or more mobile home lots are rented, available for rent, owned, or available for sale.

"Moderate-income housing" means housing affordable to households whose combined income is above 80 percent and at or below 120 percent of the median income for Sonoma County, as established by HUD or the California Department of Housing and Community Development.

"Motel." See "Hotel"

17.08.115 Definitions "N"

"Nameplate" means a non-illuminated sign not exceeding two square feet in area identifying only the name and occupation or profession of the occupant of the premises on which the sign is located.

"Neighborhood food sales and service" means food sales and service that is oriented to offices, residential and commercial uses located in the immediate vicinity of the establishment. Such establishments cannot

exceed 1,600 square feet in size, must be pedestrian oriented and without drive-through features, and may have no more than 25 square feet of signage on the premises.

"NEIR" means nonionizing electromagnetic radiation (i.e., electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum).

"Nicotine, tobacco or smoke shops, vape shops" means any store, stand, booth, concession, or other place at which sales of tobacco, tobacco products, nicotine products, or smoking devices or accessories are made to purchasers for consumption or use.

"Nonconforming structure/building" means a structure or a portion thereof which was lawfully erected and which has been lawfully maintained, but which, because of the application of the provisions of this code, no longer conforms to the regulations and requirements of the district in which it is located.

"Nonconforming use" means a use of land or of a structure which was lawfully established and has been lawfully maintained but which, because of the application of the provisions of this code, no longer conforms to the regulations and requirements of the district in which it is located.

17.08.116 Definitions "O"

"Office." Office uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Banks/savings and loan offices.
2. Business offices.
3. Medical/dental offices.
4. Studios.
5. Mortuary.
6. Professional offices.
7. Printing and/or shipping services.
8. Hearing aid service.
9. Optician.
10. Massage service/school.
11. Co-working space.

"Open space, usable" means outdoor area on the ground, or other features such as roof, balcony, deck, or porch which is designed and used for outdoor living, recreation, pedestrian access, or landscaping. Does not include off-street parking areas. Such area shall be essentially flat, and in no instance, shall have a slope greater than 15 percent, or any dimension of less than 10 feet (six feet in the case of private balconies).

"Outdoor barbecue, commercial" means any outdoor facility for cooking food directly over hot coals, gas or other means, smoking food, or other similar methods and where the food is intended to be sold or distributed for commercial purposes.

"Overlay district" means a zoning district that overlays and replaces the prior district.

17.08.117 Definitions "P"

"Park, community" means a publically-owned outdoor recreation facility for use by local residents or visitors to nearby establishments and may include trails, picnic areas, sports fields and facilities, a swimming pool, water play area, and playground facilities. The community park use does not include "sports park" uses.

"Park, sports" or sports facility means a privately-owned indoor or outdoor recreation facility that is provided for organized, competitive use and may include soccer fields, golf courses, sports courts, multiple swimming or diving pools, and similar uses

"Parking Facility, Public or Commercial" means freestanding parking lots or structures operated by the City or a private entity, providing parking for a fee. Does not include towing impound and storage facilities.

"Parapet or parapet wall" means that portion of a building wall that rises above the roof level.

"Parcel of Property." Any real property shown on the latest adopted tax roll as a unit, or as contiguous units under common ownership.

"Planning staff" means Planning Director, City Planner, Planning Consultant, or other person appointed by the City Manager to serve as the City's Planning staff.

"Plant Nursery" means a commercial agricultural establishment engaged in the production of ~~non-cannabis~~ ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses. The sale of house plants or other nursery products entirely within a building is also included under "Retail."

"Premise or premises" means a parcel of property.

"Public service use or facility" means a use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, library, fire and police protection, solid waste management, or utilities.

"Public view" means, for antennas and the like, where some portion of the minor antenna or telecommunications facility will be visible from a public street or public place, or from four or more adjoining private properties.

17.08.118 Definitions "Q"

"Quasi-public use" means a use serving the public at large, and operated by a private entity under a franchise or other similar governmental authority designed to promote the interests of the general public or operated by a recognized civic organization for the benefit of the general public.

17.08.119 Definitions "R"

"Readily visible" means an object that stands out as a prominent feature of the landscape when viewed with the naked eye.

"Recreational vehicle (RV)" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which:

1. Is built on a single chassis; and

2. Is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.

"Research and Development" means a facility for scientific research, and the design, development and testing of electrical, electronic, magnetic, medical, biotechnical, optical and computer, telecommunications, or comparable components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities. Research and development includes maker spaces where shared manufacturing tools, such as 3-D printers, laser cutters, and other art and craft supplies are used for the invention and fabrication of physical products, but not for mass production.

"Residential Uses, Permanent." Permanent residential uses include the occupancy of living accommodations on a 30-day or longer basis, and similar uses as determined by the Planning Commission.

"Residential Uses, Semi-Transient." Semi-transient residential uses include the occupancy of living accommodations partly on a weekly or longer basis and partly for a shorter time period, under the same ownership or management; and similar uses as determined by the Planning Commission.

"Residential Uses, Transient." Transient residential uses include the following residential uses occupied primarily on an overnight or less-than-weekly basis, and similar uses as may be determined by the Planning Commission. Also see 'Hotel,' 'Hostel' and 'Bed and Breakfast' definitions.

1. Motels.

2. Hotels.

3. Hostels.

4. Bed and Breakfast Inns.

"Restaurant" means a use providing preparation and retail sale and consumption of food and beverages, including dining establishments, cafes, coffee shops, sandwich shops, ice cream parlors, and similar uses, except for uses qualifying as incidental food service. Restaurant includes the following categories:

1. Table service. Establishments where customers are primarily served food at their tables for on premise consumption and which may also provide food for take-out.

2. Counter service. Eating establishments where customers are served from an ordering counter for either on- or off-premise consumption. This use includes retail bakeries, coffee shops, ice cream parlors, and cafes.

3. Walk-up. Exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter. This use would typically include food services that do not provide on-site seating. This use does not include a mobile food vending unit.

4. Fast-food, take-out. An establishment where customers purchase food and either consume the food on the premises within a short period of time or take food off the premises, except for uses qualifying as incidental food service. Typical characteristics of a fast-food restaurant include, but are not limited to, the purchase of food at a walk-up window or counter, payment for food prior to consumption and the packaging of food in disposable containers. A restaurant shall not be

considered a fast-food or take-out restaurant solely on the basis of incidental or occasional take-out sales. Drive-through and drive-in restaurants where customers may be served food in their vehicles are not permitted.

“Restaurant, walk-up” means an establishment that, by design of its physical facilities, service, or packaging, encourages or permits pedestrians to receive food service or obtain food products without entering the establishment.

“Retail Sales” means uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Clothing stores.
2. Hardware.
3. Variety stores.
4. Appliance stores.
5. Radio/TV stores.
6. Pet stores.
7. Plant nurseries.
8. Bicycle sales and service.
9. Computer sales and service.
10. Medical equipment sales.
11. Automotive parts sales.

“Retail use” means an establishment or other use that does not fit into the “Retail Sales, General” category where the sale of goods or merchandise to the general public takes place.

“Roof line” means the top edge of the roof (ridge) or top of the parapet, whichever forms the top line of the building silhouette.

17.08.120 Definitions “S”

“Satellite dish” means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

“Satellite earth station” means a telecommunications facility consisting of more than a single satellite dish smaller than 10 feet in diameter that transmits to and/or receives signals from an orbiting satellite.

“Secondary use” means a use or activity which is incidental and subordinate to the principal use of the site or a primary building on the site, and does not alter the principal use of such parcel or building.

“Senior Housing**”** means age-restricted residential housing that is designed, intended and operated for occupancy by persons 55 years of age or older. At least 80 percent of the occupied units shall be occupied by at least one person who is 55 years of age or older, consistent with Federal and State law requirements.

“Shared Parking” means parking spaces that are generally available for users, and not reserved for one specific use, such as in mixed-use areas, where parking spaces for retail uses are available in the evening for residents.

“Shopping Center” means primarily retail commercial site with three or more separate businesses sharing common pedestrian and parking areas.

“Sign” means a visual communications device used to convey a message to its viewer.

“Sign, abandoned” means a sign which no longer directs, advertises or identifies a legal business establishment, product or activity on the premises where such sign is displayed or shows a correct direction.

“Sign, animated” means any sign which includes action or motion. Not applicable to flashing or changing signs.

“Sign, area identification” means a permanent sign used to identify a neighborhood, subdivision, shopping district, industrial district, agricultural district or any special community area.

“Sign, attached” means a wall, fascia, window or other sign affixed to a building.

“Sign, awning” means signage located anywhere on an awning or similar rigid or non-rigid canopy projecting from the wall of a building.

“Sign, banner” means a temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign by the wind.

“Sign, changeable copy” means a sign on which copy is changed manually or electrically but not limited to time, temperature and date.

“Sign, construction” means a temporary sign identifying the persons, firms or businesses directly connected with a construction project.

“Sign, development project” means a temporary sign identifying a proposed development project, or one which is under construction.

“Sign, directional” means a sign designed to guide or direct pedestrian or vehicular traffic.

“Sign, double-faced” means a freestanding or projecting sign with two sign faces back-to-back facing in opposite directions.

“Sign, face” means the entire face of a sign on which copy could be placed.

“Sign, flashing” means any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or externally mounted light source.

“Sign, freestanding.” Also referred to as “ground sign, monument sign,” “detached sign,” “pole sign” A sign erected on a freestanding frame, or support, mast or pole and not attached to a building or other structure.

“Sign, freestanding, height” means the vertical distance by which the top of the sign extends above the average elevation of the natural grade.

“Sign, identification” means a sign which is limited to the name, address and number of a building, institution or person and to the activity carried on in the building or institution, or the occupation of the person.

“Sign, incidental” means a small sign pertaining to hours of operation, goods, products, services or facilities which are available on the premises where the sign occurs and intended primarily for the convenience of the public.

“Sign, memorial” means a sign, table or plaque memorializing a person, event, structure or site.

“Sign, modular” means a freestanding or projecting sign, other than a double-faced sign, which has more than one sign face.

“Sign, multi-tenant” means a sign identifying the individual use or tenants in a multiple occupancy building or in a building group. (Ord. 1085 ß 6, 2016)

“Sign, non-conforming (legal)” means an advertising structure or sign which was lawfully erected and maintained prior to the formal adoption of a sign ordinance and any amendments thereto, and presently fails to conform to all applicable regulations and restrictions of the ordinance.

“Sign, off-premises” means a sign including but not limited to billboards that advertise goods, products, services or facilities or direct persons to a different location from where the sign is installed.

“Sign, on-premises” means any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

“Sign, pole.” See “Freestanding sign”.

“Sign, political” means a temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

“Sign, portable” means any sign not attached to the ground or a building (such as a sandwich board or A-frame sign).

“Sign, projecting” means a sign which is attached to and projects from the structure or building face.

“Sign, public service information” means any sign intended primarily to promote items of general interest to the community such as time, temperature, date, atmospheric conditions, news or traffic control, etc.

“Sign, real estate or property” means any sign pertaining to the sale, lease or rental of land or buildings. Usually a temporary sign.

“Sign, roof” means any sign erected upon, against, or above a roof line.

“Sign, rotating or moving” means any sign or portion of a sign which moves in a revolving or other manner.

“Sign, special event” means a sign advertising or pertaining to any civic, patriotic or special event of general public interest taking place within the City.

“Sign, temporary” means a sign which is not permanently affixed and which is posted for no longer than 30 days. Any other device constructed of lightweight material used for the purpose of conveying a message.

"Sign, temporary automotive service station" means a temporary sign such as merchandise display signs, promotions, and signs located on the fuel pumps.

"Sign, temporary window" means a sign painted on the window or constructed of paper, cloth or other like material and attached to the interior or exterior side of window or glass area. Does not include display merchandise.

"Sign, unlawful" means a sign which contravenes this title or which a public official may declare unlawful if it becomes dangerous or a traffic hazard to public safety; a nonconforming sign for which a permit required under a previous ordinance was not obtained.

"Sign, wall" means a sign attached to or erected against a wall of a building. Any sign affixed in such a way that its exposed face is parallel to the plane of the building.

"Sign Area, Total Aggregate" means the combined total display area of copy for each sign located on the premises.

"Silhouette" means a representation of the outline of the towers and antenna associated with a telecommunications facility, as seen from an elevation perspective.

"Single room occupancy housing" means multifamily residential buildings containing housing units with a minimum floor area of 150 square feet and a maximum floor area of 375 square feet which may have kitchen and/or bathroom facilities, and where each housing unit is restricted to occupancy by no more than two persons and is offered on a monthly rental basis or longer. Such units shall count as one-half a unit for purposes of calculating densities.

"Storage, personal or vehicle" means 1) structure or structures containing individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand, and 2) a service facility (maybe covered) for the long-term rental of space for storage of operative cars, trucks, buses, recreational vehicles, and other motor vehicles.

"Story" means that portion of a building included between two consecutive floors of a building or the portion between a floor and the roof. A basement shall not be considered a story if the finished floor above it does not exceed six feet above natural grade for more than 50 percent of the total perimeter of the building, provided the finished floor above the basement is not more than 12 feet above grade at any point.

"Street" means a public or private thoroughfare which affords principal means of access to abutting property, except an alley as defined herein.

"Structural alteration" means any change in the supporting members of a building, such as bearing walls, columns, beams or girders, which change requires the issuance of a building permit.

"Structure" means anything which is constructed or erected, and which is located on the ground or is attached to something having location on the ground.

"Studio unit" means a dwelling unit other than a single room occupancy unit that does not have a separate bedroom, and is equal to or less than 600 square feet in floor area. Such units shall count as one-half a dwelling unit for purposes of calculating densities.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an on-site or off-site service that assists the supportive housing resident in

retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community (Government Code Section 65582(f)). Supportive housing is considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Ord. 1085 ß 1, 2016)

17.08.121 Definitions "T"

"Tandem parking" means a group of two parking spaces arranged one behind the other where one space blocks access to the other space.

"Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. (Government Code Section 65582(g)).

"Telecommunications facility" means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development. It does not include facilities staffed with other than occasional maintenance and installation personnel, minor antennas meeting the requirements of SMC 17.13~~0~~0.010 through 17.13~~0~~0.050, vehicle or other outdoor storage yards, offices, or broadcast studios other than those designed for emergency use.

1. "Telecommunications facility - major" means telecommunications facilities 35 to 100 feet in height and that adhere to SMC 17.13~~0~~0.010 to 17.13~~0~~0.230.

2. "Telecommunications facility - minor" means telecommunications facilities no greater than 35 feet in height and that adhere to SMC 17.13~~0~~0.010 through 17.13~~0~~0.240. If a facility does not meet these criteria then it is considered a "major" telecommunications facility.

3. "Telecommunications facility - co-located" means a telecommunications facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

4. "Telecommunications facility - commercial" means a telecommunications facility that is operated primarily for a business purpose or purposes.

5. "Telecommunications facility - multiple user" means a telecommunications facility comprised of multiple telecommunications towers or buildings supporting one or more antennas owned or used by more than one public or private entity.

6. "Telecommunications facility - noncommercial" means a telecommunications facility that is operated solely for a nonbusiness purpose.

7. "Telecommunications tower" means a mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support antennas. A ground- or building-mounted mast less than 13 feet tall and six inches in diameter supporting a single antenna shall not be considered a telecommunications tower.

"Temporary care unit" means a manufactured home, recreational vehicle, or park trailer used as a temporary dwelling unit associated with providing care to one or more persons due to an age-related, health, or medical condition. The dwelling may be used by the person(s) providing care or by the person(s) needing care.

"Transient." Transient uses include the following residential uses, and similar uses as may be determined by the Planning Commission. Such uses may also include accessory uses such as beauty and barber shops, restaurants, florists, and small shops

1. Motels.
2. Hotels.
3. Hostels.
4. Bed and Breakfast establishments.

"Transitional commercial site" means a parcel of land located within the CN, CO, CG or CH District, which is adjacent to any residential district.

"Transitional housing" means buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance (Government Code Section 65582(h)). Transitional housing is considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

17.08.122 Definitions "U"

"Utility civic uses" includes the maintenance and operation of the following installations and similar uses as determined by the Planning Commission.

1. Communications equipment installations and exchanges.
2. Electrical substations.
3. Gas substations.
4. Water and sewer pumping and treatment facilities.
5. Neighborhood news carrier distribution centers.
6. Police stations and fire stations.
7. Public works yards.
8. Post offices but excluding major mail processing centers.
9. Publicly operated off-street parking lots and garages available to the general public either without charge or on a fee basis.
10. Libraries.
11. Governmental administrative offices.

17.08.123 Definitions "V"

"Vacation rental" means any transient occupancy use of 30 days or less of a dwelling unit or accessory dwelling unit for which the City has issued a vacation rental permit pursuant to this section. The term "vacation rental" shall be used to include all hosted vacation rentals and all nonhosted vacation rentals.

1. Hosted vacation rental means a vacation rental business for which the owner or authorized agent resides at the vacation rental unit and stays overnight at the vacation rental unit while it is being rented, and no more than two bedrooms are rented for transient occupancy pursuant to this section.

2. Nonhosted vacation rental means a vacation rental business for which the owner or authorized agent is not required to reside at the vacation rental unit which is rented for transient occupancy pursuant to this section.

"Very low-income housing" means housing affordable to a household whose combined income is less than 50 percent of the median income for Sonoma County as established by HUD or the California Department of Housing and Community Development.

17.08.124 Definitions "W"

"Warehouse, Storage and Transport." Storage and transport warehouse uses include the provision of warehousing and storage, freight handling, shipping, and trucking services, and similar uses, including includes storage, processing, packaging, and shipping facilities for mail order and e-commerce retail establishments, as may be determined by the Planning Commission. The sale of products from these establishments is not encouraged. Examples of these establishments include:

- Warehouse, storage or mini-storage facilities offered for rent or lease to the general public; or
- Terminal facilities for handling freight.

"Warehouse, Wholesaling and Distribution." Wholesaling and distribution warehouse facilities include:

1. Warehouses. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-storage facilities offered for rent or lease to the general public; or terminal facilities for handling freight (see "Warehouse, Storage and Transport").

2. Wholesaling and Distribution. Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include:

    - Agents, merchandise or commodity brokers, and commission merchants
    - Assemblers, buyers and associations engaged in the cooperative marketing of farm products
    - Merchant wholesalers
    - Stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

"Wholesale Sales, General." General wholesale sale uses include sales of a nonretail nature, generally to the trades or other specific sector, and similar uses as may be determined by the Planning Commission.

"Wineries, distilleries, brewing facilities" means an establishment that produces wine, spirits, ales, beers, meads, hard ciders, and/or similar beverages to serve on-site. Sale of beverages for off-site consumption is also permitted in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of

Alcohol, Tobacco, and Firearms (ATF), and any applicable City regulations. May include the distribution of beverages for consumption at other sites.

"Wine tasting establishment" means a retail establishment that primarily sells wine on behalf of one or more wineries and enables consumers to taste wine, either with or without charge, as a regular part of the sales business, and may include incidental sales of other retail items.

17.08.125 Definitions "Y"

"Yard" means an open space, other than a court, on a lot with a structure, which open space is required to be unoccupied and unobstructed from the ground to the sky, except for such encroachments as are specifically permitted by this code.

"Yard, front" means a yard measured into a lot from its front lot line or lines. A required front yard shall extend the full width of the lot between its side lot lines.

"Yard, rear" means a yard measured into a lot from its rear lot line; provided, that in cases where there is no rear lot line, the rear yard shall be measured into the lot from the rearmost point of the lot depth, parallel to said lot depth. A required rear yard shall extend the full width of the lot between its side lot lines.

"Yard, side" means a yard measured into a lot from one or more of its side lot lines. A required side yard shall extend between the required front yard and rear yard, or the front or rear lot lines in cases where no front yard or rear yard is required.

Chapter 17.10

ZONING DISTRICTS

Sections:

17.10.010 Zoning districts.

Each of the zoning districts into which the City of Sebastopol is divided are hereby established as follows:

Zoning District	SMC Chapter
R~~E~~-1 - Single Family Residential-1 ~~Estate~~ District	17.10
R~~A~~-2.18 - Single Family Residential-2.18 ~~Agricultural~~ District	17.10
R~~R~~-2.90 - ~~Rural~~ Single Family Residential-2.90 District	17.10
R~~SF-1~~-4.36 - Single-Family Residential-4.36~~-1~~ District	17.10
R~~SF-2~~-7.26 - Single-Family Residential-7.26~~-2~~ District	17.10
R-10.89 – Single Family Residential-10.89 District	17.10
R~~D~~-14.52A - Duplex Residential-14.52A District	17.10
R-14.52B – Duplex Residential-14.52B District	17.10
R~~M-M~~-17.42 - ~~Medium Density~~ Multiple-Family Residential-17.42 District	17.10
R~~M-H~~-24.89 - ~~High Density~~ Multiple-Family Residential-24.89 District	17.10
R-MH~~MHP~~ - Mobile Home Park District	17.10
O - Office District	17.20
CN - Neighborhood Commercial District	17.20
CO - Office Commercial District	17.20
CG - General Commercial District	17.20
CD - Central Core District	17.20
CH - Heavy Commercial District	17.20
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CF - Community Facilities District	17.30
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Zoning District	SMC Chapter
W - Wetlands Combining Districts	17.~~50~~44
ESOS – Environmental and Scenic Open Space Combining District	17.~~50~~46

17.10.020 Zoning Map.

A. The Zoning Map shall apply to all property within the City of Sebastopol, except streets, alleys and paths. Said property is hereby divided into and included within zone districts as hereinafter set forth.

B. The designations, locations and boundaries of the districts established are delineated upon the Zoning Map. The map and all notations and information thereon are hereby made a part of this code by reference.

17.10.030 Interpretation.

A. Whenever the location of a boundary or other feature appearing in the Zoning Map is indicated in a legal description or other written statement incorporated herein, said location shall be interpreted precisely as described in such statement.

B. Whenever no applicable written statement exists, and the location of a boundary or other feature included in the Zoning Map approximates an edge or centerline, as the case may be, of a street, alley, path, or body of water which was in existence when said boundary or other feature was established, the location of the boundary or other feature shall be interpreted to follow such edge or centerline.

C. Whenever the situations described in subsections A and B of this section are not applicable, the location of a boundary or other feature included in the Zoning Map shall be determined through use of the scale on the map. Should any further uncertainty exist, said location shall be interpreted by the Planning Commission.

D. If a lot is divided by a zone boundary, the Planning Commission shall determine the precise boundaries.

E. Whenever this title requires consideration of distances, parking spaces, unit density, or other aspects of development or the physical environment expressed in numerical quantities which are fractions of whole numbers, such numbers shall be rounded up to the nearest whole number when the fraction is one-half or more, and rounded down to the next lowest whole number when the fraction is less than one-half, except as otherwise provided by this title.

Chapter 17.20

RESIDENTIAL DISTRICTS

Sections:

17.20.010 Purpose of the districts.

Single Family Residential-1 ~~Estate~~. The purpose of the R-1~~E~~ District is to implement the "Very Low Density Residential" land use category of the General Plan, and the General Plan goal of preserving the rural-agricultural setting of Sebastopol. This district is applicable to single-family areas exhibiting environmental constraints to development and/or with prime agricultural soils

Single Family Residential-2.18 ~~Agriculture~~. The purpose of the R-2.18~~A~~ District is to implement the "Low Density Residential" land use category of the General Plan, and the General Plan goal of preserving the community's rural agricultural setting and residential character.

~~Rural~~ Single Family Residential-2.90. The purpose of the R-2.90~~R~~ District is to implement the "Medium Density Residential" land use category of the General Plan, and to preserve the character of rural lands within that category. This district is applicable to single-family areas within that category which are appropriate for densities at the lower end of the allowable General Plan density range.

Single Family Residential-4.36~~1~~. The purpose of the R~~SF~~-4.36~~1~~ District is to implement the "Medium Density Residential" land use category of the General Plan, and the General Plan goal of preserving Sebastopol's character and image. This district is applicable to single-family residential areas in the low-mid portions of the allowable General Plan density range.

Single Family Residential-7.26~~2~~. The purpose of the R~~SF~~-7.26~~2~~ District is to implement the "Medium Density Residential" land use category of the General Plan. This district is applicable to single-family residential areas at the mid- and upper-range ~~higher end~~ of the allowable General Plan density range.

Single Family Residential-10.89. The purpose of the R-10.89 District is to implement the upper density range of the "Medium Density Residential" land use category of the General Plan. This district is applicable to single-family residential areas at the higher end of the allowable General Plan density range.

Duplex Residential-14.52A. The purpose of the R~~D~~-14.52A District is to implement the "High Density Residential" land use category of the General Plan. This district is applicable to areas appropriate for duplex residential uses.

Duplex-Residential-14.52B. The purpose of the R-14.52B district is to implement the "High Density Residential" land use category of the General Plan. This district is applicable to areas appropriate for duplex, triplex, and fourplex residential uses.

~~Medium Density~~ Multiple-Family Residential-17.42. The purpose of the R-17.42~~M-M~~ District is to implement the "High Density Residential" land use category of the General Plan. This district is

applicable to those lands within that category which are appropriate for densities at the middle of the allowable General Plan density range.

~~High Density~~ **Multiple-Family Residential**-24.89. The purpose of the R-24.89~~M-H~~ District is to implement the "High Density Residential" land use category of the General Plan. This district is applicable to those lands within that category which are appropriate for densities of the higher end of the allowable General Plan density range.

Mobile Home Park. The purpose of the R-MH~~P~~ District is to allow for comprehensively designed mobile home park developments in those areas where such use is allowed. The intent of these regulations is to create an integrated community wherein all land uses are planned and designed in a comprehensive "master plan" approach, including such aspects as roadways, open space, infrastructure, architecture, and landscaping, as well as to encourage their preservation as an important form of housing. These provisions shall be applicable to all parcels within the R-MH~~MHP~~ District, and shall establish all land use controls for property within the R-MH~~MHP~~ District.

17.20.020 Allowed uses.
Table 17.10-1 identifies permitted and conditionally permitted uses in the residential districts.

17.20.030 Development standards.
Table 17.20-2 identifies development standards in the residential districts. Additional standards, criteria, and regulations for parking, various uses and activities, signage, and recycling and trash collection areas are established in ~~Sections~~ SMC 17.100~~50~~ through 17.280~~370~~.

Table 17.20-1: Permitted and Conditionally Permitted Uses in the Residential Single Family Districts

Use	R-1E	R-2.18A	R-2.90R	R-4.36SF-1	R-7.26SF-2	R-10.89	RD-14.52A	R-14.52B	R-17.42M-M	R-24.89M-H	R-MHP
Residential Uses											
Accessory dwelling	P	P	P	P	P	P	P	P	P	P	-
Bed and breakfast inns	C	C	C	C	C	C	C	C	C	C	-
Dwelling groups	-	-	-	-	-	-	-	-	P	P	-
Employee housing (agricultural)	P	P	P	-	-	-	-	-	-	-	-
~~Employee housing, small~~	~~P~~	~~P~~	~~P~~	~~-~~	~~-~~		~~-~~		~~-~~	~~-~~	~~-~~
Homeless shelter	-	-	-	-	-	-	-	~~C~~ -	-	C	-
Large community care, residential	C	C	C	C	C	C	C	C	C	C	-
Mobile home parks	C	C	C	C	C	C	C	-	C	C	C
Mobile home replacement, existing pad	-	-	-	-	-	-	-	-	-	-	P
Multiple-family dwellings	-	-	-	-	-	-	-	-	P	P	-
Semi-transient	-	-	-	-	-	-	-	P	C	C	-
Single family dwelling, one per parcel[1]	P	P	P	P	P	P	P	-P	P	P	-
Single room occupancy dwelling	-	-	-	-	-	-	-	P	-	P	-
Small community care, residential	P	P	P	P	P	P	P	P	P	P	-
Small family day care, residential	P	P	P	P	P	P	P	C	P	P	-
Temporary dwelling	T	T	T	T	T	T	T	T	T	T	-
Transient	-	-	-	-	-	-	-	~~P~~ -	C	C	-
Two detached single family dwellings	-	-	-	-	-	-	P	-	-	-	-
Two-family dwelling	-	-	-	-	-	-	P	P	P	P	-
Three- and four-family dwellings	-	-	-	-	-	-	-	P	P	P	-
Civic Uses											
Community assembly	C	C	C	C	C	C	C	C	C	C	-
Community care facility	-	-	-	-	-	-	-	-	C	C	-
Community education, small or large	C	C	C	C	C	C	C	C	C	C	-
Community garden	P	P	P	P	P	P	P	P	P	P	P
Community park	P	P	P	P	P	P	P	P	P	P	P
Extensive impact civic	C	-	C	-	-	-	-	-	-	-	-
Health care	-	-	-	-	-	-	-	-	C	C	-

Use	R-1E	R-2.18A	R-2.90R	R-4.36SF-1	R-7.26SF-2	R-10.89	RD-14.52A	R-14.52B	R-17.42M-M	R-24.89M-H	R-MHP
Large family day care center	C	C	C	C	C	C	C	C	C	C	-
Parking lots, when adjacent to any C or M District	-	-	-	-	-	-	-	-	C	C	-
Utility civic	C	C	C	C	C	C	C	C	C	-	C
Other Uses											
Accessory uses, structures, and buildings	P	P	P	P	P	P	P	P	P	P	C
Agriculture, indoor growing and harvesting (structure <800 square feet)[2]	P	P	CD	-	-	-	-	-	-	-	-
Agriculture, outdoor growing and harvesting	P	P	P	C	C	C	-	-	-	-	-
Beekeeping, amateur	P	P	P	P	P	P	P	P	P	P	P
Commercial minor antennas,M minor telecommunications facilities and commercial minor antennas (>35 ft and ≤100 ft in height), and major telecommunications facilities[5]	-	-	-	C	C	C	-	-	-	-	-
Home occupation	P	P	P	P	P	P	P	P	P	P	P
Major telecommunications facilities[4]	C	C	C	C	C	C	C	C	C	C	C
Minor antennas, Class A	P	P	P	P	P	P	P	P	P	P	P
Minor antennas, Class B	P	P	P	P	P	P	P	P	P	P	P
Minor antennas, Class C	C	C	C	C	C	C	C	C	C	C	C
Minor antennas, Class D	C	C	C	C	C	C	C	C	C	C	C
Minor telecommunication facilities and commercial minor antennas (≤35 ft. in height)[3]	C	C	C	C	C	C	C	C	C	C	C

P = Permitted Use
C = Conditionally Permitted Use, Planning Commission review
CD = Conditionally Permitted Use, Planning Director review
T = Temporary Use Permit
- = Use Not Allowed

[1] One single family dwelling per parcel.

Table 17.20-2: Development Standards in the Residential Zones

Development Standard	R-1~~E~~	R-2.18~~A~~	R-2.90~~R~~	R-4.36~~SF-1~~	R-7.26~~SF-2~~	R-10.89	R~~D~~-14.52A	R-14.52B	R-17.42~~M-M~~	R-24.89~~M-H~~	R-MH~~P~~
Minimum lot area											
Interior lots, single-family or one duplex	1 ac (43,560 sf)	~~20~~18,000 sf	15,000 sf	~~10~~8,000 sf	~~6~~5,000 sf	4,000 sf	~~6~~5,000 sf	5,000 sf	6,000 sf	6,000 sf	-
Corner lots, single-family or one duplex	1 ac (43,560 sf)	~~20~~18,000 sf	15,000 sf	~~12~~10,000 sf	7,000 sf	4,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	-
Interior or corner lots, multiple-family or mobile home park	-	-	-	-	-	-	-	3,000 sf per unit (triplex, fourprlex)	10,000 sf	8,000 sf	5 ac
Minimum lot width											
Interior lots, single-family or one two-family dwelling	150 ft.	~~100~~ 80 ft.	80 ft.	~~80~~ 70 ft.	~~60~~ 50 ft.(1)	40 ft.	~~60~~ 50 ft.	50 ft.	60 ft.	60 ft.	-
Corner lots, single-family or one two-family dwelling	150 ft.	~~100~~ 80 ft.	80 ft.	~~100~~ 80 ft.	~~70~~ 60 ft.(1)	40 ft.	~~70~~ 60 ft.	60 ft.	70 ft.	70 ft.	-
Interior or corner lots, multiple-family	-	-	-	-	-	-	-	-	80 ft.(1)	80 ft.(1)	-
Maximum building height											
Main buildings on parcels ≥ 5,000 sf	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories	30 ft., 2 stories~~(2)~~	30 ft., 2 stories~~-~~
Main buildings on parcels < 5,000 sf	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	28 ft., 2 stories	30 ft., 2 stories~~(2)~~	28 ft., 2 stories~~-~~
Accessory buildings	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.	17 ft.~~-~~
Deed-restricted affordable housing, three stories	-	-	-	-	-	-	-	-	-	40 ft., 3 stories	-

Development Standard	R-1E	R-2.18A	R-2.90R	R-4.36SF-1	R-7.26SF-2	R-10.89	RD-14.52A	R-14.52B	R-17.42M-M	R-24.89M-H	R-MHP
Minimum yards/setbacks											
Front yard	30 ft. (52)	30 ft. (52)	20 ft. (52)	30 ft. (52)	20 ft. (52)	15 ft. (2)	20 ft. (52)	20 ft. (2)	15 ft. (2)(7)	15 ft. (2)(8)	20 ft. (11)
Interior side yard (main building)	10% of lot width, or 15 feet, whichever is greater, not to exceed 25 ft.	10% of lot width, not to exceed 15 ft.,	10% of lot width, or 15 ft. whichever is greater, not to exceed 25 ft.	10% of lot width, or 10 ft., whichever is greater, not to exceed 15 ft.	10% of lot width, or 5 ft., whichever is greater, not to exceed 9 ft.	10% of lot width, or 4 ft., whichever is greater, not to exceed 7 ft.	10% of lot width, or 5 ft., whichever is greater, not to exceed 9 ft.	10% of lot width, or 5 ft., whichever is greater, not to exceed 9 ft.	10% of lot width, or 5 ft., whichever is greater, not to exceed 9 ft.	10% of lot width, or 5 ft., whichever is greater, not to exceed 9 ft. (93)	15/20 ft. (12)
Interior side yard (accessory building)	20 ft. or 10% of lot width, whichever is greater, but not to exceed 25 ft.	10% of lot width, not to exceed 10 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	15/20 ft. (12)
Street side yard	15 ft., but not less than the front yard required on adjacent lot	15 ft., but not less than the front yard required on adjacent lot	15 ft., but not less than the front yard required on adjacent lot	20 ft., but not less than the front yard required on adjacent lot	10 ft., but not less than the front yard required on adjacent lot	7 ft., but not less than the front yard required on adjacent lot	10 ft., but not less than the front yard required on adjacent lot	10 ft., but not less than the front yard required on adjacent lot	15 ft. (7)	15 ft. (8)	15/20 ft. (12)
Rear yard (main building)	20% of the lot	20% of the lot	20% of the lot	20% of the lot	20% of the lot	20% of the lot	20% of the lot	20% of the lot	20% of the lot	20% of the lot	15/20 ft. (12)

Development Standard	R-1E	R-2.18A	R-2.90R	R-4.36SF-1	R-7.26SF-2	R-10.89	RD-14.52A	R-14.52B	R-17.42M-M	R-24.89M-H	R-MHP
	depth, no less than 20 ft. nor greater than 50 ft.	depth, no less than 20 ft. nor greater than 25 ft.	depth, no less than 20 ft. nor greater than 35 ft.	depth, no less than 20 ft. nor greater than 30 ft.	depth, no less than 20 ft. nor greater than 30 ft.	depth, no less than 18 ft. nor greater than 20 ft.	depth, no less than 20 ft. nor greater than 30 ft.	depth, no less than 20 ft. nor greater than 30 ft.	depth, no less than 20 ft. nor greater than 25 ft.	depth, no less than 20 ft. nor greater than 25 ft.	
Rear yard (accessory building)	20 ft. or 20% of the lot depth, whichever is greater, but not to exceed 30 ft.	3 ft.	3 ft.(13)	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Special setbacks – farm animal improvements	60 ft. front, 20 ft. side or rear, 30 ft. from any dwelling	60 ft. front, 20 ft. side or rear, 30 ft. from any dwelling	50 ft. front, 20 ft. side or rear, 30 ft. from any dwelling	-	-	-	-	-	-	-	-
Special setbacks – garage/carport opening facing the street	30 ft. from exterior property line at the street	-	20 ft. from any exterior property line at the street	-	-	-	-	-	20 ft. from any exterior property line at the street	20 ft. from any exterior property line at the street	-

Development Standard	R-1E	R-2.18A	R-2.90R	R-4.36SF-1	R-7.26SF-2	R-10.89	RD-14.52A	R-14.52B	R-17.42M-M	R-24.89M-H	R-MHP
Special setbacks – mechanical equipment	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (154)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)	50% of the otherwise applicable setback, but not less than 5 ft from rear and side property lines (4-15)
Maximum lot coverage											
On parcels ≥ 30,000 sf	20%	20%	20%	20%	20%	20%	20%	20%	40%	40% (10-5)	-
On parcels > 15,000 sf and < 30,000 sf	30%	30%	30%	30%	30%	30%	30%	30%	40%	40% (5-10)	-
On parcels > 5,000 sf and < 15,000 sf	40%	40%	40%	40%	40%	40%	40%	40%	40%	40% (5-10)	-
On parcels ≤ 5,000 sf	50%	50%	50%	50%	50%	50%	50%	50%	40%	40% (5-10)	-
Minimum residential density	-	-	-	-	-	-	-	-	1 DU/5,000 sf lot area	1 DU/3,500 sf lot area	-
Maximum residential density	-	-	-	-	-	-	-	-	1 DU/2,500 sf lot area	1 DU/1,750 sf lot area	1 DU/2,500 sf lot area-
Open Space	-	-	-	-	-	-	-	-	100 ft./DU (13)	50 ft./DU (14)	-

Development Standard	R-1~~E~~	R-2.18~~A~~	R-2.90~~R~~	R-4.36~~SF-1~~	R-7.26~~SF-2~~	R-10.89	R~~D~~-14.52A	R-14.52B	R-17.42~~M-M~~	R-24.89~~M-H~~	R-MH~~P~~
~~Other Standards~~	~~-~~	~~-~~	~~-~~	~~SMC 17.245~~	~~SMC 17.245~~		~~SMC 17.245~~		~~-~~	~~-~~	~~SMC 17.10.050~~

ac = acre
ft. = feet
sf = square feet
- = not applicable

(1) In the case of single-family or two-family lots fronting on a cul-de-sac bulb, the lot frontage may be reduced to 45 feet so long as the width is at least 60 feet measured at the front yard setback line. For multiple-family or groups of buildings with lots fronting on a cul-de-sac bulb, the lot frontage may be reduced to 70 feet so long as the lot width is at least 80 feet measured at the front yard setback line.

~~(2) Except that affordable housing projects may have a maximum height of 40 feet, not to exceed three stories.~~

~~(3) Except as may be otherwise indicated on the Zoning Map.~~

~~(4) Except as may be otherwise indicated on the Zoning Map. Where four or more lots in a block face have been improved with buildings, the minimum required front yard shall be the average of all of the improved lots along that block face, if less than 30 feet.~~

(52) Where 75 percent or more of the lots on any one block or portion thereof in the same zoning district have been improved with buildings, the required front yard may be reduced to a depth equal to the average of the front yards of the improved lots.

~~(6) Except as may be otherwise indicated on the Zoning Map. Where four or more lots in a block face have been improved with buildings, the minimum required front yard shall be the average of all of the improved lots along that block face, if less than 20 feet.~~

~~(7) Except as may be otherwise indicated on the Zoning Map.~~

~~(8) Setbacks may be reduced up to five feet in order to attain an average of 15 feet.~~

(93) With 1ft of additional setback for each foot above 30 ft. for 3-story buildings.

(4) Ground-mounted mechanical equipment may be placed as indicated, provided that the equipment is six feet or less in height and is constructed and/or insulated to that audibility beyond the property line is limited to the maximum extent feasible.

(510) The Planning Commission may approve up to a 10 percent increase in the allowable lot coverage where it is found that sufficient open spaces and recreation areas can be provided through efficient and well-organized use of the land or where it is necessary to promote an affordable housing project.

~~(11) Measured from the property line to the nearest mobile home lot line.~~

~~(12) 15 feet except where adjacent to a street, in which case the setback shall be 20 ft.~~

~~(13) Accessory buildings may be constructed within the required yards on the rear half of the lot; provided, that such building(s) shall not occupy more than 30 percent of the width of any rear yard. Such accessory buildings shall not be located closer than 10 feet to the main buildings on the same or adjacent lots.~~

~~(14) Open space shall conform to SMC 17.20.040 standards.~~as indicated

17.20.040 Open space standards.
Developments shall provide open space as required under SMC Table 17.20.2. Said open space shall conform to the following standards:

A. None of the following shall be counted as part of the open space required by this section:

1. Required front and side yard setbacks;

2. Any access area, open area, or other space required by any other code or ordinance of the City such as a Building Code or Safety Code;

3. Required parking areas or driveways, which are designed and utilized primarily for vehicular circulation. Courtyards and similar facilities, which are designed and utilized primarily for pedestrian use, but through which vehicles may travel, may be considered by the Planning Commission as allowable usable open space;

4. Any area having a dimension of less than five feet;

5. Any area having a grade of more than 15 percent.

B. The following may be counted as a part of the open space required by this section:

1. Patios or balconies which serve individual units (private open space partially or fully separated or screened from other users) and which have a minimum area of 30 square feet and a minimum dimension of five feet;

2. Uncovered swimming pools, tennis courts, and similar recreation facilities, tot lots, rear yards.

C. In projects of 25 units or greater in residential zoning districts, at least two-thirds of the total amount of open space required on any building site shall be common open space, available and readily accessible to all dwelling units on the site.

17.20.050 Mobile Home Park ~~Development Criteria~~standards.
A. In determining the desirability of permitting the development or expansion of a mobile home park in any given area, the Planning Commission and City Council shall consider the following:

1. The relationship of proposed project to the existing and proposed street network.

2. The relationship of the proposed project to public facilities, including, but not limited to, existing or proposed shopping areas, schools, and public transportation.

3. The effect of the proposed project on adjoining uses and the effect of adjoining uses on the project.

4. The general impact of the proposed mobile home park on the immediate vicinity and terrain.

5. The compatibility of the proposed park to surrounding uses and land use densities.

B. Minimum Mobile Home Park Area. ~~Five~~ 1.5 acres.

C. Maximum Building Height. One story, not to exceed 17 feet.

D. Minimum Yards.

1. Yards at mobile home park boundaries:

a. Front Yard. Each mobile home park shall have a front yard measured from the front property line to the nearest mobile home lot line not less than 20 feet for the full width of the parcel.

b. Side and Rear Yards. Each mobile home park shall have a rear yard and side yards measured from the property line to the nearest mobile home lot line, not less than 15 feet on all sides of the parcel, except where a side or rear yard abuts a street, in which case the yard shall not be less than 20 feet.

2. Yards for individual mobile homes:

    a. Mobile home trailers shall be located a minimum of five feet from the front, side ~~or~~ and rear line of the trailer lot or trailer site.

    b. Mobile home trailers shall not be located closer than 10 feet to any other mobile home trailer or building in the mobile home park.

    c. Mobile home trailers or buildings in a mobile home park shall not be located within 15 feet of any front or side property line of a mobile home park site adjacent to a road or five feet from any other public easement.

E. Development Standards.

1. Walls, fences and landscaping at mobile home park boundaries:

    a. Required Fences and Walls. A six-foot wall or such other decorative fencing or screening of a similar nature as determined by the Planning Department shall be constructed along all boundaries adjoining other properties and 15 feet back of the property line adjacent to any public street unless otherwise approved.

    b. Landscaping. All yards and incidental open space areas shall be landscaped and maintained. Landscaping shall include trees not fewer than a number determined by dividing the number 25 into the number of lineal feet of frontage abutting public streets. Said trees shall be at least 15-gallon-size specimens. An irrigation system shall be included within all landscaped areas, and other assurances given prior to the development of the mobile home park that all landscaping shall be adequately maintained.

2. Vehicular Access. Vehicular access to mobile home parks shall be from abutting major or collector streets. Vehicular access to mobile home parks from minor streets shall be prohibited.

3. Pedestrian Access. Pedestrian access into the mobile home park shall be provided by connecting the interior pedestrian pathway network with sidewalks located in the rights-of-way of perimeter streets.

4. Mobile home parks in areas of excessive slope may require additional lot area to minimize cut and fill slopes; however, where mobile home sites are graded into stepped pads, there shall be no more than a three-foot vertical elevation difference between adjoining pads whether separated by an internal access road or not.

5. Patio. A patio of suitable material, having a minimum area of 160 square feet, shall be installed as part of each mobile home lot prior to occupancy of the unit. The patio shall satisfy the requirement for usable open space so long as it has a minimum dimension of six feet.

6. Tenant Storage. A minimum of 75 cubic feet general storage locker shall be provided for each mobile home space. Storage lockers may be located on the mobile home lot or in locker compounds located within close proximity of the mobile home lot being served.

7. Internal Access Roads. Internal access roads shall be paved to a width of not less than 25 feet.

    a. Internal access roads of less than 25 feet may be permitted when mobile home or orientation is toward interior open space.

    b. Internal access roads shall be 33 feet in width if car parking is permitted on one side, and 41 feet in width if car parking is permitted on both sides.

    c. Widths shall be measured from the face of curbs on standard curb construction and from the back of the curb on rolled curb construction.

8. Parking. Each mobile home space shall accommodate a minimum of one parking space; the park shall provide an additional 0.5 spaces per pad.

9. Sanitary Sewer. Each mobile home space shall be provided with a connection to a City sewer line, either directly or indirectly.

10. Utility Service. All utility service within a mobile home park shall be underground.

11. Recreation Open Space. There shall be provided park and recreation areas:

    a. A minimum of 200 square feet of usable area per unit shall be provided in a combination of indoor and outdoor community recreation and service facilities.

    b. Indoor facilities shall be provided at a minimum of 50 square feet per unit for the first 150 units, and 10 square feet for each additional unit.

        i. A minimum of one parking space for every 500 square feet of indoor area, and one space for every 2,000 square feet of outdoor area shall be provided.

12. Management Office. Each mobile home park shall maintain an on-site manager. If provided as a management office, at least two parking spaces shall be provided for such office.

13. Suitable central facilities shall be provided for mail distribution.

14. No accessory building shall be constructed as a permanent part of the mobile home.

15. Refuse disposal shall be by central collection containers located behind decorative screens.

16. On-Site Landscaping. In the design of the mobile home park, the developer shall make every effort to retain existing trees. No less than 20 percent of each mobile home space shall be landscaped with plant materials, including at least one tree at least eight feet in height with a trunk diameter of at least one inch measured one foot above ground level. Tree selection shall be a part of the landscape plan review.

17. All accessory structures, including but not limited to carports, storage lockers, recreation and management buildings, and cabanas, shall be of a consistent design theme and shall be subject to the design review process.

18. Except in mobile homes existing as of July 1, 2004, no air conditioning or cooling apparatus shall be permitted above the roof line of any mobile home.

19. Storage Areas. Areas for the storage of camping trailers, boats, recreational vehicles, campers, and other such vehicles and recreational equipment shall be provided at the minimum ratio of 50

square feet of land for each mobile home space or lot. Such area shall be constructed of a dust-free, all-weather surface and shall be enclosed by a six-foot, sight-obscuring decorative fence and gate.

20. No mobile home shall be hauled to or stored within a mobile home park unless it is properly erected on a site approved for such use.

Chapter 17.25

COMMERCIAL, OFFICE, AND INDUSTRIAL DISTRICTS

Sections:

17.25.010 Purpose of the districts.

Office. The O District is intended to create, preserve and enhance areas for a full range of professional, medical and/or business office uses. These regulations shall apply in the O District.

Neighborhood Commercial. The CN District is intended to create, preserve, and enhance areas containing a mixture of general and administrative offices, residential, and small-scale retail uses, and to encourage mixed-use developments of commercial and residential uses. This district is typically appropriate along major thoroughfares located adjacent to residential neighborhoods.

Office Commercial. The CO District is intended to create, preserve, and enhance areas containing a mixture of general and administrative offices, residential, and small-scale retail uses, and to encourage mixed-use developments of commercial and residential uses. This district is typically appropriate along major thoroughfares located adjacent to residential neighborhoods.

General Commercial. The CG District provides areas for commercial uses with off-street parking and/or clusters of street-front stores. This zone permits primarily local-serving retail establishments, specialty shops, banks, professional offices, motels, and business and personal services that are typically appropriate along major thoroughfares. The following types of retail uses are discouraged: factory outlets, large regional-serving shopping centers, and other similar retail uses generating high traffic volumes.

Central Core. The CD District is intended to create, preserve, and enhance the downtown area as the historic retail core of Sebastopol.

Heavy Commercial. The CH District is intended to create, preserve, and enhance areas with a variety of retail and small-scale industrial establishments which are essential to the economy of Sebastopol, but which are frequently incompatible with a retail shopping or office area, and are typically appropriate to areas near industrial neighborhoods. These regulations shall apply in the CH District.

Industrial. The purpose of the M District is to implement the "Industrial" land use category of the General Plan and to provide areas for the manufacture, assembly, packaging, or storage of products which, in the opinion of the Planning Commission, are not harmful, injurious, or detrimental to property or the general welfare of the City and its residents; and other general commercial uses that are compatible with the industrial uses. This district is applicable to light and general industrial areas of the City.

Office/Light Industrial. The purpose of the O/LM District is to implement the "Office/Light Industrial" land use category of the General Plan and to provide areas for well-planned, integrated business parks that may include office and related uses as well as research and development, laboratories, warehousing and distribution, exercise facilities, child care uses, and food service uses which, in the opinion of the Planning Commission, are not harmful, injurious, or detrimental to property or the general welfare of the City and its residents; and other general commercial uses that are compatible with the permitted uses. This district is applicable to office and light industrial areas of the City.

Commercial-Industrial. The C-M District is intended to encourage local production, innovation, and sales of local art, textile, food, beverage, and other tangible goods by allowing a range of complementary, community-oriented building types and spaces that accommodate small- and mid-size makers, fabricators, producers, and manufacturers, as well as specified commercial and other uses.

17.25.020 Allowed uses.

Table 17.25-1 identifies permitted and conditionally permitted uses in the commercial, office, and industrial districts.

17.25.030 Development standards.

A. Table 17.25-2 identifies development standards in the commercial, office, and industrial districts. Additional standards, criteria, and regulations for parking, various uses and activities, signage, and recycling and trash collection areas are established in ~~Sections~~ SMC 17.100~~50~~ through 17.360~~370~~.

B. General Project Layout and Design Criteria. The following criteria apply to commercial uses with three or more storefronts or 15,000 square feet or larger in the O, CN, CO, CG, CD, CH, M, C-M and O/LM zones.

1. The development shall be human-scale and pedestrian-friendly, with the site plan focused on pedestrian access and architecture.

2. The development shall be oriented toward the street frontages and primary pedestrian access points, rather than the parking lot. Safe and convenient pedestrian access shall be provided throughout the development, with access and connections provided to existing and planned sidewalks and bicycle routes.

3. Development shall not resemble a typical strip commercial development. Strip commercial development is characterized by uses that are one store deep, buildings are arranged in a linear fashion rather than clustered, and site design that emphasizes automobile access and parking.

4. Off-street parking shall be distributed to the sides and rear of buildings.

C. Residential development.

1. Residential uses in the commercial, office, and industrial districts shall be permitted as mixed-use projects, with ground –floor non-residential uses located along the primary street frontages.

2. Residential uses permitted as mixed-use projects shall be located on upper floors above non-residential uses or, if located on the ground floor, shall be located along side street frontages behind commercial or office uses, or at least 75 feet from the primary street frontage. Access to the residential use may be located on the primary street frontage, provided that the access is 25% or less of the building width along that frontage. This paragraph does not apply to deed-restricted affordable housing projects.

3. In non-residential zoning districts, residential uses permitted in the R-24.89 zone that are not part of a mixed use project are allowed as a conditionally permitted use subject to the findings that the project will not create substantial adverse effects on commercial uses or street-front vitality and that the project will be compatible with nearby uses and development.

17.25.030 Open space and landscaping standards.

Developments shall provide open space as required under SMC 17.25.030. Said open space shall conform to the following standards:

A. None of the following shall be counted as part of the open space required by this section:

1. Required front and side yard setbacks;

2. Any access area, open area, or other space required by any other code or ordinance of the City such as a Building Code or Safety Code;

3. Required parking areas or driveways, which are designed and utilized primarily for vehicular circulation. Courtyards and similar facilities, which are designed and utilized primarily for pedestrian use, but through which vehicles may travel, may be considered by the Planning Commission as allowable usable open space;

4. Any area having a dimension of less than five feet;

5. Any area having a grade of more than 15 percent.

B. The following may be counted as a part of the open space required by this section:

1. Patios or balconies that have a minimum area of 30 square feet and a minimum dimension of five feet;

2. Uncovered swimming pools, tennis courts, and similar recreation facilities, tot lots, rear yards.

C. In projects of 25 units or greater in residential zoning districts, at least two-thirds of the total amount of open space required on any building site shall be common open space, available and readily accessible to all dwelling units on the site.

Table 17.25-1: Permitted and Conditionally Permitted Uses in the Commercial, Office, and Industrial Zones

Use	O	CN	CO	CG	CD	CH	M	O/LM	C-M
Commercial Uses									
Agriculture, outdoor and indoor growing and harvesting~~(7)~~	-	-	-	-	-	-	-	C	-
Animal hospital and kennels	-	-	-	C	-	C	C	C	-
Animal hospital, office only	CD	-	-	C	C	C	CD	CD	C
Automotive gas or fueling station	-	-	-	C	-	C	C	C	-
Automotive repair and service	-	-	-	-	-	-	P	-	-
Automotive sales, service, and repair	-	-	-	C	C	C	-	-	-
Beekeeping, commercial	-	-	-	P	-	P	P	P	P
Commercial manufacturing	-	-	-	-	-	P	P	-	P
Convenience sales and service	P	P	P	P/C(1)	P	P	-	-	P
Exercise facilities	C	CD	CD	CD	C	C	C	P	C
Extensive commercial	-	-	-	C(1)	C	C	-	-	-
Food sales	P	P	P	P/C(1)	P	P	P	P	P
General wholesale sales	-	-	-	C	-	P	P	-	P
Home occupations	P	P	P	P	P	P	P	P	P
Mobile food truck court	-	-	P	P	P	P	-	-	P
Office	P	P	P	P	P	P	P(2~~2~~)	P	P(2)
Outdoor commercial barbecue	-	-	-	C	C	C	C	-	C
Plant nurseries	-	-	-	-C	-	P-	~~C~~P	~~C~~P	~~C~~P
Restaurant, fast-food	-	-	-	C	C	C	-	-	-
Restaurant, table or counter service	CD	P	P	P	P	P	P	P	P
Restaurant, walk-up	-	P	P	P	P	P	-	-	P
Retail sales	P	P	P	P/C(1)	P	P	C	-	P/C(3)
Storage, personal or vehicle	-	-	-	-	-	C	C	-	-
Tobacco or smoke shops, vape shops	-	-	-	C	-	-	-	-	-
Wine tasting establishment	-	P	P	P	P	-	-	-	P
Industrial Uses									
Artist work studios and arts-related fabrication	CD	C	CD	C	C	C	P	P	P

Use	O	CN	CO	CG	CD	CH	M	O/LM	C-M
General industrial	-	-	-	-	-	-	C	-	C
Heavy industrial	-	-	-	-	-	-	C	-	-
Laboratories[48]	C	-	-	-	-	C	P	P	-C
Light industrial	-	-	-	-	-	-	P	CD	P
Research and development	-	-	-	-	-	C	~~C~~P	P	C
Warehouse, storage and transport	-	-	-	-	-	C	P	-	C[5]
Warehouse, wholesaling and distribution	-	-	-	-	-	-	C	P	C[5]
Wineries, distilleries, and brewing facilities	-	-	-	-	-	C	C	C	C
Civic Uses									
Community assembly	C	C	C	C	C	C	C	C	C
Community garden	P	P	P	P	C	P	P	P	P
Community non-assembly	C	C	C	C	C	C	C	C	C
Community park	P	P	P	P	P	P	P	P	P
Extensive impact civic	-	-	-	-	-	C	C	C	-
Health care uses	P	C	C	C	C	C	C	C	C
Large community care	C	C	C	-	-	-	-	-	-
Large community education	C	C	C	C	C	C	C	C	C
Large community education, adult	C	C	C	C	C	C	C	C	C
Outdoor farmers' market	-	-	-	C	C	-	C	C	C
Parking facilities	C	-	-	C	C	C	C	C	-
Small community care	P	P	P	-	-	-	-	-	-
Small community education	P	P	P	P	P	P	-	P	-
Sports park	C	-	-	C	-	C	C	C	-
Utility civic	C	C	C	C	C	C	C	C	C
Residential Uses									
Affordable housing projects	P	P	P	P	P	C	C	C	C
Bed and breakfast inns	C	C	C	C	C	-	-	-	-
Homeless shelter	-	-	-	P[15]	C	P	-	-	-
Live-work dwelling units when part of a mixed-use development.	P[10,116]	P[10,116]	P[10,116]	P[10,611]	P[10,611]	C[10,11]	C[10]	C[10]	C

Use	O	CN	CO	CG	CD	CH	M	O/LM	C-M
Permanent residential uses permitted in the R-24.89~~M-H~~ District when part of a mixed-use development	P~~(10)~~	P~~(10)~~	P~~(10)~~	P~~(10)~~	P~~(10)~~	C~~(10)~~	C~~(10)~~	C~~(10)~~	C
Permanent residential uses permitted in the R-24.89 District when not part of a mixed-use development	C	C	C	C	C	C	C	C	C
Residential, Semi-transient	C	C~~(710)~~	C~~(710)~~	C~~(710)~~	C	-	-	-	-
Residential, Transient	C	C~~(710)~~	C~~(710)~~	C	P~~(12)~~/C~~(813)~~	C	C~~(14)~~	-	C
Other Use Types									
Commercial minor antennas~~(16)~~	C	C	C	C	C	C	C	C	C
Major telecommunications facilities~~(18)~~	C	C	C	C	C	C	C	C	C
Minor antennas, Class A	P	P	P	P	P	P	P	P	P
Minor antennas, Class B	P	P	P	P	P	P	P	P	P
Minor antennas, Class C	C	C	C	C	C	C	C	C	C
Minor antennas, Class D	C	C	C	C	C	C	C	C	C
Minor telecommunications facilities and commercial minor antennas (≤35 feet in height)~~(17)~~	P	P	P	P	P	P	P	P	P
New development comprising ≥ 20,000 square feet of floor area	-	-	-	-	-	-	C	-	C
New development comprising ≥ 25,000 square feet of floor area	-	-	-	-	C	-	~~-~~C	-	C
New drive-through uses~~(19)~~	-	-	-	-	-	-	-	-	-

P = Permitted Us~~e~~
C = Conditionally Permitted Use, Planning Commission review
CD = Conditionally Permitted Use, Planning Director review
- = Use Not Allowed
(1) Commercial uses allowed that have individual buildings exceeding 30,000 square feet in size.
(2~~2~~) Only when located on second floors ~~existing as of May 21, 2013, within the area bounded by Sebastopol Avenue, Petaluma Avenue, McKinley Street, and Morris Street~~
(3) Permitted where uses are 1,500 square feet or less; conditionally permitted where uses exceed 1,500 square feet.
~~(3) Through (6)~~ ~~intentionally left blank.~~
~~(7) Subject to appropriate conditions regarding setbacks, hours of operation, use of machinery, erosion control and the like.~~

Use	O	CN	CO	CG	CD	CH	M	O/LM	C-M
(4~~8~~) Except those which in the opinion of the Planning Director have the potential to be harmful, injurious, or detrimental to property or the general health, safety, and welfare of the City and its residents in which case a use permit shall be required. (5) Permitted when secondary to a primary permitted use. ~~(9) Reserved.~~ ~~(6~~11) ~~Includes live-work dwelling units, except that~~ L~~l~~ive-work units are not permitted along the street frontage on Sebastopol Avenue, Healdsburg Avenue/Gravenstein Highway North, or Gravenstein Highway South, except by use permit. (7~~10~~) Allowed when part of a mixed-use development. (8~~12~~) Permitted o~~O~~nly when involving less than 50 rooms; conditionally permitted when involving 50 or more rooms. ~~(13) Only when involving 50 or more rooms.~~ ~~(14) Only when located in buildings existing as of July 23, 2013, within the area bounded by McKinley Street, Morris Street, Sebastopol Avenue, and Depot Street.~~ ~~(15) With administrative permit review.~~ ~~(16) Includes commercial minor antennas, including antennas that exceed the permitted heights for ground-mounted or building-mounted antennas, except that they may not exceed 100 feet in height.~~ ~~(17) Includes minor telecommunications facilities and commercial minor antennas, not exceeding 35 feet in height, provided the requirements of SMC 17.100.010 through 17.100.240 are met as appropriate, as determined by the Planning Director.~~ ~~(18) Includes major telecommunications facilities, provided the requirements of SMC 17.100.010 through 17.100.230 are met, as determined by the Planning Commission.~~ ~~(19) Any new drive-through uses are prohibited. Such uses existing as of December 18, 2012 may be modified for aesthetic, safety or other reasons as determined appropriate by the City, but no modifications that would intensify or expand the use shall be permitted.~~									

Table 17.25-2: Development Standards in the Commercial, Office, and Industrial Zones

Development Standard	O	CN	CO	CG	CD	CH	M	O/LM	C-M
Maximum floor area, single establishment									
Convenience sales and service or general retail uses	5,000 sf	5,000 sf	5,000 sf	-	-	-	-	-	-
Nonresidential uses, except for office uses	-	-	-	35,000 sf	35,000 sf	35,000 sf	-	-	-
Nonresidential and nonindustrial uses	-	-	-	-	-	-	35,000 sf	-	35,000 sf
Exercise and food sales and service	-	-	-	-	-	-	-	25,000 sf	-
Minimum lot area	6,000 sf	6,000 sf	6,000 sf	6,000 sf	6,000 sf	6,000 sf	15,000 sf	130,680 sf	15,000 sf
Minimum lot width	-	-	60 ft.	-	-	-	60 ft.	150 ft.	60 ft.
Minimum new building height	-	-	-	-	2 stories	-	-	-	-
Maximum building height									
Buildings and other facilities	32 ft., 2 stories	32 ft., 2 stories	32 ft., 2 stories	32 ft., 2 stories/	40 ft., 3 stories/ 50 ft. 4 stories[1]	32 ft., 2 stories	35 ft., 2 stories[2]	40 ft., 3 stories	35 ft., 2 stories[1,2]
Accessory buildings	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story	17 ft., 1 story
Deed-restricted affordable housing	40 ft., 3 stories[3]	40 ft., 3 stories[3]	40 ft., 3 stories[3]	40 ft., 3 stories[3]	-	40 ft., 3 stories[3]	-	-	50 ft. 4 stories [1,3]
Minimum building setbacks									
Front yard	10 ft.[4]	N/A[4,5]	West side of South Main St: 10 ft. Other: N/A[5]	0 ft.[4,5,6]	0 ft.[4,5]	0 ft.[4]	15 ft. from existing curb or property line if there is no curb[7,8]	20 ft./25ft [7,9]	15 ft. from existing curb or property line if there is no curb [6]
Side Yard, Interior	0 ft.[4]	0 ft.[10]	0 ft.[10]	0 ft.[4]	0 ft.[4]	0 ft.[4]	0 ft.[4]	0 ft.[4]	0 ft
Side Yard, Corner	0 ft.[4]	0 ft.[10]	0 ft.[10]	0 ft.[4]	0 ft.[4]	0 ft.[4]	0 ft.[4]	0 ft.[4]	0 ft.

Development Standard	O	CN	CO	CG	CD	CH	M	O/LM	C-M
Rear Yard, Main Building	5 ft.(6)	5 ft.(6)	5 ft.(6)	5 ft.(6)	0 ft.(4)	0 ft.(6)	0 ft.(6,11)	0 ft.(6)	0 ft.
Rear Yard, Main Building when abutting residential district	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft
Rear Yard, Accessory building	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.	5 ft.	0 ft.(6,11)	0 ft.(6)	0 ft
Rear Yard, Parking	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	0 ft.(6,11)	0 ft.(6)	0 ft.
Special Setbacks – commercial outdoor barbecues	-	-	-	10 ft from property line; see SMC 17.300	10 ft from property line; see SMC 17.300	10 ft from property line; see SMC 17.300	10 ft from property line; see SMC 17.300	-	10 ft from property line; see SMC 17.300
Special Setbacks – commercial beekeeping	-	-	-	See SMC 17.300	-	See SMC 17.300	See SMC 17.300	See SMC 17.300	See SMC 17.300
Maximum Floor area ratio, not including residential	1.5(12)	1.5(12)	1.5(12)	1.5(12)	Minimum (new buildings): 1.0 Maximum: 2.5(12)	1.5(12)	0.75(12)	1.5(12)	1.0.750
Maximum residential density	1 DU/2,900 sf lot area(8)	1 DU/2,900 sf lot area	1 DU/2,900 sf lot area	1 DU/2,000 sf lot area	1 DU/1,000 sf lot area	1 DU/2,000 sf lot area	1 DU/2,000 sf lot area	1 DU/2,000 sf lot area	1 DU/1,750 sf lot area
Minimum usable open space	50 sf/ DU(14)	50 sf/ DU(14)	50 sf/ DU(14)	50 sf/ DU(14)	50 sf/ DU(14)	50 sf/DU	50 sf/DU	50 sf/DU	50 sf/DU
Buffering/screening	If abutting a lot in any residential district, screening shall be provided along the entire abutting residential lot by dense landscaping, including screen-type trees, or by a solid fence of six feet in height. (15) (15)								
Automotive services standards and regulations	-	-	-	See SMC 17.60	See SMC 17.60	See SMC 17.60	See SMC 17.60	See SMC 17.60	

ac = acre
ft. = feet
sf = square feet
DU = dwelling unit

Development Standard	O	CN	CO	CG	CD	CH	M	O/LM	C-M

N/A = not applicable

(1) Four stories and 50 ft. allowed for projects with residential uses, including hotel rooms, on upper floors, provided Use Permit obtained, and the Planning Commission finds that the project design provides appropriate massing, height transitions and variations, and suitable relationships to neighboring sites.

(2) Additional height may be permitted by use permit, if each yard is increased by one foot for each foot in additional height up to a height of 40 feet and three stories.

(3) Provided, that front, side, and rear setbacks for the third story are equal to a minimum of 10 feet beyond required second story setbacks.

(4) When abutting any residential, the building setback shall be equal to the applicable setback required on the adjacent R lot. In the CH District, the side yard shall be 6 ft. for open/covered parking.

(5) Except when abutting a lot in any residential district, B buildings should provide a zero first floor front setback, unless the Design Review Board determines a different setback is appropriate due to site conditions, existing improvements, provision of pedestrian amenities, or the neighborhood context.

(6) When abutting a lot any residential district, the building setback shall be 20 feet.

(7) If there is no curb, 15 ft. from the existing property line.

(8) No front setback shall be required for buildings not fronting on a public street.

(9) 20 feet for buildings of up to 30 feet in height, and 25 feet for buildings of more than 30 feet in height.

(10) When abutting a lot in any residential district, the building setback shall be five feet.

(11) When abutting a lot in any residential district, the rear yard shall be fully landscaped.

(12) Not including residential.

(8 13) With mixed-use (residential and office) development, the entire lot area may be used to calculate the maximum residential density.

(14) Open space shall conform to SMC 17.10.040 standards.

(15) When abutting a lot in any residential district, screening shall be provided along the entire abutting residential lot by dense landscaping and screening to achieve, within three years, a height of not less than six feet and a width of not less than three feet, or by a solid fence of six feet in height.

Chapter 17.30

COMMUNITY FACILITIES DISTRICT

Sections:

17.30.010 Purpose of the district.

Community Facilities. The purpose of the CF District is to implement the "Community Facilities," "Parks" and "Open Space" land use categories of the General Plan. This district is applicable to lands accommodating governmental, public utility, and educational facilities, as well as parks and open space land in public ownership.

17.30.020 Allowed uses.

Table 17.30-1 identifies permitted and conditionally permitted uses in the CF District.

17.30.030 Development standards.

Table 17.30-2 identifies development standards in the CF District. Additional standards, criteria, and regulations for parking, various uses and activities, signage, and recycling and trash collection areas are established in ~~Sections~~ SMC 17.100~~50~~ through 17.360~~370~~.

Table 17.30-1: Permitted and Conditionally Permitted Uses in the CF District

	CF
Civic Uses	
Cemeteries	C
Community assembly	C
Community education	P
Community non-assembly	C
Community park	P
Extensive impact	C
Municipal parking facilities	P
Open space	P
Utility civic	P
Other Uses	
Commercial minor antennas (>35 feet and ≤100 feet)[(1)]	C
Major telecommunications facilities[(3)]	C
Minor antennas, Class A	P
Minor antennas, Class B	P
Minor antennas, Class C	C
Minor antennas, Class D	C
Minor telecommunications facilities and commercial minor antennas (≤35 feet)[(2)]	P
P = Permitted Use C = Conditionally Permitted Use	

~~(1) Commercial minor antennas, including antennas that exceed the permitted heights for ground-mounted or building-mounted antennas, except that they may not exceed 100 feet in height.~~

~~(2) Includes minor telecommunications facilities and commercial minor antennas, not exceeding 35 feet in height, provided the requirements of SMC 17.100.010 through 17.100.240 are met as appropriate, as determined by the Planning Director.~~

~~(3) Includes major telecommunications facilities, provided the requirements of SMC 17.100.010 through 17.100.230 are met, as determined by the Planning Commission.~~

Table 17.30-2: Development Standards in the CF District

Development Standard	CF
Minimum lot area	-
Minimum lot width	-
Maximum building height	32 ft.[(1)]
Minimum building setbacks	
Front yard	15 ft.[(1)]
Side Yard	5 ft.[(1)]
Rear Yard	15 ft.[(1)]
Floor area ratio	
Community facilities	2.0
Municipal facilities	3.0
Parks and open space	0.10
Buffering/screening required	Whenever a lot in the CF District abuts a lot located in any residential district, it shall be screened from the residentially zoned lot, along the entire abutting lot line, by dense landscaping, including screen-type trees, and by a solid fence not less than six feet in height.

ft. = feet
sf = square feet
- = not applicable
[(1)] Unless otherwise approved by the highest reviewing authority, which shall ensure that the requirement is appropriate for the context.

Chapter 17.40

PC - PLANNED COMMUNITY ~~OVERLAY~~ DISTRICT

Sections:

17.40.010 Purpose - Applicability.

The purpose of the PC Planned Community District is to allow for comprehensively designed and well-planned residential developments which create an integrated community wherein all land uses are planned and designed in a comprehensive "master plan" approach, including such aspects as roadways, open space, infrastructure, architecture, and landscaping. The Planned Community District provisions are intended to encourage, through utilizing freedom of design which may deviate from the strict requirements of, but which will surpass the quality required by, the zoning regulations, a variety of residential, commercial, industrial, or a combination of such uses within the same development. These provisions shall be applicable to all parcels within the PC District and shall establish all land use controls for property within the PC District.

17.40.020 Permitted uses.

None. All uses require a conditional use permit.

17.40.030 Conditionally permitted uses.

The following requirements and procedures shall apply to all uses within the PC District:

A. For all proposed uses a policy statement and development plan as set forth in SMC 17.40.060 shall accompany a rezone to PC District. Uses proposed within the plan shall be consistent with the General Plan land use designation for the subject property.

B. Prior to review and consideration by the Planning Commission, the policy statement and development plan shall be reviewed in concept only, as a referral matter, by the Design Review Board. Review of the proposal by the Design Review Board shall take into consideration the relationship of the proposed development to the surrounding area and the proposed project amenities to ensure that they are adequate for the development. The Board shall forward to the Commission their comments and recommendations, if any, as to the design aspects only of the proposal.

~~C. The Planning Commission, after public hearing, may act to deny the application, or to recommend approval, or conditional approval, to the City Council. Denial by the Planning Commission shall be final, unless appealed to the City Council, pursuant to Chapter 17.320 SMC.~~

~~D. Upon receipt of a Planning Commission recommendation of approval, or conditional approval, the City Council shall hold a public hearing on the zone change application, including the proposed policy statement and development plan. Following the public hearing, the Council shall either adopt an ordinance changing the zoning on the subject property to the PC District and approving the policy statement and development plan, such approval being subject to conditions as the Council deems appropriate, or shall deny the zoning application.~~

~~E~~C. ~~All uses require a conditional use permit.~~ Applications for use permit may be made either simultaneous with or any time after City Council approval of the policy statement and development plan and rezone. Should a use, approved by use permit, be changed at some future time to a similar use, no further use permit shall be required. However, a change to a dissimilar and/or more intense use, provided it is consistent with the approved policy statement and development plan, shall be permitted only upon the approval of a new use permit. Design review approval shall be required for all development proposals.

~~F~~D. All development of property within a PC District shall conform to the approved policy statement and development plan.

E~~G~~. Requests to modify, change, or revise any approved development plan or policy statement shall be processed in the same manner as any other change of zone application and shall be considered against the original development plan and policy statement and the conditions operating at the time the modification is requested, except that minor modifications which do not increase the approved density or change the approved uses may be allowed by Design Review Board approval.

17.40.040 Development criteria.
The following development criteria and standards shall be adhered to in all PC Districts:

A. Any buffering required between the proposed project and the surrounding area shall be provided by the proposed project.

B. Proposed projects shall provide amenities on site to include landscaping, parking, and a minimum of 200 cubic feet of storage space per residential unit.

C. A PC District is required to be a minimum of 25,000 square feet in size.

D. Proposed projects shall provide not less than 10 percent of the gross site area for private open space and/or community or site-user activity. Individual yards that comply with the guidelines set forth in SMC 17.20.040 may be counted toward this requirement. Such activity space may be planned and designed for active or passive recreational use by employees, site visitors, and/or the general public. The space shall be in addition to parking and storage areas.

17.40.050 Minimum lot area, width and frontage.
A. Development standards shall be established for each PC District by the policy statement and development plan approved by the City Council. Deviations from maximum and minimum requirements for lot area and lot width may be proposed; however, building coverage, building setbacks, building heights, usable open space and other similar standards shall conform to the zoning district unless approved by exception by the Planning Commission and City Council.

B. Clustering, zero lot line, and other subdivision patterns are encouraged. However, setbacks and heights, at the periphery of the development, shall be compatible with the requirements established by the abutting zone district.

17.40.060 Policy statement and development plan required.
An application for a rezone to a PC District shall be accompanied by a policy statement and a development plan for the district. However, when a rezone to the PC District is initiated by the Planning Commission or City Council, the requirements for a development plan may, at the discretion of the Planning Commission, be deferred until such time as a specific development proposal is presented. Under such circumstances, a policy statement which specifies the procedure and mechanism for the submittal to, and approval by, the City of Sebastopol shall be required.

A. The policy statement shall include the following:

1. Description of the location, size and existing character of the property and the surrounding area.

2. Provide a table that specifies the allowable uses, minimum lot sizes, building setbacks, building height, density of development, lot coverage, parking, open space, circulation requirements, landscaping, and other design, construction or control features of the proposed development.

3. Provide a statement defining the relationship of the proposed development standards to the zoning regulations for the underlying zoning district.

4. A statement of the assurances that common open space, common building space and common driveways or other circulation features will be permanently preserved and maintained. This statement shall include methods of maintenance of common areas, and financing provisions of same.

5. Timeline for project development.

B. The development plan shall include drawings showing:

1. The topography of the land.

2. The proposed buildings, creeks, drainage channels and other physical features on site or within 100 feet of the boundaries of the district.

3. A site plan showing the proposed buildings, parking areas, streets, open spaces, lot design, areas to be dedicated or preserved for public use.

4. Uses to be established in the various buildings and areas of the districts.

5. Preliminary sketch elevations of all proposed buildings and photographs of adjoining properties. In the case of single-family dwellings, submit representative elevations.

Chapter 17.44

WETLANDS DISTRICTS (W, WS COMBINING, WF COMBINING)

Sections:

17.44.010 Purpose, intent and applicability.

The purpose of the Wetlands Districts is to preserve and protect environmentally sensitive waterways and/or wetland areas. It is the intent of these districts to establish land use limitations, consistent with natural resource preservation of wetland areas. Accordingly, there are hereby established three Wetlands Districts:

A. W (Primary Wetlands) District, applicable to those lands lying below the 100-year flood line which are in an open, natural state, and which contain, or which could feasibly contain, natural and native wetlands and related vegetation/habitat areas.

B. WS (Secondary Wetlands) Combining District, applicable to those lands lying below the 100-year flood line, which are in a biologically altered state, but which have a direct physical or functional relationship to a wetlands area and its ecosystem. These lands may or may not contain wetlands or related vegetation.

C. WF (Wetlands Fringe) Combining District, applicable to those lands lying above the 100-year flood line, but which abut a W or WS Combining District, or a primary wetlands area outside of the City limits, or which has a significant influence on a wetlands area and its ecosystem.

These regulations shall apply in all W Districts.

17.44.020 Districts with which the WS and WF Districts may be combined.

The WS and WF Districts may be combined with any base district. All standards and requirements of the base district shall apply, except as may be modified by the WS or WF Combining District.

17.44.030 Uses permitted.

A. W (Primary Wetlands) District.

1. Permitted Uses. Open, passive recreational areas, parks, wildlife preserves, including environmental restoration and accessory facilities (walkways, information kiosks, etc.), related to such open use; all other uses require a use permit.

2. Uses Permitted with a Use Permit. The following uses, pursuant to the ~~general use permit criteria of SMC 17.260.030(C) and the~~ development criteria of SMC 17.44.040:

    a. Open agricultural uses, not including any buildings.

b. Temporary dredging, filling, dewatering or other activities may be undertaken in order to place, install, service or maintain utilities or similar improvements within or across the area only during such periods and in such manner as to reduce as much as reasonably practicable the significant detrimental effects such activities may have on wildlife within, or on the hydrological integrity of the area.

3. Native vegetation occurring within the W District shall not be removed, degraded, or damaged except as a result of activities otherwise permitted by these provisions.

B. WS (Secondary Wetlands) Combining District.

1. Permitted Uses. Open, passive recreational areas, parks, wildlife preserves, including environmental restoration and accessory facilities (walkways, information kiosks, etc.), related to such open use. All other uses require a use permit.

2. All uses, permitted or conditionally permitted by the underlying base district, pursuant ~~to the general use permit criteria of SMC 17.260.030(C) and~~ the development criteria of SMC 17.44.040.

C. WF (Wetlands Fringe) Combining District.

1. Permitted Uses. All uses, as permitted or conditionally permitted by the underlying base district, subject to the development criteria of SMC 17.~~88~~44.040 and the vernal pool/rare plant and native vegetation survey of SMC 17.44.050.

D. Noncommercial minor antennas that meet the requirements of SMC 17.13~~0~~0.020 through 17.13~~0~~0.060, obtain site plan approval from the Planning Director, and comply with the following, as appropriate:

1. Ground-mounted antennas may not exceed 20 feet in height, except that citizens band radio antennas or a ground- or tower-mounted antenna operated by a Federally licensed radio operator as a part of the Amateur Radio Service may not exceed 30 feet in height.

2. Building-mounted antennas may not exceed 15 feet (including any mast height) on a building that does not exceed 35 feet in height.

E. All other uses require a use permit.

17.44.040 Development criteria.

A. All applications for use permits, zoning permits, design review, building permits, or other land use entitlement in the W or WS Combining District shall include written comments, recommendations and/or requirements from the following agencies, with said application(s) deemed incomplete for processing until those comments, recommendations, and/or requirements are filed by the applicant with the City of Sebastopol:

1. California Department of Fish and Wildlife.

2. U.S. Army Corps of Engineers.

3. U.S. Fish and Wildlife Service.

4. Regional Water Quality Control Board.

B. All applications for use permits, zoning permits, design review, building permits, or other land use entitlement within the W or WS Combining District shall be referred to the following agencies or organizations for comment:

1. California Native Plant Society.

2. Mosquito Abatement District.

3. Laguna de Santa Rosa Foundation.

4. Madrone Audubon Society.

5. Sonoma County Agricultural Preservation and Open Space District

The comments, if any, by these agencies shall be considered by the City in the processing of the application(s). If comments from an agency are not received within 30 days of referral, it will be presumed that such agency(s) has no comment.

C. Applications for development only as allowed by this district of lands below the 100-year flood line within any Wetlands District shall demonstrate compliance with the requirements of, or City Council approval pursuant to, ~~Chapter~~ SMC 15.16 ~~SMC~~ (Flood Damage Prevention) prior to use permit approval.

D. A vernal pool/rare plant and native vegetation survey, pursuant to SMC 17.44.050, shall be required prior to use permit approval.

E. All excavation, filling or other earthmoving activities within the WS or WF District shall be conducted in such a manner that erosion and silting of surface water runoff into a wetland area will not occur. Where areas within a WS or WF District are exposed and subject to erosion due to such excavation, filling or other earthmoving activities, native grass cover or other soil stabilizing vegetation shall be established immediately upon completion of such activities. No filling of natural lands south of Highway 12.

1. "Natural lands" are those that are below the 100-year flood elevation and are classified as riparian woodland, seasonal wetlands, annual grassland, marsh, vernal pool, pasture and oak woodland.

F. Fill or other earthmoving activities within the WS or WF District shall be permitted with a use permit only. When adjacent to a W District (or wetlands area within a WF or WS District as identified by the State of California Department of Fish and Wildllife or the U.S. Army Corps of Engineers), upon completion of fill or similar earthmoving activities, a setback area shall be established.

G. Placement of landfill and topsoil within the allowed setback area should be accomplished before October 15th, in order to provide adequate opportunity for revegetation to occur during the ensuing growing season. Pending permanent revegetation, filled areas within WS and WF Districts should be planted with native grass cover (broadcast at a rate of not less than 100 pounds per acre), or other soil stabilizing vegetation for fast and effective control of any erosion or siltation that would otherwise occur.

H. Provision for fencing, in order to protect the waterway channel from the effects of livestock grazing, shall be incorporated into any application for use permit within the W District.

I. The safe handling, storage or disposal of any material that is known to be toxic to wetland vegetation or wildlife shall be made and guaranteed in any application for use permit. No permanent repository, storage facility, or waste dump for such materials shall be permitted.

J. The type, duration and manner of use of any insecticides and/or herbicides within any Wetlands District shall have been approved by all appropriate environmental agencies.

K. Vegetation/ Revegetation.

1. In conjunction with the development of properties within a WS or WF Combining District, adjacent to a W District or wetlands area, the perimeter of such properties shall be seeded or planted to establish or reestablish a vegetation cover.

2. Areas where vegetation adjacent to wetlands vegetation has been removed or altered incidental to development or usage of land areas within a WS or WF District which occurs by reason of filling, excavation or other activities, shall be seeded or planted so as to reestablish native vegetation compatible with the character, type and density that occurred in the areas affected prior to such removal or alteration.

3. Revegetation as required by the provisions of this section shall begin as soon as practicable, but in no event later than 60 days after cessation of development, unless otherwise approved by the City. Such revegetation shall be deemed to comply with the requirements of this chapter if approved or recommended as to type, species and placement by the California Department of Fish and Wildlife and the Native Plant Society.

L. Noncommercial minor antennas exceeding the permitted height limits, commercial minor antennas, minor telecommunications facilities, and major telecommunications facilities are not permitted in this zone, unless a finding is made by the Planning Commission that no technically feasible alternative location outside this zoning district is possible, that the facility blends with the surrounding existing natural and manmade environment in such a manner as to be effectively unnoticeable, and that the requirements of SMC 17.100.010 through 17.100.240 are met as appropriate.

17.44.050 Vernal pool/rare plant and native vegetation survey.

A. When required by SMC 17.44.040, a survey of a site or portion thereof proposed for development shall be undertaken by an independent biologist approved by the City of Sebastopol in order to evaluate the existence of vernal pools, rare and/or endangered plants and/or native vegetation, and the effect, if any, the proposed development may have thereon. Such survey shall:

1. Include a site plan showing the location of the vernal pool, rare and/or endangered plant(s), and/or native vegetation.

2. Include textual documentation as to whether the plant(s) are officially recognized as “rare,” and whether the plant(s) and/or pool is a valuable biological resource.

3. Be prepared by a qualified botanist, whose credentials/capabilities are recognized by the California Department of Fish and Wildlife.

4. Recommend, if necessary, appropriate and feasible measures to be taken in the development of the property in order to protect a documented resource.

B. Upon receipt by City staff, the vernal pool/rare plant and native vegetation survey shall be forwarded to the City Council for review and approval. Upon City Council approval, any proposed development shall be in accordance with the recommendation(s) of the survey.

17.44.060 Variances/exceptions.

Applications for variances within any Wetlands District shall be approved only if satisfying the findings of SMC 17.270.020, and the following additional findings:

A. That adjacent properties would not be adversely affected by such variance; and

B. That the requested variance would not affect property unique to the waterways or wetlands environment.

17.44.070 Exempt projects.
The following types of projects shall be exempt from the requirements of this chapter:

A. Repair, maintenance, and replacement projects, interior improvement projects, installation of minor mechanical equipment.

B. Construction on already paved land and/or impermeable surfaces.

C. Additions or changes to existing structures where the new footprint and elevations do not extend into or adversely affect resources of concern.

D. Replacement of existing structures involving substantially the same use, location, square footage, and height.

E. Projects of the City of Sebastopol unless they involve construction of buildings for occupancy.

17.44.080 Administrative review of projects.
A. Review Requirements. Subject to filing of an administrative permit~~review~~ application, the Planning ~~Department~~ Director may approve minor alterations or additions to existing uses or other minor projects not otherwise exempt, including facade modifications; minor site improvements; and additions, accessory, or replacement structures that involve less than a 25 percent increase from existing square footage, or less than an additional 1,000 square feet, whichever is greater, and providing the height is substantially unchanged, provided the Planning Director~~epartment~~ makes a written determination that resources of concern do not occur on the area of development, or due to the existing character of the property or the size, scope, or nature of the proposed project, resources of concern will not be affected by the project. The ~~Department~~ Planning Director may require applicants to provide information addressing such considerations.

B. Action on Administrative ~~Review~~ Permit Application. ~~Application for administrative review~~If the findings set forth at SMC 17.44.080(A) cannot be made, the Planning Director shall deny administrative review of the application and the project shall require a use permit. ~~shall be denied, and such application shall be subject to the preparation of a report under SMC 17.44.050 and review by the City Council if the required findings cannot be made.~~

~~C. Determination, When Effective. A copy of the Department's determination shall be provided to the applicant, and shall be placed as a consent calendar item on the next available City Council agenda. Such determination shall become effective 12 days following its placement on the City Council agenda, unless:~~

~~1. Upon the affirmative vote of a majority of Council members present, the matter is scheduled for a subsequent City Council public hearing; or~~

~~2. An appeal of the administrative determination is filed under the procedures set forth in Chapter 17.320 SMC~~.

~~D. If the Council requires a public hearing, or an appeal of the Planning Department determination is filed, the Council shall conduct a public hearing on the application and make a determination on whether the application qualifies for administrative review. Any such determination shall be subject to appeal to the City Council under the procedures set forth in Chapter 17.320 SMC.~~

17.44.090 Modification of analysis requirements.

Upon application for a modification of analysis requirements, where the applicant demonstrates to the satisfaction of the City Council that due to the existing character of the property or the size, nature, or scope of the proposed project, the full scope of studies called for by SMC 17.44.050 is not necessary, the Council may modify study requirements of this chapter if it finds, on the basis of substantial evidence, that specific resources of potential concern do not occur on the property or will not be affected by the project.

Chapter 17.46

ESOS - ENVIRONMENTAL AND SCENIC OPEN SPACE COMBINING DISTRICT

Sections:

17.46.010 Purpose - Applicability.

The purpose of the ESOS Environmental and Scenic Open Space Combining District is to control land use within areas of great scenic or environmental value to the citizens of the Sebastopol General Plan Area, to control any alteration of the natural environment and terrain in areas of special ecological and educational significance to the entire community as unique vegetative units or wildlife habitats or as unique geological or botanic specimens, and to enhance and maintain for the public welfare and well-being the public amenities accrued from the preservation of the scenic beauty and environmental quality of Sebastopol. The ESOS Combining District is applicable to areas of great natural beauty, high visibility or ecological significance such as areas bordering Atascadero Creek or the Laguna de Santa Rosa. The ESOS Combining District is established to implement the goals, policies and objectives of the Conservation, Open Space and Parks Element of the General Plan.

17.46.020 Districts with which the ESOS District may be combined.

The ESOS Combining District may be combined with any district. An Environmental and Scenic Open Space Combining District shall be designated by the letters "ESOS" following the full district designation. If the regulating conditions of the district to be combined differ from the corresponding regulations specified herein for the ESOS District, then the more stringent of the two shall apply.

17.46.030 Uses permitted.

A. Open, passive recreational areas, parks, wildlife preserves, including environmental restoration and walkways, information kiosks, and signage related to such open uses.

B. Noncommercial minor antennas that meet the requirements of SMC 17.13~~0~~0.020 through 17.13~~0~~0.060, obtain site plan approval from the Planning Director, and comply with the following as appropriate:

1. Ground-mounted antennas may not exceed 20 feet in height, except that citizens band radio antennas or a ground- or tower-mounted antenna operated by a Federally licensed radio operator as a part of the Amateur Radio Service may not exceed 30 feet in height.

2. Building-mounted antennas may not exceed 15 feet (including any mast height) on a building that does not exceed 35 feet in height.

C. All other uses require a use permit.

17.46.040 Conditionally permitted uses.
A. Uses which are permitted in the district with which the "ESOS" is combined only in accordance with the regulations of the underlying zoning district as well as the ESOS District.

B. Noncommercial minor antennas exceeding the permitted height limits, commercial minor antennas, minor telecommunications facilities, and major telecommunications facilities are not permitted in this zone, unless a finding is made by the Planning Commission that no technically feasible alternative location outside this zoning district is possible, that the facility blends with the surrounding existing natural and manmade environment in such a manner as to be effectively unnoticeable; and that the requirements of SMC 17.13~~0~~0.010 through 17.13~~0~~0.240 are met, as appropriate.

17.46.050 Objectives and criteria.
The following objectives and criteria shall be adhered to in all ESOS Combining Districts:

A. To protect the character and quality of the natural environment of critical parcels as identified within the General Plan:

1. The elements of scale, form and color derived from the topography and native vegetation of the land shall be preserved.

2. Development should be located in such a manner that the overall natural features and processes of the land can still be accommodated.

B. Setback Buffers. Unless otherwise determined by the Planning Commission upon review of the resource analysis required by subsection D of this section, in conjunction with the findings required by SMC 17.46.060, the following minimum setback buffers shall be provided in those areas identified by General Plan Conservation, Open Space and Parks Element Map 4 from the edge of a wetland, identified riparian dripline, identified endangered species population, or California Department of Fish and Wildlife Preserve, except that up to 20 feet of the setback area may be provided as a landscaped trail area:

1. North of the Joe Rodota Trail except the Laguna Youth Park area: 100 feet, except that a setback of not less than 50 feet may be provided if the Commission finds that resources of concern do not occur in the reduced setback area, or due to the existing character of the property or the size, scope, or nature of the proposed project, resources of concern will not be adversely affected by the project.

2. Laguna Youth Park area: No building shall extend beyond 200 feet from the centerline of Morris Street.

3. South of the Joe Rodota Trail: 200 feet, or 100 feet from the City of Sebastopol 100-year flood contour, whichever is greater, except that a setback of 200 feet, or not less than 50 feet from the 100-year flood contour, whichever is greater, may be provided if the Commission finds that resources of concern do not occur in the reduced setback area, or due to the existing character of the property or the size, scope, or nature of the proposed project, resources of concern will not be adversely affected by the project.

4. Other areas: 100 feet, or as determined appropriate by the Planning Commission. A setback of not less than 100 feet may be provided if the Commission finds that resources of concern do not occur in the reduced setback area, or due to the existing character of the property or the size, scope, or nature of the proposed project, resources of concern will not be adversely affected by the project.

C. Objectives. To preserve the quality and integrity of certain unique scenic, ecologic or biotic environments as identified in the General Plan:

1. Only those land uses shall be allowed which can be executed in a manner sensitive to the existing natural resources and constraints of the land.

2. Only those land uses shall be allowed which do not significantly alter the existing terrain and natural vegetation of the land.

D. Procedures. An application for a use permit in the ESOS Combining District shall not be determined complete until a resource analysis of the visual, vegetative and biotic characteristics of the property is prepared and undergoes review by the Planning Commission and, if appropriate, the Design Review Board. The resource analysis shall be prepared at the applicant's expense by an independent professional biologist who has met qualifications established by the City, and as appropriate, other professional consultants selected by, and under the direction of the City. The Planning Commission and, if appropriate, the Design Review Board shall make findings relative to the development constraints of the site through review of the resource analysis.

The resource analysis shall be prepared pursuant to a methodological guidance document that has been approved by the City Council and shall include the following:

1. Characterization of the significant visual elements of the land in terms of scale, form, color and relation to surrounding terrain.

2. Characterization of the relative significance of the land in terms of visibility from the primary scenic perspective and existing settlement areas, and considering the relationship to any scenic view corridors identified by the General Plan.

3. If proposed project information is available, characterization of the change in the above which the proposed project may effect, and identify any specific project modifications or conditions that may be appropriate to address identified issues. If proposed project information is not available, such analysis shall be prepared for any subsequent project, which analysis shall be subject to the review process established by this Chapter.

4. A resource analysis of the property shall be prepared to determine the boundary of wetlands, upland habitat, the presence and location of endangered plant and animal species and their critical habitat, any other information relevant to the preservation of biotic resources, and other topics identified below. This resource analysis shall follow U.S. Army Corps of Engineers protocol for wetlands analysis, and will take place during the season of optimum potential visibility or availability of the resource.

5. The resource and constraints analysis will identify and map, at a minimum, the following:

    a. Identify the type and location of threatened or endangered plant and animal species and their habitats;

    b. Drainage patterns, creeks, streams, and riparian vegetation on and within 100 feet of subject property;

    c. The location and boundaries of wetlands and vernal pools on the site, if applicable, and if such resources are identified, a delineation of them in accordance with standards of and verified by the U.S. Army Corps of Engineers;

d. Potential archaeological resources, if applicable, as identified through records review and a site inspection;

e. Flood hazard areas on the site as identified in Federal Emergency Management Agency and City of Sebastopol official maps;

f. Identification of any site trees of six inches in diameter or greater, or protected under Chapter 8.12 SMC, Tree Protection.

6. The resource analysis will contain the following types of investigations and mitigations:

a. Determine, if applicable, the area and location of existing undeveloped land required to preserve, protect and enhance the continued viability of significant biotic resources, wetlands, and environmentally sensitive areas. (This involves identifying land that is functionally a part of the wetlands ecosystem and which should be preserved in a natural state.)

b. Recommend measures for proposed development that will mitigate impacts on identified resources in the following in order of preference:

i. Avoidance of impacts;

ii. Minimization of impacts;

iii. Removal with on-site mitigation;

iv. Removal with off-site mitigation. Any such measures should have the objective of restoring and enhancing resources to a level equal or better than existing conditions, and should include specific and measurable performance criteria and recommendations for any appropriate monitoring.

7. The above analysis, as well as any other analysis deemed appropriate by the Planning Director, shall be presented to the Planning Commission for review, and if required by the Planning Commission, thereupon to the Design Review Board for review and comment on visual, scenic, and protected tree issues. Review of this analysis shall occur prior to any action by the Planning Commission on a use permit for the proposed project.

8. Notice Requirements. Notice of Planning Commission review of the resource analysis report required under this chapter shall be provided in accordance with SMC ~~Chapter~~ 17.400~~330 SMC~~.

9. Review of Resource Analysis. The Planning Commission shall review the resource analysis report in relation to the requirements of this chapter. Following a public hearing, the Commission may provide comments regarding the content of and issues identified in the report. In its review, the Commission shall make findings whether the report adequately reviews each of the required topics set forth in this subsection D, and may require revisions to the report if it is incomplete. Such determinations shall be subject to appeal to the City Council under SMC 17.~~320.020(B~~455~~)~~.

17.46.060 Review of use permit.

After review by the Planning Commission and, as required, Design Review Board, the Planning Commission shall review the application for use permit.

A. Action on Use Permit. Where a use permit under this chapter is required, the use permit shall be approved, provided the Planning Commission or City Council on appeal makes each of the following findings in an affirmative manner:

1. The required resource analysis is consistent with the requirements of this chapter;
2. The proposed project complies with all applicable standards required by this chapter;
3. No wetlands or vernal pools would be eliminated;
4. Mitigation measures have been imposed that will reduce any impacts to other identified resources to a less than significant level, where such mitigation measures will accomplish the following in order of preference:
    a. Avoidance of impacts;
    b. Minimization of impacts;
    c. Removal of the resource, with mitigation meeting the criteria of this chapter provided on the project site;
    d. Removal of the resource, with mitigation meeting the criteria of this chapter provided off site;
5. That any mitigation shall be consistent with the Conservation and Open Space Element of the General Plan.

17.46.070 Exempt projects.
The following types of projects shall be exempt from the requirements of this chapter:

A. Repair, maintenance, and replacement projects, interior improvement projects, installation of minor mechanical equipment.

B. Construction on already paved land and/or impermeable surfaces, except that the project shall be subject to the visual and scenic resources analysis and shall be required to be reviewed under the resource analysis process set forth in this chapter.

C. Additions or changes to existing structures where the new footprint and elevations do not extend into or adversely affect resources of concern.

D. Replacement of existing structures involving substantially the same use, location, square footage, and height.

E. Projects of the City of Sebastopol unless they involve construction of buildings for occupancy.

17.46.080 Administrative review of projects.
A. Review Requirements. Subject to filing of an administrative review application, the Planning ~~Department~~Director may approve minor alterations or additions to existing uses or other minor projects not otherwise exempt, including facade modifications; minor site improvements; and additions, accessory, or replacement structures that involve less than a 25 percent increase from existing square footage, or less than an additional 1,000 square feet, whichever is greater, and providing the height is substantially unchanged, provided the Planning ~~Department~~ Director makes a written determination that resources of concern do not occur on the area of development, or due to the existing character of the property or the

size, scope, or nature of the proposed project, resources of concern will not be affected by the project. The ~~Department~~ Planning Director may require applicants to provide information addressing such considerations.

B. Action on Administrative ~~Review~~ Permit Application. If the findings set forth at SMC 17.46.080(A) cannot be made, the Planning Director shall deny administrative review of the application and the project shall require a use permit. ~~Application for administrative review shall be denied, and such application shall be subject to the preparation of a report under SMC 17.46.050(D) and review by the Planning Commission if the required findings cannot be made.~~

~~C. Determination, When Effective. A copy of the Department's determination shall be provided to the applicant, and shall be placed as a consent calendar item on the next available Planning Commission agenda. Such determination shall become effective 12 days following its placement on the Planning Commission agenda, unless:~~

~~1. Upon the affirmative vote of a majority of Commissioners present, the matter is scheduled for a subsequent Planning Commission public hearing; or~~

~~2. An appeal of the administrative determination is filed under the procedures set forth in Chapter 17.320 SMC.~~

~~D. If the Commission requires a public hearing, or an appeal of the Planning Department determination is filed, the Commission shall conduct a public hearing on the application and make a determination on whether the application qualifies for administrative review. Any such determination shall be subject to appeal to the City Council under the procedures set forth in Chapter 17.320 SMC.~~

17.46.090 Modification of analysis requirements.

Upon application for a modification of analysis requirements, where the applicant demonstrates to the satisfaction of the Planning Commission that due to the existing character of the property or the size, nature, or scope of the proposed project, the full scope of studies called for by SMC 17.46.050(D) is not necessary, the Commission may modify study requirements of this chapter if it finds, on the basis of substantial evidence, that specific resources of potential concern do not occur on the property or will not be affected by the project. Any such decision shall be subject to appeal to the City Council under procedures set forth in ~~Chapter~~ SMC 17.455~~320 SMC~~.

Chapter 17.100~~060~~

GENERAL HEIGHT, YARD ENCROACHMENT, CREEK SETBACK, COMMUNITY GARDEN, RECYCLING AND WASTE COLLECTION, ~~OUTDOOR DISPLAYS~~ AND OTHER REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS ~~- GENERAL PROVISIONS~~

Sections:

17.10~~6~~0.010 Purpose - Applicability.

The purpose of this general provision is to set forth certain regulations which apply throughout Sebastopol or in more than one zone district. These regulations shall apply in the zone districts and situations specified hereunder.

17.10~~6~~0.020 General provisions relating to height.

A. Elements That May Exceed Height Limit in All Districts.

1. In all districts, chimneys, flagpoles, vents, solar energy equipment, similar structures, and screening for such features, may be permitted up to five feet in excess of applicable height limits.

2. Cornices and parapets may be permitted up to three and one-half feet in excess of applicable height limits.

3. Height limits for telecommunication facilities are set in Chapter 17.130.

B. Elements That May Exceed Height Limit in Nonresidential Districts.

1. In nonresidential districts, cupolas, steeples, gas storage holders, radio and other towers, water tanks, ~~and~~ mechanical equipment, elevator towers, non-tower wind turbines, and screening for such features may be permitted up to five feet in excess of applicable height limits, provided the area of such elements does not exceed ~~2~~15 percent of roof area. The Design Review Board may approve features up to 10 feet in excess of applicable height limits, if it finds the feature necessary for compelling practical reasons, or if it would significantly enhance building aesthetics.

C. Fence, Hedge or Other Screen Height Limitations.

1. No fence or any type of vertical screening material used to provide privacy, visual or otherwise, hedge, or other screen planting shall exceed six feet in height in any required side or rear yard area,

    a. Except that two feet of lattice may be attached to fences no more than six feet in height.

2. No fence or any type of vertical screening material used to provide privacy, visual or otherwise, hedge or other screen planting shall be in excess of three and one-half feet in height in the following areas:

    a. The required front yard; or

    b. The required street side yard of a corner lot, except if it is located five or more feet away from the property line and at the rear of the main residence; or

    c. That part of the rear yard of a corner lot which abuts the required front yard of a key lot; or

    d. Within the triangular area 35 feet from the street corner on any corner lot; or

    e. Within the required rear yard of a through lot.

3. The limitations of this section shall not apply where a greater height is required by any other ordinance or where specified as a condition of approval of a use permit or site plan approval.

D. Front Yard Garden Features.

1. An open entry arbor not more than nine feet in height nor six feet in width may be permitted in a required front yard.

2. Ornamental garden features may be permitted in a required front yard, provided such features are located at least five feet from any property line, are not more than six feet in height, nor three feet in width.

17.10~~6~~0.030 Lot area and width exceptions for existing lots.

Notwithstanding the minimum lot area and lot width requirements prescribed in the applicable individual zone regulations, any parcel of contiguous land which does not meet such requirements may be developed, if such parcel was, on the effective date of the ordinance codified in this title or of any subsequent rezoning or other amendment thereto which makes such parcel fail to meet such requirements, and continuously thereafter has been, of record in single or unified ownership separate from that of any abutting property, and if such parcel existed lawfully under the previous zoning controls.

17.10~~6~~0.040 Building additions extending into required side or rear yard.

In all residential districts, an addition to an existing building that has a nonconforming side or rear yard may also extend into the required side or rear yard, provided all of the following criteria are met:

A. The addition does not exceed one story and 14 feet in height.

B. The addition continues or has a greater setback than the facade setback line of the existing structure.

C. The addition does not extend closer than four feet to the side property line, or more than five feet into the required rear yard.

D. The addition does not exceed 20 feet in length parallel to the side or rear property line, as applicable.

E. The addition does not extend into both side yards.

F. The addition conforms to other applicable development standards.

G. There has been no prior addition under this section.

~~**Chapter 17.224**~~

~~**RECYCLING AND WASTE COLLECTION AREAS REQUIRED**~~

~~Sections:~~
~~17.224.010 Purpose - Intent.~~
~~17.224.020 Recycling and waste collection areas required.~~
~~17.224.030 Design review approval required.~~
~~17.224.040 Approval.~~
~~17.224.050 Existing developments without recycling collection areas.~~
~~17.224.060 Established collection area.~~

17.100.050 Recycling and waste collection areas.

~~**17.224.010 Purpose - Intent.**~~
~~The City Council finds and determines that the lack of adequate areas and facilities for collecting and loading recyclable materials in a manner compatible with surrounding land uses is a significant impediment to diverting solid waste. This chapter sets forth the requirement that recycling and waste collection areas shall be required in all new developments and significant expansions to existing developments in order to assist in the reduction of waste materials, thereby promoting environmentally sound practices and to prolong the life of the receiving landfill.~~

~~**17.224.020 Recycling and waste collection areas required.**~~
A. The criteria in this section apply to r~~R~~ecycling and waste collection areas appropriate to serve all new uses, or an increase of greater than 30 percent of an existing use, ~~shall be required~~ for all uses in all zoning districts, except ~~all~~ single-family residences and multiple-family dwelling groups with four or less units. Proof of waste service approval for required recycling and waste areas shall be provided to the City prior to issuance of a building permit.

~~17.224.030 Design review approval required.~~
~~Design Review approval is required for all recycling and waste collection areas, except as provided for in SMC 17.224.020.~~

~~17.224.040 Approval.~~B. The following criteria shall be used when determining the location and design of the collection area~~facility~~:

~~A~~1. Screening of collection areas from public view.

~~B~~2. Adequate space for source separation of recyclables and waste collection containers, as well as adequate provision for access to the collection areas by reclamation and disposal equipment, as shown on the diagram attached to the ordinance codified in this chapter as Exhibit A.

~~C~~3. In new development, recycling collection areas shall be placed alongside waste collection areas so as to provide convenience for users and promote recycling.

~~D~~4. Collection areas shall be sited to minimize nuisance impacts, particularly noise impacts on residential sleeping areas.

~~E~~5. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of access to the recycling areas.

~~F~~6. Driveways or travel 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 hauler in the area in which the development project exists.

~~G~~7. Recycling areas shall not be located in any area required by the City ordinance to be constructed or maintained as unencumbered, according to fire and other applicable building and/or public safety laws.

~~17.224.050 Existing developments without recycling collection areas.~~C.
In expanding existing developments that do not have ~~recycling~~ collection areas, the facilities shall be sited to minimize noise impacts on residential sleeping areas. Notwithstanding this requirement, the following exceptions may be permitted~~, upon review by the Design Review Board~~ by the decision-making authority~~,~~ in order to achieve the recycling goals and objectives of the City:

~~A~~1. Recycling collection areas shall be allowed to encroach into required interior side yard or rear yard setbacks. Collection areas so placed will not be required to be screened from public view.

~~B~~2. If a suitable and serviceable location which does not encroach into any required yard or which encroaches only into the required rear or interior side yard cannot be found, the collection area may occupy no more than two required parking spaces at the discretion of the Design Review Board. A collection area so located will be required to be screened from public view at the discretion of the Design Review Board. The approved use of a required space pursuant to this chapter shall not render a development nonconforming with respect to Chapter 17.110~~220~~ SMC.

~~C~~3. If no other placement area exists on the site, a recycling collection area may be located in the required front yard or exterior side yard; provided, that it is screened from public view to the satisfaction of the Design Review Board.

~~**17.224.060 Established collection area.**~~
D. No person shall use any established collection area for another purpose unless the Planning Director waives the requirements of this subsection under circumstances wherein it is necessary to prevent practical difficulties or necessary hardships inconsistent with the objectives of this subsection.

17.10~~6~~0.0605~~0~~ Creek setback.
A minimum setback of 30 feet from top of bank shall be provided for any buildings, mobile homes, garages, swimming pools, storage tanks, parking spaces, driveways, decks more than 30 inches above natural grade, retaining walls, or other similar structures for property adjacent to Zimpher Creek, Calder Creek, or Atascadero Creek. Any grading within the creek setback area shall be subject to the review and approval of the City Engineering Director, who shall review the application in regards to its potential effects on the waterway and native plants. Where the top of bank is not defined, the Engineering Director shall determine the appropriate setback area. Bridges and utilities may cross through, over, or under a waterway setback area, provided permits are obtained from relevant State and Federal agencies, and the project has received all necessary City approvals. Storm drainage, erosion control, and creek bank stability improvements that have been approved as required by law by the governmental agencies having jurisdiction over them shall not be subject to this section.

17.106~~6~~0.070 General provisions relating to uses.

A. Permitted and Conditionally Permitted Uses. Except as otherwise permitted by the nonconforming use regulations of ~~Chapter~~ SMC 17.~~200~~160 ~~SMC~~, or as authorized pursuant to the variance procedure in ~~Chapter~~ SMC 17.420~~270 SMC~~, no land shall be improved or used for any activity or facility which is not listed as permitted or conditionally permitted in the applicable individual zone regulations.

B. Restriction on Earth Removal. No grading or excavation involving the removal of any soil, rock, sand, minerals, or other natural feature for the purpose of usage off the premises from which removed shall be permitted, unless a use permit for such removal is granted.

~~D~~C. Restriction on Certain Uses.

1. No theater, circus, carnival, amusement park, open air theater, racetrack, private recreation centers or other similar establishments involving large assemblages of people and/or automobiles shall be established in any district unless and until a use permit or, for temporary uses, a temporary use permit is first secured for the establishment, maintenance, and operation of such use.

2. No dance hall, roadhouse, night club, commercial club, or any establishment where liquor is served, or commercial place of amusement or recreation, shall be established in any commercial district, unless a use permit shall first have been secured for the establishment, maintenance and operation of such use, except as otherwise provided in this title.

3. Accessory uses and buildings in any district may be permitted where such uses or buildings are incidental to, and do not alter the character of, the premises in respect to their use for purposes permitted in the district. Such accessory buildings shall be allowed only when constructed concurrent with, or subsequent to, the main building.

4. Recreational vehicles may be stored on properties if placement conforms to applicable setback requirements, but shall not be occupied or used for residential, commercial, industrial, or other purposes.

17.106~~6~~0.080 General provisions relating to encroachments into yards.

A. Whenever an official plan line has been established for any street, required yards shall be measured from such line; in no case shall the provision of this code be construed as permitting any encroachment upon any official plan line.

B. For projects that involve the conversion or remodel of an existing structure, ramps and lifts for disabled access may encroach into required setbacks.

C. In case an accessory building is attached to the main building, it shall be made structurally a part of, and have a common wall with, the main building, and shall comply in all respects with the requirements of this code applicable to the main building. Unless so attached, an accessory building in an R district shall be located behind the front yard setback and shall provide a setback consistent with fire and building code requirements from any dwelling building existing or under construction on the same lot or any adjacent lot.

1. Such accessory building shall not be located within five feet of any alley or within three feet of the side line of the lot or, in the case of a corner lot, to project beyond the front yard required on the adjacent lot.

D. Exterior stairs that extend from porches and landings may encroach into the required front yard setback, provided they do not exceed 72 inches at their finished height.

E. Every part of each required minimum yard shall be open and unobstructed from the ground to the sky, except for the encroachments allowed by the following Table 17.100-1:

TABLE 17.100-1 - ALLOWED PROJECTIONS INTO REQUIRED YARDS

FACILITIES	FRONT YARD	STREET SIDE YARD	INTERIOR SIDE YARD	REAR YARD
Architectural features such as cornices, eaves, awnings, sills, bay windows, and similar features	2 feet	2 feet	2 feet	2 feet
Uncovered porches, fire escapes, chimneys, uncovered landing places, balconies/decks, having a mean height above grade of more than two feet	6 feet	2 feet	2 feet	10 feet
Patio roofs and similar elements projecting from and serving a residential facility, if such element does not exceed 12 feet in height and has open, un-walled sides along more than 50 percent of its perimeter	2 feet	2 feet	2 feet	8 feet
Open storage of boats, recreational vehicles, trailers, appliances, and similar materials; satellite dish antennas	Not allowed	Not allowed	2 feet	Anywhere in rear yard
A one-story covered front porch, open on three sides with a roof which does not exceed a height of 14 feet from the finished first floor	6 feet	-	-	-
~~Mechanical equipment, including but not limited to air conditioners, pool and spa equipment~~	~~Not allowed~~	~~3 feet~~	~~Not closer than 5 feet to property line~~	~~Not closer than 5 feet to property line~~
Pools and spas	Not allowed	5 feet	5 feet	5 feet

~~**17.60.130 Provisions relating to community gardens.**~~

~~A. Water Availability. The community garden shall be served by a water supply sufficient to support the cultivation practices used on the site.~~

~~B. Site Design. The site shall be designed and maintained so that water will not drain onto adjacent property.~~

~~C. Operating Rules. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements~~ responsibilities, ~~and . The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on site.~~

17.10~~6~~0.090 Provisions relating to community gardens.

A. Water Availability. The community garden shall be served by a water supply sufficient to support the cultivation practices used on the site.

B. Site Design. The site shall be designed and maintained so that water will not drain onto adjacent property.

C. Operating Rules. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements, a garden coordinator to manage the community garden, responsibilities of garden members, and assignment of garden plots. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on-site.

Chapter 17.~~220~~110

OFF-STREET PARKING REGULATIONS

Sections:

17.~~220~~110.010 General requirements of parking spaces.

The following general requirements shall apply to all off-street parking spaces:

A. Parking Space Size. The size of parking spaces shall conform with, and be as prescribed in, SMC 17.110~~220~~.060, Table 2 - Off-Street Parking Chart, and shall be striped or marked accordingly with paint as established in City standards. Each space shall be provided with adequate ingress and egress as established by City standard. Parking spaces proposed to be located in a garage or carport shall be not less than 20 feet in length and 10 feet in width, interior dimensions.

B. Location and Type.

1. For residential development, parking spaces shall be located off the streets as specified herein; except that ~~a maximum of one parking space on the directly adjoining property street frontage may count toward the parking requirement for an approved second dwelling unit residential use~~parking spaces on the directly adjoining property street frontage may count toward the parking requirement for a multifamily use. The parking space shall be of legal size and located on an improved street where parking is otherwise allowed. ~~The Design Review Board shall review on-street parking requests for second units following a 300-foot radius public hearing notice.~~

2. ~~Residential Uses.~~ For dwellings and other residential uses, parking spaces shall not be located within the required front setback except in a conforming driveway, and in side or rear yard setback areas, the location of parking spaces shall conform to the setback requirements for accessory structures.

3. If driveway parking is proposed, minimum dimensions for purposes of calculating spaces shall be eight and one-half feet wide and 18 feet deep.

4. For nonresidential development, on-street spaces located directly adjoining site frontage may count towards satisfaction of parking requirements. The parking space shall be of legal size and located on an improved street where parking is otherwise allowed.

C. General

1. Parking is not permitted on lawns or landscaped yard areas.

2. If head-on spaces are not being proposed, the parking spaces will be subject to City Engineer approval, and shall meet the size and back-up dimensions set forth in SMC 17.110~~220~~.060, Table 2 - Off-Street Parking Chart.

3. Parking spaces shall be located on the same lot or parcel as the building or use that they are to serve, or located on an adjacent or contiguous lot under an easement appurtenant to the property to be served.

4. All parking areas shall be surfaced with a permeable paving material, such as pavers or pervious concrete when feasible, as approved by the City Engineer. Adequate drainage improvements shall be provided as approved by the City Engineer.

D~~3~~. Commercial Uses.

1.Parking spaces shall be located on the same lot or parcel as the building or use that they serve, or located on an adjacent or contiguous lot under an easement appurtenant to the property to be served, or on property within 300 feet from said development under ownership or easement.

2. Parking may also be provided through a business community owned or operated parking lot or garage, provided the building/development can provide adequate guarantee or proof of participation in said parking lot program.

E~~4~~. Industrial Uses. Off-street parking may be provided off site, provided such off-street parking is located within 300 feet of the property to be served; and provided, that the amount of off-site parking satisfies not more than 50 percent of the parking requirements of the activity for which parking is provided.

F~~5~~. Mixed Uses. In case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses; however, the parking requirement for the use with the smaller parking requirement may be reduced by 33 percent. In addition, the Planning Commission shall have the authority to approve a reduction in parking requirements for projects which contain a mix of nonresidential uses.

G. Double-Counting. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except as noted herein, and as noted in subsection (B)~~(~~6) of this section, and shall not be used for the parking of transportable facilities used for commercial purposes, except during the construction period wherein mobile homes or transportable facilities may be used for construction office purposes.

H~~6~~. Shared Parking. The Planning Commission may allow the sharing of parking stalls on property within 300 feet of the use, provided a clear separation of time/use is evident (i.e., movie theater/professional office). If uses change to uses requiring time overlap for uses, parking will be required to be provided on the original non-sharing basis (see subsections (B)(3) through (5) of this section).

~~H~~I~~C~~. Improvements.

1. Surface. All parking areas shall be surfaced with a permeable paving material, such as pavers or pervious concrete when feasible, as approved by the City Engineer. Adequate drainage improvements shall be provided as approved by the City Engineer.

2. Access. Each entrance and exit to a parking lot shall be constructed and maintained so that any vehicle entering or leaving the parking lot will be visible for a distance of 30 feet on a 45-degree

angle to any passing vehicle. Appropriate bumper guards, entrance and exit signs, and directional signing shall be maintained where needed.

3. Commercial driveways.

a. Commercial driveway access aprons for driveways for 20 or fewer parking spaces shall be not less than 12 feet in width. Driveways shall be not less than 20 feet in width when serving 21 or more parking spaces, and the width of every aisle or driveway shall be 10 feet when serving 20 or fewer parking spaces. Reductions or modifications may be permitted by the City Engineer where the City Engineer finds that the provision of multiple driveways, access location, tree preservation, or other physical conditions merit modification of the requirements.

b. Should the City Engineer determine that the use of permeable paving material is infeasible, driveways shall be surfaced with a minimum four-inch PCC or four-inch Class A.B. and one-and-one-half-inch A.C. at option of the owner, and comparable alternate materials may be approved by the City Engineer.

4. Residential driveways.

a. No more than one driveway shall be permitted on single-family residential parcels of less than 100 feet in width unless the City Engineer finds that the number of dwelling units, access restrictions, tree preservation, or other physical conditions merit modification of this requirement.

b. Driveway width for single-family parcels shall be a maximum of 20 feet unless the City Engineer finds that the number of dwelling units, access restrictions, tree preservation, or other physical conditions merit modification of this requirement.

c. Parking lots for multifamily, commercial, industrial and mixed uses shall be designed so as not to necessitate backing onto a public street.

d. Driveway placement shall be subject to City Engineer review and approval.

5~~3~~. Tandem Parking Spaces. ~~All required off-street parking spaces shall be directly accessible from a driveway or maneuvering aisle~~Tandem parking is allowed for single family uses and, if spaces are assigned, for multifamily uses; no tandem parking space shall satisfy off-street non-residential parking requirements except that tandem parking spaces may be permitted:

(a) to satisfy off-street parking requirements for residential developments of up to two units on parcels of 60 feet or less in width, or of less than 6,000 square feet in area;

(b) For second dwelling units; and

(c) In affordable housing projects, if parking spaces are assigned to each unit.

6~~4~~. Landscaping.

a. All parking facilities are subject to Design Review Board approval. Parking facilities shall have landscaping in and around the paved area. The amount of landscaping in the parking area shall be the maximum amount reasonable, given the circulation constraints of the site. The Design Review Board shall determine what the maximum amount reasonable is for landscaping in the parking area.

b. The landscaping around parking areas adjacent to streets shall be not less than five feet in width, and if adjacent to a State highway, not less than 10 feet in width unless otherwise approved by the Design Review Board. If the parking area is elevated six feet or more above the street level, an additional five-foot setback from the top of bank shall be provided.

c. ~~In addition, at~~ At least one tree of a minimum 15-gallon container size shall be provided for every five off-street parking spaces. The Design Review Board may increase or decrease the minimum requirements for landscaping around paved areas, and for tree planting, if warranted by special design considerations.

d. All landscaping shall be protected with concrete curbs or other efficient barriers.

e. All landscaping shall be irrigated and maintained free of weeds, debris, and litter.

f. The submission of any plan for off-street parking facilities shall be accompanied by a detailed landscape plan for approval.

7~~5~~. Lighting. All lighting used to illuminate parking facilities shall be as approved by the Design Review Board. All lighting shall be arranged so as to reflect the light away from adjoining residential areas or public streets. Lighting shall be installed with the intent of providing only as much light as is necessary for public safety.

~~D~~I. Change of Use.

a. For any new use of an existing building in a residential zone, no additional parking spaces shall be required for any permitted use; provided, that the number of required parking spaces for the new use does not exceed the number required for the last legal use.

b. In nonresidential zones, no additional parking shall be required for any permitted new use which requires a parking standard no more intense than one space per 300 square feet for commercial uses, or one space per 500 square feet for industrial uses.

J~~E~~. Additions to Residential Units. Additions to existing residential units which are currently nonconforming as to parking may be permitted without the provision of additional parking so long as there is less than a 50 percent increase in floor area. If there is an increase of more than 50 percent of the existing floor area, parking shall be provided consistent with SMC 17.110~~220~~.030.

17.~~220~~110.020 Off-street parking required.

A. Parking Required. All uses within the City of Sebastopol shall provide off-street parking as prescribed in these regulations, and any amendments thereto except that all uses within a parking assessment district can apply parking credits to meet the parking demand requirements set forth in this chapter. Standards of design shall conform to the requirements of these regulations. All uses allowed in their respective zoning districts are subject to approval of the design of building(s) and location of parking area(s). Off-street parking shall be required and provided in all districts as specified by these regulations. Required parking must be made available for use by building users.

B. Floor Area Tabulation. All applications for use permits, design review, or building permits shall be accompanied by a detailed tabulation of the proposed use, gross floor area, and a calculation of the number of off-street parking spaces required, as well as the number of spaces provided, as specified in SMC 17.110~~220~~.030. For purposes of calculating the required number of parking spaces, net floor area shall be used. Net floor area shall be the exterior gross floor area of the building minus 15 percent of the total area.

C. Basic Requirement.

1. At the time of initial occupancy, alteration or enlargement of a site or structure, or completion of construction of a structure, there shall be provided off-street parking facilities for vehicles in accordance with the schedule of off-street parking space requirements as prescribed in SMC 17.110~~220~~.030.

2. If, in the application of the requirements of these regulations, a fractional space requirement is obtained, one parking space shall be provided for a fraction of one-half or more, and no parking space shall be required for a fraction of less than one-half.

3.~~a.~~ For a use not specified in SMC 17.110~~220~~.030, the same number of off-street parking spaces will be provided as required of the most similar specified use as determined by City staff.

4~~3~~. Standard Car Spaces. Unless otherwise specified, standard car parking spaces shall be not less than eight and one-half feet wide and 18 feet deep.

5~~3~~. Compact Car Spaces. Off-street parking facilities may include parking spaces for compact vehicles provided not more than 5~~4~~0 percent of the total number of spaces provided shall be designated for compact parking purposes. Such spaces shall be clearly identified and dispersed throughout the entire parking lot.

(a) Each compact parking space shall be not less than eight feet wide and 16 feet long.

6~~4~~. Accessible Spaces. Parking spaces specifically reserved for vehicles licensed by the State for use by the disabled shall be provided in each parking facility according to the California Uniform Building Code.

7~~5~~. Parking Proposed to Be Accessed from an Alley. Parking spaces proposed to be constructed in conjunction with new development, and accessed by an alley only, shall be located a minimum of five feet from the edge of the alley and shall meet the size and back-up dimensions set forth in SMC 17.110~~220~~.060, Table 2 - Off-Street Parking Chart.

D. Increase or Decrease in Parking Requirement, Use Permit. Where an applicant requests or where the Planning Director determines that, due to special circumstances:

1. Any particular use requires a parking capacity significantly greater or less than required, the Planning Director shall refer the matter to the Planning Commission for the imposition of an appropriate parking requirement. The Planning Commission may, by Use Permit, require a number of parking spaces up to 20 percent more or less than required.

2. A project proposes use of valet parking, or other managed parking arrangement in conjunction with either a reduction in the number of parking spaces from Zoning Ordinance requirements, use of tandem parking, or modification of dimensional or other Zoning Ordinance physical development requirements. The Planning Commission may, by Use Permit approve such modifications.

E. Prior to approving such Use Permit, and as applicable, the Commission must determine that:

1. In the case of a reduction in the number of parking spaces required, due to special circumstances associated with the nature or operation of the use or combinations of uses at its location, the proposed project will generate a parking demand significantly different from the standards specified;

2. The number of parking spaces conveniently available to the use will be sufficient for its safe, convenient and efficient operation; and

3. A greater number of parking spaces than required by the Commission will not be necessary to mitigate adverse parking or traffic impacts of the use on surrounding properties;

4. For use of valet parking, the Commission determines that use of valet parking is appropriate due to the type of use, scale of use, or other factors;

5. For use of valet parking, tandem parking, a higher proportion of compact parking spaces, or other changes to dimensional parking space requirements, the configuration of parking spaces and operation of the parking facility will ensure that the use has adequate parking availability;

6. In addition, prior to approving a decrease in the parking capacity required, the Commission must determine that adequate provisions have been made to accommodate any possible subsequent change in the use or occupancy which may require a greater parking capacity or other modifications to the parking operations or dimensional standards than that allowed by the Commission. Such provisions include, but are not limited to, restriping of parking spaces, elimination of tandem parking, reduction in the proportion of compact parking spaces, provision of additional bicycle or transit facilities, provision of additional off-site parking, or similar measures;

7. The location of several types of uses or occupancies in the same building or on the same site may constitute a special circumstance warranting the modification of parking requirements;

8. Any substantial change in use or occupancy or any substantial change in the special circumstances described above shall constitute grounds for amendment, or potential revocation of the Use Permit issued pursuant to this section.

9. The Commission finds that any modifications under these provisions will not create an impairment to public safety, impede safe and efficient pedestrian or vehicle traffic flow, or otherwise interfere with the operation of area uses or functions.

17.~~220~~110.030 Schedule of off-street parking space requirements.

A. ~~A. Residential Uses.~~

~~1. Single-family dwellings: two parking spaces.~~

~~2. Duplex, triplex, or four-plex residential dwellings: three parking spaces for every two dwelling units in a duplex, triplex, or four-plex structure, where the dwelling units each contain no more than one bedroom. Minimum two~~ 1.5 ~~parking spaces per unit when there are two or more bedroom units.~~

~~3. Multifamily Dwellings and Condominiums.~~

~~a. Not less than one parking space for each studio unit.~~

~~b. Not less than 1.5~~1.0 ~~spaces for each unit containing one bedroom.~~

~~c. Not less than two~~ 1.5 ~~spaces for each unit containing two to three bedrooms.~~

~~d. Not less than three spaces for each unit containing four or more bedrooms.~~

~~4. Senior citizen housing: 0.75 parking spaces for each dwelling or living unit for the first 50 units, plus 0.50 spaces per unit above 50 units.~~

5. Single room occupancy housing: 0.75 spaces per unit for the first 50 units, plus 0.5 spaces per unit above 50 units.

6. Homeless shelter: one space per 10 beds.

7. Live-work: one space per 750 square feet of nonresidential space, plus 0.5 spaces per bedroom.

8. Deed-restricted housing units: dwelling units that are restricted to occupancy by low-income households shall be subject to 90 percent of the otherwise applicable parking requirement.

B. Commercial Uses.

1. Retail stores, banks, savings and loans, cleaners, appliance stores, barber and beauty shops, counseling, therapists, massage, book stores, hardware stores, drug stores, radio/TV stores, shoe stores, auto parts stores, secondhand sales stores, pet shops, general offices, including attorneys, title companies, real estate, bookkeeping/accounting, offices as part of a commercial/industrial use and government offices and similar uses: one space per 300 square feet.

2. Hotels, motels, and hostels: for hotels and motels, two spaces, plus one space for each unit for first 75 rooms, plus 0.75 spaces for each unit for rooms above 75, plus 50 percent of the required parking for a restaurant, bar, retail, or other uses in the facility which are open to the general public. For hostels, two spaces, plus one space for every two beds for the first 25 beds, plus one space for every three beds over 25.

3. Retail uses, such as retail grocery stores, convenience stores, video rental stores, auto repair shops, gasoline service stations, outdoor sales establishments, car sales lots, department stores, variety stores, discount drug stores: one space per 300 square feet.

4. Theaters: one space per every four fixed seats, or one space per each 40 square feet of seating area if not fixed seats.

5. Churches and mortuaries: one space per every four fixed seats, or one space per each 40 square feet of seating area if not fixed seats.

6. Health clubs/activity centers: one space per 300 gross square feet (excludes courts), plus four spaces per court, plus loading spaces per SMC 17.220.040.

7. Yoga, dance, and similar exercise facilities: one space per 300 square feet.

8. Plant nurseries, home improvement stores: one space per 300 square feet of floor area, plus one space per 1,000 square feet of public outdoor display area.

C. Veterinary/medical/dental offices: one space for every 300 square feet.

D. Restaurants.

1. Cafes, or other food establishments:

a. Interior: one space for every 125 square feet for the first 2,500 square feet, one space for each 150 square feet above 2,500 square feet.

b. Outdoors: no additional parking required.

2. Fast-food or carryout restaurants: one space per 65 square feet of floor area.

~~3. Bars: one space per 65 square feet of floor area.~~

~~E. Hospitals, sanitariums: 1.25 spaces per bed.~~

~~F. Convalescent hospitals: 0.33 spaces per bed.~~

~~G. Assisted living facilities: one space per unit for first 25 units and 0.75/unit for additional units.~~

~~H. Schools and colleges (including public, parochial, and private elementary, day care, high schools, etc.):~~

~~One space per employee, plus:~~

~~1. One space per every three students of driving age;~~

~~2. One space per every six students under driving age (loading/unloading).~~

~~I. Business, professional, trade, art schools, etc.: one space per each employee, plus one space per every two students of driving age.~~

~~J. Bowling alleys and pool halls: two spaces per alley; two spaces per table; plus additional spaces required for restaurant, bar, etc.~~

~~K. Car Washes.~~

~~1. Automatic car washes: spaces equal to six times the capacity of the washing facility.~~

~~2. Self-service car washes: one space for each wash bay, plus a reservoir of spaces equal to three times the capacity of the car wash facility.~~

~~For both automatic and self-service facilities, the spaces shall be arranged so as to provide both waiting and dry off/cleanup area.~~

~~L. Heavy commercial and light industrial uses, including light manufacturing, truck terminals, machine shops, cabinet shops, building materials yards, feed and fuel yards, storage warehouses, bottling plants, canning plants and wholesale stores: one space per 300 square feet of office floor area, one space per 1,000 square feet of warehouse floor area, and one space per 500 square feet of production floor area.~~

~~M. Bed and breakfast inns: one space per bed and breakfast inn, plus one additional space for each guest room.~~

~~N. Downtown Core District and Northeast Specific Plan area: All allowed uses in the Downtown Core District and the Northeast Specific Plan area shall have a parking requirement of one space per 5400 square feet of net floor area, except that residential uses shall adhere to the residential parking space requirements as set forth in SMC 17.220.010(B) (2), less 20 percent.~~

~~O. Small lots: Parking requirements for legal parcels of 4,000 square feet or less existing as of January 1, 2009, shall adhere to otherwise applicable parking requirements, less 20 percent.~~Parking shall be provided in accordable with Table 17.110-1.

1. EV charging station spaces and rideshare spaces shall count toward the total vehicle parking requirement.

Table 17.110-1: Parking Requirements

	Vehicle Parking Spaces	EV Charging Station	Rideshare Spaces	Bicycle Parking Spaces
Residential Uses				
Single family dwellings	2 per unit	-	-	~~15 percent of vehicle parking requirement.~~
Duplex, Triplex, or Fourplex	1.5 per unit~~3 per 2 units if one bedroom or less, otherwise 2 spaces per unit~~	-	-	~~15~~ 0.5 per unit~~percent of vehicle parking requirement~~.
Multifamily and Attached Single Family	Studio: 1 per unit One bedroom unit: 1~~.5~~ per unit Two and three bedroom units: 1.5~~2~~ per unit Four or more bedrooms: 2.75~~3~~ per unit	Attached single family: 1 per 10 units, except if individually-owned garages or carports that can accommodate EV charging. Multifamily: 15% of total parking requirement	-	~~15~~0.5 per unit~~percent of vehicle parking requirement~~.
Senior citizen housing	0.~~7~~5 per unit ~~for the first 50 units plus 0.5 per unit for each additional unit~~	10 % of the vehicle parking requirement.	-	~~15~~20% of the required vehicle spaces.
Single room occupancy	0.75 per unit for the first 50 units plus 0.5 per unit for each additional unit	10% of the vehicle parking requirement.	-	~~15~~25% of the required vehicle spaces.
Homeless shelter	1 per 10 beds	1 per 5 employees.	-	~~15~~25% of the required vehicle spaces.
Live-work	0.5 spaces per bedroom plus one space per 750 sf of non-residential space	10% of the vehicle parking requirement if more than three live-work units.	-	~~15~~25% of the required vehicle spaces.
Deed-restricted affordable housing	90% of the applicable parking requirement	10% of the vehicle parking requirement.	-	~~15~~25% of the required vehicle spaces.
Commercial, Office, and Industrial Uses				
Retail uses	1 per 300 sf plus 1 per 1,000 sf of public outdoor display area	10% of the vehicle parking requirement.	-	~~15~~20% of the required vehicle spaces.

Service establishments and office uses:	1 per 300 sf	10% of the vehicle parking requirement.	Office uses: 5% of the vehicle parking requirement, if requirement is 20 spaces or more.	~~15~~20% of the required vehicle spaces.
Hotels and motels	2 spaces plus 1 per unit for the first 75 units plus 0.75 per room for each additional room	10% of the vehicle parking requirement.	-	15% of the required vehicle spaces.
Hostels	2 spaces plus 0.5 per bed for the first 25 beds units plus 1 per each 3 additional beds	10% of the vehicle parking requirement.	-	~~15~~20% of the required vehicle spaces.
Bed and breakfast inns	1 per inn plus 1 space per guest room	10% of the vehicle parking requirement.	-	15% of the required vehicle spaces.
Theaters	1 space per every 4 fixed seats, or 1 space per 40 sf of seating area if not fixed seats	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	~~15~~20% of vehicle parking requirement.
Health club, recreation/activity centers	1 space per 300 sf (excludes courts) plus 4 spaces per court	10% of the vehicle parking requirement.	-	~~15~~20% of vehicle parking requirement.
Yoga, dance, and similar exercise facilities	1 per 300 sf	10% of the vehicle parking requirement.	-	~~15~~20% of vehicle parking requirement.
Bowling alleys and pool halls	2 spaces per alley or pool table plus additional seating for on-site restaurants, services, etc.	10% of the vehicle parking requirement.	-	~~15~~20% of vehicle parking requirement.
Restaurants, cafes seated service	Interior seating: 1 per 125 sf for the first 2,500 sf plus 1 per each additional 15 sf	10% of the vehicle parking requirement.	-	~~15~~20% of vehicle parking requirement.
Restaurants, fast food or carryout	1 per 65 sf of floor area	-	-	~~15~~20% of vehicle parking requirement.
Bars	1 per 65 sf of floor area	10% of the vehicle parking requirement.	-	~~15~~20% of vehicle parking requirement.

Hospitals, sanitariums	1.25 spaces per bed	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	15% of vehicle parking requirement.
Assisted living facilities	~~1 space per unit for first 25 units and 0.75 per unit for additional units~~ 0.5 spaces per unit	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	15% of vehicle parking requirement.
Nursing home and convalescent care facilities	0.33 spaces per bed	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	15% of vehicle parking requirement.
Car washes	Automatic: Queuing s~~S~~pace equal to six times the capacity of the washing facility Self-service: 1 space per wash bay plus spaces equal to three times the capacity of the car wash facility For both automatic and self-service: the spaces shall be arranged to provide both waiting and dryoff/cleanup area	-	-	~~15 percent of vehicle parking requirement~~0.25 spaces per employee.
Heavy commercial and light industrial uses	1 space per 300 sf of office area 1 space per 1,000 sf of warehouse floor area 1 space per 500 sf of production area	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	~~15~~20% of vehicle parking requirement.
Community Facility Uses				
Schools (Daycare through 12th Grade~~, College~~)	1 space per employee plus 1 space per every three students of driving age plus one	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	~~15~~25% of vehicle parking requirement.

	loading/unloading space per every six students under driving age			
Colleges, business, professional, trade, art schools, etc.	1 space per employee plus 1 space per every two students of driving age	10% of the vehicle parking requirement.	5% of the vehicle parking requirement, if requirement is 20 spaces or more.	~~15~~25% of vehicle parking requirement.
Other Uses				
~~Downtown~~ Central Core District and Commercial-Industrial District~~Northeast Specific Plan area~~:	Non-residential: 1 per 5~~4~~00 sf net floor area Residential: Applicable parking requirement, less 3~~2~~0 percent	10% of the vehicle parking requirement.	Non-residential uses: the total of the applicable rideshare requirement, less 30 percent.	~~15~~20%~~t~~ of vehicle parking requirement.
Small lots of 4,000 sf or less	Applicable parking requirement, less 20 percent	10% of the vehicle parking requirement.		~~15~~20% of vehicle parking requirement.

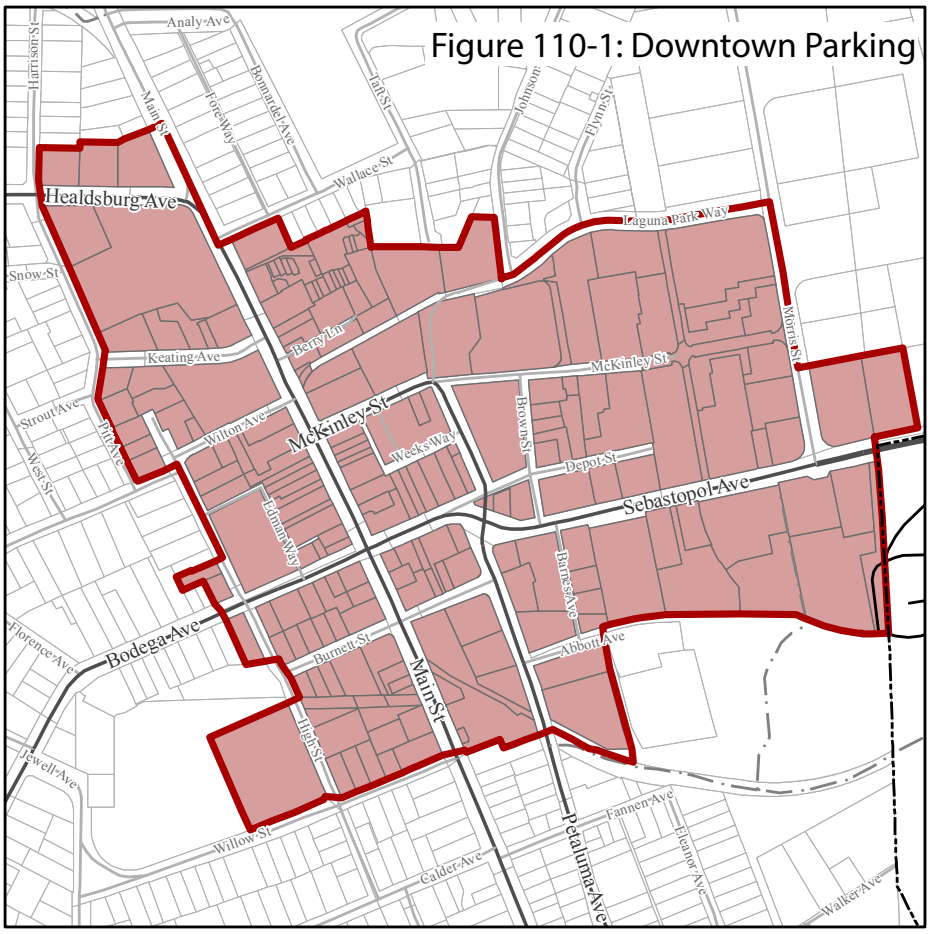
B. Parking in-lieu fee. If the City has established an applicable area and in-lieu fee, parking requirements for nonresidential uses located within the area or as otherwise established by procedures under the SMC, may be met by payment of a parking in-lieu fee as provided for in this paragraph B of SMC Section 17.110.030.

1. The parking in-lieu fee shall be a per-parking-space fee and is only applicable when a required vehicle parking space is not provided.

2. The amount per parking space of the in-lieu fee shall be as established in the City's master fee schedule, as amended from time to time.

3. The parking in-lieu fee shall be paid prior to the issuance of building permits.

4. Funds collected by the City from parking in-lieu fees payments shall be deposited into a dedicated "parking and vehicle trip reduction" deposit account and shall be used for parking and vehicle trip reduction improvements, including bicycle, pedestrian, and transit improvements, that serve the area shown in Figure 110-1.



5. Payment of the parking in-lieu fee shall be subject to the following:

   a. In combination with the spaces provided on site, payment of the fee shall be considered full satisfaction of the off-street parking requirement, as determined by this section.

   b. The fee shall be nonrefundable and payment of the fee does not carry any other guarantees, rights, or privileges to the payer.

   c. Payment of the fee does not represent an obligation of the City to provide parking spaces within any particular proximity to the project for which the payment was made or to make available parking spaces within any particular amount of time.

   d. Payment of the fee does not entitle the applicant, his or her tenants, or his or her clients to exclusive or private use of any public parking spaces.

17.110.040 EV charging stations.

A. EV Charging Station Level Requirements.

1. EV charging stations for residential uses may be Level 1 (120V outlet), Level 2 (220V or 240V outlet equivalent), or Level 3 (480V outlet).

2. EV charging stations for non-residential uses may be Level 2 (220V or 240V outlet equivalent) or Level 3 (480V outlet).

B. The EV charging station shall be:

1. Signed in a clear and conspicuous manner, such as special pavement marking or signage, indicating exclusive availability to EVs and, if applicable, any time limits on maximum length of use (time limits shall not be less than four hours for a Level 1 or Level 2 charging station or 1 hour for a Level 3 charging station). Signage shall identify:

    a. Voltage and amperage levels.

    b. Hour of operations if time limits or tow-away provisions are to be enforced by the property owner.

    c. Usage fees.

    d. Safety information.

2. Outfitted with a standard EV charging station; and

3. Installed with adequate access in accordance with factory or qualified engineer recommendation.

C. At least one EV charging station shall meet current van accessible dimensions.

D. Fast Charge Incentive. A reduction in the minimum number of required stations may be reduced as follows:

1. Residential Uses: 25% for each Level 2 station or 50% for each Level 3 station.

2. Nonresidential Uses: 50% for each Level 3 station.

3. Each Level 3 EV charging station installed beyond the minimum requirement in this SMC shall be counted as 2.5 vehicle parking spaces and the required number of vehicle parking spaces shall be reduced accordingly.

17.110.050 Rideshare spaces.

A. Rideshare spaces shall be used only by carpools, vanpools, or other ridesharing programs and shall be signed in a clear and conspicuous manner.

B. At least one rideshare space shall meet current van accessible dimensions.

17.110~~220~~.0640Off-street loading spaces (commercial and industrial uses).

Off-street loading spaces for commercial and industrial uses shall be provided as shown in Table 17.110-2.

Table 17.110-2: Off-Street Loading (Commercial and Industrial Uses)

Less than 5,000 square feet floor area	0 Spaces
5,001 - 10,000 square feet floor area	1 Space
10,001 - 30,000 square feet floor area	2 Spaces
30,001 - 90,000 square feet floor area	3 Spaces
Over 90,000 square feet floor area	4 Spaces

The first required loading space may meet the dimensional requirements for other standard required parking spaces. Additional required loading spaces shall have a minimum dimension of 10 feet in width and 20 feet in depth.

17.110~~220~~.0750Bicycle ~~stand~~ parking requirements.
Bicycle parking shall be provided for all multifamily projects and nonresidential uses in compliance with this section.

A. Bicycle parking spaces. The number of required spaces can be reduced by the number of secure private garages or bicycle storage lockers provided for each residential unit or each business use. Bicycle parking shall be distributed throughout a project to be accessible by residents, clients, and employees.

~~Number of Bicycle Spaces Required. Proposed development and new land uses shall provide the following number of bicycle parking spaces, as applicable:~~

~~1. A multifamily project shall provide bicycle spaces equal to the minimum of 15 percent of the required vehicle spaces, unless separate secure garage space is provided for each unit. The bicycle spaces shall be distributed throughout the project.~~

~~2. Nonresidential uses shall provide bicycle parking spaces equal to a minimum of 15 percent of the required vehicle spaces, distributed to serve customers and employees of the project.~~

B. Bicycle Parking Design and Devices.

1. Parking Equipment. Each bicycle parking space shall include a stationary parking device to adequately secure bicycles.

2. Parking Layout.

    a. Aisles providing access to bicycle parking spaces shall be at least five feet in width and separate from auto driveway aisles.

    b. Each bicycle space shall be a minimum of 30 inches in width and six feet in length, and have a minimum of seven feet of overhead clearance.

    c. Bicycle spaces shall be located to be clearly visible, convenient to, and generally within proximity to the main entrance of a structure.

    d. Bicycle spaces shall be separated from sidewalks, motor vehicle parking spaces or aisles by a fence, wall, curb, or by at least five feet of open area, marked to prohibit vehicle parking.

17.110~~220~~.0860~~Table 2 -~~ Off-Street Parking Chart.

DEFINITION OF LETTERS ON TABLE 17.110-3~~2~~

A	Distance from right-of-way to near side first entry parking stall.
B	Distance between stalls as measured along parking lot boundary.
C	Parking stall length measured at 90 percent from parking lot boundary.
D	Parking stall length measured at 90 percent for head-to-head parking.
E	Backup space between parking rows.
F	Minimum clear turning space (at end of parking lot).

DEFINITION OF LETTERS ON TABLE 17.110-3~~2~~

G	Minimum setback from street right-of-way (five feet).
H	Minimum parking lot width for two rows of parking.
I	Minimum parking lot width for four rows of parking.
J	Parking stall length.
K	Parking angle.
L	Parking stall width.
O	Parking angle.
S	Parking stall width.

Table 17.110-3~~2~~: Off-Street Parking Chart

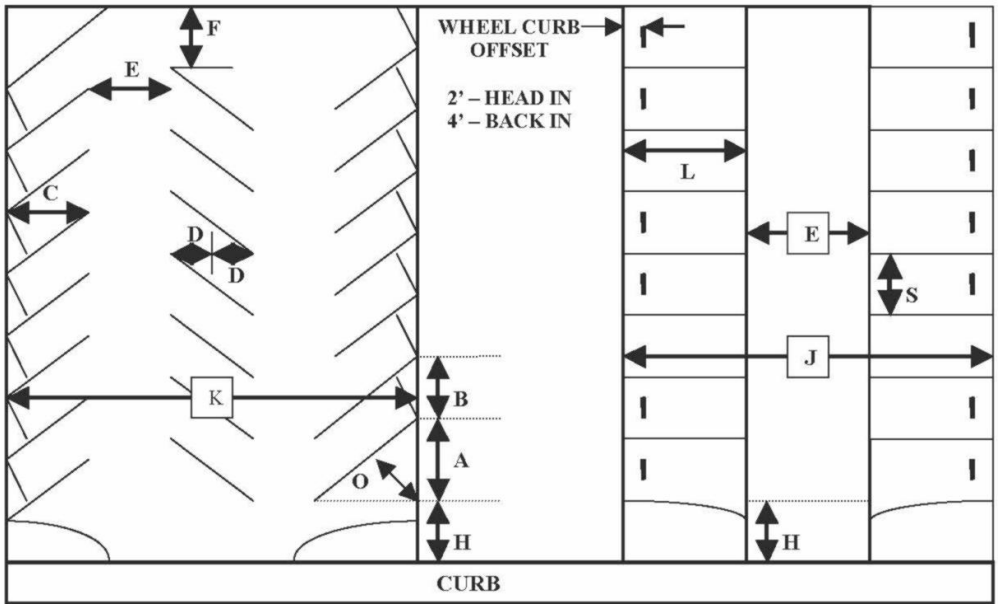


TABLE OF DIMENSIONS (IN FEET)											
O	S	L	A	B	C	D	E	F	H	J	K
0°	8.0	22.0	0.0	22.0	8.0	8.0	12.0			28.0	
	8.0	24.0	0.0	24.0	8.0	8.0	11.0			27.0	
	8.0	26.0	0.0	26.0	8.0	8.0	10.0			26.0	
30°	8.5	19.0	29.2	17.0	16.9	13.2	10.0			43.8	
	9.0	19.0	30.0	18.0	17.3	13.4	9.0			43.6	
45°	8.5	19.0	19.4	12.0	19.4	16.4	10.9	15.5		49.6	93.2
	9.0	19.0	19.8	12.7	19.8	16.6	10.0	16.0		49.6	92.3
	9.5	19.0	20.1	13.4	20.2	16.7	9.5	16.5		49.7	92.6
	10.0	19.0	20.5	14.1	20.6	16.9	9.0	17.0		49.8	92.6
60°	8.5	19.0	12.0	9.8	20.9	18.7	19.0	15.0		59.6	115.0
	9.0	19.0	12.1	10.4	21.0	18.8	17.0	15.0		59.0	113.6
	9.5	19.0	12.3	11.0	21.3	18.9	15.5	15.0		58.1	111.4
	10.0	19.0	12.4	11.5	21.5	19.0	14.0	15.0		57.0	109.0
90°	8.5	19.0	0.0	8.5	19.0	19.0	27.0	20.0		65.0	130.0
	9.0	19.0	0.0	9.0	19.0	19.0	25.0	20.0		63.0	126.0
	9.5	19.0	0.0	9.5	19.0	19.0	24.0	20.0		62.0	124.0
	10.0	19.0	0.0	10.0	19.0	19.0	23.0	20.0		61.0	122.0

MINIMUM 10'

Chapter 17.120~~230~~

SIGN REGULATIONS

Sections:

17.120~~230~~.010 Purpose, intent, and applicability.

A. Purpose. The purpose of this chapter is to establish signing standards appropriate to the City of Sebastopol, which will allow for adequate identification of businesses and provision of public information, and will reduce hazards to motorists and pedestrians, while avoiding excessive and confusing signing.

B. Intent. It is the intent of these standards to encourage well-designed and creative signs, which are integral to, and harmonious with, the adjacent neighborhood, as well as with buildings and sites. Signs should be aesthetically pleasing and consistent with the sign portion of the design guidelines, as the Design Review Board may adopt them.

C. Applicability. The provisions set forth in this chapter shall be applicable to all signs permitted by this chapter, except where specific regulations contrary to this section are established.

17.120~~230~~.020 Permits, fees, and exceptions.

A. Sign Permit Required. Except as otherwise provided within this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the City limits, or cause the same to be done, without first obtaining a sign permit for each such sign from the Planning Director or Design Review Board, as required by this chapter.

1. Application for sign permit(s) shall be made upon forms prescribed by the Planning Department, and shall be submitted with supplemental application materials specified by the Planning Department. Fees will be charged for services provided by City staff in conjunction with the processing of a sign permit, as set forth and amended by resolution of the City Council.

2. Each sign permit application shall be reviewed to ensure compliance with the provisions of this chapter and the sign portion of the design guidelines, as they may be adopted by the Design Review Board.

3. In general, sign permit applications shall be reviewed for approval, conditional approval, or denial by the Design Review Board. However, signs which can be categorized as any one of the following, which comply with all development standards defined in this chapter, and are consistent with the sign portion of the design guidelines, as they may be adopted by the Design

Review Board, shall be reviewed for approval, conditional approval, or denial by the Planning Director or his/her designee:

a. Replacement sign(s) which are part of an approved sign program for a shopping center or multi-tenant building, and which conform to said program. Replacement signs which do not conform to the approved sign program are subject to review by the Design Review Board.

b. Non-illuminated signs of 25 square feet or less, which do not require an exception to any provision of this chapter.

c. Projecting (hanging) signs which do not exceed six square feet in area, are installed with a minimum clearance of seven and one-half feet above the ground surface, project not more than three feet from the wall of a building, and which do not require an exception to any provision of this chapter.

d. Portable signs, subject to the following criteria:

i. No more than one (double-faced) sign per parcel of property.

ii. Each sign face shall not exceed six square feet in area.

iii. Height of sign shall not exceed three feet.

iv. Location of sign shall not reduce the width of any pedestrian sidewalk or way to less than four and one-half feet.

v. If located within the public right-of-way, an encroachment permit shall be secured from the State of California (for State Highways 116 and 12), or from the City of Sebastopol.

e. Change of copy only on an existing, approved sign if the same sign structure will be used, the area of lettering is substantially the same as that previously approved, and no change in illumination is proposed. Change of copy requests for signs that previously received sign exception approval are not eligible for administrative review and shall be reviewed by the Design Review Board.

B. Exceptions.

1. Purpose. Sign exceptions are intended to allow flexibility to the sign regulations while still fulfilling the purpose of the regulations. Creative design is encouraged by the provisions of this chapter, therefore an exception from these regulations may be approved consistent with the following findings. The findings below allow for modifications to address unusual site conditions, and/or allow signs that enhance the overall character of an area or building or are appropriate for a particular business.

2. Applications for exceptions from the provisions of this section may be filed in writing with the Planning Department for action by the Design Review Board. Such applications shall be made upon forms prescribed by the Planning Department, and shall be submitted with supplemental application material specified by the Planning Department. Fees will be charged for services provided by City staff in conjunction with the processing of a sign permit exception.

3. The supplemental application material, including statements, plans and other evidence, shall show that:

a. The exception will allow a unique sign of exceptional design or style that will enhance the area or building, or that will be a visible landmark; or

b. The exception will allow a sign that is more consistent with the architecture and development of the site; or site context; or is appropriate given the nature of the business; or

c. The granting of the exception will not constitute the granting of a special privilege inconsistent with the sign limitations upon other properties in the same vicinity and zone district.

17. 120~~230~~.030 Exempted signs.

A sign permit is not required for any of the following types of signs, as determined by the Planning Director. Such signs shall otherwise be erected and maintained in accordance with the provisions of this chapter. Unless otherwise specified, the signs described below are in reference to on-site signage:

A. Changing of the advertising copy or message on an existing approved changeable copy sign.

B. Painting, repainting, cleaning, exact replacement, or normal maintenance and repair of a sign.

C. Changes in the content of temporary window signs that have been approved as part of an overall sign program.

D. Directional signs, such as signs identifying restrooms, public telephones, walkways, parking lot entrances and exits and signs of a similar nature, which are located entirely on the property to which they pertain, do not in any way advertise a business, and do not exceed two square feet in area, and five feet in height.

E. Governmental signs for control of traffic or other regulatory purpose; street signs, danger signs, railroad crossing signs, and signs of public service companies.

F. Holiday decorations commonly associated with any national, local, or religious holiday; provided, that such decorations be displayed for a period of no more than 45 consecutive days or no more than 60 days in any one calendar year.

G. Signs located within the interior of any building and/or not visible from a public right-of-way. Such signs are not, however, exempt from structural, electrical or material specifications as set forth in the Uniform Building Code.

H. Memorial signs, subject to size limitations and a site visibility analysis.

I. Notice bulletins and bulletin boards for medical, public, charitable or religious institutions where the same are located on the premises of said institution(s) or public property, at the discretion of the Planning Director.

J. Off-site real estate signs and open house signs may be erected for up to 48 hours, except for off-site direction real estate signs (red arrows), as described in SMC 17~~.230~~.120.070(E)(3).

Off-site real estate signs which do not meet the criteria of SMC 17~~.230~~.120.070(E)(3), and which are erected for longer than a 48-hour period, may be permitted with a sign permit issued by the Design Review Board.

K. On-site real estate signs which promote the sale, rental, or lease of a building, and which meet the following criteria:

1. Material. Sign and sign post must be constructed of wood with painted or vinyl letters.

2. Size and Height. Sign shall be a hanging sign with a minimum clearance of three feet between the bottom of the sign and the existing grade. The height of the sign, including post, may not exceed six feet. All real estate signs are permitted to be six square feet maximum in size; however, commercial and industrial signs may be a maximum 40 square feet if located on a 20,000-square-foot lot or larger.

L. Plaques or nameplate signs which are less than two square feet in area and are permanently affixed to a building wall.

M. Public signs required or specifically authorized for a public purpose by law, statute, or ordinance. Such signs may be of any type, number, area, height above grade, location, illumination as required by law, statute or ordinance under which the signs are erected.

N. Off-premises directional signs for public or community facilities, as approved by the Planning Director.

O. Special events signs and temporary signs pertaining to promotions or events of civic, philanthropic, educational or religious organizations. Such signs may be posted no more than 30 days before the event, and must be removed no more than seven days after the event.

P. Garage sale signs; provided, that such signs do not exceed four square feet in area, are displayed not more than one day before the sale and removed not later than one day after the sale, and are not on a public property. (See also City Ordinance No. 693.)

Q. Political/political campaign signs.

R. Automotive service station price signs, as required by the Department of Weights and Measures. Any additional signs which are used to identify the service station, or to advertise a service or product offered by that business, are subject to the development standards of SMC 17~~.230~~.120.060(I).

S. Temporary interior window signs; provided, that the signs are not illuminated, are no more than two square feet in size, and remain in place for not more than 30 days.

T. Permanent window signs which are clearly incidental to the conduct of business, such as the days and hours of operation, and payment decals; provided, that the signs are not illuminated and are no more than one square foot in size.

U. Neon “open” signs which are no more than two square feet in size.

17.120~~230~~.040 Prohibited signs.

A. The following signs are prohibited on any property within the City:

1. Flashing, rotating, animated, blinking and moving signs. However, upon referral from the Planning Director, the Design Review Board may determine that such a sign is necessary in order to portray an appropriate and distinct image in a unique situation.

2. Miscellaneous signs and posters and the affixing of signs of a miscellaneous character visible from a public right-of-way. Signs located on the wall(s) of buildings, barns, sheds, trees, poles, posts, fences or other structures are prohibited unless provided for under the provisions of this chapter. (See also City Ordinance No. 693.)

3. Any sign affixed to any vehicle or trailer either on a public right-of-way or on public or private property for the sole purpose of attracting people to a place of business.

4. Banners, pennants, search lights, balloons or other gas-filled figures except that banners may be permitted, for a period of time not to exceed 30 days in any calendar year, at the opening of a new business, or for special events, with prior written approval of the Planning Director, in accordance with SMC 17~~.230~~.120.030(O).

5. Portable or wheeled signs, unless used for real estate purposes, pursuant to SMC 17~~.230~~.120.030(K), or as permitted on commercially zoned properties, pursuant to SMC 17~~.230~~.120.060(C).

6. Signs which bear or contain statements, words, or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful or misleading.

7. Signs emitting audible sounds, odor or visible matter. However, upon referral from the Planning Director, the Design Review Board may determine that such a sign is necessary in order to portray an appropriate and distinct image in a unique situation.

8. Signs which purport to be, or are, an imitation of, or resemble an official traffic sign or signal, or which bear the words: "go slow," "caution," "danger," "warning," or similar words.

9. Signs which may by reason of their size, location, movement, content, coloring or manner of illumination, be confused with or construed as a traffic control sign, signal or device, or the light of a road or emergency equipment vehicle.

10. Signs which may by reason of size, location, movement, content, coloring, or manner of illumination, cause a dangerous situation or otherwise pose a threat to the public health, safety, or welfare. If a sign is prohibited based on this criteria, the Design Review Board shall make specific findings regarding the sign characteristic(s) which create a dangerous situation or otherwise pose a threat to the public health, safety, or welfare.

11. Off-premises signs, except off-premises real estate signs as permitted by SMC 17~~.230~~.120.030(J), and off-premises community directional signs as permitted by SMC 17~~.230~~.120.030(N).

B. Posting on public property is prohibited. No person, except a duly authorized public officer or employee, shall erect, construct or maintain, paste, paint, print, nail, tack or otherwise fasten or affix, any card, banner, handbill, campaign sign, poster, sign, advertisement, or notice of any kind, or cause or suffer the same to be done, on any curbstone, lamppost, pole, bench, hydrant, bridge, wall, tree, sidewalk or structure in or upon any public street, alley, or upon other public property, except as may be required or permitted by ordinance or law.

17.120~~230~~.050 General sign standards and regulations.

A. Computation of Frontage and Sign Area Calculations.

1. "Sign area" is defined as the area of a rectangle drawn around the outermost area of sign copy, graphics, background materials, and borders or frame, and any similar display area which is capable of receiving copy at a future time. The structure supporting a sign is not included in determining the sign area, unless the structure contains advertising copy or business logo.

2. The area of all signs which are governed by this chapter shall be included when determining compliance with the maximum allowable sign area.

3. The width of a building frontage on a public street or right-of-way, excluding alleys or service ways, shall be used to calculate the allowable sign area. (See Table 1.) If a building houses more than one tenant space, the total sign area permitted for each tenant space shall be calculated as follows:

$$\text{Sign Area} = \frac{\text{Total Allowable Sign Area (based on total building frontage)}}{\text{Number of Tenant Spaces}}$$

Example: If a building has 50 feet of frontage and four tenant spaces, including two on the ground floor area and two on the second story, the sign area for each tenant space would be calculated as follows: 15.625 square feet/tenant space. The proportional distribution of sign area that is allowed for each individual tenant space may be modified through a comprehensive approved sign program.

4. For buildings fronting on more than one public right-of-way, the length of two frontages may be used to calculate the total allowable sign area for all signs on the premises.

5. Both sides of a double-faced sign shall be used for the calculation of allowable sign area.

6. For monument signs proposed as part of a sign program, the maximum sign size thresholds shall comply with SMC 17~~.230~~.120.060(B), and shall not be counted toward the overall sign allowances outlined in Table 1.

TABLE 1: MAXIMUM ALLOWABLE SIGN AREA (SQ. FT.)

Building Frontage	Max. Allowable Sign Area	Building Frontage	Max. Allowable Sign Area	Building Frontage	Max. Allowable Sign Area
Up to 25'	25.0	43'	52.0	61'	79.0
26'	26.5	44'	53.5	62'	80.5
27'	28.0	45'	55.0	63'	82.0
28'	29.5	46'	56.5	64'	83.5
29'	31.0	47'	58.0	65'	85.0
30'	32.5	48'	59.5	66'	86.5
31'	34.0	49'	61.0	67'	88.0
32'	35.5	50'	62.5	68'	89.5
33'	37.0	51'	64.0	69'	91.0
34'	38.5	52'	65.5	70'	92.5
35'	40.0	53'	67.0	71'	94.0
36'	41.5	54'	68.5	72'	95.5
37'	43.0	55'	70.0	73'	97.0
38'	44.5	56'	71.5	74'	98.5

Building Frontage	Max. Allowable Sign Area	Building Frontage	Max. Allowable Sign Area	Building Frontage	Max. Allowable Sign Area
39'	46.0	57'	73.0	75'	100.0
40'	47.5	58'	74.5	76' - 100'	125.0
41'	49.0	59'	76.0	101' - 125'	150.0
42'	50.5	60'	77.5	126' +	175.0

B. Projection Limits and Sign Clearances.

1. Freestanding signs must be located a minimum of five feet behind the back of the sidewalk (or right-of-way if there is no sidewalk). Freestanding signs may not project into any public right-of-way.

2. The height of a freestanding sign shall be measured from the natural grade at the base of the sign to the highest portion of the sign.

3. Projecting signs (hanging signs) may not exceed six square feet in area, and may not project more than three feet from the wall of a building. The bottom of projecting signs shall be at least seven and one-half feet above the ground.

C. Lighting of Signs.

1. No sign shall be illuminated with such intensity as to prevent normal perception of objects, buildings, streets and other signs in the immediate area.

2. External illumination is preferred over internal illumination in all zoning districts. Internally illuminated signs must be reviewed and approved by the Design Review Board, and are generally not allowed within the CD ~~Downtown~~Central Core District, within any residential district, or in proximity to an existing residential use.

3. No backlighting of the panel(s) is allowed on internally illuminated signs unless the background has been rendered opaque, allowing light through the letters and logo only. This limitation does not apply to theater marquee signs or similar signs, as determined by the Planning Director.

4. Identification signs in a single- or multiple-family residential district, or which are located within 25 feet of a residential use may not be illuminated. However, internally illuminated address signs which do not exceed one square foot in size, and which display only the address numbers of the residence upon which the sign is affixed are allowed.

17. 120~~230~~.060 Permitted signs.

A. Signs Permitted in Single- or Multiple-Family Residential Districts.

1. One home occupation identification sign, which is non-illuminated and does not exceed five square feet in area.

2. A maximum of two area identification signs per entry, with a maximum height of five feet, and maximum total area of 16 square feet. An “area identification sign” is a sign which identifies a development area, such as the name of a subdivision or office park.

3. One identification sign for churches, schools, public and quasi-public buildings. Such signs shall not exceed 32 square feet in area, and eight feet in height, unless the nature of the site and the

surrounding environment warrants a larger sign. An applicant may request that the Design Review Board determine whether a larger sign is warranted.

4. One identification sign for bed and breakfast inns, not to exceed eight square feet in area, and five feet in height.

5. In multiple-family residential districts (R14.52A, R-14.52B, R-17.42, and R-24.89~~D, RM-M, RM-H~~, or residential developments in PC Districts) only, one identification sign or building address number sign for purposes of identifying a multiple-family building, not to exceed eight square feet in area, and six feet in height.

B. An integrated sign program, which provides for a consistency and continuity of materials, design, location, and manner of attachment for tenant signs, is required for all office or light industrial centers or parks, multi-tenant commercial or industrial buildings, or shopping centers. Individual tenant signs proposed as part of a multi-tenant sign shall include the business name and not more than three additional words to identify the purpose of the business, for example "SMITH'S Bar and Grill" or "LENS CRAFTERS one hour service" For sign programs that include a monument sign, the maximum square footage of the sign shall be limited to 50 square feet for signs representing five or fewer tenants, and 100 square feet for signs representing six or more tenants. The monument sign square footage shall be in addition to the maximum allowable sign square footage per Table 1. The sign program shall be consistent with the standards defined below for the zoning district in which the development is located, and shall be approved by the Design Review Board prior to the approval of any individual sign within said center, park, or building.

C. Signs Permitted in Commercial and Office Districts.

1. Each building is permitted to have one freestanding business identification sign. This sign may not exceed eight feet in height.

2. A maximum of two window, awning, wall, or fascia business identification signs are permitted for each ground floor use or tenant. One of those two signs may be a projecting sign, providing that the sign does not exceed six square feet in area or 18 inches in height, and has a minimum clearance of seven and one-half feet above the sidewalk.

3. Commercial or professional uses located above the main floor of the building may display permanent window, awning, or wall signs. The total sign area for each use shall be determined in accordance with SMC 17~~.230~~.120.050(A) (3).

4. Temporary window signs related to special events, sales promotions, and the sale of merchandise are permitted for a period of 30 days only.

5. Portable signs, consistent with SMC 17~~.230~~.120.020(A) (3) (d).

6. A maximum of two area identification signs per entry, with a maximum height of eight feet and maximum total area of 32 square feet.

D. Signs Permitted in the O/LI Office/Light Industrial District.

1. Individual business frontage shall be considered as "building frontage" for the purposes of establishing maximum sign area pursuant to Table 1. The sign area for the "major" or "anchor" tenant(s) may be increased by the Design Review Board.

2. In addition to the individual tenant signage, there may be one freestanding sign identifying the center and its tenants. Such sign shall not exceed eight feet in height or 32 square feet in area.

3. In addition to the signage allowed above, one on-site directory is permitted. This sign may be freestanding or affixed to a building, but may not exceed five feet in height, if it is freestanding, or 16 square feet in area.

E. Signs Permitted in M Industrial District.

1. Each building is permitted to have one freestanding business identification sign. This sign may not exceed eight feet in height.

2. Each business is permitted to have a maximum of two window, awning, wall or fascia business identification signs.

3. A maximum of two area identification signs per entry, with a maximum height of eight feet, and maximum total area of 32 square feet may be permitted.

4. Portable signs, consistent with SMC 17~~.230~~.120.020(A) (3) (d).

F. Signs Permitted in CF Community Facility District.

1. Each building is permitted to have one freestanding business identification sign. This sign may not exceed six feet in height.

2. Each business is permitted to have one wall or fascia sign which does not exceed 30 square feet in area.

3. Temporary signs are permitted in accordance with SMC 17~~.230~~.120.070(E).

4. A maximum of two area identification signs per entry, with a maximum height of eight feet, and maximum total area of 32 square feet are permitted.

~~G. Signs Permitted in S Study District. Regulations for permanent and temporary signs will be established by the Design Review Board, after the Planning Commission has rendered its determination of land use.~~

H. Signs Permitted in PC Planned Community District. Regulations for permanent and temporary signs will be established by the Design Review Board after the Planning Commission has rendered its determination of land use. The project proponent must submit a comprehensive sign program package for review by the Design Review Board. The Design Review Board will evaluate the proposed sign program within the parameters of the sign regulations of the predominant land use approved for the specific development.

I. Shopping Center Signs.

1. Individual business frontage shall be considered as “building frontage” for the purposes of establishing maximum sign area pursuant to Table 1. The sign area for the “major” or “anchor” tenant(s) may be increased by the Design Review Board.

2. In addition to the individual tenant signage, there may be one freestanding sign identifying the center and its tenants. Such sign shall not exceed eight feet in height.

J. Service Station Signs.

1. Two business identification signs are allowed, including a maximum of one freestanding sign. A freestanding sign may not exceed eight feet in height or 32 square feet in area.

2. Incidental signs are permitted in addition to the two identification signs.

3. The aggregate sign area of identification and incidental signs shall not exceed 100 square feet.

4. Price signs shall be in accordance with State of California requirements as to wording, size and number, and shall not be included in the calculation of total sign area.

17. 120~~230~~.070 Miscellaneous sign categories.

A. Construction Signs. Construction, development, subdivision sales and real estate signs may be permitted to within five feet of the property line if freestanding. The aggregate area for all such signs may not exceed 50 square feet. Sign height for any freestanding sign may not exceed eight feet. Construction signs shall be allowed for the duration of construction. Other development signs may remain for a maximum period of one year.

B. Historic Signs. Unique signs and appurtenances which, due to their architecture or the message displayed on the sign, represent a historical period of the City of Sebastopol may be retained. Approval for retention shall be based on valid historical documentation, provided by a qualified historian or historical architect, which defines the historical attributes of the subject sign, the merits for retaining the sign, and the historical value to the community of preserving the sign. The Design Review Board may approve or deny such a sign, pursuant to SMC 17~~.230~~.120.020(B). Any exception shall not include a waiver from any other regulations of the City of Sebastopol. Whenever the Design Review Board grants an exception, the Board shall make specific findings as to the historic value of the sign or appurtenance.

C. Murals and Graphics.

1. Wherein all, or any part, of any mural or graphic may be considered signing, by reason of the depiction of specific words, symbols, merchandise or services, such mural or graphic, or part thereof shall be subject to the regulations described in this chapter.

2. When a mural or graphic is not considered signage, as described above, its size will not be included in determining compliance with the maximum allowable sign area for a property.

D. Neon Signs. Neon signs are allowed in all commercial zoning districts, including the CD ~~Downtown~~Central Core District, subject to the approval of the Design Review Board.

E. Temporary Signs. The Planning Director may issue written approval of a temporary sign of the following type, upon receipt of a completed temporary sign permit application packet and the associated processing fee:

1. Banners. Banners for new businesses or for special events may be approved by the Planning Director for a period not to exceed 30 days. The approval may, at the request of the applicant, be extended for an additional 30 days for a new business if a complete sign permit application has been filed with the Planning Department for permanent business identification signage. Banner signs may be installed on the building only, and are not permitted to be installed in the landscaping, on fencing, or on vehicles.

2. Gas Station Signs. Temporary signs of less than one square foot may be displayed above fuel pumps for a period not to exceed 30 days. Any additional temporary signs, including banners or freestanding temporary signs, shall not be allowed, except as otherwise permitted by this chapter, or as may be required by the Department of Weights and Measures.

3. Off-Site Directional Real Estate Signs (Red Arrows). Directional red arrow signs may be approved by the Planning Director for off-site location for a period not to exceed 90 days, subject to the following criteria:

    a. Materials. Sign and sign post must be constructed of wood, with painted vinyl arrow and letters.

    b. Size and Type. Sign shall be a hanging sign, with a minimum clearance of three feet between the bottom of the sign and the existing grade. The height of the sign, including post, may not exceed five feet. The arrow portion of the sign may not exceed one square foot.

    c. Display. Display shall be limited to a red arrow and the numeric address of the subject property. A sign approved as an off-site directional real estate sign shall in no way identify any person, agency, or agency telephone number, nor shall it include any other advertisement.

F. Exterior display of merchandise is not allowed, except as may be displayed with a bona fide storefront display enclosure or picture window. Such display of merchandise, or a similar decoration depicting merchandise, goods, or services may be considered as signage if, in the sole opinion of the Planning Director, such display is made for the purposes of advertising.

17.~~230~~.120.080 Nonconforming signs.
Except for multiple-tenant signs, existing, legally erected signs which do not conform to the provisions of this chapter may remain in place until such time as a change in name, use, or sign face occurs, at which time all signing shall be made to conform to the provisions of this chapter.

17.~~230~~.120.090 Abandoned signs.
A. An abandoned sign is a sign which no longer directs, advertises, or identifies a legal business establishment, product or activity on the premises where such sign is displayed. Any sign which becomes an abandoned sign and remains as such for a period of 12 months or more shall be prohibited, and shall be removed by the owner of the sign or owner of the property at his or her expense.

B. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned, unless the property remains vacant for a period of 12 months or more.

17.~~230~~.120.100 Construction specifications, safety, and maintenance.
A. Compliance with Building Code. All signs shall comply with the appropriate detailed provisions of the California Building Code relating to design, structural members and connections. Signs shall also comply with the provisions of the applicable Electrical Code and the additional construction standards set forth in this section.

B. Construction of Signs.

1. No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window or door opening, unless authorized by special use permit. No sign shall be attached in any form, shape or manner which will interfere with an opening required for ventilation, except in circumstances when not in violation of the Building or Fire Prevention Codes.

2. No building permit or electrical permit shall be issued for a sign until such time as the Building Official receives written notification from the Planning Director that approval has been granted for a subject sign.

3. Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the Electrical Code and the regulations of the Public Utilities Commission.

4. All permanent freestanding signs shall be self-supporting structures erected on and permanently attached to concrete foundations. Such structures shall be fabricated only from such materials as approved by the Building Code.

C. Maintenance. Every sign shall be maintained in a safe, presentable and good structural material condition at all times, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign. The owner, or authorized representative, or sign user of the property upon which the sign or advertising structure is located shall be responsible for its proper maintenance and repair. If the sign is not made to comply with adequate safety standards, the Building Inspector shall require its removal in accordance with SMC 17~~.230~~.120.120.

17~~.230~~.120.110 Violations.
Any of the following shall be deemed a violation of this chapter, and shall be subject to the enforcement remedies and penalties provided by this chapter, by the Municipal Code, and by State law:

A. Installing, creating, erecting, or maintaining any sign in a way that is inconsistent with any approved plan or permit governing such a sign or the property on which it is located.

B. Installing, creating, erecting, or maintaining any sign without an approved sign permit when such a permit is required.

C. Failing to remove, upon the written request of a City representative, any sign that has been installed, created, erected, or maintained in violation of this chapter.

D. Continuing any such violation as set forth above. Each day that a violation is continued shall be considered a separate violation for the purposes of applying the penalty portion of this chapter.

17~~.230~~.120.120 Appeals and enforcement - Removal and disposition of signs.
A. Administration. The sign regulations shall be administered by the Planning Director, who is authorized and directed to enforce all provisions of the regulations. The Planning Director is authorized to promulgate procedures consistent with the purpose of these regulations, and is further empowered to delegate the duties and powers granted to, and imposed upon, him, under these regulations.

B. Construction. Construction of all signs, and their attachments, is governed by the regulations of the Uniform Building Code and these regulations, as adopted by the City of Sebastopol, and shall be inspected and approved by the Building Inspector.

C. Notice and Removal of Non-permitted Signs.

1. The Planning Director shall cause to be removed any sign which has been erected without benefit of a permit required by the provisions of this chapter, or any sign which is materially, electrically or structurally defective, or any sign which has been abandoned, or any other sign prohibited by SMC 17~~.230~~.120.040.

2. The Planning Director shall prepare a notice which shall describe the sign and specify the violation involved, and which shall state that if the sign is not removed or the violation is not corrected within 10 days, said sign shall be removed in accordance with the provisions of these regulations. The recipient of such a violation notice may request a hearing on the matter within 10

days of receipt of the violation notice. Such a request shall be made in writing to the Planning Director.

3. All violation notices sent by the Planning Director shall be sent by certified mail to the owner of the subject property, as recorded by the Sonoma County Assessor's Office, and to other such persons as deemed necessary by the Planning Director. Any time periods provided in this section shall commence on the date of the receipt of the certified mail.

4. Any person having an interest in the sign or the property may request an administrative hearing on the matter by filing a written request to the Planning Director within 10 days after the date of mailing the notice, or 10 days after receipt of the notice if the notice was not mailed. If such a request is made, the Planning Director shall cause a hearing to be held within 30 days of the receipt of the request.

5. The Planning Director may cause the removal of any sign which is located within the public right-of-way or which is affixed to public property, for which prior written approval has not been granted. The Planning Director shall not be required to give notice prior to such removal, and any notice, appeal, or other enforcement provisions of this chapter shall not apply. The Planning Director shall make a report of the cost of removal, and the origin of said sign or other matter, and shall forward a copy of that report to the City Attorney to initiate recovery of such costs.

D. Removal of Dangerous Signs. When it is determined by the Planning Director or other City agent that a sign poses an imminent danger to the public safety, and contact cannot readily be made with the property owner or the sign owner, no written notice shall be served. In this emergency situation, the Planning Director or other City agent may cause the immediate removal of a dangerous sign without notice.

E. Disposal of Removed Signs. Any sign removed by the Planning Director or other City agent pursuant to the provisions of this chapter shall become the property of the City, and may be disposed of in any manner deemed appropriate by the City. The cost of removal of the sign by the City shall be considered a debt owed to the City by the owner of the sign and the owner of the property and may be recovered in an appropriate court action by the City or by assessment against the property as hereinafter provided. The cost of removal shall include any and all incidental expenses incurred by the City in connection with the sign's removal. When it is determined by the Building Inspector that said sign would cause an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the Building Inspector may effect correction of the danger.

~~F. Appeal. Any person aggrieved by any decision or order of the Planning Director or other City staff, or the Design Review Board, in regard to signs, may appeal said decision or order, pursuant to Chapter 17.320 SMC.~~

~~G~~F. Penalties. Any person(s) violating any of the provisions of these regulations shall be deemed guilty of an infraction and any person violating the same section or portion of these regulations on a second or subsequent occasion shall thereafter be deemed guilty of a misdemeanor and, upon conviction of either an infraction or a misdemeanor, shall be punishable as provided by law.

Chapter 17.130~~100~~

GENERAL PROVISIONS RELATING TO TELECOMMUNICATIONS FACILITIES AND MINOR ANTENNAS

Sections:

17.~~100~~130.010 Purpose - Applicability.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development of telecommunications facilities and installation of minor antennas. The regulations contained herein are designed to protect and promote public health, safety, and community welfare while at the same time not unduly restricting the development of needed telecommunications facilities and important amateur radio installations. They have been also developed to further the policies of the Sebastopol General Plan.

It is furthermore intended that these regulations specifically accomplish the following:

A. Protect the visual character of the City from the potential adverse effects of telecommunications facility development and minor antenna installation;

B. Protect the inhabitants of the City from the possible adverse health effects associated with exposure to high levels of NIER (nonionizing electromagnetic radiation);

C. Protect the environmental resources of the City;

D. Create telecommunications facilities that will serve as an important and effective part of the City's emergency response network;

E. Any antenna and its associated support structure installed for the sole use of Federally licensed amateur radio operators in the Amateur Radio Service shall not, by definition, be considered telecommunications facilities and shall be exempt from any other antenna or telecommunications facility ordinances enacted by the City, and shall be regulated solely by the following; and

F. Simplify and shorten the process for obtaining necessary permits for telecommunications facilities while at the same time protecting the legitimate interests of the City's citizens.

17.~~100~~130.020 General provisions.
The following requirements shall be met for all telecommunications facilities and minor antennas in any zoning district:

A. Any applicable General Plan policies, specific plan, area plan, local area development guidelines, and the permit requirements of any agencies which have jurisdiction over the project;

B. The other chapters of this title that are not superseded by the requirements contained in this chapter;

C. Adopted International Building Code requirements pursuant to SMC 15.04 ~~The Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, and fire safety standards~~, where applicable;

D. Any applicable Airport Land Use Commission regulations and Federal Aviation Administration regulations;

E. Any applicable easements or similar restrictions on the subject property, including neighborhood, community, or homeowners' association standards;

F. Telecommunications facilities and minor antennas cannot be located in any required yard setback area of the zoning district in which it is located;

G. All setbacks shall be measured from the base of the tower or structure closest to the applicable line or structure;

H. Comply at all times with all FCC rules, regulations, and standards, including any requirement that minor antennas and telecommunications facilities do not cause interference with other communication facilities and devices, such as telephones, television sets, radios, etc.;

I. Maintain in place a security program when determined necessary by the Police Chief that will prevent unauthorized access and vandalism; and

J. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function. ~~(Formerly 17.100.010(B))~~

17.~~100~~130.030 Minor antennas - Basic requirements.
Minor antennas as defined in SMC 17.08.030 may be installed, erected, maintained and/or operated in any zoning district where such antennas are permitted under this title as long as all the following conditions are met:

A. The minor antenna use involved is accessory to the primary use of the property which is not a telecommunications facility;

B. No more than a total of six antennas, satellite dishes no greater than 10 feet in diameter, panel antennas with up to three panels, or combination thereof, are allowed on the parcel;

C. The combined NIER levels produced by all the antennas present on the parcel does not exceed the NIER standard established in SMC 17.~~100~~130.230;

D. The antenna is not situated between the primary building on the parcel and any public or private street adjoining the parcel;

E. The antenna is located outside all yard and street setbacks specified in the zoning district in which the antenna is to be located and no closer than 20 feet to any property line, except if mounted on a primary structure;

F. None of the guy wires employed are anchored within the area in front of the primary structure on the parcel;

G. No portion of the antenna array extends beyond the property lines or into the area in front of the primary building on the parcel;

H. At least 10 feet of horizontal clearance exists between the antenna and any power lines, unless more clearance is required to meet PUC standards. The more stringent standard shall apply;

I. All towers, masts and booms are made of a noncombustible material and all hardware such as brackets, turnbuckles, clips, and similar type equipment subject to rust or corrosion has been protected either by galvanizing or sheradizing after forming;

J. The materials employed are not unnecessarily bright, shiny or reflective and are of a color and type that blends with the surroundings to the greatest extent possible;

K. The installation is in compliance with the manufacturer's structural specifications and the requirements of ~~the Uniform Building Code including Section 507, Exceptions Table SD, Table 23-24 and Section 3602~~SMC 15.04;

L. The height of the facility shall include the height of any structure upon which it is placed, except if a specific exception is provided for under this chapter;

M. All towers in excess of 10 feet shall be within a fenced yard or be anti-climbing equipped under OSHA regulations;

N. The general criteria set forth in SMC 17.~~100~~130.010 are met;

O. The following minor antennas are exempt from SMC 17.~~100~~130.040 through 17.~~100~~130.060 and are permitted uses in the zoning districts indicated below:

1. A ground- or building-mounted receive-only satellite dish that is 3.28 feet or less in diameter in any area regardless of land use or zoning category;

2. A ground- or building-mounted receive or transmission satellite dish that is 6.56 feet or less in diameter in areas with commercial or industrial zoning;

3. An antenna that is designed to receive television broadcast signals when not located within public view in any area regardless of land use or zoning category. ~~(Formerly 17.100.010(C))~~

17.~~100~~130.040 Minor antennas - Satellite dishes.
A. Ground- and building-mounted satellite dishes may be installed, erected, maintained, and/or operated in any zoning district where minor antennas, as defined in ~~Chapter~~ SMC 17.08~~ SMC~~, are permitted so long as all the following conditions are met:

1. The minimum standards specified in SMC 17.~~100~~130.020 are complied with;

2. No more than two satellite dishes are allowed on the parcel, one of which may be over 3.28 feet in diameter, but no larger than 10 feet in diameter;

3. Any roof-mounted satellite dish larger than two feet in diameter is located in back of, and does not extend above, the peak of the roof;

4. Any ground-mounted satellite dish with a diameter greater than four feet that is situated less than five times its actual diameter from adjoining property lines has screening treatments located along the antenna's non-reception window axes and low-level landscape treatments along its reception window axes; and

5. For any roof or mast-mounted satellite dish larger than 3.28 feet in diameter, a building permit has been obtained and compliance with the applicable standards ~~listed in Sections 613.0 and 615.0 of the BOCA Basic Building Code~~ of SMC 15.04has been demonstrated to the satisfaction of the Building Official.

B. No person shall place a satellite dish larger than 6.56 feet in diameter on private property without first submitting sufficient information to the Planning Director, including but not limited to a site plan and elevations, to determine compliance with this section and SMC 17.~~100~~130.010 and 17.~~100~~130.020. The Planning Director may approve, disapprove or modify the proposed placement. In addition, he/she may require that the satellite dish be of a specific diameter, color, or type of construction. ~~(Formerly 17.100.010(D))~~

17.~~100~~130.050 Minor antennas - Panel antennas.
Ground- and building-mounted panel antennas, as defined in SMC 17.08.030, may be installed, erected, maintained, and/or operated in any zoning district where minor antennas are permitted so long as all the following conditions are met:

A. The minimum standards specified in SMC 17.~~100~~130.020 are complied with;

B. No more than one panel antenna with up to three panels is present on the parcel;

C. Any roof-mounted panel antenna with a face area greater than 3.5 square feet for each panel is located behind, and does not extend above, the peak of the roof nearest the closest inhabited area off site, or public road, if there is one. (Formerly 17.~~100~~130.010(E))

17.~~100~~130.060 Other minor antennas.
Ground- and building-mounted radio and receive-only television antennas may be installed, erected, maintained, and/or operated in any zoning district where minor antennas are permitted under this title so long as all the following conditions are met:

A. The minimum standards specified in SMC 17.~~100~~130.020 are complied with;

B. No boom or any active element of the antenna is longer than 15 feet;

C. Any wire antenna that is not self-supporting is supported by objects within the property lines but not within the area in front of the primary structure on the property. ~~(Formerly 17.100.010(F))~~

17.~~100~~130.070 Telecommunications facilities - Minimum application requirements.
The following are the minimum criteria applicable to all telecommunications facilities. In the event that a project is subject to discretionary and/or environmental review, mitigation measures, more restrictive criteria than presented in this chapter, or other conditions of approval may also be necessary. All telecommunications facilities shall comply with:

A. The Planning Director shall establish and maintain a list of information that must accompany every application for the installation of a telecommunications facility. Said information may include, but shall not be limited to, completed supplemental project information forms, a specific maximum requested gross cross-sectional area, or silhouette, of the facility; service area maps, network maps, alternative site analysis, visual impact demonstrations including mock-ups and/or photo-montages, facility design alternatives to the proposal, visual impact analysis, NIER (nonionizing electromagnetic radiation) exposure studies, title reports identifying legal access, security programs, lists of other nearby telecommunications facilities, and deposits for peer review. The Planning Director may release an applicant from having to provide one or more of the pieces of information on this list upon a finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted; and

B. The Planning Director is explicitly authorized at his/her discretion to employ on behalf of the City an independent technical expert to review any technical materials submitted including, but not limited to, those required under this section and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required. The applicant shall pay all the costs of said review, including any administrative costs incurred by the City. Any proprietary information disclosed to the City or the expert hired shall remain confidential and shall not be disclosed to any third party. ~~(Formerly 17.100.010(G))~~

17.~~100~~130.080 Telecommunications facilities - Standard agreements required.
A. A maintenance/facility removal agreement signed by the applicant shall be submitted to the Planning Director prior to approval of the use permit or other entitlement for use authorizing the establishment or modification of any telecommunications facility which includes a telecommunications tower, one or more new buildings/equipment enclosures larger in aggregate than 300 square feet, more than three satellite dishes of any size, or an applicant's successors-in-interest to properly maintain the exterior appearance and ultimately remove the facility, all in compliance with the provisions of this chapter and any conditions of approval. It shall further bind them to pay all costs for monitoring compliance with and enforcement of the agreement and to reimburse the City for all costs incurred to perform any work required of the applicant by this agreement that the applicant fails to perform. It shall also specifically authorize the City and/or its agents to enter onto the property and undertake said work so long as:

1. The Planning Director has first provided the applicant the following written notices:

    a. An initial compliance request identifying the work needed to comply with the agreement and providing the applicant at least 45 calendar days to complete it; and

    b. A follow-up notice of default specifying the applicant's failure to comply with the work within the time period specified and indicating the City's intent to commence the required work within 10 working days;

2. The applicant has not filed an appeal pursuant to ~~Chapter~~ SMC 17.455~~320~~ ~~SMC~~ within 10 ~~—~~ working days of the notice required under subsection (A)(1)(b) of this section. If an appeal is filed, the City shall be authorized to enter the property and perform the necessary work if the appeal is dismissed or final action on it taken in favor of the Planning Director.

B. All costs incurred by the City to undertake any work required to be performed by the applicant pursuant to the agreement referred to in subsection A of this section including, but not limited to, administrative and job supervision costs, shall be borne solely by the applicant. The applicant shall deposit within 10 working days of written request therefor such costs as the City reasonably estimates or has actually incurred to complete such work. When estimates are employed, additional monies shall be deposited as needed within 10 working days of demand to cover actual costs. The agreement shall specifically require the applicant to immediately cease operation of the telecommunications facility involved if the applicant fails to pay the monies demanded within 10 working days. It shall further require that operation remain suspended until such costs are paid in full. ~~(Formerly 17.100.010(H))~~

17.~~100~~130.090 Telecommunications facilities - Life of permits.

A. A use permit issued ~~pursuant to this chapter~~ or a site plan approval issued pursuant to ~~Chapters 17.250 and 17.260 SMC~~the SMC authorizing establishment of a telecommunications facility must be renewed every 10 years via the ~~site plan approval~~applicable process specified in SMC ~~Chapter~~ 17.400, 17.405, and ~~250 SMC~~17.415. The grounds for nonrenewal shall be limited to a finding that:

(1) The use involved is no longer allowed in the zoning district involved,

(2) T~~t~~he facility fails to comply with the relevant requirements of this chapter as they exist at the time of renewal and the permittee has failed to supply assurances acceptable to the Planning Director that the facility will be brought into compliance within 120 days,

(3) The permittee has failed to comply with the conditions of approval imposed,

(4) The facility has not been properly maintained, or

(5) The facility has not been upgraded to minimize its impact to the greatest extent permitted by the technology that exists at the time of renewal and is consistent with the provisions of universal service at affordable rates.

The grounds for appeal of issuance of a renewal shall be limited to a showing that one or more of the situations listed above do in fact exist or that the notice required under SMC 17.~~100~~130.260 was not provided.

B. If a use permit or other entitlement for use is not renewed, it shall automatically become null and void without notice or hearing 10 years after it is issued or upon cessation of use for more than a year and a day, whichever comes first. Unless a new use permit or entitlement of use is issued within 120 days thereafter, all improvements installed including their foundations down to three feet shall be removed from the property and the site restored to its natural pre-construction state within 180 days of nonrenewal or abandonment. Any access road installed shall also be removed and the ground returned to its natural condition unless the property owner establishes to the satisfaction of the Planning Director that these sections of road are necessary to serve some other allowed use of the property that is currently present or to provide access to adjoining parcels. ~~(Formerly 17.100.010(I))~~

17.~~100~~130.100 Telecommunications facilities - Structural requirements.

No telecommunications facility shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any telecommunications tower shall be designed and maintained to withstand without failure the maximum forces expected from wind, earthquakes, and ice when the tower is fully loaded with antennas, transmitters and other equipment, and camouflaging. Initial demonstration of compliance with this requirement shall be provided via submission of a report to the Building Official prepared by a structural engineer licensed by the State of California describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of

ongoing compliance shall be provided via submission to the Planning Director at least every five (self-supporting and guyed towers)/10 (monopoles) years of an inspection report prepared by a California-licensed structural engineer indicating the number and types of antennas and related equipment actually present and indicating the structural integrity of the tower. Based on this report, the Building Official may require repair of or, if a serious safety problem exists, removal of the tower. ~~(Formerly 17.100.010(J))~~

17.~~100~~130.110 Telecommunications facilities - Basic tower and building design.
All telecommunications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end all the following measures shall be implemented:

A. Telecommunications towers shall be constructed out of metal or other nonflammable material;

B. Telecommunications towers taller than 35 feet shall be monopoles or guyed/lattice towers except where satisfactory evidence is submitted to the Planning Director or Planning Commission, as appropriate, that a self-supporting tower is required to provide the height and/or capacity necessary for the proposed telecommunications use to minimize the need for screening from adjacent properties, or to reduce the potential for bird strikes;

C. Telecommunications towers shall not exceed 100 feet in height unless the following findings are made by the Planning Commission: that it is not technically feasible to have a tower below this height at the requested location, that alternative locations which would not require a tower height in excess of the standard given above are not available or feasible, that the facility blends with the surrounding existing natural and manmade environment in such a manner as to be effectively unnoticeable; and that the requirements of SMC 17.~~100~~130.010 through 17.~~100~~130.230 are met;

D. Satellite dishes other than microwave dishes shall be of mesh construction, except where technical evidence is acceptable to the Planning Director or Planning Commission, as appropriate, is submitted showing that this is infeasible;

E. Telecommunications support facilities (i.e., vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed out of non-reflective materials (visible exterior surfaces only);

F. Telecommunications support facilities shall be no taller than one story (15 feet) in height and shall be treated to look like a building or facility typically found in the area;

G. Telecommunications support facilities in areas of high visibility shall where possible be sited below the ridgeline or designed (i.e., placed underground, depressed, or located behind earth berms) or other mitigation measures to minimize their profile;

H. All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunications site shall be initially painted and thereafter repainted as necessary with a “flat” paint, if it is determined by the decision-making body that the native coloring of the facility does not provide adequate blending with the surrounding environment. The color selected shall be one that, in the opinion of the Planning Director or Planning Commission, after receiving a Design Review Board recommendation, as appropriate, will minimize their visibility to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils, trees or grasslands and adjacent structures, when present, shall be painted colors matching these landscapes and structures, while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location; and

I. The project description and permit shall include a specific maximum allowable gross cross-sectional area, or silhouette, of the facility. The silhouette shall be measured from the “worst case” elevation perspective. (Formerly 17.~~100~~130.010(K))

17.~~100~~130.120 Telecommunications facilities - Critical disaster response facilities.
A. All radio, television and voice communication facilities providing service to government or the general public shall be designed to survive a natural disaster without interruption in operation. To this end all the following measures shall be implemented:

1. Nonflammable exterior wall and roof covering shall be used in the construction of all buildings;

2. Openings in all buildings shall be protected against penetration by fire and windblown embers;

3. The telecommunications tower when fully loaded with antennas, transmitters, and other equipment and camouflaging shall be designed to withstand the forces expected during the "maximum credible earthquake" All equipment mounting racks and equipment used shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it;

4. All connections between various components of the facility and with necessary power and telephone lines shall be protected against damage by wildfire, flooding, and earthquake; and

5. Measures shall be taken to ensure that the facility is operational in the event of a disaster or power loss.

B. Demonstration of compliance with the requirements of subsections (A) (1), (2), (4) and (5) (fire only) of this section shall be evidenced by a certification signed by the Fire Chief on the building plans submitted.

C. Demonstration of compliance with the requirements of subsections (A)(3) through (5) (earthquake only) of this section shall be provided via a second certification on said plans signed by a structural engineer or other appropriate professional licensed by the State of California. ~~(Formerly 17.100.010(L))~~

17.~~100~~130.130 Telecommunications facilities - Location.
All telecommunications facilities shall be located so as to minimize their visibility and the number of distinct facilities present. To this end all of the following measures shall be implemented:

A. No telecommunications facility shall be installed within the safety zone of any airport or helipad unless the operator indicates that it will not adversely affect the operation of the airport;

B. No telecommunications facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless technical evidence acceptable to the Planning Director or Planning Commission, as appropriate, is submitted showing that this is the only technically feasible location for this facility;

C. No telecommunications facility shall be installed on an exposed ridgeline, in or at a location readily visible from a public trail, public park or other outdoor recreation area, or on property designated with a W (Wetland) or SOS (Scenic and Open Space Combining District), unless the Planning Commission makes a finding upon issuance of the use permit that it blends with the surrounding existing natural and manmade environment in such a manner as to be effectively unnoticeable and that no other location is technically feasible;

D. No telecommunications facility that is readily visible from off-site shall be installed closer than one-quarter mile from another readily visible uncamouflaged or unscreened telecommunications facility unless it is a co-located facility, situated on a multiple-user site, or blends with the surrounding existing natural and manmade environment in such a manner as to be effectively unnoticeable;

E. No telecommunications facility that is readily visible from off-site shall be installed on a site that is not already developed with telecommunications facilities or other public or quasi-public uses unless it blends with the surrounding existing natural and manmade environment acceptable to the Planning Director or Planning Commission, as appropriate, and information is submitted showing a clear need for this facility and the infeasibility of co-locating it on one of these former sites; and

F. Telecommunications towers shall be set back at least 20 percent of the tower height from all property lines and at least 100 feet from any public trail, park, Laguna buffer setback, or property line. ~~(Formerly 17.100.010(M))~~

G. No commercial minor antenna greater than 35 feet in height and no major telecommunication facility may be installed within 75 feet of any property line of a parcel with a residential dwelling unit which is within 75 feet of said property line.

17.~~100~~130.140 Telecommunications facilities - Height determination.
Telecommunications tower shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crank-up" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. ~~(Formerly 17.100.010(N))~~

17.~~100~~130.150 Telecommunications facilities - Co-located and multiple-user facilities.
A. An analysis shall be prepared by or on behalf of the applicant, subject to the approval of the decision-making body, which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed telecommunications service. The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the subject area. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the decision-making body making a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site. The City may require independent verification of this analysis at the applicant's expense. Facilities which are not proposed to be co-located with another telecommunications facility shall provide a written explanation why the subject facility is not a candidate for co-location.

B. All co-located and multiple-user telecommunications facilities shall be designed to promote facility and site sharing. To this end telecommunications towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities and equipment buildings shall be shared by site users when in the determination of the Planning Director or Planning Commission, as appropriate, this will minimize overall visual impact to the community.

C. The facility shall make available unutilized space for co-location of other telecommunications facilities, including space for these entities providing similar, competing services. A good faith effort in achieving co-location shall be required of the host entity. Requests for utilization of facility space and responses to such requests shall be made in a timely manner and in writing and copies shall be provided to the City's permit files. Unresolved disputes may be mediated by the Planning Commission. Co-location is not required in cases where the addition of the new service or facilities would cause interference of the host's signal or if it became necessary for the host to go off-line for a significant period of time. ~~(Formerly 17.100.010(O))~~

17.~~100~~130.160 Telecommunications facilities - Lighting.
A. All telecommunications facilities shall be unlit except for the following:

1. A manually operated or motion-detector-controlled light above the equipment shed door which shall be kept off except when personnel are actually present at night; and

2. The minimum tower lighting required under FAA regulation; and

B. Where tower lighting is required, it shall be shielded or directed to the greatest extent possible in such a manner as to minimize the amount of light that falls onto nearby residences. ~~(Formerly 17.100.010(P))~~

17.~~100~~130.170 Telecommunications facilities - Roads and parking.
All telecommunications facilities shall be served by the minimum roads and parking areas necessary. To this end all the following measures shall be implemented:

A. Existing roads shall be used for access, whenever possible, and be upgraded the minimum amount necessary to meet standards specified by the Fire Chief and City Engineer. Any new roads or parking areas built shall, whenever feasible, be shared with subsequent telecommunications facilities and/or other permitted uses. In addition, they shall meet the width and structural requirements of the Fire Chief and City Engineer;

B. Existing parking areas shall, whenever possible, be used; and

C. Any new parking areas constructed shall be no larger than 350 square feet. ~~(Formerly 17.100.010(Q))~~

17.~~100~~130.180 Telecommunications facilities - Vegetation protection and facility screening.
All telecommunications facilities shall be installed in such a manner so as to maintain and enhance existing native vegetation and to install suitable landscaping to screen the facility, where necessary. To this end all of the following measures shall be implemented:

A. A landscape plan shall be submitted with project application submittal indicating all existing vegetation that is to be retained on the site and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land uses and public view areas. The landscape plan shall be in compliance with SMC ~~Chapter~~ 15.36~~ SMC~~, Water Efficient Landscape Program, and shall be subject to review and approval of the Design Review Board. All trees protected under SMC ~~Chapter~~ 8.12~~ SMC~~, Tree Protection, shall be identified in the landscape plan with indication of species type, diameter at four and one-half feet high, and whether it is to be retained or removed with project development;

B. Existing trees and other screening vegetation in the vicinity of the facility and along the access roads and power/telecommunications line routes involved shall be protected from damage, both during the construction period and thereafter. To this end, the following measures shall be implemented:

1. A tree protection plan shall be submitted with building permit or improvement plan submittal in accordance with SMC ~~Chapter~~ 8.12~~ SMC~~, Tree Protection. This plan shall be prepared by a certified arborist and give specific measures to protect trees during project construction;

2. Grading, cutting/filling, and the storage/parking of equipment/vehicles shall be prohibited in landscaped areas to be protected and the dripline of any trees required to be preserved. Such areas shall be fenced to the satisfaction of the Planning Director or Design Review Board, as appropriate. Trash, debris, or spoils shall not be placed within these fences nor shall the fences henceforth be opened or moved until the project is complete and written approval to take the fences down has been received from the Planning Director; and

3. All underground lines shall be routed such that a minimum amount of damage is done to tree root systems;

C. All areas disturbed during project construction other than the access road and parking areas required under SMC 17.~~100~~130.170 shall be replanted with vegetation compatible with the vegetation in the surrounding area (e.g., ornamental shrubs or natural brush, depending upon the circumstances) to the satisfaction of the Planning Director;

D. Any existing trees or significant vegetation that die subsequent to installation of a tower shall be replaced with native trees and vegetation of a size and species acceptable to the Planning Director and City Arborist; and

E. No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunications lines serving it. ~~(Formerly 17.100.010(R))~~

F. All telecommunication facilities shall blend with the surrounding existing natural and manmade environment ~~in such a manner as to be effectively unnoticeable.~~to the extent reasonably feasible.

17.~~100~~130.190 Telecommunications facilities - Fire prevention.

A. All telecommunications facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end all of the following measures shall be implemented:

1. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;

2. Monitored automatic fire extinguishing systems approved by the Fire Chief shall be installed in all equipment buildings and enclosures;

3. Rapid entry (KNOX) systems shall be installed as required by the Fire Chief;

4. Type and location of vegetation and other materials within 10 feet of the facility and all new structures, including telecommunications towers, shall have review for fire safety purposes by the Fire Chief. Requirements established by the Fire Chief shall be followed; and

5. All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to building permit finalization or commencement of operation, whichever comes first; and

B. Demonstration of compliance with requirements in subsections (A) (1) through (4) of this section shall be evidenced by a certificate signed by the Fire Chief on the building plans submitted. ~~(Formerly 17.100.010(S))~~

17.~~100~~130.200 Telecommunications facilities - Environmental resource protection.

All telecommunications facilities shall be sited so as to minimize the effect on environmental resources. To that end the following measures shall be implemented:

A. No telecommunications facility or related improvements including but not limited to access roads and power lines shall be sited so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species;

B. No telecommunications facility or related improvements shall be sited such that their construction will damage an archaeological site or have an adverse effect on the historic character of a historic feature or site;

C. No telecommunications facility shall be sited such that its presence threatens the health or safety of migratory birds;

D. The facility installation shall comply with the policies contained with the Laguna de Santa Rosa Master Plan as contained within the Sebastopol General Plan pertaining to buffer setbacks from the Laguna, biotic resource protection and visual impact;

E. The facility shall comply with ~~Chapter~~ SMC15.16 ~~SMC~~, Flood Damage Prevention;

F. Potential adverse visual impacts which might result from project related grading or road construction shall be minimized;

G. Potential adverse impacts upon nearby public use areas such as parks or trails shall be minimized; and

H. Drainage, erosion, and sediment controls shall be required as necessary to avoid soil erosion and sedimentation of waterways. Structures and roads on slopes of 10 percent or greater shall be avoided. Erosion control measures shall be incorporated for any proposed facility which involves grading or construction near a waterway or on lands with slopes over 10 percent. Natural vegetation and topography shall be retained to the extent feasible. (Formerly 17.~~100~~130.010(T))

17.~~100~~130.210 Telecommunications - Noise and traffic.
All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of nearby recreational areas such as public parks and trails. To that end all the following measures shall be implemented:

A. Outdoor noise producing construction activities shall only take place on weekdays ~~—~~(Monday through Friday) between the hours of 7:30 a.m. and 5:30 p.m. unless allowed at other times by the Planning Commission;

B. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Noise attenuation measures shall be included to reduce noise levels to an exterior noise level of at least an Ldn of 60 dB at the property line and an interior noise level of an Ldn of 45 dB;

Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.; and

C. Traffic at all times shall be kept to an absolute minimum, but in no case more than two round trips per day on an average annualized basis once construction is complete. ~~(Formerly 17.100.010(U))~~

17.~~100~~130.220 Telecommunications facilities - Visual compatibility.
A. Facility structures and equipment shall be located, designed and screened to blend with the existing natural or built surroundings so as to reduce visual impacts to the extent feasible considering the technological requirements of the proposed telecommunications service and to be compatible with neighboring residences and the character of the community.

B. The facility is designed to blend with any existing supporting structure and does not substantially alter the character of the structure or local area.

C. Following assembly and installation of the facility, all waste and debris shall be removed and disposed of in a lawful manner; and

D. A visual analysis, which may include photo montage, field mock-up, or other techniques, shall be prepared by or on behalf of the applicant which identifies the potential visual impacts, at design capacity, of the proposed facility to the satisfaction of the Planning Director. Consideration shall be given to views

from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunications facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunications service. ~~(Formerly 17.100.010(V))~~

17.~~100~~130.230 Telecommunications facilities - NIER exposure.
A. Telecommunications facility shall not be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end no telecommunications facility or combination of facilities shall produce at any time power densities in any inhabited area as this term is defined in SMC 17.08 that exceed the FCC adopted NEIR standard for human exposure, as amended from time to time.

B. Initial compliance with this requirement shall be demonstrated for any facility within 400 feet of residential uses or sensitive receptors such as schools, churches, hospitals, etc., and all broadcast radio and television facilities, regardless of adjacent land uses, through submission, at the time of application for the necessary permit or entitlement, of NIER (nonionizing electromagnetic radiation) calculations specifying NIER levels in the inhabited area where the levels produced are projected to be highest. If these calculated NIER levels exceed 80 percent of the NIER standard established by this section, the applicant shall hire a qualified electrical engineer licensed by the State of California to measure NIER levels at said location after the facility is in operation. A report of these measurements and his/her findings with respect to compliance with the established NIER standard shall be submitted to the Planning Director. Said facility shall not commence normal operations until it complies with, or has been modified to comply with, this standard. Proof of said compliance shall be a certification provided by the engineer who prepared the original report. In order to assure the objectivity of the analysis, the City may require, at the applicant's expense, independent verification of the results of the analysis.

C. Every telecommunications facility within 400 feet of an inhabited area and all broadcast radio and television facilities shall demonstrate continued compliance with the NIER standard established by this section. Every five years a report listing each transmitter and antenna present at the facility and the effective radiated power radiated shall be submitted to the Planning Director. If either the equipment or effective radiated power has changed, calculations specifying NIER levels in the inhabited areas where said levels are projected to be highest shall be prepared. NIER calculations shall also be prepared every time the adopted NIER standard changes. If calculated levels in either of these cases exceed 80 percent of the standard established by this section, the operator of the facility shall hire a qualified electrical engineer licensed by the State of California to measure the actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Planning Director within five years of facility approval and every five years thereafter. In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.

D. Failure to supply the required reports or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement use. ~~(Formerly 17.100.010(W))~~

17.~~100~~130.240 Telecommunications facilities - Minor facilities.
Minor telecommunications facilities as defined in SMC 17.08 may be installed, erected, maintained and/or operated in any zoning district where such facilities are permitted under this title so long as all the following conditions are met:

A. The facility complies with all of the minimum requirements specified in SMC 17.~~100~~130.010 through 17.~~100~~130.230 except as changed below:

B. The facility use involved is accessory to the primary use of the property which is not a telecommunications facility;

C. The facility does not exceed 35 feet in height;

D. No more than six minor antennas, satellite dishes no greater than 10 feet or less in diameter, panel antennas, or combination thereof, are allowed on the parcel;

E. No more than a single telecommunications tower and one related equipment building/structure is allowed on the parcel;

F. The combined NIER levels produced by all the telecommunications facilities and minor antennas present on the parcel are less than 10 percent of the NIER standard established in SMC 17.~~100~~130.230;

G. The facility is located at least 75 feet away from any residential dwelling unit, except for one single-family residence on the property in which the facility is located;

H. The facility is located outside all yard and street setbacks specified in the zoning district regulations in which the facility is located and no closer than 20 feet to any property line;

I. Traffic at all times shall be kept to an absolute minimum, but in no case more than one round trip per day on an average annualized basis once construction is complete;

J. No native trees 20 inches or larger in diameter measured at four and one-half feet high on the tree would have to be removed;

K. Any new building(s) shall be effectively screened from view from off site;

L. The site has an average cross slope of 10 percent or less;

M. The total silhouette of a tower shall not exceed 80 square feet in area; and

N. All utility lines to the facility from public or private streets shall be undergrounded.

The Planning Director may deny a site plan permit for a minor telecommunications facility that meets all of the above standards if he/she determines, in his/her sole discretion, that the public interest would be furthered by having the Planning Commission review this matter. In that case and the case of any proposed facility that fails to meet one or more of the standards listed above, a use permit approved by the Planning Commission shall be required to construct the facility in question. ~~(Formerly 17.100.010(X))~~

17.~~100~~130.250 Telecommunications facilities - Exceptions.

A. Exceptions to the requirements specified in SMC 17.~~100~~130.010 through 17.~~100~~130.210 may be granted through issuance of a use permit by the Planning Commission. Such a permit may only be approved if the Planning Commission finds, after receipt of sufficient evidence, that failure to adhere to the standard under consideration in the specific instance will not increase the visibility of the facility or decrease public safety.

B. An exception to the requirements of SMC 17.~~100~~130.160 and 17.~~100~~130.180 may only be granted upon written concurrence by the Fire Chief.

C. Tower setback requirements may be waived under any of the following circumstances:

1. The facility is proposed to be co-located onto an existing, legally established telecommunications tower; and

2. Overall, the reduced setback enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible. ~~(Formerly 17.100.010(Y))~~

17.~~100~~130.260 Telecommunications facilities - Public notice.
In addition to the public notice required under ~~Chapter~~ SMC 17.400, the following special noticing shall be provided:

A. Notice of a public hearing on a use permit authorizing the establishment or modification of a telecommunications facility shall be provided to the operators of all telecommunications facilities within one mile of the subject parcel via mailing of the standard legal notice prepared in response to ~~Chapter 17.330 SMC~~SMC 17.400; and

B. Notice of the approval of a site plan by the Planning Director authorizing the establishment or modification of, or the renewal of a permit for, a telecommunications facility or minor antenna needing site plan review shall be mailed to all adjacent property owners within 300 feet. Mailing of said notice shall start an appeal period pursuant to ~~Municipal Code Chapter~~SMC 17.455~~320~~. ~~(Formerly 17.100.010(Z))~~

Chapter 17.141~~1~~0

SMALL WIND TURBINE TOWERS

Sections:

17.141~~1~~0.010 Purpose – Applicability.
The purpose of these special permit criteria is to set forth guidelines and criteria by which specific applications for ~~specific uses~~small wind turbine towers are to be evaluated, in addition to the general use permit criteria of the SMC ~~17.260.030(C)~~. ~~These criteria shall be applicable for the uses/situations specified in this chapter.~~

17.141~~1~~0.050 Small wind turbine tower criteria.
The following criteria shall be applied to small wind energy conversion systems consisting of a wind turbine, a tower and associated control or conversion electronics which will be used primarily to reduce or offset on-site consumption of utility power:

A. Tower height shall be calculated from height above grade of the fixed portion of the tower, excluding the wind turbine.

B. A use permit shall be required for all small wind turbine towers.

C. Applications shall include a site plan and elevations including certification thereof by a California-licensed professional mechanical, structural, or civil engineer.

D. All structural, electrical and mechanical components of the system shall conform to relevant and applicable local, State and national codes.

E. Applications shall include information demonstrating that the system will be used primarily to reduce or offset on-site consumption of electricity.

F. Applications shall include information demonstrating that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states in the application, that the system will not be connected to the electricity grid.

G. Applications shall include information analyzing potential shadow flicker effects on neighboring properties.

H. Applications shall include information certifying that the facility will not cause any disruption or loss of radio, television, telephone or similar signals to neighboring properties.

I. A small wind turbine tower system shall only be located on a parcel that is a minimum of one acre in size.

J. A tower shall not be located closer to a property line than one and one-half times the height of the tower.

K. Tower height shall not exceed a maximum height of 55 feet in residential districts, and 65 feet in nonresidential districts, and shall comply with any applicable Federal Aviation Administration (FAA) requirements.

L. Towers and associated equipment shall be of a nonobtrusive color, and towers shall not be lighted unless required by the FAA or other agency.

M. Except during short-term events including utility outages and severe wind storms, the system shall be designed, installed, and operated so that noise generated by the system does not exceed 55 dBA, as measured at the closest neighboring inhabited dwelling.

N. If electricity generated is terminated for 12 months or longer, the tower and all equipment associated with the system shall be removed.

O. In considering a use permit, the Planning Commission shall have the authority to modify these standards based on specific characteristics of the property or the proposed installation, provided the Commission finds that such modifications are consistent with the intent of these regulations and of this title to promote harmonious land uses and minimization of adverse effects.

Chapter 17.~~370~~150

CULTURAL HERITAGE

Sections:

17.~~370~~150.010 Purpose.

It is hereby declared as a matter of public policy that the purpose of this chapter is to promote the public health, safety and general welfare by establishing such procedures and providing such regulations as is deemed necessary to:

A. Recognize improvements which represent elements of the City's cultural, social, economic, political and architectural history.

B. Foster civic pride in the beauty and accomplishments of the past.

C. Encourage the protection, restoration, and enhancement of the City's aesthetic and historic attractions to residents, visitors, and others, thereby serving as a stimulus and support to local commerce.

D. Promote the use of landmarks for the education, appreciation and welfare of the people of Sebastopol.

E. Preserve diverse and harmonious architectural styles and designs reflecting phases of the City's history and to encourage complementary, contemporary design and construction.

F. Protect and enhance property values and to strengthen the economy of the City and the financial stability of its inhabitants.

G. Conserve valuable material and energy resources by the ongoing use and maintenance of the existing built environment.

H. Foster and encourage the preservation, restoration and rehabilitation of structures, areas and neighborhoods and thereby prevent future urban blight~~. (Formerly 9.20.010)~~

17.~~370~~150.020 Definitions.

Alteration, substantial means any exterior change or modification through public or private action to a landmark or site of historic interest, substantially affecting the exterior visual qualities of the property excluding ordinary maintenance.

Landmark means any improvement, site or natural feature which has been designated by the Planning Commission as appropriate for recognition pursuant to this chapter. Only such exterior elements which are visible from the public right-of-way may be subject to the controls of this chapter.

Site of historic interest means any improvement which has been designated as contributing to the historical heritage of Sebastopol and determined to be appropriate for official recognition by the Planning Commission pursuant to this chapter. Only such exterior elements which are visible from the public right-of-way may be subject to the controls of this chapter.

Substantial adverse change means any demolition, destruction, relocation, or alteration activities that would impair the significance of a designated resource. ~~(Formerly 9.20.020)~~

17.~~370~~150.030 Powers.
The Planning Commission, or City Council on appeal, shall have the following powers regarding landmarks and sites of historic interest:

A. Designate structures, sites, or other features as official City landmarks or sites of historic interest by resolution of the Planning Commission. However, no landmark or site of historic interest designation may be initiated, nor shall any application for designation be approved by the Planning Commission without the consent of the property owner, and in the case of property owned by the City of Sebastopol, the Planning Commission's actions relative to this chapter shall constitute recommendations to the City Council, with final authority resting with the City Council for such properties.

B. Conduct studies and evaluations of landmark and site of historic interest applications as necessary.

C. Maintain a listing and description of designated landmarks and sites of historic interest.

D. Review applications for significant alterations to or demolition of designated landmarks and sites of historic interest.

E. Remove a landmark or site of historic interest designation.

F. Work for the continuing education of the citizens of Sebastopol about the heritage of the City and its cultural resources.

G. Consult with and advise the City Council in connection with the exercise of the duties set forth in this chapter and in the General Plan.

H. Encourage public participation in the identification and preservation of historic resources.

I. Recommend zoning and General Plan amendments for the purpose of preserving historic resources.

1. The Director of Planning shall have the following powers regarding landmarks and sites of historic interest:

    a. Determine application requirements.

    b. Advise the Planning Commission and City Council regarding applications and other matters pertaining to this chapter.

    c. Determine whether a proposed alteration to a designated landmark or site of historic interest is substantial or not.

2. The City Council shall have the following powers regarding landmarks and sites of historic interest:

    a. Set application fees by resolution.

    b. Hear appeals of decisions of the Planning Commission.

    c. Consider recommendations from the Planning Commission concerning other matters pertaining to historic resources. ~~(Formerly 9.20.030)~~

17.~~370~~150.040 Landmark designation criteria.
For purposes of this chapter, the Planning Commission may approve the landmark designation of a structure, improvement, or natural feature if it finds that it meets one or more of the following criteria:

A. It exemplifies, symbolizes, or manifests elements of the cultural, social, economic, political, or architectural history of the City.

B. It has aesthetic or artistic interest or value, or other noteworthy interest or value.

C. It is identified with historic personages or with important events in local, State or national history.

D. It embodies distinguishing architectural characteristics valuable to a study of a period, style, method of construction, or the use of indigenous materials or craftsmanship, or is a unique or rare example of an architectural design, detail or historical type valuable to such a study.

E. It is a significant or a representative example of the work or product of a notable builder, designer or architect.

F. It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood or the City. ~~(Formerly 9.20.040)~~

17.~~370~~150.050 Site of historic interest designation criteria.
For purposes of this chapter, the Planning Commission may approve a site of historic interest designation of a structure, improvement, or natural feature if it finds that it meets one or more of the following criteria:

A. The site or structure contributes to an understanding of the cultural, social, economic, political, or architectural history of the City.

B. The site or structure is representative of a historical period in the development of Sebastopol.

C. The structure contributes to the historic architectural character of a neighborhood. ~~(Formerly 9.20.050)~~

17.~~370~~150.060 Review of demolition applications and significant alterations of historic resources.
A. The Planning Commission, or City Council on appeal, shall have the authority to conduct a review prior to the demolition or significant alteration of designated landmarks and sites of historic interest. Said review shall be initiated by an application filed by the property owner setting forth the proposed alterations or demolition, and the rationale for same.

B. The Planning Commission, or City Council on appeal, shall approve any proposed alteration or demolition, in whole or part, if it makes a determination in accordance with one or more of the following criteria:

1. In the case of any proposed alteration, restoration, removal or relocation, in whole or part, of or to a landmark or site of historic interest, the proposed work would not detrimentally change, destroy or substantially adversely affect any exterior feature of the landmark or site of historic interest upon which such work is to be done.

2. In the case of a proposed demolition, the applicant has demonstrated that the affected structure is not considered unique or irreplaceable and its removal will not impair the visual, architectural, or historical value of the local setting, and/or the demolition is made necessary by unsafe conditions.

3. A determination is made, based on substantial evidence that denial of the application would result in a significant economic hardship. An application which requests a determination of economic hardship shall provide such information as the Planning Department and Planning Commission determines sufficient, such as:

    a. An estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of the cost that would be incurred to comply with the provisions of this chapter;

    b. A report from a licensed structural engineer or architect with experience in rehabilitation as to the structural soundness of any existing structures on the property and their suitability for rehabilitation;

    c. The estimated value of the property in its current condition; and after completion of the proposed construction, alteration, demolition or removal;

    d. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation of the existing structure(s) on the property;

    e. The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and the buyer;

    f. If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;

    g. The remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years;

    h. All appraisals obtained within the previous two years by the owner or applicant in connection with any actual or contemplated purchase, financing or sale of the property;

    i. Any listing of the property for sale or rent, including the rent or price asked and offers received, if any, within the previous two years;

    j. Assessed value of the property according to the most recent assessment;

    k. The form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, listed partnership, joint venture or other;

    l. Any other information considered necessary to make a determination as to whether the property does yield or may yield a reasonable return to the owners. (Formerly 9.20.060)

17.~~370~~150.070 Removal of landmark or site of historic interest designation.
Criteria for removal of landmark or site of historic interest designation shall include one or more of the following:

A. New information is provided which nullifies the documentation upon which the designation was based.

B. Permitted modifications and alterations to, or destruction by, a catastrophic event or an approved demolition of the designated landmark or site of historic interest have eliminated or compromised the distinctive features which warranted the designation. ~~(Formerly 9.20.070)~~

17.~~370~~150.080 Procedure.
A. The Planning Department shall establish application requirements for landmark and site of historic interest designations, removal of same, and for proposed alterations or demolitions. The Planning Department shall conduct an evaluation of applications, and shall make recommendations to the Planning Commission regarding applications.

B. The property owner may request a landmark or site of historic interest designation or removal of a designation, or review of proposed alterations or demolition by filing an application with the Planning Department. No building permit or other required City permit shall be issued related to a designated landmark or site of historic interest unless required approvals under this chapter have been obtained and work is in conformity with such approvals.

C. Notice of a public hearing on landmark and site of historic interest designations, removal of same, and for proposed alterations or demolitions shall be published at least once no later than 10 days prior to the date of the hearing in a newspaper of general circulation. In addition, mailed notice shall be provided to the property owner, not less than 10 days in advance of the meeting at which the item will be considered. The last known name and address of such owner as shown on the records of the County Assessor may be used for this notice. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record or the non-receipt of any notice mailed pursuant to this chapter shall not invalidate any proceeding in connection with this chapter.

D. The Planning Commission shall conduct a public hearing at the time and place so fixed and noticed.

E. Action of the Planning Commission shall be by resolution, which provides facts and findings based on the criteria set forth in this chapter.

F. Notice of the designation of a landmark or site of historic interest, the removal of said designation, or the approval of alterations or demolition shall be transmitted to all City departments. ~~(Formerly 9.20.080)~~

17.~~370~~150.090 Appeals.
An appeal of a decision by the Planning Commission shall be processed in accordance with the following procedure:

A. Any person may appeal a determination or decision of the Planning Commission by properly filing with the Director of Planning an application to appeal on a form furnished by the Planning Department together with the established fee. Such application shall be filed within seven days from the date of decision.

B. The City Council shall conduct a hearing on the matter within 45 days after a complete appeal application is properly filed. Said time limit may be extended by mutual consent of the applicant and the City.

C. Written notice of the hearing shall be provided to the appellant and to the property owner (if not the appellant), at least 10 days in advance of the hearing. ~~(Formerly 9.20.090)~~

17.~~370~~150.100 Unsafe or dangerous conditions.
Nothing contained in this chapter shall prohibit the making of any necessary alteration, restoration, construction, removal, relocation or demolition, in whole or part, of or to a landmark or site of historic interest pursuant to a valid order of any governmental agency or pursuant to a valid court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. A copy of such valid order of any governmental agency or such valid court judgment shall be filed with the Director of Planning and in such cases, no review of proposed alterations or demolition is required by the Planning Commission. ~~(Formerly 9.20.100)~~

17.~~370~~150.110 Ordinary maintenance.
Nothing contained in this chapter shall be construed to prevent ordinary maintenance or repair or any exterior features of a landmark or site of historic interest which does not involve any detrimental change or modification of such exterior features. Examples of such work shall include, but is not limited to, the following:

A. Construction, demolition or alteration of side and rear yard fences.

B. Construction, demolition or alteration of front yard fences, if no change in appearance occurs.

C. Repairing or repaving of flat concrete or other flat surfacing in the side and rear yards.

D. Repairing or repaving of existing front yard paving, concrete work, and walkways, if the same or comparable material in appearance as existing is used.

E. Roofing work, if no or insignificant change in appearance results.

F. Foundation work, if no or insignificant change in appearance results.

G. Chimney work, if no or insignificant change in appearance results.

H. Landscaping, unless an existing landmark or site of historic interest designation specifically identifies the landscape layout, features, or elements as having particular historical, architectural, or cultural merit.

I. Painting of exterior features consistent with the character of the structure.

J. Replacement of siding, doors, windows and porch elements if no or insignificant change in appearance results.

K. Construction of access ramps pursuant to the requirements of the Americans with Disabilities Act. (Formerly 9.20.110)

17.~~370~~150.120 Waiver.
The Building Official of the City shall have the power to vary or waive any provision of the Building, Electrical, Housing, Mechanical or Plumbing Codes, pursuant to such codes, in any case in which he determines that such variance or waiver does not endanger the public health or safety, and such action is necessary for the continued historical preservation of a landmark or site of historic interest~~. (Formerly 9.20.120)~~

17.~~370~~150.130 Preservation incentives.
All structures designated as landmarks and sites of historic interest shall be eligible for the following incentives:

A. Designated landmarks and sites of historic interest that are privately owned shall be considered qualified historic properties eligible for historical property contracts submitted or entered into, pursuant to State law, and upon resolution of the City Council.

B. The California State Historical Building Code shall be applied to alterations to designated landmarks and sites of historic interest as determined appropriate by the Building Official.

C. Any planning application fees other than fees related to this chapter shall be charged at 50 percent of the normal amount for designated landmarks and sites of historic interest.

D. A landmark or site of historic interest designation shall be considered a unique circumstance for purposes of considering a variance or other exception from the physical development standards of this title. ~~(Formerly 9.20.130)~~

17.~~370~~150.140 Violation.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and shall be deemed to be guilty of a separate offense during each and every day during any portion of which any violation of this chapter is commenced, continued, or permitted by such person, firm or corporation. ~~(Formerly 9.20.140)~~

Chapter 17.~~200~~160

NONCONFORMING USES ~~REGULATIONS~~

Sections:

17.~~200~~160.010 Purpose - Applicability.

The purpose of these regulations is to control, ameliorate, terminate, or lead to the eventual elimination of, uses which do not conform to this title. These regulations shall apply to all nonconforming uses.

17.~~200~~160.020 Right to continue nonconforming use.

A nonconforming use which is in existence on the effective date of the ordinance codified in this title, or of any subsequent rezoning or other amendment thereto which makes such use nonconforming and which existed lawfully under the previous zoning controls, may thereafter be continued and maintained indefinitely, and the rights to such use shall run with the land, except as otherwise specified in the nonconforming use regulations. However, no substitution, extension, alteration, or other change in any nonconforming use is permitted, except as specifically provided hereinafter. If any nonconforming use ceases, the subsequent use of the land or building shall be in conformity with the regulations specified by this title for the district in which such land/building is located.

17.~~200~~160.030 Nonconforming activities.

Nonconforming activity is a use or activity which is not itself permitted in the zone district in which it is located. Nonconforming activities shall be subject to the following:

A. The nonconforming use of a portion of a building may be extended throughout the building, and to new square footage added to the building; provided, that in each case a use permit shall first be obtained.

B. The nonconforming use of a building may be changed to a use of the same or more restricted nature; provided, that in each case a use permit shall first be obtained. If a nonconforming use is replaced by a use of lesser intensity, the occupancy thereafter may not revert to a nonconforming use of greater intensity.

C. If the nonconforming use of a building ceases for a continuous period of 12 months, it shall be considered abandoned and shall thereafter be used only in accordance with the regulations for the district in which it is located. Replacement uses continuing the nonconforming use within the 12-month period shall be substantially similar to the previous nonconforming use. The cessation or abandonment of use shall mean any giving up, closing, surrender, interruption, termination or discontinuance of a nonconforming use, regardless of intent to surrender the nonconforming use.

17.~~200~~160.040 Nonconforming facility.

A nonconforming facility is a building or facility which is not itself permitted in the zone district in which it is located, or does not conform to the density, height, yard, buffering, landscaping or screening, or other requirements applying to facilities. Nonconforming facilities shall be subject to the following:

A. A nonconforming building damaged or destroyed by fire, explosion, earthquake, or other act of an extent of more than 50 percent of the replacement cost, as determined by the Building Official, may be

restored only if made to conform to all the regulations of the district in which it is located; provided, that such building may be restored to a total floor area not exceeding that of the former building if a use permit is first secured in each case.

1. Notwithstanding, single-family residences may be rebuilt and expanded in residential, commercial, industrial, downtown core and office zones without obtaining a use permit; provided, that there is no increase in the number of dwelling units ~~results~~. Any expansion shall be allowed only if it complies with all current development standards for the district in which the subject property is located.

B. Ordinary maintenance and repairs may be made to any nonconforming building, providing no structural alterations are made and providing that such work does not exceed 15 percent of the appraised value in any one-year period, except for single-family residences, which may make improvements and expansions, provided no increase in the number of dwelling units result and that any expansion complies with applicable development standards. Other repairs or alterations may be permitted; provided, that a use permit shall first be secured in each case.

C. Nothing contained in this chapter shall be deemed to require any change in the plans, construction or designated use of any building of which a building permit has properly been issued in accordance with the provisions of ordinances then effective, and upon which actual construction has been started prior to the effective date of the ordinance codified in this chapter; provided, that in all such actual cases construction shall be diligently carried on until completion of the building.

D. Minor antennas and their associated support structure, including those facilities used by licensed amateur radio operators in the Amateur Radio Service, ~~installed~~ approved prior to January 1, 1997 ~~the adoption of the ordinance codified in Chapter SMC 17.1300 SMC, General Provisions Relating to Telecommunications Facilities and Minor Antennas~~, shall be deemed legal, prior existing facilities and shall not be subject to any of the requirements established in Chapter 17.130~~0~~ SMC or the zoning district in which they are located. However, if the facility use is abandoned for a continuous period of twelve months, the facility is destroyed in excess of 50 percent of its appraised value or the facility is expanded, enlarged or rebuilt in excess of 15 percent of the appraised value in any one-year period, then the appropriate requirements of ~~Chapter~~ SMC 17.130~~0~~ SMC shall apply.

Chapter 17.200

DENSITY ALLOWANCES

Sections:

17.200.010 Purpose - Applicability.

The purpose of this general provision is to establish regulations regarding residential densities which apply in all districts that allow residential uses.

17.200.020~~60.055~~ Studio apartment density.

Studio apartments shall count as one-half of a dwelling unit for purposes of calculating allowable densities.

17.200.030~~60.060~~ Maximum density during construction.

Whenever a new residential facility is constructed on any lot upon which there presently exists a residential facility, and such existing facility is to be retained and occupied temporarily pending completion of the new residential structure, the maximum density prescribed for such lot shall be computed upon the basis of the new facility only. However, such existing facility shall be vacated and physically removed within one year after commencement of construction of the new facility unless the existing and new facility together shall conform to said maximum density requirements.

Chapter 17.2106~~0~~

MANUFACTURED HOMES

Sections:

17.2106~~0~~.010 Purpose and intent.

The purpose of this chapter is to establish criteria for manufactured homes consistent with Government Code Section 65852.3.

17.2106~~0~~.020 Standards.

A. A manufactured home and the lot on which it is placed shall be subject to the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking, aesthetic requirements, and minimum square footage requirements.

B. Architectural requirements imposed on a manufactured home structure, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. Architectural requirements for roofing and siding material shall not exceed those which would be required of conventional single-family dwellings constructed on the same lot.

Chapter 17.220

ACCESSORY DWELLING UNITS

Sections:
17.220.010 Purpose.
17.220.020 Accessory dwelling unit criteria.

17.220.010 Purpose.
This chapter provides for accessory dwelling units consistent with Government Code Section 65852.2.

17.220.020~~110.030~~ Accessory dwelling unit criteria.
A. Location. Accessory dwelling units may be allowed only on parcels zoned for single-family, duplex or multifamily use, or on non-residentially zoned properties which are currently used only for a single-family residential use, either simultaneous to or subsequent to construction of the principal dwelling. In addition, an existing dwelling unit that complies with the development standards for accessory dwelling units in subsection D. of this section may be considered an accessory dwelling unit, and a new principal unit may be constructed, which would then be considered the principal dwelling unit.

B. Limitation. In no case shall more than one accessory dwelling unit be placed on the same lot or parcel.

C. All requirements and regulations of the zoning district in which the lot is situated shall apply, except as set forth in subsection D. of this section.

D. Conditions. The accessory dwelling unit may be established by the conversion of an attic, basement, garage or other portion of an existing residential unit or by new construction; a detached accessory dwelling unit may be established by the conversion of an accessory structure or may be established by new construction provided the following criteria are met:

1. Floor Area. The floor area of the accessory dwelling unit shall not exceed:

   a. Parcels of 15,000 sq. ft. or greater with at least four on-site parking spaces: 1,200 square feet.

   b. All other parcels: 840 square feet.

2. The increased floor area of an attached accessory dwelling unit shall not exceed 50% of the existing living area.

3. Height. The height of a one-story detached accessory dwelling unit shall not exceed 17 feet, and a detached two-story accessory dwelling unit shall not exceed 25 feet.

4. Architecture. Accessory dwelling units shall be substantially architecturally compatible with the principal unit and the neighborhood. Architectural compatibility with the existing principal unit may include coordination of colors, materials, siding, roof pitch and style, and other architectural features, and landscaping designed so that the appearance of the site remains that of a single-family residence. Variations in roofline may be permitted if the design is necessary to meet certain building code requirements, such as minimums for the living area ceiling heights.

5. Setbacks. ~~Two-story accessory dwelling units and~~ A~~a~~ccessory dwelling units attached to the primary residence shall be subject to the same minimum side, front, and rear setback requirements as the primary residence. Detached ~~one-story~~ accessory dwelling units shall be

subject to one-half of the primary residence side and rear setbacks, but not less than five feet. However:

a~~i~~. No setback shall be required for a garage existing as of July 1, 2017 that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lots line shall be required for an accessory dwelling unit that is constructed above a garage.

6. Mobile Homes. Mobile homes shall not be used as accessory dwelling units.

7. Manufactured Homes. Manufactured accessory dwelling units, as certified by the State of California, shall be allowed, provided that they are constructed on a permanent foundation, are deemed substantially compatible architecturally with the principal unit by the Planning Director, and adhere to the development standards set forth in this chapter.

8. Utility Connections. At the discretion of the City Engineer, utility connections (sewer, water, gas, electricity, telephone) may or may not be connected to the principal dwelling unit. If utility connections are separate from the principal unit, power and telephone lines shall be underground from the point of source as approved by the respective utility purveyor to the accessory dwelling unit. However:

a~~i~~. For the creation of an accessory dwelling unit contained within the existing space of a single-family residence or accessory structure the City shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

9. Selling Accessory Dwelling Units. The accessory dwelling unit shall be not offered for sale apart from the principal unit.

10. Renting Accessory Dwelling Units. The rental of an accessory dwelling unit is allowed, but not required.

a~~i~~. Accessory dwelling units authorized after July 1, 2017 may not be rented on a transient occupancy basis (less than thirty (30) days), unless a Use Permit for transient occupancy has been granted.

11. Separate Entrance Required. The entry to an attached accessory dwelling unit shall be accessed separately and securely from the principal unit.

a~~i~~. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

12. Applicable Codes. Accessory dwelling units must comply with applicable building, fire and other health and safety codes.

13. Lot Coverage. Accessory dwelling units shall not be considered when calculating the maximum lot coverage allowed.

14. Parking.

a~~i~~. No parking requirement shall apply.

b~~ii~~. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement space may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as

covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

E. Application Procedure. Planning Director approval shall be required for all accessory dwelling units. The property owner shall file a completed administrative review application with the Planning Department and pay all applicable fees. The completed application form shall include, but not be limited to, data on the floor space and height of the proposed unit and the existing residential unit(s), a photograph of the existing residential unit(s), the height of adjacent residences, and an accurately drawn site plan showing the location and size of all existing and proposed structures, the proposed accessory dwelling unit, setbacks, utility connections and vehicle parking.

F. Conversion of Existing Structures into Accessory Dwelling Units. Subject to the approval of the Planning Director, in the case of the conversion of a non-garage one-story building legally constructed prior to October 19, 2004, the rear setback shall conform to the setback requirement for an accessory building; however, the structure is not required to meet the side yard setback if nonconforming. In acting on such an application, the Planning Director may impose conditions requiring physical changes in the unit to ensure conformance to physical development standards.

G. Existing Non-permitted Accessory Dwelling Units. The Planning Director may approve an accessory dwelling unit constructed without benefit of appropriate permits; provided, that the unit conforms to the current California Residential Building Code, is subject to applicable current permit and impact fees, and conforms to setback, height, area, and other physical development standards otherwise applicable.

H. Accessory dwelling units shall not be counted as “development units” under the General Plan density requirements. (Ord. 1085 § 4, 2016)

I. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including sewer and water.

J. If the accessory dwelling unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety, said accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary residence (unless otherwise required by the Fire Chief based on State law). This only applies to development inside of existing residences or accessory structure conversions.

Chapter 17.225

TEMPORARY CARE UNIT

17.225.010 Standards.

A. A temporary care unit may be allowed in any residential district, subject to the standards of the SMC, including applicable height, yard, and setback standards.

B. No additional parking is required for a temporary care unit.

17.225.020 Permit requirements.

A. A temporary care unit requires a temporary use permit.

B. One temporary care unit per parcel may be considered for approval by the Planning Director; more than one temporary dwelling unit per parcel shall be considered for approval by the Planning Commission.

17.225.030 Findings for approval of temporary care units.

Small lot subdivisions conforming to these provisions shall only be approved if the following findings can be made in an affirmative manner:

A. The subject property is physically suitable for the type of development proposed;

B. The applicant has demonstrated a need for the temporary care unit.

C. Appropriate utility connections will be provided.

D. Appropriate setbacks will be provided.

E. The proposed development would be compatible with existing and permissible land uses within the district and the general area in which the proposed use is to be located;

F. Approval of the proposed development will not be detrimental to the public health, safety, convenience or general welfare;

G. Approval of the proposed development is consistent with the General Plan.

Chapter 17.2304~~5~~

SMALL LOT SUBDIVISIONS

Sections:

17.2304~~5~~.010 Purpose and intent.

Notwithstanding the requirements of the standards otherwise applicable in the R-4.36,~~SF-1~~, R-7.26~~SF-2~~, ~~and~~ R-14.52A~~D~~, R-14.52B, R-17.42, and R-24.89 Districts, in order to promote provision of affordable housing units and to help meet inclusionary housing requirements of ~~Chapter~~ SMC17.2504~~0 SMC~~, the following standards are allowed for new single-family residential subdivisions subject to the discretionary review and approval of the Planning Commission and City Council and the requirement that any project must comply with the land densities of the General Plan.

17.2304~~5~~.020 Lot configurations and sizes required.

Small lot subdivisions are permitted on parcels 15,000 square feet or larger only.

1. For subdivisions that range from 15,000 square feet to three acres in size, lot configuration may be of one type or a variety of types.
2. A variety of lot configurations and lot sizes is required when the project involves subdivisions of properties larger than three acres in size.
    a. Lot configurations may include but are not limited to zero lot line lots, angled Z lots, zipper lots, alternate width lots, quad lots, and motor court lots.
    b. Lot sizes can range from 1,5~~2,0~~00 to ~~6~~4,000 square feet or more.

~~**17.245.030 Standards for allowable unit square footage.**~~

~~Allowable unit square footage shall be based on lot square footage for the single-family lots only. Actual house sizes as well as lot sizes in the subdivision may vary so long as the maximum averages shown in the table below are maintained. Maximum allowable unit square footage shall be set for each lot as part of the subdivision approval. House size refers to the gross living areas of the primary dwelling itself; storage sheds, garages, carports, covered patios, and accessory dwelling units are not included.~~

~~Average Lot Size in Square Feet~~	~~Average House Size in Square Feet~~
~~2,000~~	~~1,000~~
~~2,500~~	~~1,100~~
~~3,000~~	~~1,200~~

~~Average Lot Size in Square Feet~~	~~Average House Size in Square Feet~~
~~3,500~~	~~1,300~~
~~4,000~~	~~1,400~~
~~4,500~~	~~1,500~~
~~5,000~~	~~1,600~~
~~5,500~~	~~1,700~~
~~6,000~~	~~1,800~~

~~How to use the table: The first step is to determine the average lot size of the single-family lots in the proposed subdivision. The next step is to determine that the average house size is not greater than shown in the table. The average house size for an average lot size greater than 6,000 square feet shall not exceed 30 percent of the average lot size in square feet.~~

17.2304~~5~~.040 Subsequent alterations or additions.
Subsequent alterations or additions to individual dwellings may be permitted so long as the addition or alteration conforms to building size and setbacks, lot coverage, parking and other relevant requirements.

17.2304~~5~~.050 Minimum yard setback requirement.
A. Rear Yard Setback. The minimum rear yard setback shall be 10 feet.

B. Front Yard Setback. The front yard setback shall be varied but not less than 16 feet, except that a covered porch may extend six feet into the required front yard setback.

C. Side Yard Setbacks. The minimum combined side yard setback for a single parcel shall be eight feet and any main building on two separate lots shall be separated by at least eight feet except for structures sharing common walls.

D. The garage or carport front, when the entrance faces the street, shall be 20 feet to the rear of the public sidewalk, or 20 feet from the property or adopted street plan line, whichever is greater.

17.2304~~5~~.060 Private open space requirement.
All single-family lots shall provide a minimum of ~~20~~150 square feet of usable private open space as described in SMC 17.20.040.

17.2304~~5~~.070 Maximum building height.
The maximum building height shall be 28 feet in height.

17.2304~~5~~.080 Maximum lot coverage.
Sixty-five percent.

17.2304~~5~~.090 Parking requirement.
Parking shall be provided as required by ~~Municipal Code Chapter~~ SMC17.110~~220~~.

17.2304~~5~~.100 Relationship to other development standards.
Except as specifically set forth herein, or in a development standards statement approved in conjunction with subdivision, projects approved under these small lot subdivision standards shall conform to all other requirements of the underlying zoning district as described in this title; SMC Title 16, Subdivisions; and other City requirements.

17.2304~~5~~.110 Findings for approval of small lot subdivisions.

Small lot subdivisions conforming to these provisions shall only be approved if the following findings can be made in an affirmative manner:

A. The subject property is physically suitable for the type of development proposed;

B. The proposed development would be compatible with existing and permissible land uses within the district and the general area in which the proposed use is to be located;

C. Approval of the proposed development will not be detrimental to the public health, safety, convenience or general welfare;

D. Approval of the proposed development is consistent with the General Plan.

Chapter 17.~~50~~240

CONDOMINIUM CONVERSION

Sections:

17.~~50~~240.010 Title.

This chapter shall be known as the "Condominium Conversion Ordinance"

17.~~50~~240.020 Applicability.

This chapter shall apply to the conversion of any existing or approved multifamily residential development (occupied or unoccupied) to a condominium, community apartment project, stock cooperative, or any other subdivision which is a conversion of rental housing.

The conversion of an approved development project which has not yet been constructed shall require an amendment of any discretionary permits previously issued by the City of Sebastopol, as well as the issuance of a final subdivision map, in accordance with SMC Title 16.

This chapter shall not apply to a limited-equity housing cooperative, as defined in Section 11003.4 of the California Business and Professions Code.

17.~~50~~240.030 Purpose.

The purpose of this chapter is to establish criteria and procedures for the conversion of existing multifamily rental housing units to condominiums, community apartments, stock cooperatives, or any other subdivision which is a conversion of rental housing. These regulations are necessary to ensure a continued balance of ownership and rental units in Sebastopol, as well as maintaining a variety of choices of tenure, type, price, and location of such housing units.

This chapter also defines standards which will ensure that the converted units meet physical standards required by applicable laws and ordinances, that purchasers of converted units are properly informed of the physical condition of the structure which is offered for purchase, and which will ensure the performance of long-term maintenance responsibilities in a condominium development.

17.~~50~~240.040 Definitions.

"Condominium," "condominium project," "community apartment," and "stock cooperative" shall be defined in accord with the law of the State of California as the same may from time to time be amended (California Business and Professions Code, California Civil Code). For purposes of this chapter, the term "condominium" shall include all of the above terms.

"Conversion" means a proposed change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, from residential rental realty to a condominium, as defined herein, regardless of whether substantial improvements have been made to such structures. Whenever any building permit has been issued by the City for a multifamily building, any attempt thereafter to make the project a condominium shall constitute a conversion.

Disabled Tenant. For the purposes of this chapter, a "disabled tenant" is an individual with a disability as defined in the California Fair Employment and Housing Act (California Government Code Section 12926).

Just Cause Eviction. A landlord may lawfully evict a tenant for failing to pay rent, violating a lease agreement or refusing to renew a lease, causing damage to the premises or creating a nuisance, using the unit for an illegal purpose, or denying the landlord access to the property. A tenant may also be lawfully evicted if his/her occupancy is conditioned upon employment on the property and that employment is terminated. An owner may also require a tenant to move out if the owner wishes to use the unit for their principal residence or use the unit for the principal residence of the owner's spouse, domestic partner, child, parent, or grandparent. Landlords may also require the vacation of a unit in order to complete repairs for code compliance which repairs may not reasonably be completed with the tenant in residence. In this case, tenants have the right to move back into the unit once the repairs are completed.

"Unjust eviction" means an eviction for any reason other than that defined as a just cause eviction.

17.~~50~~240.050 Fees and deposits.

In addition to the fees charged for services provided by City staff in conjunction with the processing of a condominium conversion permit, as set forth and amended by resolution of the City Council, the applicant shall deposit with the City an amount equal to $250.00 for each unit proposed to be converted which is occupied by a tenant eligible for relocation assistance. These funds shall be used by the City of Sebastopol to cover the costs incurred in monitoring compliance with the obligations set forth under this chapter, and in providing technical assistance for affected tenants. Nothing contained in this chapter shall impose a duty upon the City to pay any relocation benefits to eligible tenants.

The schedule of fees charged for staff services provided in conjunction with the processing of a condominium conversion permit is available from the City Planning Department.

17.~~50~~240.060 Applications.

Condominium conversion applications shall include the following information, and shall be submitted on a form prescribed by the City:

A. All documentation and information required for a tentative subdivision map, as described in SMC Title 16 (Subdivisions) and on forms available from the Planning Department.

B. Full architectural plans, including floor plans that specifically identify the square footage and number of rooms in each unit, building elevations, and a site plan specifically identifying the following:

1. All common areas;

2. The boundaries of each unit;

3. The location of the covered storage area (as defined in SMC 17.240~~50~~.080(E) (3)) for each dwelling unit;

4. Location of all driveways and parking areas, including the number and location of spaces to be designated for each unit;

5. Location of all pedestrian ways;

6. Location of all open storage and refuse areas;

7. Location of all walls and fences.

C. Specific information regarding the demographic characteristics of the project, its current tenants, and expected future occupants, including, but not limited to, the following:

1. Rental rate history for each type of unit for the previous two years, and any utilities included in rent;

2. Monthly vacancy rate for each month during the preceding two years;

3. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving Federal or State rent subsidies;

4. Names and addresses of all tenants;

5. Expiration date of any current lease agreements;

6. Proposed sale price of units;

7. Proposed homeowners' association fee; and

8. Financing available.

D. Declaration of Inclusionary Unit(s). The applicant shall identify which unit(s) will be regulated for affordability in compliance with ~~Chapter~~ SMC 17.250~~240 SMC, Inclusionary Housing Requirements~~. This declaration shall include a preliminary determination as to whether the current tenant(s) of the identified unit(s) meet the income limits for such a regulated unit.

1. If the current tenant does not qualify, the developer shall provide written notification to the tenant that he/she must vacate the unit within one year from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the California Business and Professions Code. Upon vacation of the unit, the developer shall ensure that any future tenant meets the income limits for such a regulated unit.

    a. The developer must provide the Planning Department with written verification that each affected tenant has received the required notification at least 10 days before a public report will be submitted to the Department of Real Estate.

2. The developer shall offer the current tenant the right of first refusal for the purchase of any unregulated unit which becomes available during the one-year time frame. Such an offer shall include the same terms and conditions identified in SMC 17.~~50~~240.090(B) (1) (e).

E. Physical Elements Report. This is a report prepared by a registered engineer or architect, a licensed qualified general contractor, or a licensed building inspection service describing the physical elements of all structures and facilities. The report shall include, but not be limited to, the following:

1. A report detailing the condition of all elements of the property including paving, walkways, and site drainage, foundations, electrical systems, plumbing, heating and air conditioning units, utilities, walls, roof structure and coverings, ceilings, windows, guardrails and steps, fire safety provisions (including fire walls), recreational facilities, exterior and interior insulation (sound and

thermal), ventilation weather stripping, interior and exterior lighting, mechanical equipment, parking facilities, landscaping, and any appliances to be left in the units.

For each element, the report shall state, to the best knowledge or estimate of the applicant, when such element was built or installed, the condition of each element, when said element was replaced (if ever), the approximate date upon which said element may require replacement, the cost of replacing said element, and any variation of the physical condition of said element from the current zoning requirements, including but not limited to parking, setbacks, density, and lot coverage, and from the Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any noncompliant, defective, or unsafe elements and shall set forth recommended corrective measures to be employed.

2. A report from a licensed structural pest control operator on each building and on each unit within a building.

3. A report from a qualified professional indicating that the condominium units comply with the State of California noise insulation standards (California Administrative~~mended~~ Code Section 1092), or outlining the steps that must be taken to ensure compliance.

4. A statement of repairs and improvements to be made by the subdivider which are necessary to refurbish and restore the project to achieve a high degree of appearance and safety.

F. Declaration of Covenants, Conditions, and Restrictions. All condominium projects shall provide an ownership association responsible for the care and maintenance of all common areas and common improvements and any other interest common to the condominium owners. The definition of said ownership association shall be included in a declaration of covenants, conditions, and restrictions which shall be submitted to the City for review, and which shall include, but not be limited to, information regarding the following:

1. Conveyance of units;

2. Assignment of parking;

3. Maintenance schedule and agreement for all common areas, including facilities and landscaped areas, together with an estimate of any initial assessment fees anticipated for such maintenance;

4. Description of a provision for maintenance of all vehicular access areas within the project;

5. An indication of appropriate responsibilities for maintenance of all utility lines and services for each unit;

6. A plan for equitable sharing of communal water metering;

7. A provision that the individual owner cannot avoid liability for his/her prorated share of the expenses for the common area by renouncing rights in the common area; and

8. A provision for the City to make any repairs or engage in any maintenance necessary to abate any nuisances, public health or safety hazards, and assess the owners of the condominium units for such repair or maintenance.

G. Written verification from each tenant of receipt of required notices defined in SMC 17.~~50~~240.090(B).

H. Any other information which, in the opinion of the Planning Director, will assist in determining whether the proposed project will be consistent with the purposes of this chapter.

17.~~50~~240.070 Findings.
The Planning Commission may issue a recommendation for approval, and the City Council may approve a condominium conversion permit if all of the following findings are made:

A. An environmental review has been completed and the proposed condominium project, as conditioned, is found to be in conformance with all statutes of the California Environmental Quality Act.

B. The proposed condominium project, as conditioned, is found to be in conformance with all applicable laws, ordinances, and regulations pertaining to the State Subdivision Map Act and SMC Title 16 (Subdivisions), and to the adopted building and fire codes.

C. The proposed condominium project, as conditioned, is found to be in conformance with the Sebastopol General Plan, especially with the objectives, policies, and programs of the Housing Element that are designed to provide affordable housing to all economic segments of the population, and any applicable specific plan.

D. The developer has submitted documentation substantiating that all required notices have been provided to tenants, and has agreed to provide all future notices, as required by SMC 17.~~50~~240.090.

E. The condominium development, when evaluated as a single entity, is found to be in conformance with current zoning standards in this title for the underlying zoning district. The building setbacks, as measured from the outside walls of the unit(s) closest to any property line, shall conform to existing setback requirements; the maximum height of any portion of any unit may not exceed current height limits; and there must be a sufficient number of parking spaces to satisfy current parking requirements. Lot coverage shall be calculated as follows: the footprint of the entire group of units/the underlying parcel size.

F. The proposed condominium project, as conditioned, is found to comply with the State of California's noise insulation standards.

G. The proposed declaration of covenants, conditions, and restrictions is found to properly address issues defined in SMC 17.~~50~~240.060(E).

H. The overall design of the project is visually appealing, and the physical condition of the project exhibits a high level of quality and safety.

I. The proposed project, combined with any other approved condominium conversions, will not result in the conversion of more than the net production of new multifamily rental units in Sebastopol since the 2000 census year, or the conversion of more than three percent of the multifamily rental units in Sebastopol during the current calendar year, whichever is less.

1. The net production of new multifamily rental units shall be determined by subtracting the total number of multifamily units that have been demolished from the total number of multifamily units that have received certificates of occupancy. This number shall be determined by the Planning Director.

2. The total number of multifamily rental units shall be calculated as follows:

[Total number of renter-occupied housing units (not including "1, detached" and "1, attached") identified in Census Table QT-H10] plus [total number of multifamily housing units constructed since January 1st of the census year]. This number shall be determined by the Planning Director.

J. Vacancies in the project have not been intentionally increased in the 12 months prior to submission of a Condominium Conversion application, for the purpose of preparing the project for conversion through evictions without just cause.

K. The project will not result in the unjust eviction of a senior citizen (62 years or older), disabled, or very low-income tenant, nor will it result in the unjust eviction of a single head of household living with one or more minor children.

L. The project will not result in the loss of housing stock which is regulated for affordability to low- and very low-income households.

17.~~50~~240.080 Conditions of approval.

In addition to any reasonable conditions of approval which the City Council may impose to assure compliance with applicable regulations and standards, the following conditions shall apply to all condominium conversion projects:

A. Any structural or mechanical elements identified in the structural engineer's report as having a useful life of less than two years shall be replaced by the applicant prior to approval of a final subdivision map. The Planning Commission may require that other elements be refurbished and restored in order to achieve high quality appearance and safety.

B. The subdivider shall provide each purchaser with a copy of the physical elements report and the declaration of covenants, conditions and restrictions prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project. Copies of the submittals shall be made available at all times at the sales office and shall be provided to the homeowners' association upon its formation.

C. Prior to the close of escrow, the subdivider shall submit the following information to the Planning Department:

1. Name, address and phone number of homeowners' association;

2. Actual sales price of units;

3. Actual homeowners' association fees;

4. Number of prior tenants who purchased units; and

5. Number of units purchased with intent to be used as rentals.

D. A physical inspection of each unit shall be completed by the Building Official prior to final map approval to ensure compliance with the Housing Code.

E. The following physical standards shall be met. The project shall conform to the applicable codes, as adopted and amended by ~~Uniform Building Code~~SMC 15.04, in effect on the date the last building permit was issued for the subject structure or structures, except as follows:

1. Each dwelling unit shall be separately metered for water, gas, and electricity. One separate water meter shall be installed for common areas.

2. Sound Attenuation. Floor-to-ceiling and wall-to-wall assemblies between each condominium unit must meet sound transmission and sound impact classes of 50 lab test, or 45 field test, as prescribed in the Uniform Building Code for new construction.

3. Each unit shall have at least 200 cubic feet of enclosed weather-proofed and lockable private storage space in addition to guest, linen, pantry and clothes closets customarily provided. Such space may be provided in any location approved by the Planning Department, but shall not be divided into two or more locations.

4. A laundry area shall be provided in each unit; or, if common laundry facilities are provided, such facilities shall consist of not less than one automatic washer and one dryer of equivalent capacity for every five units.

5. The developer shall provide a warranty to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks and air conditioners that are provided have a useful life of at least two years. At such time as the homeowners' association takes over management of the development, the developer shall provide a warranty to the association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the association have a useful life of at least two years. Prior to final map approval, the developer shall provide the City with a copy of warranty insurance covering equipment and appliances pursuant to this section.

6. All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Community Development Department shall be refurbished and restored as necessary to achieve a high degree of appearance, quality and safety. The developer shall provide to the homeowners' association and/or purchaser a minimum two-year warranty on all physical improvements required under this section. If substantial exterior restoration is required, the design plans shall be subject to Design Review.

F. Prior to approval of the final map, the developer shall provide evidence to the City that a long-term reserve fund for replacement has been established in the name of the homeowners' association. Such fund shall equal two times the estimated monthly homeowner's assessment for each dwelling unit.

17.~~50~~240.090 Noticing requirements.

A. Public Hearing Notice. The Planning Commission and City Council shall hold public hearings on the condominium conversion permit, which shall be noticed in accordance with ~~Chapter~~ SMC 17.~~330 SMC (Public Hearing Procedure)~~400.

B. Tenant Notification. All tenant notification requirements described herein are in accordance with California Government Code Section 66427.1, and shall be amended at such time as the Government Code may be amended.

1. Current Tenants.

   a. The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has received written notification of intention to convert at least 60 days prior to the filing of a tentative map.

      The notice shall be as follows:

   To the occupant(s) of (address) _____:

   The owner(s) of this building, at (address), plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and

66452.5 of the California Government Code, and you have the right to appear and the right to be heard at any such hearing.

_____ (Signature of owner or owner's agent)

_____ (Date)

b. The applicant must provide the Planning Department with written verification that each tenant of the proposed condominium project has received 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request.

c. The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has been given written notification within 10 days of approval of a final map for the proposed conversion.

d. The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has been, or will be, given 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion.

e. The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has been, or will be, given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 120 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the California Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

f. These written notices shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

2. Prospective Tenants. Commencing at a date not less than 60 days prior to the filing of a tentative map for the purpose of completing a condominium conversion, the applicant shall give notice of such filing to each person applying after such date for rental of a unit in the subject property immediately prior to acceptance of any rent or deposit from the prospective tenant.

   The notice shall be as follows:

To the prospective occupant(s) of (address) _____:

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the City of Sebastopol to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

_____ (Signature of owner or owner's agent)

_____ (Date)

I have received this notice on (date) _____.

_____ (Prospective tenant's signature)

17.~~50~~240.100 Tenants' rights.

A. Each tenant currently residing in a rental unit which is part of a proposed condominium conversion project shall have the following minimum rights. These rights shall be set forth in a notice of tenants' rights, which the subdivider shall be responsible for providing to the affected tenants.

1. After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in writing 30 days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.

2. No tenant's rent will be increased from the date of issuance of this notice until at least 12 months after the date the subdivider files the tentative map or tentative parcel map with the City; provided, however, that this requirement shall cease upon abandonment of subdivider's efforts to convert the building.

3. No significant remodeling of the interior of tenant-occupied units shall begin until at least 30 days after issuance of the final subdivision public report or, if one is not issued, after the start of subdivider's sales program. (For purposes of this chapter, the start of subdivider's sales program shall be defined as the start of tenants' 120-day first-right-of-refusal period set forth below). This does not preclude the property owner from completing normal maintenance and repair activities.

4. Each tenant shall have an exclusive right to contract for the purchase of his or her unit or, at the tenant's option, any other available unit in the building upon the same or more favorable terms and conditions that such units will be initially offered to the general public, such right to run for at least 120 days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program.

5. Each tenant shall have a right of occupancy of at least 180 days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program, prior to termination of tenancy due to conversion.

6. Tenants who are 62 years or older, disabled, or are very low-income tenants (as defined by HUD) shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building. This provision shall also apply to tenants who are single heads of household with one or more minor children for as long as there are minor children living in the residence. Such leases, to commence no later than the date of issuance of the final subdivision public report, or, if one is not issued, no later than the start of subdivider's sales program, shall be subject to the following conditions:

    a. Tenants shall have the option of canceling the lease at any time upon 30 days' written notice to the owner.

    b. Tenants cannot be evicted except for just cause.

    c. Right of occupancy shall be nontransferable.

d. Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.

7. No low- or moderate-income tenant, and no elderly tenant, shall at any time after the submission of the conversion application be evicted for the purpose of occupancy by the owner, or by occupancy by any relative of the owner. In the event the tenant does not exercise his or her right to purchase within the time period set forth in this section, the owner may transfer the unit without any price restriction to the tenant or any other person. However, in the event such transfer is to someone other than the tenant, the transfer shall be expressly made subject to the rights of the tenant to continue to occupy the unit as provided for in this section.

B. Relocation assistance shall be provided by the subdivider to all persons living in units on the date of approval of a condominium conversion project who choose not to purchase units in the condominium conversion project as follows:

1. Relocation assistance provided by a professional property management agency, at the expense of the developer, in finding a comparable replacement rental unit; such assistance shall include, at a minimum, providing rental availability reports and updating same, assisting tenant(s) in inspecting available units, and providing other personal services related to the relocation of each tenant.

2. Moving expenses paid for by the developer in an amount equal to three times the monthly rent paid by the tenant. The City Council may adjust the maximum moving expense allowable year to year to reflect increases in costs.

3. Utility connection fees paid for by the developer in an amount equal to actual expenses up to a maximum of $100.00. The City Council may adjust the amount required in this subsection year to year to reflect increases in costs.

C. Special relocation assistance shall be provided to eligible tenants who are elderly, disabled, low-income, or single heads of households living with one or more minor children. This special assistance shall include the following additional measures:

1. The payment of last month's rent for the new housing unit, if required upon moving in;

2. The transfer of all key, utility, pet, cleaning, and security deposits, minus damages, to the new housing unit or the refund of all or a part of said deposits, minus damages, to the eligible tenant, at the option of the tenant;

3. The payment of the difference, if any, between the amount of all deposits and fees required upon moving in to the new housing unit and the amounts transferred for or refunded to the eligible tenant pursuant to this subsection;

4. The payment of a rent subsidy for a period of one year in the amount of the difference, if any, between the rent of the new housing unit and the rent for the unit currently occupied by the eligible tenant; provided, that this subsidy shall not exceed 25 percent of the monthly rental price of the occupied unit for each of the 12 months;

5. The right of each tenant not to be unjustly evicted and not to have the rent for the unit unreasonably increased until the tenant is actually relocated to a comparable housing unit.

17.~~50~~240.110 Inclusionary housing requirements.
Any condominium conversion project which includes three or more units shall be subject to the inclusionary housing requirements defined in ~~Chapter~~ SMC17.250~~240 SMC~~. SMC 17.250~~240~~.100(G) specifies incentives that are available for developments which comply with the inclusionary housing requirements.

17.~~50~~240.120 Authority.
The Planning Commission shall first consider a condominium conversion permit request and may recommend that the City Council approve, conditionally approve, or deny a condominium conversion permit application. The City Council shall take final action to approve, conditionally approve, or deny a condominium conversion permit application, unless otherwise restricted by State law. Developers must comply with all applicable requirements of the City of Sebastopol Municipal Code, including but not limited to SMC Title 16 (Subdivisions), this title, and with the State Subdivision Map Act.

17.~~50~~240.130 Revocation.
A condominium conversion permit granted under this chapter shall be subject to revocation in the manner provided by SMC 17.~~250~~400.075~~0~~ if there are any violations of conditions imposed upon such permit.

Chapter 17.~~240~~250

INCLUSIONARY HOUSING REQUIREMENTS

Sections:

17.~~240~~250.010 Purpose and intent.

For many Sebastopol residents, suitable housing at an affordable level is not available. The Housing Element of the General Plan documents the need for affordable housing in Sebastopol. The City finds that the housing shortage for persons of lower incomes is detrimental to the public health, safety and welfare, and further that it is a public purpose of the City, and public policy of the State of California, set forth in Government Code Sections 65580 through 65589.8 to make available an adequate supply of housing for all segments of the community, while at the same time maintaining an economically sound and healthy environment.

The City is experiencing an increasing shortage of housing affordable to lower-income households. New residential development does not provide housing opportunities for lower-income households due to the high cost of newly constructed housing in the City. As a result, lower-income households are de facto excluded from new housing, creating economic stratification in the City that is detrimental to the public health, safety, and welfare.

The amount of land in the City available for residential development is limited by City General Plan policies and the voter-approved Urban Growth Boundary, the planning principles embodied in State law pertaining to general plans and annexation, and by mandates in Federal law. These policies and laws discourage urban sprawl and limit the supply of land for residential development for many environmental reasons including the need to reduce vehicle-related air pollution, the preservation of agricultural land and wildlife habitat, and efficient use of natural resources.

The consumption of this remaining available land for residential development without providing housing affordable to all income levels would work counter to these housing, environmental and planning policies. Scarce remaining opportunities for affordable housing would be lost. Persons from lower-income families who work in the City would be unable to find affordable housing there and would be forced into longer commutes.

Further, the City finds that there is insufficient Federal and State support for programs to assist the City in meeting its affordable housing needs. The City finds that it is a public purpose of the City to seek

assistance and cooperation from the private sector in making available an adequate supply of housing for persons of all economic segments of the community. The goal of the City is to achieve a balanced community with housing available for persons of all income levels and thereby comply with the City's regional fair share housing obligations under State housing law.

The purpose of this chapter is to enhance the public welfare and assure that further housing development within the City contributes to the attainment of the housing goals of the City of Sebastopol by increasing the production of units available to, and affordable by, households of lower incomes, in order to promote a balance of housing for all economic segments of the community, and to meet the need documented in the Sebastopol Housing Element and to comply with State housing law. Specifically, the purposes of this chapter are to:

A. Promote the construction of housing within Sebastopol that is affordable to all economic segments of the community, including households with lower incomes;

B. Encourage the construction of affordable housing throughout the community, rather than concentrated within specific areas or neighborhoods;

C. Implement the State-mandated Housing Element of the General Plan which mandates an inclusionary housing program;

D. Provide a mechanism to assure affordability of housing units constructed under the provisions of this chapter for a specific period of time;

E. Provide the basis for establishment of a fee that may be paid under specified circumstances in lieu of building an inclusionary unit.

17.~~240~~250.020 Definitions.

"Affordable" shall mean dwelling units that are affordable to households making 120 percent or less of the County median income, with monthly housing payments not exceeding 30 percent of the household's gross monthly income. The cost of utilities, property taxes, insurance, homeowner's dues and the like shall not be included in the calculation of housing costs.

"Applicant" shall mean any person, firm, partnership, association, or any other entity which seeks City permits and approvals.

"City" means the City of Sebastopol.

"Developer" shall mean a person, firm, corporation, partnership, or agency who proposes to divide, subdivide, or construct improvements on, real property for oneself or for others.

"Inclusionary unit" means an ownership or rental housing unit, as required and defined by this chapter, that is affordable to very low- or low-income households.

"In-lieu fee" means a fee paid into the City's affordable housing fund to provide affordable housing opportunities to very low-, low-, median- and moderate-income households. In-lieu fees shall be allowed in lieu of actual provision of the inclusionary units.

"Lower-income" or "lower-income household" shall mean a person or household whose gross annual income is between 51 percent and 80 percent, inclusive, of the Sonoma County median income, adjusted for family size, as defined by the Federal Department of Housing and Urban Development (HUD) or its successor.

"Market units" or "market rate units" means either an ownership or rental dwelling unit which is not restricted to those prices or rents affordable to very low- or low-income households, as defined by this chapter.

"Nonprofit housing agency" shall mean a not-for-profit agency engaged in the provision and/or management of housing for households with very low to moderate incomes.

"Qualified household" shall mean a household meeting the income restrictions established in this inclusionary program.

17.~~240~~250.030 Applicability.

A. Threshold. The provisions of this chapter shall apply to all new residential developments of ~~three~~ five or more parcels or dwelling units intended and designed for permanent occupancy, including but not limited to single-family dwellings, town homes, condominiums, duplexes, triplexes, fourplexes, multifamily housing, cooperatives, land divisions, or conversions from nonresidential uses, which receive subdivision, use permit or Design Review Board approval after the effective date of the ordinance codified in this chapter. In the case of a lot split that creates ~~three~~ five or more parcels, but that will not involve the present or future development of ~~three~~ five or more new dwelling units, the requirements of this chapter shall not apply.

B. Exemptions. The following shall not be subject to the provisions of this chapter:

1. Residential dwellings for which a building permit has been issued by the City prior to the effective date of the ordinance codified in this chapter;

2. A residential development project that the City Council has determined as a vested right to proceed without complying with the provisions herein;

3. Existing residences which are altered, improved, restored, expanded or extended; provided, that the number of units is not increased;

4. Accessory dwelling units constructed pursuant to SMC 17.~~110.030~~220;

5. Dwelling units which are offered and restricted for sale solely to individuals or households of very low or low incomes, as defined by this chapter, and for the minimum terms set forth by this chapter;

6. Replacement of any dwelling unit or residential development which is damaged or destroyed by fire or other catastrophe, provided the number of units and use of the building remain the same.

7. ~~Rental housing development~~. Developments that have a land trust deed restriction that would ensure that 20 percent of the total units are affordable to lower income households in perpetuity.

17.~~240~~250.040 Inclusionary requirements.

A. Percentage Requirement. In projects of ~~three~~ five or more units, 20 percent of the units shall be inclusionary units affordable by and sold to qualified households. If, in the application of the requirements of this chapter, a decimal fraction unit requirement is obtained, an in-lieu fee shall be provided equal to the applicable decimal fraction times the established in-lieu fee for one inclusionary unit, or, at the developer's discretion, an inclusionary unit shall be provided.

B. Target Income Levels. Required inclusionary units shall be provided at the low-income level or below.

C. Construction of Inclusionary Units. The inclusionary units shall be constructed at the same time as the other units. The completion of inclusionary units in a phased project shall be proportional to the completion of the market rate units.

D. Distribution of Inclusionary Units. Whenever reasonably possible, inclusionary units shall be distributed throughout the development. Distribution of units may take into account the number of required inclusionary units in the project, as well as consideration of environmental and aesthetic factors.

E. Appearance of Inclusionary Units. The inclusionary units shall be substantially the same as the market rate units or buildings in exterior materials and finish. The applicant may reduce either the size or provide less expensive interior amenities for the inclusionary units as long as there are not significant differences visible from the exterior of the units and the size, fixtures and design of the units are reasonably consistent with the market rate units in the project, provided all units conform to the requirements of the Building and Housing Codes.

F. Size of Inclusionary Units. Inclusionary units provided shall generally have a comparable number of bedrooms as market rate units in the project. If the floor area of the inclusionary units in the project is not substantially the same or larger than the market rate units in the project, the inclusionary units shall satisfy the following minimum total floor areas, depending on the number of bedrooms provided:

Number of Bedrooms	Minimum Size of Unit
0 – 1	600 sq. ft.
2	750 sq. ft.
3	900 sq. ft.
4	1,200 sq. ft.

G. Subdivision Map Requirements. Any final or parcel map for a subdivision requiring provision of an inclusionary unit or units shall bear a note indicating whether compliance with this section must be met prior to issuance of a building permit for each lot created by such map, and, as applicable, shall designate which lots are required to be developed with inclusionary units.

17.~~240~~250.050 Pricing requirements for inclusionary units.

A. Allowable Sales Prices. The Planning Department shall set maximum allowable purchase prices for inclusionary units, adjusted by the number of bedrooms. In the case of for-sale units, applicants shall provide a written statement setting forth the maximum sales price, projected monthly mortgage payment, and down payment for each required unit. Such maximum allowable purchase prices shall be set such that qualified occupants pay no more than 30 percent of the gross monthly household income. The cost of utilities, property taxes, insurance, homeowner's dues, and the like shall not be included in the calculation of housing costs.

B. Down Payment. Any required down payment shall be limited to no more than 10 percent of the purchase price.

17.~~240~~250.060 Eligibility requirements.

A. Qualified Households. Only qualified households shall be eligible to occupy or own inclusionary units. Developers shall utilize a City-approved list of qualified households or a City-approved entity such as a nonprofit housing corporation or a public housing authority to qualify applicants. Such list, consistent with applicable law, shall rank qualified households according to criteria established by the City Council, with highest ranking provided to Sebastopol-area residents, next to Sebastopol-area workers, followed by

Sonoma County residents and workers, followed by others. Developers shall select only qualified households to occupy or own and occupy inclusionary units.

B. Excluded Persons. The following individuals, by virtue of their position or relationship, are ineligible to occupy an inclusionary unit:

1. The immediate relatives of the applicant or owner.

17.~~240~~250.070 In-lieu fees.
A. Eligibility for Fee Payment. When the calculation of inclusionary requirements yields a fractional number, a fee in lieu of providing a full unit may be paid to the City. Said fee shall equal the fractional number times the established fee.

B. Amount of Fee. For purposes of this section, the inclusionary fee shall be established and adjusted from time to time by resolution of the City Council based upon the parameters of this chapter.

C. Payment of Fee. Any fee required by this chapter shall be paid in full prior to the issuance of a building permit for the project. At the applicant's discretion, total inclusionary fees for the project may be divided and paid on a per-market-rate-unit basis upon issuance of a building permit for each market-rate unit.

D. Use of Funds. Any funds received from fee payments shall be placed in a reserve account used for the exclusive purpose of providing housing affordable to low- and moderate-income households in the City of Sebastopol.

17.~~240~~250.080 Deed restrictions.
A. When inclusionary units are required, a deed restriction shall be recorded setting forth the applicable restrictions in this chapter.

B. Except as may be otherwise provided, inclusionary units shall be required to maintain affordability for a minimum period of 59 years or for a different period when required by the City or by State law. A program to assure affordability for these units for this period of time shall be administered by the City or by a nonprofit housing agency approved by the City. The applicant shall enter into an agreement with the City or its designee to provide monitoring and to assure affordability of the inclusionary units for a period of not less than 59 years from the effective date of occupancy. The City Manager shall be authorized to enter into such agreement on behalf of the City. The approved agreement shall be recorded with the Sonoma County Recorder prior to issuance of a building permit for the project.

1. All buyers of "for sale" inclusionary units shall enter into a resale agreement with the City or its designee prior to the close of escrow for such inclusionary unit. A standard form resale agreement instrument shall be reviewed and approved by the City Council. The resale agreement shall specify the required affordability term, shall provide for an option for the City or its designee to designate an eligible purchaser and shall provide the City or its designee with first right of refusal to purchase the unit, and shall provide for a calculation of future equity assignment upon sale of the unit. Such agreement shall be recorded against each lot or unit.

2. Conversion of an inclusionary rental unit to a "for sale" unit, if otherwise permitted, shall not void any provisions of applicable inclusionary housing agreements or requirements.

17.~~240~~250.090 Monitoring of inclusionary units.
Each owner of any rental inclusionary units shall submit an annual report to the Planning Department, no later than March 1st, for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for each resident and any other related data deemed necessary by the

City while ensuring privacy for all residents. The deed restriction for ownership units shall require a conformance report upon sale of ownership inclusionary units.

17.~~240~~250.100 ~~Repealed.~~Alternatives to On-Site Development.
Rental projects may opt to pay the in-lieu fee or construct the inclusionary units off-site within the City.

17.~~240~~250.110 Inclusionary housing submittal requirements.
As part of any submittal to the City of Sebastopol for the construction of ~~three~~ five or more new dwelling units, or for the division or subdivision of land into five~~three~~ or more lots for residential use, each applicant shall include information as to the total number of housing units included within the application, the proposed sale prices of the inclusionary units, identification of the agency which will monitor occupancy and continued affordability of the inclusionary units for the amount of time specified by this chapter, and any other information deemed necessary by the City. It shall be the responsibility of the developer to negotiate any needed agreement with the monitoring agency to comply with SMC 17.~~240~~250.080.

17.~~240~~250.120 Modification of requirements, hardship.
A. After receiving a recommendation from the Planning Commission, the City Council may modify the requirements of the inclusionary provisions on a project basis upon submittal of a written request on a form established by the Planning Department for an exception and payment of the applicable fee equal to that for a variance by the developer, if the Council finds that alternate requirements will achieve the intent of the inclusionary program and are consistent with the General Plan.

B. After receiving a recommendation from the Planning Commission, the City Council may modify the requirements of the inclusionary provisions on a project basis upon submittal of a written request on a form established by the Planning Department for a hardship exception and payment of the applicable fee equal to that for a variance by the developer, if the Council finds that due to the particular circumstances as documented by the applicant, an undue hardship or a legal taking under the California or Federal constitutions would be imposed on the project, and that an alternative requirement will appropriately address the intent of the inclusionary program. If the Council so determines, the inclusionary requirement for the project shall be modified to reduce the obligations otherwise applicable to the extent and only to the extent necessary to avoid a hardship or taking. The applicant shall bear the burden of presenting substantial evidence to support the hardship determination.

17.~~240~~250.130 Appeals and enforcement.
A. Application of Requirements. The provisions of this chapter shall apply to all agents, successors and assignees of an applicant or developer. No planning permit shall be issued after the effective date of the ordinance codified in this chapter for any project which does not meet the requirements of this chapter.

B. Violations. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and shall be deemed to be guilty of a separate offense during each and every day during any portion of which any violation of this chapter is commenced, continued or permitted by such person, firm or corporation.

C. Appeal to Planning Commission. Any person aggrieved by any action involving denial, suspension or revocation of a building permit or denial, suspension or revocation of any development approval may appeal such determination to the Planning Commission, with further appeal possible to the City Council, upon payment of the applicable appeal fee.

D. Appeal to City Council. Any applicant or other person who contends that his or her interests are adversely affected by a determination or requirement of the City or its designee in regard to this chapter

and is not satisfied with the decision of the Planning Commission may appeal to the City Council upon payment of the applicable appeal fee. The appeal shall set forth specifically wherein the action of the City or its designee fails to conform to the provisions of this chapter thereby adversely affecting the applicant's or other person's interests. The City Council may reverse or modify any determination or requirement of the City or its designee if it finds that the action under appeal does not conform to the provisions of this chapter.

E. Severability. The City Council declares that every section, paragraph, clause and phrase of this chapter is severable. If, for any reason, any provision of the ordinance is held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

F. Effective Date. The ordinance codified in this chapter shall be in full force and effect 30 days after its passage.

17.~~240~~250.140 Density bonus allowance.
Repealed by Ord. 1085.

~~**17.240250.150 Accessible units for the physically handicapped.**~~
~~New multifamily residential projects with five or more units shall be required as a condition of project approval to provide at least 10 percent of new units to be built accessible for disabled persons consistent with Federal and State laws.~~

Chapter 17.255~~242~~

AFFORDABLE HOUSING DENSITY BONUS

Sections:

17.255~~242~~.100 Purpose

The purpose and intent of this section is to establish the standards and procedures in granting affordable housing density bonuses for housing developments, in an effort to incentivize the development of affordable units in the City and implement the requirements of the State Density Bonus Law (Government Code Chapter 4.3).

17.255~~242~~.020 Density Bonus and Incentives

A. Density bonuses and incentives shall be offered by the City pursuant to the provisions of Government Code Chapter 4.3.

B. Parking ratios shall be allowed for affordable housing pursuant to the provisions of Government Code Chapter 4.3.

C. These density bonus and incentives provisions shall be understood to be amended by operation of law in the event and to the extent the State Density Bonus Law is amended. (Ord. 1085 ß 5, 2016)

Chapter 17.260~~210~~

HOME-BASED BUSINESSES ~~OCCUPATION REGULATIONS~~

Sections:

17.26~~1~~0.010 Purpose - Applicability.

The purpose of these regulations is to prescribe the conditions under which limited nonresidential activities may be conducted when incidental to residential activities. These regulations shall apply to all home-based businesses ~~occupations~~.

17.26~~1~~0.020 Home occupations ~~criteria~~.

All home occupations shall satisfy the following criteria:

A. The occupation shall be operated only by a person or persons residing in the dwelling unit as clearly secondary and incidental use of such dwelling for residential purposes, which use must not change the residential character thereof. One person other than a resident of the dwelling may be employed in the conduct of a home occupation at the residence.

B. There shall be no use of any yard space or public right-of-way, or any activity outside the buildings not normally associated with residential use; there shall be no storage of equipment or supplies outside of the buildings.

C. The home occupation shall not generate vehicular traffic measurably in excess of that normally associated with single-family residential use.

D. There shall be no external alteration for home occupation purposes of the dwelling in which a home occupation is conducted. The existence of a home occupation shall not be apparent beyond the boundaries of the site, except that a nameplate, in accordance with subsection M of this section, may be installed, and otherwise, no on-site advertising shall be used which informs the public of the address of the home occupation.

E. That there shall be no noisy or otherwise objectionable machinery or equipment used in the conduct of the home occupation.

F. No noise, odor, dust, vibration, fumes, smoke, glare, electrical, ~~interference~~ or other interference with the residential use of adjacent properties shall be created.

G. The occupation may be conducted within an accessory building, but may not reduce the amount of any off-street parking space(s).

H. No more than ~~one~~ two single clients or one client group ~~or patron~~ shall be allowed on the premises at the same time whether being served or waiting for service. For purposes of this section, 'client group' shall include a family, couple, or comparable group, as determined by the Planning Director.

I. No more than one business related -vehicle, including one truck of maximum one-ton capacity, and no semi-trailers or any other heavy equipment incidental to a home occupation shall be kept on the site, or on the street.

J. Except for Cottage Food Uses complying with relevant provisions of the California Government Code and any other requirements of the City of Sebastopol, no retail sales shall be allowed on the premises, except by telephone or computer.

K. No animal-related services, including such as grooming or personal care, requiring animals to be present on the residential property shall be allowed on the premises.

L. No vehicle repair business shall be allowed on the premises.

M. Not more than one non-illuminated nameplate sign, not comprising more than two square feet in area, shall be permitted for the home occupation.

N. A bBusiness license shall be required.

Chapter 17.250

COTTAGE FOOD OPERATIONS

17.250.010 Purpose and intent.
17.250.020 Standards.

17.260.03050.010 Purpose and intentCottage food operations.
This section regulates cottage food operations conducted in dwelling units as defined by and pursuant to Section 113758 of the California Health and Safety Code.

17.250.020 Standards.
Cottage food operations are permitted in dwelling units pursuant to Section 113758 of the California Health and Safety Code subject to the following rules and standards.

A. The applicant for the cottage food operation permit shall be the individual who conducts the cottage food operation from his or her dwelling unit and is the owner of the cottage food operation. The permit shall not be transferable to another operator nor transferable to another site.

B. No more than one cottage food employee, as defined by California Health and Safety Code Section 113758(b) (1), and not including a family member or household member of the cottage food operator, shall be permitted on the premises of the cottage food operation.

C. The cottage food operation shall be registered or permitted by the County Health Officer in accordance with Section 114365 of the California Health and Safety Code. Cottage food operations shall comply with all California Health and Safety Code requirements.

D. The use shall be conducted within the kitchen of the subject dwelling unit except for attached rooms within the dwelling that are used exclusively for storage or bookkeeping. No greater than 25 percent of the dwelling, or 50 percent of an accessory building, may be used for the cottage food operations.

E. There shall be no change in the outside appearance of the dwelling unit or premises, or other visible evidence of the conduct of such cottage food operation, with the exception of one sign not to exceed two square feet.

F. Except for home gardening use and vehicle parking, no outdoor portions of the premises shall be utilized for cottage food operation including outdoor sales and visitation.

G. No greater than one visitor's vehicle and one non-resident employee's vehicle shall be parked on site at any time. All on site vehicle parking shall be conducted in a manner consistent with the County Code.

H. Direct sales of products from the site of the cottage food operation shall be conducted by prior appointment only, and shall not exceed more than ten visitors in any single day. No customers of the cottage food operation shall be permitted to dine at the premises.

I. Direct sales and cottage food operation related deliveries shall not occur between the hours of eight p.m. and seven a.m.

J. Gross annual sales shall comply with California Health and Safety Code Section 113758.

~~**Chapter 17.130**~~

~~**LARGE FAMILY DAY CARE USE PERMIT CRITERIA**~~

~~Sections:~~
~~17.130.010 Findings and purpose.~~
~~17.130.020 Concentration of uses.~~
~~17.130.030 Criteria for large family day care homes.~~
~~17.130.040 Notice requirements.~~
~~17.130.050 Findings.~~

17.260.040~~130.010~~ ~~Findings and purpose~~Large family day cares.
A. Purpose. The purpose of these standards is to comply with State law while ensuring that large family day care homes providing childcare in residential districts do not adversely impact the adjacent neighborhood. While large family day care homes are needed by residents in the City, particularly in proximity to their homes in residential neighborhoods, the potential traffic, noise and safety impacts of this use should be regulated in the interest of nearby residents and the children in the day care facility. It is also the intent of this section to allow family day care homes in residential surroundings to give children a home environment that is conducive to healthy and safe development.

~~**17.130.020 Concentration of uses.**~~
~~To address potential adverse neighborhood impacts related to noise and traffic issues, no more than one large family day care home shall be permitted within 150 feet of any existing large family day care home.~~

~~**17.130.030 Criteria for large family day care homes.**~~
B. Standards. Large family day care homes shall conform to the following standards:

1.~~A~~ Conditions may be placed on use permits to reduce noise impact including, but not limited to, the provision of solid fencing or other sound attenuating devices, restrictions on outside play hours, location of play areas, and placement of outdoor play equipment.

2~~B~~. All homes used for large family day care facilities shall provide at least three automobile parking spaces, no more than one of which may be provided in a garage or carport. Parking may be on-street if contiguous to property. These may include spaces already provided to fulfill residential parking requirements.

3~~C~~. A traffic circulation plan designed to diminish traffic safety issues shall be submitted for the review of the Planning Commission. Residences located on arterial streets (as shown on the General Plan circulation map) must provide a drop-off/pickup area designed to prevent vehicles from backing onto the arterial roadway. The care provider may be required to submit a plan of staggered drop-off and pickup time ranges to reduce congestion in neighborhoods already identified as having traffic congestion problems.

4. To address potential adverse neighborhood impacts related to noise and traffic issues, no more than one large family day care home shall be permitted within 150 feet of any existing large family day care home.

~~**17.130.040 Notice requirements.**~~

D. Notice Requirements. Not less than 10 days prior to the date of the Planning Commission public hearing on the application, the City shall give notice of the proposed use by mail to the applicant and all owners shown on the last equalized assessment roll as owning real property within a 150-foot radius of the exterior boundaries of the proposed large family day care home.

~~**17.130.050 Findings.**~~

E. Findings. Findings shall be consistent with the requirements of ~~Chapter~~ SMC 17.~~260 SMC~~415. In addition, no use permit for a large family day care home shall be granted unless the following findings are made:

1~~A~~. That the large family day care home meets all required conditions identified in this section.

2~~B~~. That the large family day care home shall comply with all applicable building codes, fire codes adopted by the State and administered by the City Fire Department, and any State licensing requirements.

~~Chapter 17.110~~

~~SPECIAL PERMIT CRITERIA FOR BED AND BREAKFAST~~

~~Sections:~~
~~17.110.010 Purpose—Applicability.~~
~~**17.110.020 Bed and breakfast inns criteria.**~~

~~**17.110.010 Purpose—Applicability.**~~
~~The purpose of these special permit criteria is to set forth guidelines and criteria by which specific applications for specific uses are to be evaluated, in addition to the general use permit criteria of SMC 17.260.030(C). These criteria shall be applicable for the uses/situations specified in this chapter.~~

17.260.050~~110.020~~ Bed and breakfast inns criteria.

A. Any proposed bed and breakfast inn shall be compatible with the neighborhood in terms of landscaping, scale, and architectural character. The operation of the use, and any physical improvements related to it, shall be harmonious and compatible with the existing uses within the neighborhood.

B. Excessive amounts of paving shall not be allowed. Tire strips and permeable travel surfaces shall be encouraged. Areas devoted to parking and paving shall not be disproportionate to the site size.

C. Each project shall be subject to inspection and approval by the City for compliance with all applicable codes. An inspection fee may be set by resolution of the City Council.

D. Each bed and breakfast inn which provides food service to its guests shall comply with the provisions of the Sonoma County Health Department as well as all State laws regulating food handling establishments.

E. All ~~Uniform Building Code and Fire~~California Building Standards Code requirements for the level of occupancy shall be satisfied.

F. All environmental health regulations shall be satisfied, including water supply and septic system capability, if applicable.

G. The bed and breakfast inn shall be registered with the City, and will be subject to the transient occupancy tax.

H. The operator or manager shall reside on the premises.

I. Guest stays shall be limited to 30 days, with a seven-day period between stays.

J. Meals may be served; however, except where the City has approved a restaurant in conjunction with the use, only guests may be served. No cooking shall be allowed in guest rooms. No alcoholic beverages may be sold to guests except where the City has approved a restaurant in conjunction with the use.

K. One non-internally illuminated sign may be displayed; its size, color, text and location shall be covered by the use permit. The words “hotel or “motel” shall not be allowed.

17.260.060 Short-Term Vacation Rentals.

A. Criteria.

1. Site Design and Parking.

a. The site design, architecture, and any improvements shall be compatible with the neighborhood in terms of landscaping, scale, and architectural character. The operation of the use, and any physical improvements related to it, shall be harmonious and compatible with the existing uses within the neighborhood.

b. Parking.

i. Hosted Rental: One parking space parking space shall be provided on-site for a hosted vacation rental in addition to the on-site parking required under SMC 17.110.

ii. Nonhosted Rental: One on-site parking space shall be provided for each sleeping room or guest bedroom in the vacation rental. If a garage is used to meet the parking requirement for the sleeping rooms or guest bedrooms, the garage shall be accessible to guests of the vacation rental.

c. Excessive amounts of paving shall not be allowed. Tire strips and permeable travel surfaces shall be encouraged. Areas devoted to parking and paving shall not be disproportionate to the site size.

d. Pools, hot tubs, and outside gathering areas shall be adequately screened from adjacent properties to minimize noise impacts and shall have the hours of operation clearly posted adjacent to the facility.

2. Noise Limits.

a. Outdoor amplified sound is prohibited.

b. All activities associated with the vacation rental use shall meet the noise standards identified at SMC 8.25. Quiet hours shall be from 10:00 p.m. to 7:00 a.m. The property owner shall ensure that the quiet hours are included in rental agreements and in all online advertisements and listings.

c. Continual nuisance barking by unattended pets is prohibited.

3. The maximum overnight occupancy for vacation rentals shall be up to two persons per sleeping room or guest bedroom, plus two additional persons per property, up to a maximum total of ten persons per vacation rental.

4. Guest stays shall be limited to a maximum of 30 days, with a seven-day period between stays.

5. Owner and Authorized Agent Availability and Responsiveness.

a. The owner (for a hosted vacation rental) or the authorized agent (for a non-hosted vacation rental) shall be available by telephone at all times when the vacation rental is rented, 24 hours per day.

b. The owner (for a hosted vacation rental) or the authorized agent (for a non-hosted vacation rental) must be on the premises of the vacation rental unit within one hour of being notified by a renter, by the Planning Director, or law enforcement officer that there is a need for the owner or the authorized agent (to address an issue of permit compliance or the health, safety, or welfare of the public or the renter.

6. A business license is required.

7. The vacation rental shall be subject to the transient occupancy tax.

8. Short-term vacation rentals shall not be permitted in non-habitable structures or in tents, recreational vehicles, or other features or provisions intended for temporary occupancy.

9. For each hosted vacation rental:

a. The owner must reside at the vacation rental, and the owner must sleep at the vacation rental unit while it is being rented.

b. The owner must reside and sleep in a bedroom that is not rented to any renter.

c. No more than two bedrooms may be rented for transient occupancy uses.

10. Posting and Neighbor Notification of Permit and Standards. Once a vacation rental permit has been approved, a copy of the permit listing all applicable standards and limits and identifying contact information for the owner or authorized agent shall be posted within the vacation rental property. These standards shall be posted in a prominent place within 6 feet of the front door of the vacation rental, and shall be included as part of all rental agreements. At the permit holder's

expense, the City shall provide mailed notice of permit issuance to property owners and immediate neighbors of the vacation rental unit using a 300-foot property radius owner mailing list.

11. Requirements for All Advertisements and Listings. All advertisements and/or listings for the vacation rental shall include the following:

a. Maximum occupancy;

b. Maximum number of vehicles;

c. Notification that quiet hours must be observed between 10:00 p.m. and 7:00 a.m.;

d. Notification that no outdoor amplified sound is allowed; and,

e. The transient occupancy tax certificate number for that particular property.

B. Permit Requirements.

1. A vacation rental must receive either an administrative permit or conditional use permit, as shown in Table 17.235-1 below.

Table 17.235-1: Vacation Rental Permit Requirements

Unit Type	Number of Guest Occupancy Days per Year	
	30 days or less per year	31 days or more per year
Hosted vacation rental	Administrative Permit	Administrative Permit
Nonhosted vacation rental	Administrative Permit	Conditional Use Permit
Accessory dwelling unit (hosted or nonhosted)	Conditional Use Permit	Conditional Use Permit

2.. Each use permit issued pursuant to this section shall be subject to an annual permit review and extension. No later than one year after the effective date of the permit, the owner or authorized agent shall submit to the Planning Director the annual inspection fee, established by City Council resolution, along with all of the information set forth in this paragraph 2, documented in a permit review form acceptable to the Planning Director.

a. The owner shall document compliance with all requirements of this section and SMC 3.12, Transient Occupancy Tax. The owner shall also document each date on which the vacation rental was rented during the previous term of the permit.

b. The owner shall identify any notice of violation or concern (including any compliance order or citation issued by the City, or any concern or complaint identified by a neighbor) issued for the vacation rental use during the permit term, and shall document how the violation or concern has been addressed. If the Planning Director determines that any past violation or concern has not been adequately addressed, or that a history of past violations is detrimental to the public health, safety, or welfare, the Planning Director may determine that the permit is ineligible for approval of an extended term.

c The owner shall document that written notice of the request for permit extension was provided to property owners within 300 feet of the vacation rental unit.

C. Complaint and Enforcement Process.

1. Initial complaints on vacation rentals shall be directed to the owner or authorized agent identified in the administrative permit or use permit, as applicable. The owner or authorized agent shall be available 24 hours during all times when the property is rented, and shall be available by phone during these hours. Should a problem or arise and be reported to the owner or authorized agent, the owner or authorized agent shall be responsible for contacting the tenant to correct the problem within 60 minutes, including visiting the site if necessary to ensure that the issue has been corrected.

   The owner or authorized agent shall document the complaint, and their resolution or attempted resolution(s), to the Planning Director within 72 hours of the occurrence.

   Failure to respond to complaints or report them to the Planning Director shall be considered a violation of this section, and shall be cause for revocation of the vacation rental permit.

   If the issue reoccurs, the complaint will be addressed by the Planning Director or code enforcement officer who may conduct an investigation to determine whether there was a violation of a zoning or use permit condition. Police reports, online searches, citations, or neighbor documentation consisting of photos, sound recordings and video may constitute proof of a violation. If the Planning Director verifies that a zoning or use permit condition violation has occurred, a notice of violation may be issued and a penalty may be imposed in accordance with Chapter 1.04 of the SMC. At the discretion of the Planning Director, the zoning permit or use permit may be scheduled for a revocation hearing with the board of zoning adjustments. If the permit is revoked, a zoning or use permit for a vacation rental on that particular property may not be reapplied for or issued for a period of at least one year.

2. A vacation rental that is determined to be operating without the necessary permit required under this section shall be subject to a penalty of three times the normal application fee.

3. Upon receipt of any combination of three administrative citations or Planning Director determinations of violation of any of the permit requirements or performance standards issued to the owner or occupants at the property within a two-year period, the vacation rental administrative zoning permit or conditional use permit is summarily revoked, subject to prior notice and to appeal, if appeal is requested pursuant to the appeals section of the Zoning Ordinance. Should such a revocation occur, an application to reestablish a vacation rental at the subject property shall not be accepted for a minimum period of two years.

C. Findings. The decision-making body may approve a permit for a vacation rental, with or without conditions, if all of the following findings are made:

1. The proposed vacation rental is consistent with the standards established by this section and will not detrimentally affect the health, safety or welfare of the surrounding neighborhood or area.

2. Approval of the vacation rental will not result in an over concentration of such uses in a neighborhood.

3. There is adequate parking for all guests and operators to park on the subject property in accordance with SMC 17.110.

4. Approval of the vacation rental will result in the preservation of the residential design and scale of the structures on the property and will maintain the residential character of the neighborhood.

5. The architectural or historic character of the structure proposed to house the vacation rental is appropriate for the use.

Chapter 17.280

PARK AND RECREATION LAND DEDICATION AND FEES

17.280.010 Authority, purpose, and definitions.

A. Authority. This chapter is enacted pursuant to the California Government Code Section 66477 for the purpose of executing and implementing the General Plan.

B. Purpose. It is the purpose of this chapter to provide for the acquisition of park land for neighborhood and community parks or recreational purposes through dedication of land or payment of fees in lieu thereof, or a combination of both land dedication and fee payment, and to provide for the development of park and recreation facilities by imposition of fees in connection with the development of new dwelling units.

C. Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

1. "New dwelling unit" means each structure of permanent character, places in a permanent location, which is planned, designed or used for residential occupancy, including, but not limited to, one-family, two-family, and multifamily dwellings, apartment houses and complexes, mobile home spaces, and single occupancy units, but not including hotels, motels and boardinghouses for transient guests.

2. "Subdivision" means any type of construction, land division or improvement of land which provides for dwelling units identified under the provisions of Section 66424 of the California Government Code. "Subdivision" shall also include any increase in the number of mobilehome spaces.

17.280.020 Requirements.

As a condition of approval of a tentative map or parcel map, rezoning, issuance of a building permit, or other discretionary action granting approval for the development of one or more dwelling units, the developer shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, except as set forth in Government Code Section 66477(c)(7,8), for neighborhood or community parks or recreational purposes at the time and according to the standards and formulas contained in this chapter, provided that:

A. The land, fees, or combination thereof are to be used only for the purposes of developing new and rehabilitating existing park or recreational facilities to serve the subdivision.

B. The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

C. The City Council shall develop a schedule specifying how and when it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision.

17.280.030 Park and recreational acreage standard.

All new residential development projects and subdivisions shall provide a minimum of five acres of property for local park and recreational purposes for each 1,000 persons residing within this City. This park and recreational acreage standard reflects the ratio of park land to residents, as set forth in California Government Code Section 66477.

17.280.040 Calculating park and recreational acreage requirement for land dedication.

A. The amount of land to be dedicated shall be determined according to the following formula:

D x P = A, where:

D = the number of dwelling units
P = a "park factor" herein described in subsection (3) of this section
A = the buildable acres to be dedicated

B. Definitions. The following terms, as used in this section, shall have the following meanings:

"Apartment area" means an area of land used for or proposed for residential occupancy in buildings or structures designed for five or more households for living or sleeping purposes and having kitchen and bath facilities for each family. Included are condominiums and cluster developments.

"Dwelling unit" means one or more rooms in a building or structure or portion thereof designed exclusively for residential occupancy by one household for living or sleeping purposes and having kitchen and bath facilities, including mobile homes.

"Mobile home development" means an area of land used for or proposed for residential occupancy in vehicles which require a permit to be moved on a highway, other than a motor vehicle designed or used for human habitation and for being drawn by another vehicle.

"Multiple-family area" means an area of land used for or proposed for residential occupancy in buildings or structures designed for two to four households for living or sleeping purposes and having a kitchen and bath facilities for each household, including two family, group and row dwelling units.

"Park factor" means the factor, or ratio, that describes the amount of park land required per dwelling unit based upon the average household size for the applicable dwelling unit type. See subsection (3) of this section.

"Single-family area" means an area of land used for or proposed for detached buildings designed for occupancy by one family.

C. Park Factors.

1. The Planning Director shall establish, and update from time to time, the park factors necessary to determine the acreage of parkland required. The data source for these park factors shall be data for the City of Sebastopol as reported by the U.S. Census Bureau. The park factors shall be calculated based upon the following equation and shall be specific for each of the four types of dwelling units defined above (single-family area, multiple-family area, apartment area, and mobile home area). The household size shall be determined based upon the total population in each dwelling category, divided by the total number of occupied units in that dwelling category.

$$\frac{\text{(Parkland Requirement (e.g., 5 acres) x Household Size}}{\text{(1,000)}} = \text{Park Factor}$$

2. In the case of a specific plan, special planning area, or similar master or strategic plan for a geographic area, the park factors shall be established at the time of adoption of the plan as provided in subsection (C)(1) of this section.

D. In multiple-family and apartment areas, the number of dwelling units shall be calculated from the maximum density permitted in the proposed zone, as determined from the Zoning Code, including any density bonus, unless the subdivider can demonstrate that the development will contain a lesser number of dwelling units. For tentative parcel maps in multifamily zones which require development plan review

pursuant to the Zoning Code, a condition may be added to the tentative parcel map stating that the number of dwelling units may be calculated using the density tentatively approved pursuant to development plan review, and such review shall not become final until the required land or improvements are dedicated (or fees in lieu thereof are paid by the subdivider) to the satisfaction of the City.

E. Unless a specific written request is made by the applicant, fees shall be payable at the time of the recording of the final map or parcel map. Upon the written request of the applicant, the Planning Commission may recommend and the City Council may add a condition to any map contemplated by subsection (D) of this section for multifamily development, whether submitted as a parcel map or subdivision map, stating that required land or dedication or improvements or the payment of an in-lieu fee may occur after the recordation of the final or parcel map and that required land or dedication or improvements or the payment of an in-lieu fee shall occur at some later time but not later than prior to the issuance of building permits.

17.280.050 Formula for fees in lieu of land dedication.

A. If there is no park or recreation facility designated in the General Plan to be located in whole or in part within the proposed subdivision for the purpose of serving the immediate and future needs of the residents of the subdivision, the developer shall, in lieu of dedicating land, pay a fee equal to the value of that land, plus 20 percent toward costs of off-site improvements, prescribed for dedication in SMC 17.280.040 and in an amount determined in accordance with the provisions of SMC 17.280.070.

B. For the purposes of this chapter, off-site improvements are defined as those improvements which would have been required if land had been dedicated using the provisions of SMC 17.280.040.

17.280.060 Criteria for requiring both dedication and fee.

In subdivisions of more than 50 parcels, the developer shall both dedicate land and pay a fee as follows:

When only a portion of the land to be subdivided is proposed in the General Plan as the site for park purposes, such portion shall be dedicated for park purpose and a fee computed pursuant to the provision of SMC 17.280.060 shall be paid for the value of any additional land, plus 20 percent toward costs of off-site improvements, that would have been required to be dedicated pursuant to SMC 17.280.040.

17.280.070 Amount of fee in lieu of land dedication.

When a fee is to be paid in lieu of land dedication, the amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required for dedication pursuant to Section 17.280.040 plus 20 percent toward costs of off-site improvements, such as extension of utility lines. The fee shall be determined pursuant to the following formula:

A. Calculations. Where the advisory agency or Council requires the payment of in-lieu fees, the amount to be paid shall be a sum calculated pursuant to the following formula:

$$A \times V = F$$

where,

A = the amount of land required for dedication as determined by SMC Section 17.70.040;
V = fair market value (per acre) of the property to be subdivided, as determined by this section; and
F = the number of dollars to be paid in lieu of dedication of land.

B. City Dedications. In determining in-lieu fees for City park and recreation land dedications, the subdivider shall request that the City cause an appraisal be conducted, consistent with this section, and the subdivider shall pay the in-lieu fee based upon the fair market value established by the appraisal consistent with the standards set forth herein.

Upon request by the subdivider to calculate the in-lieu fee, the City shall request that an appraisal be conducted by a qualified licensed real estate appraiser. The cost of the appraisal and the City's review of the appraisal shall be borne by the subdivider. A deposit for such fees, established by the City's Planning Department services fees schedule as approved by resolution of the City Council, shall be deposited with the City at least one hundred twenty (120) days prior to the recording of the final map. If the deposit is nearing depletion, the City may request an additional deposit. If an unbilled balance remains at the end of the appraisal process, a refund will be issued to subdivider.

The appraisal shall render a value based upon an approved tentative subdivision or parcel map assuming a land use and zoning designation in accordance with the project application, utilizing the following market value: The most probable price, as of a specific date, in cash, or terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self interest, and assuming that neither is under undue duress.

The appraisal shall value the property as of a date no earlier than ninety (90) days prior to the recording of the final map, or the payment of the fee, whichever occurs later. The appraisal report shall be subject to approval by the Planning Director.

C. Alternative Appraisal Method. Nothing here shall preclude the City from determining fair market value by an appraisal procedure that is alternative to the procedures set forth above, as long as the alternative appraisal method is reasonably likely to determine the substantially same fair market value as if conducted by the appraisal method above, all as determined by the City in its sole discretion.

17.280.080 Credit for privately owned facilities.

A. The City may grant credit for privately owned and maintained open space or local recreation facilities, or both, in planned unit developments or residential townhouse units, mobile home developments, and other forms of planned developments; provided, that for such property is located within the City. Such credit determination shall be made at the discretion of the City and shall be subtracted from the dedication or fees, or both, provided:

1. Yards, park areas, setbacks, and other open space areas identified for credit shall be maintained in such uses;

2. Provision is made by recorded covenants that the private areas be adequately maintained, including landscaping and equipment, consistent with City standards;

3. The use of private open space or recreation facilities is limited to park and local recreation purposes and shall not be changed to another use without the written consent of the City.

B. Land or facilities which may qualify for credit will generally include the following:

1. Open spaces, which are generally defined as parks and parkway areas, ornamental parks, extensive areas with tree coverage, lowlands along streams or areas of rough terrain when such areas are extensive and have natural features worthy of scenic preservation, or open areas on the site in excess of ten thousand (10,000) square feet;

2. Court areas for tennis, badminton, shuffleboard or similar hard-surfaced areas designed and used exclusively for court games;

3. Recreational swimming areas defined as fenced areas devoted primarily to swimming and diving, including decks, lawn area, user facilities (e.g., changing rooms/locker rooms, showers), or other

facilities developed and used exclusively for swimming and diving and consisting of no less than fifteen (15) square feet of water surface area for each three (3) percent of the population of the subdivision;

4. Recreation buildings designed and primarily used for the recreational needs of the residents of the development;

5. Special areas defined as areas of scenic or natural beauty, historic sites, hiking, riding or motorless bicycle trails, including pedestrian walkways separated from public roads, planting strips, lake sites, or river beaches, improved access or right-of-way in excess of the requirements of the SMC, and similar types of open space or recreational facilities.

C. Amount of credit. The categories for credit described in this subsection shall be given equal weight, with each category not to exceed twenty (20%) percent of the total dedication or fee required by a development. The City Council may grant additional credit for each category if there is substantial evidence that:

1. The open space or recreational facility is above average in aesthetic quality, arrangement or design;

2. The open space or recreational facility is clearly proportionately greater in amount or size than required by this title or usually provided in other similar types of development; or

3. The open space or recreational facility is situated so as to complement open space or local recreational facilities in other private or public developments.

17.280.090 Procedure.

At the time of approval of a tentative map or tentative parcel map, rezoning, issuance of a building permit, or any other discretionary approval of development, the decision-making body shall, pursuant to this chapter, require the dedication of land or payment of fees in-lieu thereof and the payment of fees for park development.

Dedications of land shall be made on the final subdivision map. Fees in-lieu of land dedication and fees for park development shall be calculated and paid at the time of issuance of the building permit using the formulas set forth in in this chapter.

"Incentive eligible projects" (i.e., low/very low income, senior and disabled housing) shall have the option to defer payment of fees pursuant to this chapter until the close of escrow on the permanent financing. Open space covenants for private park or recreation facilities shall be submitted to the City prior to approval of the final or parcel map and shall be recorded contemporaneously with the final or parcel map.

17.280.100 Disposition of fees.

Fees determined pursuant to this section shall be paid to the Finance Director and shall be deposited into the City parks and recreation trust fund, or its successor. Money in the fund, including accrued interest, shall be expended solely for acquisition, development, or rehabilitation of park land or improvements related thereto. Collected fees shall be appropriated by the City for a specific project to serve residents of the subdivision in a budgetary year within five years upon receipt of payments or within five years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lots bears to the total area of all lots in the subdivision. The Finance Director shall report to the City Council at least annually on income, expenditures and status of the City parks and recreation trust funds.

17.280.110 Exemptions.

Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this chapter; provided, however, that a condition shall be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels the fee may be required to be paid by the owner of each such parcel as condition to the issuance of such permit. The provisions of this chapter do not apply to commercial or industrial subdivision; nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

17.280.120 Developer-provided park and recreation improvements.

After the decision-making body determines the land required for dedication and/or in-lieu fee payment by the developer, the developer may apply to the City for permission to construct specified park and recreation improvements on land of the developer required for dedication or on other land within the same City service area to be developed as a park. If the City grants the developer permission for construction of specified parks and recreation improvements on the land, the Department shall fix the dollar value of the parks and recreation improvements approved by the Department. The dollar value of park and recreation improvements provided by the developer in the manner described in this chapter shall be credited against the fees required by this chapter.

17.280.130 Schedule for use for land or fees.

The City Council shall develop a schedule specifying how, when and where it will use the land or fees, or both, to develop park or recreational facilities to serve residents of each development from which fees have been collected.

17.280.140 Access.

All land offered for dedication to local park or recreational purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the decision-making body if the decision-making body determines that public street access is unnecessary for maintenance of the park area or use thereof by residents.

17.280.150 Sale of dedicated land.

If during the ensuing time between dedication of land for park purposes and commencement of first-stage development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (such as receipt of a gift of additional park land or a change in school location), the land may be sold upon the approval of the City Council with the resultant funds being used for the purchase of a more suitable site.

Chapter 17.300

OUTDOOR USES

Sections:

17.300.010 Applicability

This chapter establishes regulations for outdoor uses in commercial, industrial, and mixed use development. This chapter applies to all uses referenced herein that are proposed as part of a non-residential or mixed-use development.

17.300~~60~~.020~~100~~ Permitted outdoor uses.

The following uses, if identified as a permitted use in the district, shall be permitted outside of a building, provided they do not occupy or block required parking spaces or access thereto; do not impede pedestrian walkways or vehicle driveways; are entirely on private property, or on public property when otherwise permitted by this code, or when a license agreement or encroachment permit has been approved by the City:

A. Outdoor vending or display when otherwise permitted by this code.

B. Incidental display of merchandise in nonresidential districts, subject to the following restrictions:

1. The merchandise is located within 10 feet of the building.

2. The display area does not exceed 30 square feet.

3. The merchandise is not displayed during nonbusiness hours.

C. Plant materials, flower pots, garden supplies, trellises and the like, provided they are accessory to an otherwise permitted use.

D. Building materials accessory to a hardware store or similar use.

E. Fruits, vegetables and flowers, provided they are accessory and incidental to an otherwise permitted use.

F. Patio tables, chairs, umbrellas, and similar outdoor accessories used in connection with a restaurant.

G. Vending machines when accessory to a business conducted within a building.

H. Automobile dealership display and storage lots.

I. Vehicle fueling and related uses.

J. Outdoor newsstands when otherwise permitted by this code.

K. Outdoor vending carts in non-residential zones, subject to approval of a use permit and a design review permit.

L. Farm markets when otherwise permitted by this code.

M. Chairs accessory to a legally established restaurant or other eating and drinking establishment that are located immediately in front of the business and are not used for customer dining or drinking.

N. Portable landscape and cigarette disposal receptacles accessory to a legally established retail establishment, restaurant, or other eating and drinking establishment that are located immediately in front of the business.

O. Christmas tree sales in non-residentially zoned areas, with approval of a temporary use permit.

P. Sandwich board signs as permitted by Chapter 17.120~~230~~ SMC, Sign Regulations.

17.300.030~~60.075~~ Temporary use of shipping containers for storage.

No person shall place, or cause to be placed, use, or permit the use, of any shipping container as a storage building, except in conjunction with a permitted use in the M Industrial District District and the O/LI Office Light Industrial District, or for the temporary housing of equipment and/or materials during construction as authorized by a City building permit. A shipping container or "pod" may also be utilized for storage purposes, for example, in conjunction with a home improvement project or during a move, by a private property owner for a period of up to three months. The Planning Director may approve a six-month extension to the three-month time limit upon demonstration by the property owner that the project has been extended and where the property owner has demonstrated an effort to comply with the guidelines set forth in this section.

17.300.040 Commercial outdoor barbecues.

A. Setbacks. As shown in Table 17.25-2, the outdoor commercial barbecue shall have a minimum setback of 10 feet from any property line.

B. Fire Prevention and Response.

1. No person shall kindle or maintain any fire in an outdoor commercial barbecue not constructed in accordance with the requirements of the Sebastopol Fire Department and located in non-combustible enclosures, without first having obtained a permit from the Fire Chief. In granting the permit, the Chief shall take into consideration the following:

   a. The hours between which burning may be conducted;

   b. The number and size of barbecues;

   c. The type of fuel that will be used;

   d. The proximity to vegetation, buildings and structures;

   e. Any other condition or restriction that may be required from time to time by resolution of the City Council.

2. The Fire Chief is authorized to deny a permit request, or to require that an outdoor commercial barbecue be immediately discontinued if the Chief determines that smoke emissions are likely to be, or are offensive to occupants of surrounding property and/or constitutes a hazardous condition.

3. Every commercial outdoor barbecue and associated equipment shall be equipped and maintained with a spark arrestor and fire extinguisher and shall be maintained in good working order and a safe condition at all times.

4. Any resulting refuse, trash, rubbish or combustible waste material shall be properly and responsibly disposed of in order to avoid fire hazards.

5. The expenses of fighting fires, which result from a violation of this section, shall be charged against the person or corporation whose violation of this section caused the fire. Damages caused by such fires shall constitute a debt of such person and are collectable by the Fire Chief in the same manner as in the case of an obligation under a contract, expressed or implied.

6. The outdoor commercial barbecue shall comply with all applicable building codes, and any fire codes adopted by the State and administered by the City Fire Department.

17.300.050 Bee keeping.

A. Best Management Practices. Bee keeping operations shall comply with the Sonoma County Beekeeper's Association's (SCBA) Recommended Best Management Practices (BMPs) for Sustainable Beekeeping (October 10, 2016, Version 1, subject to change). The Recommended BMPs for Sustainable Beekeeping addresses the following topics:

1. Location and Placement of Hives;

2. Hive Density;

3. Hive Management;

4. Hive Maintenance;

5. Colony Temperament;

6. Swarming/Honey Bee Removal and Relocation; and

7. Disease Control.

B. Hive Location. Hives shall be setback a minimum of five feet from property lines and shall not be located in any required front yard. Screening, foliage, shrubs, trees, fencing, and barriers shall be located as necessary to redirect any bee flight path to minimize human and animal contact. Screening should be of sufficient density and length to establish bee flyways above head height (a minimum of six feet) in all directions.

Chapter 17.~~410~~310

PUBLIC ART - REQUIRING PUBLIC ART AS PART OF ALL NEW DEVELOPMENT AND MAJOR REMODELS IN ALL COMMERCIAL AND INDUSTRIAL ZONES

Sections:

17.~~410~~310.010 Purpose.

The purpose of this chapter is to authorize the establishment of guidelines, procedures and standards for the integration of public art into new private and public development and redevelopment projects.

Public art helps make our City more livable and more visually stimulating. The experience of public art makes the public areas of buildings and their grounds more welcoming, it creates a deeper interaction with the places we visit, and in which we work and live. Public art illuminates the history of a community while it points to the City's aspirations for the future. A City rich in art encourages cultural tourism which brings in visitor revenues.

To achieve these goals, public art planning should be integrated into project planning at the earliest possible stage, and the selected artist should become a member of the project's design team early in the design process.

Also, public art that is not associated with a development project should likewise be integrated into the City's overall public art goals.

17.~~410~~310.020 Definitions.

Construction cost shall mean the total value of the project as determined by the Building Department. Calculations shall be based on construction costs as declared on all building permit applications, but shall not apply to costs solely attributable to tenant improvements. Building permit applications shall include, but not be limited to, all building, plumbing, mechanical, and electrical permit applications for the project. No later construction valuation other than the initial value established with the first approved permit shall be used to calculate the one percent obligation to fund public artworks except when changes to the size of the building can result in raising or lowering the required cost of public artworks.

Construction or reconstruction includes any public or private new construction or rehabilitation, renovation, remodeling or improvement of an existing building, except those construction activities attributable to new tenant improvements, having a new construction cost of $1 million, or $500,000 for rehabilitation, renovation, remodeling or improvement of an existing building or multiple buildings within a common site.

Non-development generated public art means a public art project not associated with any specific development project or not funded by the public art fund.

Professional artist shall mean a professional person who is experienced in the production of art in any visual art medium and recognized by critics and their peers as one who produces works of art. Upon request, the Public Arts Committee shall determine whether a person qualifies as a professional artist for purposes of this chapter.

Public art in-lieu fee means the fee paid to the City of Sebastopol pursuant to this chapter equal to one percent of construction cost as defined herein. In-lieu fees shall be placed in the public art fund. The fund shall be used for public art on public property or private property with the owner's permission. The fund shall be used exclusively to:

(1.) Provide sites for works of art,

(2.) Acquire and install works of art,

(3.) Maintain works of art,

(4.) Support the exhibition of art which is publicly accessible, or

(5.) Administer the public art program.

Public art project means the cost of the development, acquisition, and installation of the public art required by this chapter. It shall include the costs for the administration of this public art program.

Public artwork means a work of original and enduring art. They should be of high quality and craftsmanship. They should engage the public's mind and senses while enhancing and enriching the quality of life of the City. The artwork will be generally sited and an integral part of the landscaping and/or architecture of the building, considering the historical, geographical and social/cultural context of the site. The artworks shall be constructed in a scale that is proportional to the scale of the development.

Public artworks may include artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist or a design team that includes a professional visual artist.

Public artworks may include sculpture, murals, photography and original works of graphic art, water features, neon, glass, mosaics, or any combination of forms of media. If created by an artist as unique elements, public artworks may be architectural features of the building, exterior furnishings or fixtures permanently affixed to the building or the surrounding grounds including walkways, gates, railings, streetlights or seating, or a combination thereof, and may include architectural features of the building.

Public artworks do not include the following:

1. Art objects that are mass-produced of standard design such as playground equipment, benches or fountains;

2. Decorative or functional elements or architectural details, which are designed solely by the building architect as opposed to an artist commissioned for this purpose working individually or in collaboration with the building architect;

3. Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist;

4. Directional or promotional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original work of art or executed by artists in unique or limited editions;

5. Logos or corporate identity.

17.~~410~~310.030 Public art required in certain zones.

A. Public artworks, as defined in SMC 17.~~410~~310.020, shall be required as part of any private or public construction or reconstruction project located in any commercial or industrial zoning district.

B. Exceptions. The requirements of this chapter shall not apply to the following activities:

1. Underground public works projects;
2. Street, sidewalk, trails or pathway construction or repair;
3. Tree planting;
4. Remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity;
5. Affordable housing construction, remodel, repair or reconstruction projects;
6. Seismic retrofit projects as defined by Sebastopol City policy;
7. Construction, remodel, repair or reconstruction of structures owned and occupied by public-serving social service and nonprofit agencies;
8. Construction or repair of utility pump stations and reservoirs;
9. Fire sprinkler installation projects;
10. Disabled accessibility improvements.

C. Any private, residential-only project as permitted in any zoning district may choose to voluntarily participate in the public art program. Residential developers choosing to voluntarily participate in the program shall follow the procedures set forth in this section. Applicants choosing to voluntarily participate in the public art program shall provide public art on the project site, as approved by the Public Arts Committee and the Sebastopol Design Review Board.

D. The public art project shall cost an amount not less than one percent of the construction cost for a private or public project as they may relate to that project. The public art may be located:

~~(~~1.~~)~~ In areas of the site of the building or addition clearly visible from the public street or sidewalk, or

~~(~~2.~~)~~ On the site of the approved open space feature of the project, or

~~(~~3.~~)~~ Upon the approval of any relevant public agency on adjacent public property, or

~~(~~4.~~)~~ In a publicly accessible area of the development project open to the public at least 40 hours a week.

E. The creator of public art shall be a practitioner in the visual arts who is not a member of the project architect, engineering or landscape architect firm. Public art shall be displayed in a manner that will enhance its enjoyment by the general public.

F. Compliance with the provisions of this chapter shall be demonstrated by the owner or developer at the time of filing a building permit application in one of the following ways:

1. Payment of the full amount of the public art in-lieu fee; or

2. Written proof to the Planning Department of a contractual agreement to commission or purchase and install the required public artwork on the subject development site and a written acknowledgment by the project artist and the owner or developer, in a form approved by the City that the proposed public artwork complies with the following criteria:

    a. The art has been approved by the Public Arts Committee;

    b. The art shall be designed and constructed by any person experienced in the production of such art and recognized by critics and by his/her peers as one who produces works of art;

    c. The art project shall require a low level of maintenance and that the proposed maintenance provisions are adequate for the long term integrity and enjoyment of the work;

    d. The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and architecture, landscaping or other setting so to complement the site and its surroundings and shall be consistent with any corresponding action of the Design Review Board, Planning Commission or City Council as it may relate to any development entitlements;

    e. Permanent artwork shall be a fixed asset to the property;

    f. The artwork shall be maintained by the property owner in a manner acceptable to the City;

    g. The artwork meets all building code requirements.

G. In the event owner or developer does not agree with the findings and decisions of the Design Review Board and/or Planning Commission, the owner or developer may appeal those findings and decisions to the City Council.

H. The owner or developer shall provide the City with proof of installation of the required public artwork on the development site prior to the issuance of a certificate of occupancy. In the alternative, the owner/developer may post a bond in the amount of the in-lieu fee to be reimbursed upon completion of the artwork.

I. Title to all artworks required by and installed pursuant to this chapter shall pass to the successive owners of the development. Each successive owner shall be responsible for the custody, protection and maintenance of such works of art.

J. If, for any reason, the current owner shall choose to replace any public artwork installed pursuant to this chapter, the following requirements shall be met before the artwork is replaced:

1. The cost of the replacement shall be equal to, or greater than, the cost of the art to be removed.

2. The location of the replacement shall meet the requirement for public accessibility in effect at the time of the replacement.

3. The replacement art shall conform, in every respect, to all standards in effect at the time of the replacement.

4. The replacement work, location and installation shall violate no other ordinance.

5. The replacement art shall be available for public view not more than 180 days after the existing art is removed, unless the period is extended by the Planning Director.

17.~~410~~310.040 Public Arts Committee.
A Public Arts Committee will be maintained by the City. Terms of office for each of the Committee members shall be four-year, staggered terms. Said Committee shall be comprised of five members as follows:

A. Members of the Committee shall be appointed by the City Council.

B. Prior to making any appointments, the City Council will seek the input and nominations for potential Committee members from City of Sebastopol based registered nonprofit art organizations, entities, facilities, schools, etc.

C. Preference will be shown to City of Sebastopol residents and persons who own a business or work in the City; however, qualified candidates from the greater Sebastopol and Sonoma County area will be considered. In making appointments, the City Council shall consider the following categories:

1. Active members of a City of Sebastopol based, art focused, registered nonprofit organization, entity or facility.

2. Persons with experience in the public art field as either an artist, installer or designer.

3. Members of the general public.

4. A member of the Design Review Board.

D. In the event suitable candidates satisfactory to the City Council in the above categories are not available to serve, the City Council may then select any person or persons in their discretion.

The Committee shall maintain a registry of public art in the City and perform the duties required of this chapter and any other ordinance or resolution of the City Council pertaining to the City of Sebastopol's public art program.

In addition to development related public art projects or public art projects funded by the public art fund, the Committee shall review and provide recommendations to the City Council on non-development generated public art projects.

17.~~410~~310.050 Public art fund.
All fees collected under this chapter shall be held in a special fund designated a public art fund, maintained, managed and reviewed by the City Manager, or his/her designee. The City Manager shall, as part of the City's annual budget process, estimate the administrative costs of the public art program for the given fiscal year. The annual expenses shall not exceed 20 percent of the estimated revenue from in-lieu fee payments. The annual budget and all revisions for the public art fund shall be subject to the review and approval of the City Council.

The City Council may, as funds are available, seek proposals for a public art project utilizing the available funds in the public art fund for such effort. The City Council will invest in the Public Arts Committee the responsibility to develop a plan for the project. Such plan shall include:

A. Artistic objectives.

B. Proposed site or sites.

C. Desired type of art that is proposed.

D. A preliminary budget and schedule for the project.

E. Project management recommendations.

F. Other objectives.

Upon receipt and approval of this plan, the City Council will authorize City staff, in conjunction with the Public Arts Committee, to develop a formal request for proposals for the project. Staff and the Public Arts Committee will review the proposals received and provide recommendations to the City Council for acceptance.

The City Council, if sufficiently satisfied with the proposals, will make the final decision to enter into a contract for the project. The actual development of the project will be overseen by the City, and/or its contractors, assigns or designees.

17.~~410~~310.060 Applicability.
The provisions of this chapter shall apply to any project that receives any required entitlement approvals, tentative map, rezoning or pre-zoning, major design review, or General Plan amendment from the Planning Commission and City Council 60 days after the effective date of the ordinance codified in this chapter. If a building permit only is required and none of the circumstances listed in this section apply to the application, then the building permit must be issued for the project prior to the effective date of the ordinance codified in this chapter. However, when a development agreement or some other agreement authorized by the City Manager is in place that clearly establishes provisions for the payment of in-lieu fees, said project may also be exempt from the requirements of this chapter.

17.~~410~~310.070 City Council review.
The City Council shall review the provisions of this chapter and the effectiveness of the public art program as it deems necessary.

17.~~410~~310.080 Exemption from CEQA.
The City Council finds, pursuant to Title 14 of the California Administrative Code, Sections 15061(b)(3) and 15378(a), that the ordinance codified in this chapter is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

Chapter 17.320

TRANSITIONAL SITES

17.320.010 Applicability

The criteria in this chapter shall be applied to commercial, industrial, and other non-residential developments located next to any residential district property.

17.320.020~~110.040~~ Transitional commercial sites criteria.

~~The following criteria shall be applied to commercial developments located next to any R district property.~~

A. Outdoor uses shall not be permitted unless such outdoor uses are mitigated in a manner acceptable to the Planning Commission.

B. Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m., including delivery and service, unless longer hours are mitigated in a manner acceptable to the Planning Commission.

C. Uses which generate excessive noise, such as from machinery, amplified music, etc., shall not be permitted, unless within a soundproof structure which would shield adjacent residential properties from such noise.

D. Outdoor lighting shall be shielded from adjacent residential properties and shall not spill over onto any adjacent property. Adjacent properties shall be screened from potential light or glare from automobile headlights.

E. Vehicular access shall be from streets other than those serving the adjacent residential district, unless other access is mitigated in a manner acceptable to the Planning Commission.

F. Uses which may discharge smoke and/or odor shall not be permitted, unless such discharge is mitigated in a manner acceptable to the Planning Commission.

G. Perimeter side and rear property lines shall be screened from adjacent residential districts by solid fencing of six feet in height. Dense landscaping, including trees, shall be required along said property edges.

H. Uses which include the use, storage, processing or other handling of hazardous and/or toxic substances shall not be allowed.

I. Trash and recycling enclosures shall be required for all uses, and shall be located away from the adjacent residential district. On-site trash enclosures shall allow for convenient disposal of trash and debris, and shall be secured for such uses as animal hospitals or other uses which may dispose of hazardous items. For uses such as drive-in restaurants, which may result in off-site litter, a program of off-site litter cleanup shall be required, which program may include:

1. Frequency of cleanup.

2. Geographical extent of cleanup.

3. Additional on-site receptacles.

J. Unless the Design Review Board determines a different setback is appropriate due to site conditions, existing improvements, provision of pedestrian amenities, or the neighborhood context, the setback requirements, including front yard, side yard, and rear yard, shall be equal to the applicable setback

required on the adjacent residential lot and for any residential district that does not have a comparable setback requirement (e.g., parking), the setback shall be equal to 10 feet.

Chapter 17.330
OUTDOOR MUSIC AND NOISE IN THE DOWNTOWN

17.330.010 Downtown Noise Permit Required.
A Downtown Noise Permit shall be required for uses in the Downtown, as shown in Figure 9-1 of the General Plan, requesting periodic exceedances of the noise standards contained in SMC 8.25.060. SMC 17.435 establishes the procedure for consideration of Downtown Noise Permits.

17.330.020 Downtown Noise Permit Standards – Community Events.
The following standards apply to community-wide events that occur on public or private property:

Sound sources associated with outside activities associated with a community event (e.g. fairs, entertainment events, and sporting events) between the hours of 8:00 a.m. and 10:00 p.m. from Sunday through Thursday and between the hours of 8:00 a.m. and 11:00 p.m. on Fridays, Saturdays, and City-recognized holidays shall not exceed 80 dBA, Lmax at the property line of the property on which the event is being held.

17.330.020 Downtown Noise Permit Standards – Private Events.
The following standards apply to events that occur on private property and are open to clients or patrons of an establishment.

A. A Downtown Noise Permit shall only be issued for events that either:

1. Are a one-time event that is held for no more than three days.

2. Are a recurring event that is held no more than twice per month.

B. Any exceedance of the noise standards contained in SMC 8.25.060 shall be for no more than three hours in any 24-hour period.

C. Any exceedance of the noise standards contained in SMC 8.25.060 shall be limited to the hours of 9 am to 10:30 pm on a Friday and/or a Saturday and 9 am to 10 pm on a Sunday. Noise levels shall not be exceeded on a Monday, Tuesday, Wednesday, or Thursday.

D. The exterior noise standards established at SMC 8.25.060 shall not be exceeded by more than 10 dBA at any time. An exceedance of more than 10 dBA is not eligible for a Downtown Noise Permit and shall require a variance.

E. Reasonable methods to attenuate noise shall be incorporated into the site plan and event in order to minimize excessive noise exposure to nearby residences. Such methods may include, but not be limited to:

1. Orienting the activity or event, including speakers and other noise-generating equipment, so that noise is directed away from residential areas.

2. Use of noise barriers when noise will be generated outdoors or in a building that is open to the outdoors (windows, doors, etc. that are held open during the event or will be opened on a regular basis during the event) to ensure that off-site noise levels are minimized.

3. Having a sound engineer on-site during the event to review and adjust settings on the soundboard, amplifiers, and other noise-generating and noise-modulating equipment to ensure that the interior noise standard at affected areas is not exceeded.

Chapter 17.~~150~~340

FORMULA BUSINESS REGULATIONS

Sections:

17.~~150~~340.010 Permits.

The City and its agents, employees and departments shall not approve any subdivision, use permit, variance, building permit, grading permit, business license, other permits, other licenses or other entitlements for the use ("prohibited uses") of land or structures within any zoning district in the City absent compliance with this chapter. (Ord. 1079 ß 2 (Exh. A), 2015)

17.~~150~~340.020 Definitions.

A. Formula Business Uses. For purposes of this chapter, "formula business use" shall be defined as a restaurant, fast-food restaurant, walk-up restaurant, convenience sales and service, food sales and service, and general retail sales uses, as defined in Chapter 17.08 SMC, except as otherwise exempted by this chapter, which is required by contractual or other arrangement or affiliation to maintain a standardized ("formula") array of services and/or merchandise, menu, employee uniforms, decor, facade design, signage, color scheme, trademark or service mark, name, or similar standardized features; and which causes it to be substantially identical to 25 or more other businesses in the United States regardless of ownership or location at the time that the application is deemed complete.

B. Other Definitions.

"Color scheme" means selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

"Decor" means the style of interior furnishings, which may include, but is not limited to, style of furniture, wall coverings or permanent fixtures.

"Facade" means the face or front of a building, including awnings, looking onto a street or an open space.

"Ground floor street front" means that portion of a building within 75 feet of a public street.

"Service mark" means word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

"Signage" means a sign pursuant to this title.

"Standardized array of merchandise" means 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.

"Standardized array of services" means a substantially common menu or set of services priced and performed in a consistent manner.

"Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

"Uniform apparel" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks, ~~or~~ dresses, hat, and pins (other than name tags) as well as standardized colors of clothing. (Ord. 1079 ß 2 (Exh. A), 2015)

17.~~150~~340.040 Prohibited formula business uses.
The following types of formula businesses are prohibited in the CD Central Core District:

A. Formula business offices on the ground floor street front.

B. Formula business restaurants.

~~B~~C. Formula business hotels and motels. (Ord. 1079 ß 2 (Exh. A), 2015)

17.~~150~~340.050 Exemptions.
This chapter shall not apply to:

A. Those land use applications (namely, subdivisions, use permits, variances, design review, General Plan amendment, rezoning, building or grading permits) which were deemed complete prior to the adoption of the ordinance codified in this chapter;

B. Business licenses approved prior to the adoption of the ordinance codified in this chapter;

C. Construction required to comply with fire and/or life safety requirements;

D. Disability accessibility work;

E. Renovation of existing formula businesses, including renovations involving the addition of square footage comprising up to 15 percent of the gross floor area of the existing establishment or 1,500 gross square feet, whichever is less;

F. Changes in ownership of existing formula businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation;

G. Offices, banks and credit unions, and tax preparation services, except as specified in SMC 17.340.040; and

H. Formula business uses of 10,000 square feet or less located in the following existing shopping centers:

- Redwood Marketplace, located at 700-800 Gravenstein Highway North;
- Fiesta Shopping Center, located at 500-660 Gravenstein Highway North and 7822-7840 Covert Lane;
- Southpoint Shopping Center, located at 775-801 Gravenstein Highway South; and
- Gravenstein Shopping Center, located at 950-980 Gravenstein Highway South.
- The Planning Director shall be authorized to interpret any future address or name changes for these locations. (Ord. 1079 ß 2 (Exh. A), 2015)

17.~~150~~340.060 Use permit requirement.
A use permit shall be required for any formula business not otherwise prohibited, unless in conformance with SMC 17.~~150~~340.050~~(H)~~. (Ord. 1079 ß 2 (Exh. A), 2015)

17.~~150~~340.070 Use permit procedures.
Procedures for formula business use permit applications shall conform to Chapter 17.260 SMC. (Ord. 1079 ß 2 (Exh. A), 2015)

17.~~150~~340.080 Use permit findings.
In acting on a formula business use permit application, the Planning Commission, or City Council on appeal, shall determine:

A. If the establishment, maintenance, or operation of the proposed use or development applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;

B. That the formula business establishment will complement existing businesses, and promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;

C. That the proposed use, together with its design and improvements, is consistent with the unique and historic character of Sebastopol, has an exterior design which appropriately limits "formula" architectural, sign, and other components, and will preserve the distinctive visual appearance and shopping/dining experience of Sebastopol for its residents and visitors;

D. That, as applicable, the proposed use will help residents and visitors avoid the need to shop out of town for goods or services;

E. That the proposed use will be pedestrian-oriented and connect to ~~consistent with~~ the area's existing and planned pedestrian and bicycle facilities ~~orientation~~; and

F. That if the proposed use is greater than 10,000 gross square feet, the establishment will provide needed goods or services, will promote Sebastopol's ~~the area's~~ economic vitality, and will be compatible with existing and planned uses. (Ord. 1079 ß 2 (Exh. A), 2015)

~~**17.150.090 CEQA determination.**~~
~~The ordinance codified in this chapter is categorically exempt from CEQA under:~~

~~(A) Section 15308 of the State CEQA guidelines because it is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment;~~

~~(B) Section 15060(c) (2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and~~

~~(C) Section 15060(c) (3) because it is not a project within the meaning of CEQA since it has no potential for resulting in physical changes in the environment. (Ord. 1079 ß 2 (Exh. A), 2015)~~

~~**17.150.100 Effective date.**~~
~~The ordinance codified in this chapter shall become effective 30 days following its adoption. (Ord. 1079 ß 2 (Exh. A), 2015)~~

~~**17.150.120 Publication.**~~

~~The City Clerk shall cause the ordinance codified in this chapter to be published and/or posted within 15 days after its adoption. (Ord. 1079 ß 2 (Exh. A), 2015)~~

CHAPTER 17.345
SERVICE STATIONS, CAR WASHES, AND DRIVE-THROUGHS

17.~~60.090~~345.010 ~~Provisions relating to s~~Service ~~s~~tations and car washes.
In addition to the development standards in Chapter 20 of this title, gas stations and car washes shall comply with the following requirements:

A. Location.

1. The site shall have at least 150 feet of frontage on an arterial or collector street.

2. The site shall not adjoin an existing residential zone district, or single- or two-family residential use at the time the service station use or car wash use is established.

B. Distance between Service Station and Car Wash Sites. The minimum distance between ~~automobile~~ service station sites shall be 500 feet and the minimum distance between car wash sites shall be 500 feet.

C. Site Area. The minimum site area shall be 15,000 square feet or the minimum required by the applicable zoning district, whichever is greater.

D. Site Dimensions. The minimum width shall be 150 feet; the minimum depth shall be 100 feet.

E. Site Design.

1. Pump islands shall be set back a minimum of 20 feet from any property line. The setbacks for the buildings shall comply with the applicable zoning district.

2. New curb cuts on a public street shall be a minimum of 50 feet from the intersection of the projected curb lines. No more than two curb cuts shall be permitted unless otherwise approved by a use permit.

3. Vapor processing units and propane tanks shall be located behind or on the side of the main building, where possible, or screened within a landscaped area. Tanks shall be installed pursuant to State, County, and local requirements and shall be oriented in a horizontal position.

F. Other Requirements.

1. All merchandise, including but not limited to periodicals, vending machines, and other items offered for purchase, shall be contained within the buildings at all times.

2. The storage of inoperative vehicles is prohibited.

G~~E~~. Abandoned Stations. Any service station that becomes nonconforming for any reason other than the spacing requirements set forth in this section, and which is abandoned or closed for a period of ~~six months~~ one year consecutively, or an aggregate of 365 days in any two-year period, shall be physically removed from the site by the owner. Removal shall mean the demolition of all service station facilities, including removal of underground tanks pursuant to State and County requirements. Prior to the effective date of any order to remove a service station pursuant to this section, interested parties shall be notified by registered mail and shall be given a hearing before the City Council.

17.345.020 Car Washes

In addition to the requirements established in SMC17.25 and the requirements identified in paragraph (A) of this section, car washes shall comply with the requirements listed below.

A. The site layout and design shall ensure that there is adequate room for the queuing and drying areas and vehicles will not queue in the adjoining walkways and streets.

B. All washing and automatic drying facilities shall be completely within an enclosed building.

C. Vacuuming facilities shall not be located along public or private streets and shall be screened from adjacent residential properties. Mechanical equipment for powering vacuuming shall be located within an enclosed structure.

D. Any noise from car washing activities, loud speakers, and vacuuming shall meet the noise standards in the SMC and General Plan.

E. Car washes shall use recycled water whenever feasible.

17.345.030 Drive-through uses.

Any new drive-through uses are prohibited. Such uses existing as of December 18, 2012 may be modified for aesthetic, safety, or other reasons as determined appropriate by the City, but no modifications that would intensify or expand the use shall be permitted.

Chapter 17.350~~120~~

ALCOHOL USE PERMIT CRITERIA

Sections:

17.350~~120~~.010 Findings and purpose.

A. The City Council finds and determines that establishments engaged in the sale of alcoholic beverages may present problems that are encountered by residents, businesses, property owners, visitors and/or workers of Sebastopol, including, but not limited to, littering, obstruction of pedestrian traffic, vehicular traffic, parking, crime, interference with children on their way to school, interference with shoppers using the streets, defacement and damaging of structures, disturbing the peace, discouragement of more desirable and needed commercial uses and other similar problems connected primarily with the operation of establishments engaged in the sale of alcoholic beverages for consumption on or off the premises.

B. The City Council also finds and determines that the existence of such problems creates serious impact on the peace, health, safety and welfare of residents of nearby areas, including fear for the safety of their children and of visitors to the area, as well as contributing to the deterioration of their neighborhoods, and concomitant devaluation of their property and destruction of their community values and quality of life.

C. This chapter is intended and designed to deal with and ameliorate these problems and conditions by restricting the location of such uses in relation to one another, and their proximity to facilities primarily devoted to use by children and families and the general public, and through the denial of a conditional use permit or through the imposition of conditions on a case-by-case basis, thereby limiting the number of such uses in the City and preventing undue concentration and undesirable community impact of such uses by the imposition of reasonable conditions upon the operation of all such uses both existing and in the future.

17.350~~120~~.020 Conditional use permit required.

A. On and after the effective date of the ordinance codified in this chapter, no place wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption, shall be established without first obtaining a conditional use permit from the City of Sebastopol. Further, no existing site which substantially changes its mode or character of operation shall continue to operate without first obtaining a conditional use permit.

B. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishments and posted in a place where it may readily be viewed by any member of the general public.

C. In making any of the findings required pursuant to this chapter, the Planning Commission, or the City Council on appeal, shall consider whether the proposed use will adversely affect the health, safety or

welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.

The Planning Commission, or City Council on appeal, shall also consider whether the proposed use will detrimentally affect nearby residentially zoned communities in the area, after giving consideration to the distance of the proposed use from the following:

1. Residential buildings;

2. Churches, schools, hospitals, public playgrounds and other similar uses; and

3. Other establishments dispensing for sale or other consideration, alcoholic beverages including beer and wine.

D. In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.

E. The Planning Commission, or City Council on appeal, may impose any conditions on the applicant or proposed location reasonably related to the health, safety or welfare of the community.

F. Except as set forth in SMC 17.120.070, applications for conditional use permits herein shall be made in accordance with Chapter 17.260 SMC, together with amendments thereto. The applicant shall submit a processing fee as specified in the most current Planning Department schedule of fees. Any costs for processing an application that exceed the conditional use permit fee paid by the applicant shall be deemed a debt to the City of Sebastopol and shall be paid within 30 days of issuance of the conditional use permit or said permit shall be revoked.

17.350~~120~~.030 On-sale liquor establishments defined.
An on-sale liquor establishment shall mean any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises including but not limited to any facility which has obtained a California Department of Alcoholic Beverage Control license Types 41, 42, 47, 48, 51, 52 and 63.

17.350~~120~~.040 Off-sale liquor establishments defined.
An off-sale liquor establishment shall mean any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control, including Types 20 and 21.

17.350~~120~~.050 Minimum conditions for off-sale liquor establishments.
California Business and Professions Code states:

> Off-sale liquor establishments shall not sell or store motor fuels on the same premises as alcoholic beverages, except upon condition of the following:
>
> A. No beer and wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler as of January 1, 1988.
>
> B. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
>
> C. No sale of alcoholic beverages shall be made from a drive-in window.
>
> D. No display or sale of beer or wine shall be made from an ice tub.

E. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.

F. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least twenty-one (21) years of age to sell beer and wine.

17.350~~120~~.060 Existing establishments selling alcoholic beverages (on-sale and/or off-sale).

A. Any establishment lawfully existing prior to the effective date of this section and licensed by the State of California for the retail sale of alcoholic beverages for on-site and/or off-site consumption shall obtain a conditional use permit when:

~~(~~1.~~)~~ The establishment changes its type of liquor license within a license classification and/or,

~~(~~2.~~)~~ There is a substantial change in the mode or character of operation. For purposes of this chapter "substantial change of mode or character of operation" shall include, but not be limited to, a transfer of ownership of the license, a pattern of conduct in violation of other laws or regulations, a period of closure, or a substantial increased square footage of alcoholic beverage sales or retail inventory.

B. Any establishment which becomes lawfully established on or after effective date of this section and licensed by the State of California for the retail sale of alcoholic beverages for on-site and/or off-site consumption shall obtain a modification of conditional use permit when:

~~(~~1.~~)~~ The establishment changes its type of liquor license within a license classification and/or,

~~(~~2.~~)~~ There is a substantial change in the mode or character of operations of the establishment.

17.350~~120~~.070 Administrative determination of certain use permit applications.

A. The Planning Director of the City of Sebastopol is hereby authorized to approve, conditionally approve or deny use permits for on-sale liquor establishments holding license Types 51 and 52 (as defined under SMC 17.350~~120~~.030), and for all existing establishments (pursuant to SMC 17.350~~120~~.060).

B. Any applicant under this section, or any other interested person, may appeal the determination of the Planning Consultant within five working days from the date the action appealed from was taken. All such appeals shall be made to the Planning Commission who shall render its decision within 30 days after the filing of such appeal. A filing fee, as established by resolution of the City Council, shall be paid at the time of filing of the written appeal.

17.350~~120~~.080 Exemptions.

The Planning Director shall have the authority to grant an exemption from the provisions of this chapter for:

A. Commercial or home occupation businesses where only office related activities will be performed, and where the storage and on-site sale of alcoholic beverages will not, at any time, occur.

B. Wine tasting establishments, where listed as a permitted use. The exemption shall be approved in writing by the Planning Director and shall be subject to the right of appeal to the Planning Commission as provided in Chapter 17.455 SMC. The exemption shall only be approved if the applicant agrees in writing to comply with the following criteria and conditions:

1. No live entertainment is permitted on the premises except with approval by the Chief of Police and Planning Director, who may impose conditions controlling such activities.

2.- An employee alcohol awareness training program and security plan is approved by the Chief of Police.

3. Only wine, non-alcoholic beverages, and food other than meals may be served.

4. Wine and non-alcoholic beverages may be sold at retail for consumption on-site, and for off-premises.

5. Retail items incidental to the primary use may be sold.

6. There shall be no sale or consumption of wine on the premises between 11:00 p.m. and 10:00 a.m.

C. Restaurants or "bona fide" public eating places which offer for sale or dispense for consideration alcoholic beverages including beer or wine incidental to meal service. The exemption shall be approved in writing by the Planning Director and shall be subject to the right of appeal to the Planning Commission as provided in Chapter 17.455~~320~~ SMC. The exemption shall only be approved if the applicant agrees in writing to comply with the following criteria and conditions:

1. The premises contain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises.

2. The primary use of the premises is for sit-down service to patrons, and the establishment is not a drive-up, drive-through, or fast-food restaurant.

3. The establishment serves food to patrons during all hours the establishment is open for customers.

4. The establishment only serves alcohol in a dining area and not in an alcohol serving area that is separate from the dining area.

5. Adequate seating arrangements for sit-down patrons are provided on the premises, not to exceed a seating capacity of 50 persons.

6. Any take-out service is only incidental to the primary sit-down use and does not include the sale or dispensing for consideration of alcoholic beverage or beer or wine.

7. No alcoholic beverages or beer or wine are sold or dispensed for consumption beyond the premises.

8. No dancing or live entertainment is permitted on the premises except with approval by the Chief of Police and Planning Director, who may impose conditions controlling such activities.

9. An employee alcohol awareness training program and security plan is approved by the Chief of Police.

17.350~~120~~.090 Revocation of CUP.

A conditional use permit granted under this chapter shall be subject to revocation in the manner provided by SMC 17.415~~250~~.050 if any of the conditions imposed and accepted are not complied with.

Chapter 17.355
MOBILE FOOD TRUCK REGULATIONS

17.355.010 Applicability

This chapter applies to operations of mobile food trucks within the City. No permit or licenses for mobile food trucks shall be issued absent compliance with this chapter.

17.355.020 Mobile Food Trucks Operating within the Public Right-of-Way or Operating Short-term on Public or Private Property.

The following standards apply to mobile food vendors that operate within the public right-of-way and to mobile food vendors that operate on a temporary basis (less than one hour) with the permission of the property owner on public or private property.

A. Licenses and Permit Required. Mobile food trucks operating in the City shall obtain a Business License from the City's Finance Department. The owner and operator of a mobile food truck is responsible for obtaining all necessary licenses and permits required for the service of food and beverages, including a permit for food service from the Sonoma County Department of Health. The mobile food vehicle must be in compliance with the motor vehicle laws of the State of California.

B. Hours of Operation.

a. Downtown Core District: All mobile food truck vendors within the Downtown Core District shall cease operation between the hours of 2:00 AM and 7:00 AM.

b. Elsewhere: All mobile food truck vendors outside of the Downtown Core District shall cease operation between the hours of 10:00 PM and 7:00 AM.

C. Mobile food vendors shall not operate within two hundred (200) feet of any building-enclosed restaurant as measured from the primary customer entrance of the restaurant, except when the restaurant is closed for business or if the mobile food vendor has written authorization from all building-enclosed restaurants with primary customer entrances within a two-hundred-foot radius.

D. Mobile food vendors shall not stop, stand, or park in any location that obstructs visibility of an intersection or of traffic entering or existing an intersection.

E. Mobile food vendors shall not stop, stand, or park in or adjacent to any no parking or loading zone.

F. Operations within a parking lot shall not conflict with traffic circulation and shall maintain the minimum required on-site parking spaces for the principal use(s) on the property.

G. Mobile food vendors shall not operate on public land or within the public right-of-way within three hundred fifty (350) feet of a public or private school within thirty minutes of the beginning and end of the school day.

H. Mobile food vendors shall maintain a clear path of travel on the sidewalk pursuant to the Americans with Disabilities Act (ADA) free of customer queuing, signage, and/or all portions of the vehicle for the clear movement of pedestrians.

I. From 7:00 AM to 10:00 PM, a mobile food vendor shall not vend within the public right-of-way at any location for more than one hour without moving to a new location that is at least one full block or 500 feet from the previous location, whichever distance is greater.

J. A mobile food vendor shall not vend in any one location for more than one hour.

K. Mobile food vendors shall maintain trash receptacles immediately adjacent to the vending location for use by their customers and shall pick up all trash within 25 feet of their vending location. Trash shall not be placed in City trash receptacles.

L. Operations must be self-contained in the vehicle. Outside tables, seating, or shade canopies may not be placed in the public right-of-way

M. Alcoholic Beverage. No sales or service of alcohol shall be allowed by mobile food trucks.

N. Exceptions. By Use Permit, the Planning Commission may grant an exception to these provisions.

17.355.030 Mobile Food Truck Court Requirements

Mobile food truck courts are a development on a privately-owned parcel with an individual pad and individual service and utility hook-ups for each mobile food vendor and on-site amenities, such as restrooms, eating areas, etc.) for customers, and are intended for regular food service from mobile food trucks. Mobile food truck courts may have mobile food trucks that operate on a short-term (one hour or less) or long-term basis (more than one hour). Mobile food court developments shall be subject to the following standards:

A. Business License Required. All mobile food truck vendors shall obtain a Business License from the City's Finance Department. The owner and operator of a mobile food truck is responsible for applying and obtaining all other necessary licenses and permits required for the service of food and beverages. The mobile food vehicle must be in compliance with the motor vehicle laws of the State of California.

B. An individual pad and individual service and utility hook-ups shall be provided for each mobile food truck.

C. A restroom shall be provided on-site for mobile food truck employees and customers.

D. Pedestrian-oriented amenities, including tables, seating, shaded areas, and landscaping, shall be provided.

E. Mobile food developments are subject to the permit requirements and site development standards established by this code, including SMC17.25.

F. Customer walkup areas may not extend into the public right-of-way.

G. Mobile food trucks operating within a mobile food truck court are not subject to the standards of Paragraph 1 this section.

H. Exceptions. By Use Permit, the Planning Commission may grant an exception to these provisions.

Chapter 17.~~140~~360
MEDICAL CANNABIS DISPENSARIES USE PERMIT CRITERIA AND PROCEDURES

Sections:

17.~~140~~360.010 Findings.

The City Council adopts the ordinance codified in this chapter based upon the following findings:

A. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq.) entitled the “Compassionate Use Act of 1996” (Act).

B. The intent of Proposition 215 was to enable persons residing in the State of California who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.

C. The State enacted SB 420 in 2004, being Section 11362.7 et seq. of the Health and Safety Code, being identified as the Medical Cannabis Program (Program), to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the Program.

D. To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the Program, regarding the location and operation of medical cannabis dispensaries and the cultivation of medical cannabis.

E. Cannabis plants, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor, offensive to many people.

F. The strong smell of cannabis can create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

G. There have been a number of cannabis dispensing- and cultivation-related incidents in California, some including acts of violence committed by persons without a legitimate medical need or use.

H. The right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer upon them the right to create or maintain a public nuisance. By appropriate land use regulations and procedures, the City anticipates a significant reduction in the complaints of odor and the risks of crime described herein than what would otherwise occur.

I. The City finds that medical cannabis dispensing and cultivation which exceeds the limitations set forth in these regulations will likely result in an unreasonable risk of crime and will likely create offensive odors to persons living nearby.

J. The City further finds that the indoor cultivation exceeding the limits of these regulations may require excessive use of electricity which may create an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation. In addition, the City finds that the indoor cultivation exceeding the limits of these regulations creates a substantial risk of burglary, robbery and armed robbery.

K. It is the City Council's intention that nothing in this chapter shall be deemed to conflict with Federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, to otherwise permit any activity that is lawfully and constitutionally prohibited under that Act.

L. It is the City Council's intention that nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.

M. Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health, through the State's counties, is to be responsible for establishing and maintaining a voluntary medical cannabis identification card program for qualified patients and primary caregivers.

N. California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the matters set forth in Section 11362.71 et seq.

O. This chapter is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the Council finds and determines that there is nothing in this chapter or its implementation that could foreseeably have any significant effect on the environment.

P. That this chapter is compatible with the general objectives of the General Plan and any applicable specific plan, in that a medical cannabis dispensary use would be conditionally permitted in commercial

and industrial districts, being similar to other permitted and conditionally permitted uses, such as pharmacies and medical clinics, and in that the use will be subject to strict review and conditions.

Q. That this chapter is compatible with the public convenience, general welfare and good land use practice, in that medical marijuana dispensaries and medical cannabis cultivation address a medical need in the community, and in that the uses will be subject to rigorous review and conditions.

R. That this chapter will not be detrimental to the public health, safety and general welfare, in that uses will be subject to careful review, that because of the small area and population of Sebastopol, lack of experience with this use, and potential for adverse effects, dispensaries would be limited in number, cultivation would be appropriately controlled, and such uses would be subject to strict operating requirements, limiting potential negative effects.

S. That this chapter will not adversely affect the orderly development of property, in that there would be appropriate controls on medical cannabis cultivation, there would be absolute limits on the number of dispensaries, dispensaries would be subject to a careful review process, and strict operating requirements would be imposed.

T. To address concerns regarding pricing, service, innovation, variety and quality, the Council finds that a limit on single ownership of dispensaries is appropriate.

17.~~140~~360.020 Purpose and intent.
A. It is the purpose and intent of this chapter to regulate medical cannabis cultivation and dispensaries in order to promote the health, safety, morals, and general welfare of residents and businesses within the City. It is neither the intent nor the effect of this chapter to condone or legitimize the use of cannabis.

B. Interpretation and Applicability.
1. No part of this chapter shall be deemed to conflict with Federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, State or Federal law, statute, rule or regulation. The cultivation, processing and distribution of medical cannabis in the City of Sebastopol is controlled by the provisions of this chapter of the Sebastopol Municipal Code. Accessory uses and home occupations where medical cannabis is involved shall be governed by the provisions of this chapter.

2. Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

3. Provided compliance is maintained with this chapter, nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from allowing, limiting or prohibiting cannabis cultivation, smoking or other related activities by tenants as may otherwise be permitted by law.

4. Nothing in this chapter is intended, nor shall it be construed, to exempt any cannabis related activity from any and all applicable local and State construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

5. Nothing is this chapter is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of cannabis that is otherwise prohibited under California law.

6. All cultivation, processing and distribution of medical cannabis within City limits shall be subject to the provisions of this chapter, regardless if the cultivation, processing or distribution existed or occurred prior to adoption of this chapter.

17.~~140~~360.030 Definitions.
For the purpose of this chapter, the following words and phrases shall mean:

"Accessory building" shall have the same meaning as set forth in SMC 17.08.

"Applicant" means a person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

"City" means the City of Sebastopol.
"City Manager" means the City Manager of the City of Sebastopol or the authorized representative thereof.

"Drug paraphernalia" shall have the same definition as California Health and Safety Code Section 11362.5, and as may be amended.

"Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

"Medical cannabis cultivation area," means the maximum dimensions allowed for the growing of medical cannabis. For purposes of this chapter, the allowable cultivation area shall apply to the outward edge of the vegetative canopy.

"Medical cannabis dispensing collective," hereinafter "dispensary," shall be construed to include any association, cooperative, affiliation, or collective of persons where multiple qualified patients and/or primary caregivers, are organized to provide education, referral, or network services, and facilitation or assistance in the lawful, retail distribution of medical cannabis. "Dispensary" means any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by a physician and where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A dispensary shall not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq., or a qualified patient's or caregiver's place of residence.

"Medical cannabis patient collective," hereinafter "patient collective," shall be defined the same as "dispensary," but does not operate in a retail capacity. As such, patient collectives are subject to all provisions relating to dispensaries except where specifically indicated.

"Permittee" means the person (1) to whom a dispensary permit is issued, and (2) who is identified in California Health and Safety Code Section 11362.7(c), (d), (e) or (f).

"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character. "Person with an identification card" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as they may be amended from time to time.

"Physician" shall include licensed medical doctors (M.D.) and doctors of osteopathic medicine (D.O.) as defined in the California Business and Professions Code.

"Primary caregiver" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as may be amended.

"Qualified patient" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as they may be amended from time to time.

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including Santa Rosa Junior College and any other college or university.

"Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or; the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility that provides supervision of eight or fewer minor children, or children less than 10 years of age, and shall not include open space areas of the Laguna Wetlands Preserve, or the Town Plaza.

17.~~140~~360.040 Dispensary permit required to operate.
It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a dispensary unless the person first obtains and continues to maintain in full force and effect a dispensary use permit from the City as required in this chapter.

17.~~140~~360.050 Term of permits and renewals required.
A. Use permits issued under this chapter shall expire two years following the date of their issuance.

B. Use permits may be renewed by the Director of Planning for additional two-year periods upon application by the permittee, unless the permit is suspended or revoked in accordance with the provisions of this chapter.

C. Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable application fee referenced herein. Applications for renewal shall be acted on as provided herein for action upon applications for permits.

D. Applications for renewal made less than 45 days before the expiration date shall not stay the expiration date of the permit.

E. Permits may be revoked or suspended by the City at any time, as provided in this chapter and ~~City Cod~~the SMC~~e~~.

17.~~140~~360.060 General tax liability.
An operator of a dispensary shall also be required to apply for and obtain a business license and a general City tax certificate or exemption as a prerequisite to obtaining a permit pursuant to the terms hereof, as required by the State Board of Equalization. Dispensary sales shall be subject to sales tax consistent with State law.

17.~~140~~360.070 Imposition of fees.
Every application for a permit or renewal shall be accompanied by an application fee, as established by resolution of the City Council from time to time. This application or renewal fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

17.~~140~~360.080 Limitations on number of dispensaries.
A. The Planning Commission may not grant or cause to be granted more than two permits for medical cannabis dispensaries, in compliance with the provisions of this chapter. No company or parent company shall be permitted to simultaneously own or operate more than one cannabis dispensary in Sebastopol.

B. Permits for up to two nonretail patient collectives may be granted in compliance with all provisions of this chapter.

17.~~140~~360.090 Limitation on location of dispensary.
A. A dispensary may only be located within commercial and industrial designated areas, i.e., those so designated in the General Plan and Zoning Map. A nonretail patient collective may only be located in an industrial designated area.

B. A dispensary shall be in a visible location that provides good views of the dispensary entrance, windows and premises from the public street.

C. A dispensary shall not be allowed in the following areas at the time of its permitted establishment:

1. Within 500 feet of a youth-oriented facility, a school, a park except for the Laguna Wetlands Preserve and the Town Plaza, a smoke shop which sells paraphernalia for consuming drug or tobacco products, or another dispensary;

2. Within any residentially zoned parcel or primary land use, or any property with an underlying residential or mobile homes General Plan land use designation; or,

3. On a parcel having a residential unit, or on a parcel directly abutting a residentially zoned property, unless there are intervening nonresidential uses between the dispensary and the residential unit or the residentially zoned property that the Planning Commission determines sufficient to provide an appropriate separation.

D. The distance between a dispensary and above listed uses shall be made in a straight line from the boundary line of the property on which the dispensary is located to the boundary of the property on which the facility, building or structure, or portion of the building or structure, in which the above listed use occurs or is located.

E. A waiver of the provisions in subsection C of this section may be granted if the applicant demonstrates on plans and materials presented for review and the Planning Commission determines that a physical

barrier or similar condition exists which achieves the same purpose and intent as the distance separation requirements established herein.

17.~~140~~360.100 Operating requirements.
Dispensary operations shall be established and managed only in compliance with the following standards:

A. Criminal History. Any applicant, his or her agent or employees, volunteer workers, or any person exercising managerial authority of a dispensary on behalf of the applicant shall not have been convicted of a felony, or of a misdemeanor involving moral turpitude, or is on probation for a drug offense, or engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

B. Minors.

1. It is unlawful for any permittee, operator, or other person in charge of any dispensary to employ any person who is not at least 18 years of age.

2. Persons under the age of 18 shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian for the first visit, or as otherwise allowed by California law.

3. The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian for the first visit.

C. Operating Hours. Unless the reviewing authority imposes more restrictive hours due to specific considerations for a particular application, a dispensary shall only be operated within the following days and hours:

1. Sunday through-Saturday: 7:00a.m. to 9:00 p.m.

D. Dispensary Size and Access.

1. The dispensary size shall not exceed 2,000 square feet exclusive of restroom facilities, unless specifically authorized by the approving authority. Dispensary size shall be limited, as deemed appropriate and necessary, to best serve patient needs within the intent of this chapter and reduce potential adverse impacts that might otherwise occur on surrounding neighborhoods, businesses and demands on City services.

2. A dispensary shall not be increased in size (i.e., floor area) without a prior approval amending the existing dispensary permit. The Planning Director may authorize up to a 10% increase in size on a one-time basis, unless the Director determines it is appropriate to refer such request for Planning Commission review.

3. The entrance into the dispensary building shall be locked at all times with entry strictly controlled; e.g., a buzz-in electronic/mechanical entry system is highly encouraged. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.

4. Dispensary personnel shall monitor site activity, control loitering and site access.

5. Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted at a dispensary.

6. Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of medical cannabis.

7. Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area with dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

8. Restrooms shall remain locked and under the control of management.

E. Dispensary Supply. A dispensary may possess no more than eight ounces of dried cannabis per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a physician's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of cannabis consistent with the patient's needs.

F. Dispensing Operations.

1. A dispensary shall dispense medical cannabis to meet monthly medication needs of qualified patients, similar to typical pharmacy operations. The dispensary shall strongly discourage and avoid daily or weekly visits by patients as a routine practice.

2. A dispensary shall only dispense to qualified patients or caregivers with:

    a. A currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq. and valid official identification, such as a Department of Motor Vehicles driver's license or State identification card; or

    b. A currently valid California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

3. For qualified patients or caregivers without a California Medical Marijuana Identification Card or a Patient ID Center Identification Card, prior to dispensing medical cannabis, the dispensary shall obtain verbal, online, or signed verification from the recommending physician's office personnel that the individual requesting medical cannabis is a qualified patient.

4. A dispensary shall not have a physician on site to evaluate patients or provide a recommendation for medical cannabis.

5. Patient records shall be maintained and verified as needed, and at least annually verified with the qualifying patient's medical doctor or doctor of osteopathy unless the patient has provided a California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

6. Information on prior year's operations shall be provided annually, as required in this chapter. The operator shall adjust the operations as necessary to address issues.

G. Consumption Restrictions.

1. Cannabis shall not be consumed by patients on the premises of the dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other surroundings within 200 feet of the dispensary's entrance. Dispensary employees and registered volunteers who are qualified patients may consume cannabis within the enclosed

building area of the premises, provided such consumption occurs via oral consumption or vaporization, not smoking.

2. Dispensary operations shall not result in illegal redistribution of medical cannabis obtained from the dispensary, or use in any manner that violates local, State or City codes.

H. Retail Sales and Cultivation.

1. Except for immature nursery stock cannabis plants, not more than 750 square feet of the interior area of the dispensary shall be used for medical cannabis cultivation, or as otherwise in compliance with Health and Safety Code Section 11362.5 et seq. With approval of a use permit, greater on- or off-site cultivation square footage may be permitted. Each permitted dispensary may operate no more than one off-site cultivation facility. Nonretail patient collectives shall not be permitted to have off-site cultivation facilities. Cultivation shall be limited to interior areas of buildings. Any off-site facility shall comply with all provisions of this chapter, except that retail dispensing shall not be permitted at off-site dispensary cultivation facilities, and any off-site cultivation facilities may only be located in the M Industrial District.

    a. Except for immature nursery stock cannabis plants, cannabis plants grown by the dispensary shall only be utilized for production of processed cannabis to dispense to members of the collective.

    b. If cannabis plants other than immature nursery stock plants are to be grown at the dispensary, a security plan for the growing area shall be submitted to the Sebastopol Police Chief for review and approval. Such plan shall include security alarms and surveillance systems, physical measures to prevent access to the area by anyone other than dispensary staff, and physical measures to prevent vehicle access to the growing area.

    c. If required by the Building Official, the cultivation area shall include a one-hour firewall assembly, shall be ventilated with odor control, and shall not create excessive humidity or mold conditions. The medical cannabis cultivation area shall be in compliance with the current, adopted edition of the California Building Code as regards natural ventilation or mechanical ventilation.

    d. Cultivation facilities are strongly encouraged to utilize the most water-efficient and environmentally responsible cultivation practices available. The City reserves the right to require annual reports on cultivation facility practices, including but not limited to cultivation mediums and water use methods.

    e. The cultivation use shall comply with applicable stormwater, wastewater, and Building Code requirements.

    f. Plants in the permitted medical cannabis cultivation area shall not exceed 10 feet in height.

2. With the approval of the Planning Commission a dispensary may conduct or engage in the commercial sale of specific products, goods or services in addition to the provision of medical cannabis and other items permitted by these regulations on terms and conditions consistent with this chapter and applicable law. Nonretail patient collectives shall not engage in the commercial sale of products.

3. Up to 150 square feet may be utilized for display and sales of devices necessary for administering medical cannabis, including but not limited to rolling papers and related materials and devices,

pipes, water pipes, and vaporizers. Such devices may only be provided to qualified patients or primary caregivers and only in accordance with California Health and Safety Code Section 11364.5. Nonretail patient collectives shall not engage in the display and sales allowances referenced herein.

4. A dispensary shall not cultivate, distribute or sell medical cannabis for a profit, except as otherwise provided by law.

5. A dispensary shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.5 et seq., or any California law which may supersede it.

6. The provision of locally grown and organic cannabis is encouraged.

I. Operating Plans.

1. Floor Plan. A dispensary shall have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing medical cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage. A dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical cannabis.

3. Minimum Staffing Levels. The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing medical cannabis.

4. Odor Control. A dispensary shall have an air treatment system that limits off-site odors.

5. Security Plans. A dispensary shall provide adequate security on the premises, as approved by the Chief of Police and reviewed by the Planning Commission, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

6. Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.

7. Security Video Retention. Security video shall be maintained for 72 hours.

8. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition.

9. Emergency Contact. A dispensary shall provide the Chief of Police with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the City.

J. Signage and Notices.

1. A notice shall be clearly and legibly posted in the dispensary indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the dispensary is prohibited.

2. Signs on the premises shall not obstruct the entrance or windows.

3. Address identification shall comply with Fire Department illuminated address signs requirements.

4. Signs shall comply with all City ordinances and not contain any logos or information that identifies, advertises or lists the services offered.

K. Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the dispensary, and shall disclose such registration for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.

L. Patient Records. A dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the County, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical cannabis. Such records may be maintained on or off site, and shall be made available for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.

M. Staff Training. Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with State and local law, and properly trained or professionally hired security personnel.

N. Site Management.

1. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject dispensary.

    a. “Reasonable steps” shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.

    b. “Nuisance” includes but is not limited to disturbances of peace, open public consumption of cannabis or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive odor, and excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.

2. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.

3. The operator shall ensure that the hours of operation shall not be a detriment to the surrounding area.

4. The operator shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

O. Trash, Litter, Graffiti.

1. The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.

2. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

P. Compliance with Other Requirements. The operator shall comply with all provisions of all local, State or Federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

Q. Confidentiality. The information provided for purposes of this section shall be maintained by the City as confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

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

S. Reporting and Payment of Fees. Each permittee shall file an annual statement with the Planning Department indicating the number of patients served by the dispensary within the previous calendar year, and pay all annual permit fees.

T. Alcoholic Beverages. No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

U. Dispensaries shall be considered medical office uses relative to parking requirements.

17.~~140~~360.110 Application preparation and filing.
A. Application Filing. A complete major use permit application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the Planning Department, using forms provided by the City, and accompanied by the applicable filing fee. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

B. Eligibility for Filing. Applications may only be filed by the owner of the subject property, or person with a lease signed by the owner or duly authorized agent allowing them to occupy the property for the intended use.

C. Filing Date. The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

D. Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within 30 days. If the application remains incomplete in excess of 30 days, the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

E. Effect of Other Permits or Licenses. The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a dispensary permit.

F. Submittal Requirements. Any application for a use permit shall include the following information:

1. Applicant(s) Name. The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant;

2. Applicant(s) Mailing Address. The address to which notice of action on the application is to be mailed;

3. Previous Addresses. Previous addresses for the past five years immediately prior to the present address of the applicant;

4. Verification of Age. Written proof that the applicant is over the age of 18 years of age;

5. Physical Description. Applicant's height, weight, color of eyes and hair;

6. Photographs. Passport-quality photographs for identification purposes;

7. Employment History. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;

8. Tax History. The dispensary business tax history of the applicant, where available, including whether such person, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefor, and the business or activity or occupation subsequent to such action of suspension or revocation;

9. Management Information. The name or names and addresses of the person or persons having the management or supervision of applicant's business;

10. Criminal Background. A background investigation verifying whether the person or persons having the management or supervision of applicant's business has been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefor;

11. Employee Information. Number of employees, volunteers, and other persons who will work at the dispensary;

12. Statement of Dispensary Need. A statement and/or information to establish the need for the additional dispensary to serve qualified patients in the area;

13. Plan of Operations. A plan of operations describing how the dispensary will operate consistent with the intent of State law and the provisions of this chapter, including but not limited to:

    a. Ensuring cannabis is not purchased or sold by the dispensary in a manner that would generate a profit.

    b. Controls that will assure medical cannabis will be dispensed to qualifying patients or caregivers only.

    c. Controls that will ensure access to dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers;

14. Written Project Description. A written description summarizing the proposed dispensary use size, number of patients, characteristics and intent;

15. Written Response to Dispensary Standards. The applicant shall provide a comprehensive written response identifying how the dispensary plan complies with each of the standards for review in this chapter, specifically, the limitation on number and size, limitation on location, and operating requirements sections;

16. Written Response to Criteria for Review Section. The applicant shall provide a written response indicating how each of the criteria for review has been satisfied;

17. Security Plan. A detailed security plan outlining the proposed security arrangements for ensuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a robbery alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional;

18. Floor Plan. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

19. Site Plan. A sketch or diagram showing exterior configuration of the premises, including the outline of all structures, parking and landscape areas, and property boundaries. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus six inches;

20. Accessibility Evaluation. A written evaluation of accessibility to and within the building, and identification of any planned accessibility improvements;

21. Neighborhood Context Map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the dispensary, all properties and uses within 500 feet of the boundaries of the property on which the dispensary permit is requested, and (a) the property line of any dispensary within 500 feet of the primary entrance of the dispensary for which a permit is requested, (b) the property line of any smoke shop within 500 feet of the primary entrance of the dispensary, and (c) the property lines of any school, park, or residential zone or use within 500 feet of the primary entrance of the dispensary;

22. Lighting Plan. A lighting plan showing existing and proposed exterior premises and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation;

23. City Authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;

24. Statement of Owner's Consent. A statement in writing by the applicant that he or she certifies under penalty of perjury that the applicant has the consent of the property owner and landlord to operate a dispensary at the location;

25. Applicant's Certification. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct;

26. Other Information. Such other identification and information as deemed necessary by the City Manager to demonstrate compliance with this chapter and City codes, including operating requirements established in this chapter.

G. Renewal. Applications for two-year renewal shall be accompanied by the following minimum information:

1. The operator shall report the number of patients served and pay applicable fees, as required by this chapter.

2. The operator shall provide a detailed description of any adjustments and changes proposed or that have occurred in dispensary operations to address issues or comply with laws.

3. The operator shall identify any problems encountered during operations and how they have been addressed.

4. The operator shall identify how the dispensary has managed its operations to comply with the operating requirements of this chapter and with State law.

17.~~140~~360.120 Criteria for review.
The Planning Commission shall consider the following criteria in determining whether to grant or deny a dispensary permit, and renewals:

A. That the dispensary permit is consistent with the intent of Proposition 215 and related State law, the provisions of this chapter and the City Code, including the application submittal and operating requirements herein.

B. That the dispensary location is not identified as having significant crime issues (e.g., based upon crime reporting district/statistics as maintained by the Police Department).

C. That there have not been significant numbers of calls for police service, crimes or arrests in the area or to an existing dispensary location.
D. That an applicant or employee is not under 18 years of age.

E. That all required application materials have been provided and/or the dispensary has operated successfully in a manner that shows it would comply with the operating requirements and standards specified in this chapter.

F. That all required application or annual renewal fees have been paid and reporting requirements have been satisfied in a timely manner.

G. That an appropriate limit on size of the dispensary has been established and the requested permit would not exceed limitations on number of patients and/or permits allowed by this chapter.

H. That issuance of a dispensary permit for the size requested is justified to meet needs of residents.

I. That issuance of the dispensary permit would serve needs of residents at this location.

J. That the location is not prohibited by the provisions of this chapter or any local or State law, statute, rule or regulation and no significant nuisance issues or problems are anticipated or resulted.

K. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on site; procedure for allowing entry; 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 exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

L. That no dispensary use, owner, permittee, agent, or employee has violated any provision of this chapter including grounds for suspension, modification or revocation of a permit.

M. That all reasonable measures have been incorporated into the plan and/or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference of the operation of another business.

N. That the dispensary would not adversely affect the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood with special needs or high impact uses, or contribute to a public nuisance; or that the dispensary has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

O. That any provision of the City Code or condition imposed by a City issued permit, or any provision of any other local, or State law, regulation, or order, or any condition imposed by permits issued in compliance with those laws has not been violated.
P. That the applicant has not violated any local or State law, statute, rule or regulation respecting the distribution, possession, or consumption of cannabis.

Q. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

R. That the applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

S. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

T. That adequate parking will be provided.

17.~~140~~360.130 Investigation and action on application.
After the making and filing of a complete application for the dispensary permit and the payment of the fees, the Police Department shall conduct a background check of the applicant and all employees and conduct an investigation of the application, and take action as follows:

A. The Planning Department shall refer the application to any other City departments as necessary to complete the review of the application.

B. Following provision of complete application materials and interdepartmental review, the Planning Department shall schedule the use permit for Planning Commission review. The Commission shall either grant or deny the application in accordance with the provisions of this chapter.

C. In approving a dispensary permit, the Planning Commission may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of this chapter.

D. The Planning Department shall cause a written notice of the Commission decision to issue or deny a permit to be mailed to the applicant by U.S. mail.

17.~~140~~360.140 Appeal from Planning Commission determination.
An applicant aggrieved by the Planning Commission's decision to issue or deny a permit may appeal such decision to the City Council by filing an appeal pursuant to ~~Chapter~~ SMC 17.320 ~~SMC~~.

17.~~140~~360.150 Effect of denial.
When the Planning Commission shall have denied or revoked any permit provided for in this chapter and the time for appeal to the Council shall have elapsed, or, if after appeal to the Council, the decision of the Planning Commission has been affirmed by the Council, no new application for a permit shall be accepted from the applicant and no such permit shall be issued to such person or to any corporation in which he shall have any beneficial interest for a period of three years after the action denying or revoking the permit.

17.~~140~~360.160 Suspension and revocation.
A. Consistent with ~~Chapter~~ SMC 17.400~~250 SMC~~, any permit issued under the terms of this chapter may be suspended or revoked by the Planning Commission when it shall appear to the Commission that the permittee has violated any of the requirements of this chapter or the dispensary is operated in a manner that violates the provisions of this chapter, including the criteria for review and operating requirements sections, or conflicts with State law. The Planning Director shall place the matter of use permit suspension or revocation on the Commission agenda at the direction of the City Attorney.

B. Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this section until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least five days prior to the date set for such review. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the person to be notified, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, return receipt requested, addressed to the person to be notified at his/her address as it appears in his/her application for a permit.

C. If any person holding a permit or acting under the authority of such permit under this chapter is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City Manager may revoke such permit forthwith without any further action thereof, other than giving notice of revocation to the permittee.

17.~~140~~360.170 Transfer of permits.
A. A permittee shall not operate a dispensary under the authority of a dispensary permit at any place other than the address of the dispensary stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a dispensary or transfer a dispensary permit to another person unless and until the transferee obtains a use permit.

C. No permit may be transferred when the Planning Director has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked.

17.~~140~~360.180 Time limit for filing applications upon annexation.
Any dispensary that was legally established in the County and which is subsequently annexed into the City must apply for and obtain a dispensary permit in compliance with the provisions of this chapter within 90 days from date of annexation. Continued operation of a dispensary without a permit more than 90 days after annexation shall constitute a violation of this chapter, unless an extension of the 90-day period is approved by the Director of Planning upon the applicant's demonstration of reasonable grounds to do so.

17.~~140~~360.190 Cultivation and processing of cannabis for personal use.
A. It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises within any incorporated area of the City to cause or allow such premises to be used for the outdoor or indoor cultivation of cannabis plants for medicinal purposes, or processing thereof as described herein or to process, cultivate or allow the cultivation of cannabis plants for medicinal purposes in excess of the limitations imposed in these regulations.

B. Nothing in this section shall be construed as a limitation on the City's authority to abate any nuisance which may exist from the planting, growing, harvesting, drying, processing or storage of cannabis plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.

C. Cultivation or Processing Exceeding the Limits of These Regulations Is Declared a Public Nuisance. Cannabis cultivation or processing exceeding the limitations of these regulations, either indoors or outdoors, regardless of whether the person growing or processing the cannabis is a qualified patient or primary caregiver, is a public nuisance.

D. Medical Cannabis for Personal Use. An individual qualified patient shall be allowed to cultivate and process medical cannabis within his/her private residence. A primary caregiver shall cultivate or process medical cannabis only at the residence of a qualified patient for whom he/she is the primary caregiver, or at the primary caregiver's residence. Medical cannabis cultivation and processing for personal use shall be in conformance with the following standards:

1. The medical cannabis cultivation area shall not exceed 100 square feet per residence;

2. Only medical cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence;

3. Any medical cannabis cultivation lighting shall not exceed 1,200 watts unless specifically approved by the Building Official;

4. All electrical equipment used in the cultivation or processing of medical cannabis (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation or processing of medical cannabis is prohibited;

5. The use of gas products (CO_2, butane, etc.) for medical cannabis cultivation or processing is prohibited;

6. Medical cannabis cultivation, processing and sale is hereby prohibited as a home occupation under ~~Chapter~~ SMC 17.28~~1~~0 ~~SMC~~. Per the definition of "accessory use types" in SMC 17.08, medical cannabis cultivation, processing and sales shall not be considered an accessory use. No sale or dispensing of medical cannabis for personal use is allowed;

7. Cultivation or processing of medical cannabis for personal use is limited to:

    a. The interior of residential dwellings or to a garage or self-contained outside accessory building that is secured, locked, and fully enclosed; or

    b. Exterior areas which are enclosed by a secure, opaque, solid fence or wall at least six feet in height. The fence or wall shall include a lockable gate or gates that are locked at all times when a qualified patient or caregiver is not in the immediate area. Said fence or wall shall not violate any other ordinance regarding height and location restrictions, and shall not be constructed or covered with plastic or cloth;

8. Cannabis plants must be screened from exterior view. If located in a garage, the cultivation or processing use shall not result in a reduction of required off-street parking for the residence;

9. From a public right-of-way, there shall be no exterior evidence, including but not limited to odor, view, or other indication of medical cannabis cultivation or processing on the property;

10. The qualified patient or primary caregiver shall reside in the residence where the medical cannabis cultivation occurs;

11. The qualified patient shall not participate in medical cannabis cultivation in any other residential location within the City of Sebastopol except as may be permitted under subsection E of this section;

12. If cultivation or processing is to be conducted by a primary caregiver, documentation of the legally required relationship shall be maintained at the cultivation premises;

13. A copy of documentation of qualified patient status consistent with SMC 17.~~140~~360.100(F) (1) and (2) shall be maintained on site;

14. For the convenience of the qualified patient or primary caregiver, to promote building safety, to assist in the enforcement of this chapter, and to avoid unnecessary confiscation and destruction of medical cannabis plants and unnecessary law enforcement investigations, the qualified patient or primary caretaker growing medical cannabis pursuant to this chapter may notify the City of Sebastopol regarding the cultivation site. The names and addresses of persons providing such notice, or of cultivation sites permitted under these regulations shall not be considered a public record under the California Public Records Act;

15. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for medical cannabis cultivation or processing;

16. The medical cannabis cultivation and processing area shall be in compliance with the current, adopted edition of the California Building Code as regards mechanical ventilation;

17. The medical cannabis cultivation and processing area shall not adversely affect the health or safety of the nearby residents in any manner, including but not limited to by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes; and

18. The medical cannabis cultivation or processing shall not adversely affect the health or safety of the occupants of the residence or users of the accessory building in which it is cultivated or processed, or occupants or users of nearby properties in any manner, including but not limited to creation of mold or mildew.

E. Any proposed medical cannabis cultivation by an individual qualified patient or primary caregiver that does not meet the cultivation square footage area or height standard shall require approval of a medical cannabis administrative exception. Documentation, such as a physician's recommendation, information regarding space limitations, or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area, height or locational standard is not feasible. The Planning Director shall review the submitted information and act on the exception application in accordance with this chapter. The Director's action on the application shall be subject to appeal pursuant to ~~Chapter~~ SMC 17.455~~320 SMC~~. The names and addresses of persons making such application, or of cultivation sites permitted under these regulations shall not be considered a public record under the California Public Records Act. A medical cannabis administrative exception permit shall conform to the following standards:

1. The approval shall be in compliance with subsections (D) (1) through (17) of this section, except as modified in the exception approval;

2. For an increase in cultivation area, the following provisions shall apply:

   a. The medical cannabis cultivation area shall not exceed an additional 100 square feet, for a total of 200 square feet per residence;

   b. At a minimum, any interior medical cannabis cultivation area shall be constructed with a one-hour firewall assembly if required by the Building Official;

   c. For interior cultivation, the Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers and code-compliant electrical systems.

17.~~140~~360.195 Violations.
A. It is unlawful for any person, individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character to violate any provision or fail to comply with any of the requirements of this chapter.

B. A violation of this chapter shall be subject to the enforcement and penalties specified in ~~Chapter~~ SMC 17.470~~340 SMC~~.

17.~~140~~360.200 Remedies cumulative.
All remedies prescribed under this chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

17.~~140~~360.210 Separate offense for each day.
Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

17.~~140~~360.220 Hold harmless.

As a condition of approval of any permit for medical cannabis cultivation, processing, or distribution, the permittee shall indemnify, defend and hold harmless the City of Sebastopol and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to permitted uses or operations, and in the case of dispensaries, for any claims brought by any of the permittee's clients or employees for problems, injuries, damages, or liabilities of any kind that may arise out of the permitted activities.

17.~~140~~360.230 Public nuisance.
Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is declared a public nuisance and may be summarily abated by the City.

17.~~140~~360.240 Criminal penalties.
Any person who violates, causes, or permits another person to violate any provision of this chapter shall be subject to the penalties set forth in ~~Chapter 17.340~~ SMC~~SMC~~ 17.470.

17.~~140~~360.250 Civil injunction.
The violation of any provision of this chapter shall be and is declared to be contrary to the public interest and shall, at the discretion of City Manager, create a cause of action for injunctive relief.

17.~~140~~360.260 Administrative remedies.
In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies as set forth by the ~~Sebastopol Municipal Code~~SMC.

17.~~140~~360.280 Judicial review.
Judicial review of a decision made under this chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within 90 days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6 which shall be applicable for such actions.

17.~~140~~360.290 Effective date.
The ordinance codified in this chapter shall take effect 30 days after its adoption.

Chapter ~~17.~~17.400~~250~~

PROCEDURES AND ADMINISTRATION - GENERAL PROVISIONS ~~- ZONING APPROVAL~~

Sections:

~~17.250~~17.400.010 Purpose and intent.

The purpose of this chapter is to establish the procedures for the administration of this code and to set forth certain basic responsibilities of the officials and bodies charged with its administration.

~~17.250~~17.400.020 Powers of the Planning Director.

The Planning Director or his designee shall have the following powers and duties:

A. Accomplish all administrative actions required as authorized by this code, including, but not limited to, receiving of applications for permits and reviews, giving of notices, preparing reports, approving or issuing certificates of zoning compliance, receiving and processing appeals, and receiving and accounting for fees;

B. Maintain the sections of this code, Zoning Map, and all records of zoning actions and cases;

C. Hold hearings as necessary or required by this code and issue permits as provided by this code;

D. Approve site and/or building plans as provided by this code;

E. Make determinations on lot orientation of setbacks for irregular lots, and height for lots with unusual grade variation.

E. Interpret this code, as provided herein;

F. Refer in his discretion any of the above or other matters to the Planning Commission for its review and action, and to notify the applicant or other affected persons of such referral.

~~17.250~~17.400.030 Application ~~for Zoning approval~~Filing and Review.

A. Application Contents. All applications for a permit required by the Zoning Code shall be filed by the owner of the affected property or the owner's authorized agent with the Planning Department on an official City application form prescribed by the Planning Department. The application shall be filed with all required fees, deposits, information, and supporting materials, such as site and building plans, drawings and elevations, and operational data as specified by the Department and as required by the SMC.

B. Fees for Application Processing. Each applicant for a planning permit processed in compliance with this chapter shall be required to pay all costs incurred by the City for the processing of each application. The City Council shall establish a schedule of fees and deposits for the processing of the applications and other actions required by this Zoning Code, hereafter referred to as the City's fee schedule.

C. Review for Completeness. Review and processing of permits shall be in accordance with the Permit Streamlining Act (Section 65943 of the California Government Code).

1. The Planning Director may require a pre-application conference.

2. The Planning Department shall review each application for completeness and accuracy before it is deemed suitable for submission. A final determination of completeness is not provided at this stage.

3. Receipt of the application by the Department shall be based on the City's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference or during the initial application review period.

4. As per Permit Streamlining Act, within 30 days of application receipt, except as provided below, the Planning Director shall determine whether or not the application is complete. The applicant shall be informed in writing of the determination that either:

   a. the application is complete and has been accepted for processing;

   b. the application is incomplete and that specific information is required to complete the application. The written determination may also identify preliminary information regarding the areas in which the submitted plans are not in compliance with City standards and requirements; or

   c. the application requests permission for an action not allowed in the applicable zone or that cannot lawfully be approved by the City and is not accepted for processing.

5. If additional information or submittals are required and the application is not made complete within six months of the completeness determination letter or if a written request for extension of time that includes evidence that the applicant is working toward completeness is not provided by the applicant, the application shall be deemed to have been withdrawn and no action will be taken on the application. Unexpended fees, as determined by the Planning Director, will be returned to the applicant provided the applicant submits a written request for a refund.

6. When the Planning Director determines that an application is incomplete and the applicant believes that the application is complete or that the information requested by the Planning Department is not required, the applicant may appeal the determination as set forth in SMC 17.455.

7. After the Planning Director has accepted an application as complete, the Planning Department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

D. Application Review. After acceptance of a complete application, the project shall be reviewed in accordance with the review procedures established by this chapter and the environmental review procedures of the CEQA. The Director will consult with other departments as appropriate to ensure

compliance with all provisions of the Municipal Code and other adopted plans and requirements. The Department staff will prepare a report to the designated review authority (Planning Director, Design Review Board, Planning Commission, and City Council) describing the project, along with a recommendation to approve, conditionally approve, or deny the application.

17.400.040 Application Decision Procedures

This section establishes procedures and requirements for the preparation, filing, and processing of permit applications required by the Zoning Code.

A. Decision-Making Authority.

Table 17.400-1 identifies the decision-making body that is responsible for reviewing and making decisions on each type of permit required by this Zoning Code. Application for any of the decisions identified in Table 17.400-1 shall be filed with the Planning Department by completing an application form provided by the Department and accompanied by the appropriate filing fee.

1. Multiple Approvals. If more than one planning approval is required for a single project, the applications may be processed concurrently, with all the permits being considered and acted upon by the highest applicable review authority.

Table 17.400-1: Zoning Approval - Decision-Making Authority

Type of Zoning Approval	Applicable Zoning Code Chapter	Role of Reviewer or Decision-Maker[1]			
		Planning Director[2]	Design Review Board	Planning Commission	City Council
Administrative Permit	17.405	Decision	-	Appeal	Appeal
Adjustment	17.410	Decision	-	Appeal	Appeal
Use Permit	17.415	Recommend/ Decision[3]	-	Decision	Appeal
Variance	17.420	Recommend	-	Decision	Appeal
Reasonable Accommodation	17.425	Decision	-	Appeal	Appeal
Temporary Use Permit, six months or less	17.430	Decision	-	Appeal	Appeal
Temporary Use Permit, more than six months	17.430	Recommend	-	Decision	Appeal
Downtown Noise Permit, small event	17.435	Decision	-	Appeal	Appeal
Downtown Noise Permit, large event	17.435	Recommend	-	Decision	Appeal
Development Agreement	17.440	Recommend	-	Recommend	Decision/Appeal
General Plan Amendment, Text or Map	17.445	Recommend	-	Recommend	Decision/Appeal
Zoning Code Amendment, Text or Map	17.445	Recommend	-	Recommend	Decision/Appeal
Design Review, Planning Director Approval	17.450	Decision	Appeal	-	Appeal
Design Review, Design Review Board Approval	17.450	Recommend	Decision	-	Appeal

Reasonable Accommodation	17.425.040	Decision	-	Appeal	Appeal

Notes:
[1] "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals the decision of an earlier decision-making body, in compliance with SMC 17.455.
[2] The Planning Director may defer action and refer the request to the Commission, so that the Commission may instead make the decision.

17.400.050 Public Notice, Public Comment, and Public Hearing Requirements.

A. Notice. All notices for a zoning approval shall state the nature of the request, the location of the property, the manner in which additional information may be obtained, any deadline for written comments, and, if applicable, the date for a public meeting or hearing that will be held to consider the project. Notice shall be provided as indicated in Table 17.400-2 and as follows:

1. Notice of a public hearing shall be provided as established by SMC 17.460.

2. Notice for approvals that do not require a public hearing shall be mailed and posted as required by Table 17.400-2. If applicable, said notice shall state any deadline to request a public hearing before the decision-making body.

B. Public comment. The public shall be provided an opportunity to make written comments during the minimum public comment period identified in Table 17.400-2. The public shall be provided an opportunity to make oral or written comments during the public hearing for all approvals that require a public hearing as identified in Table 17.400-2.

C. Public Hearing Requirements.

1. A public hearing shall be held for zoning approvals where a public hearing requirement is identified in Table 17.400-2. Public hearings shall be held consistent with the requirements of SMC 17.460.

Table 17.400-2: Public Notice, Public Comment, and Public Hearing Requirements.

Type of Zoning Approval	Public Hearing Requirement[1]	Public Notice Requirements	Minimum Public Comment Period[2]
Administrative Permit	None	None	None
Adjustment	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property	12 days from mailing of notice[3]
Use Permit – Planning Director	Yes	SMC 17.460.020	12 days from publication of the notice
Use Permit – Planning Commission	Yes	SMC 17.460.020	12 days from publication of notice
Variance	Yes	SMC 17.460.020	12 days from publication of notice
Reasonable	No	None	None

Accommodation			
Temporary Use Permit, six months or less	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property	12 days from mailing of notice[3]
Temporary Use Permit, more than six months	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property, published in a newspaper of general circulation, and posted in at least three public places include the area directly affected by the requested approval	12 days from mailing of notice[3]
Downtown Noise Permit, small event	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property and posted in at least three public places include the area directly affected by the requested approval	12 days from mailing of notice[3]
Downtown Noise Permit, large event	None	Notice mailed to all owners of property within 600 feet of the exterior boundaries of the subject property~~,~~ , published in a newspaper of general circulation, and posted in at least three public places include the area directly affected by the requested approval	12 days from mailing of notice[3]
Development Agreement	Yes	SMC 17.460.020	12 days from publication of the notice
General Plan Amendment, Text or Map	Yes	SMC 17.460.020	12 days from publication of the notice
Zoning Code Amendment, Text or Map	Yes	SMC 17.460.020	12 days from publication of the notice
Design Review, Planning Director Approval	None[3]	None	None
Design Review, Design Review Board Approval	None[3]	~~z~~None	None

Reasonable Accommodation	None	None	None

[2]No decision on the zoning approval shall be made prior to the close of the public comment period.
[3]A public hearing shall be scheduled, at the discretion of the City Council or the Design Review Board or the Planning Director if the application does not require a public hearing before another board or commission, or the City Council and if the project involves, for residential developments, construction of 10 or more units, or for nonresidential or mixed-use development, construction of 10,000 square feet of floor area or more, except when the application qualifies for exemption from a public hearing requirement under State law

D. Zoning Approval Decision Procedures.

1. The decision-making body shall consider the recommendations of Planning Department staff and, if any, the recommendations of the Design Review Board or Planning Commission as applicable.

2. The decision-making body shall determine whether the application conforms to the criteria established in Sections 17.400 through 17.495 for the specific approval requested and to all other applicable criteria and standards established by SMC Title 17.

3. In order to grant any use permit, the decision-making body must find that the general and other applicable use permit criteria are satisfied.

4. In granting any use permit, the decision-making body may designate such conditions, in connection with the permit, as it deems necessary in order to secure the purposes of this code, and may require guarantees and evidence that such conditions are being, or will be, complied with.

~~17.250~~17.400.05~~3~~0 Zoning approval.

Zoning ~~permits~~approval shall be required for all buildings and structures hereinafter erected, constructed, altered, repaired or moved within or into any district established by this code, and for the use of vacant land or for a change in the character of the use of land, within any district established by this code. Such ~~permit~~ approval may be a part of the building permit.

17.400.060 Appeals

In case an applicant or other interested person is not satisfied with the action of the decision-making body, the applicant or said person may appeal the decision to the decision-making body identified in Table 17.400-1, pursuant to the appeal procedure of SMC 17.455.

17.400.070 Effective Date

No building or zoning permit shall be issued for a zoning approval in any case until the appeal period identified in SMC 17.455 has passed.

~~**17.250.040 Multiple approvals.**~~

~~For any specific project, the Planning Commission rather than the Planning Director may consider any application ordinarily subject to approval by the Planning Director or the Environmental Review Committee if the application is filed concurrently with an application for a permit which requires review by the Planning Commission. The Planning Commission's determination on such application may be appealed to the City Council pursuant to Chapter 17.320 SMC.~~

~~17.250~~17.400.08~~5~~0 Term, Adherence to Approved Plans and Conditions, and R~~r~~evocation of P~~p~~ermits.

A. Any zoning permit, Design Review Board permit, use permit, adjustment, or variance granted in accordance with this chapter shall be null and void and of no further force and effect if the rights granted

by the permit are not exercised within three years from the date of approval, and for projects where multiple discretionary approvals are required, three years from the date of final discretionary approval. Use shall constitute actual use of the premises in accordance with the permit, commencement of construction or other specific act on the property sufficient to indicate compliance with the granting of said zoning permit, use permit, adjustment, or variance.

B. All zoning approvals shall be subject to the approved plans, conditions of approval, and other conditions on the basis of which the zoning approval was granted.

C. Adherence to Approved Plans. All approvals shall be subject to the plans and other conditions on the basis of which the approval was granted and may be revoked by the City in the event that violations of conditions or requirements occur.

~~In the event of a violation of any of the provisions of the Zoning Code, or in the event of a failure to comply with any prescribed condition of approval, the Planning Commission may, after notice and hearing, revoke any use permit. The determination of the Commission shall be final, unless appealed to the City Council in accordance with Chapter 17.320 SMC.~~

D. In the event of a violation of any of the provisions of the Zoning Code, or in the event of a failure to comply with the approved plans and any prescribed condition of approval, the decision-making body that granted the approval may, after notice and hearing, revoke any such permit. The determination of such body shall be final, unless appealed in accordance with SMC 17.455.

E~~C~~. The ~~Design Review Board~~decision-making body may, in writing, suspend or revoke ~~design~~ zoning approvals granted under the provisions of this ~~chapter~~title, whenever the approval is granted on the basis of a misstatement of fact, or fraud, or whenever there is a failure to comply with this ~~chapter~~title.

~~17.250~~17.400.0~~86~~0 Time extension.

Upon the written request of any holder of a zoning ~~permit~~approval, including a use permit, Design Review Board permit, adjustment, or variance, or other zoning permit that is filed with the Planning Department before the expiration of said ~~permit~~approval, the Planning Director may consider and grant one extension of up to one year. In addition, the Planning Commission or Design Review Board, as applicable, shall have the authority to consider and grant an additional extension of up to one year, and may otherwise deny~~,~~ or modify said zoning ~~permit~~approval~~, use permit, or variance;~~ provided, that a written request from the holder of ~~a zoning permit, use permit, or variance~~the zoning approval is filed with the Planning Department prior to the expiration of said ~~permit~~approval.

Chapter 17.405

ADMINISTRATIVE PERMIT

Sections:

17.405.010 Purpose - Applicability

This chapter identifies the process to obtain an Administrative Permit. An Administrative Permit is required for uses permitted by-right yet subject to specific Zoning Code standards. An Administrative Permit is a ministerial procedure for the City to verify that a proposed permitted use complies with all applicable standards and to ensure that the applicant understands and accepts these standards.

17.405.020 When Required

Uses that require an Administrative Permit are specified as a permitted use in the land use regulation tables for each zoning district.

17.405.030 Conditions of Approval

No conditions of approval may be attached to the approval of an Administrative Permit.

Chapter ~~17.~~17.410~~255~~

ADJUSTMENT PROCEDURE

Sections:

~~17.255~~17.410.010 Purpose~~ – Applicability~~.

An adjustment is intended to permit minor variations where practical difficulties, unnecessary hardships or results inconsistent with the general purpose of this chapter would occur from its strict literal interpretation and enforcement. Adjustments are modifications of lesser significance than variations allowed by variance.

~~17.255~~17.410.020 ~~Application~~Applicability.

The ~~Zoning Administrator~~Planning Director may grant an adjustment from the requirements of this chapter to allow modification of development standards by up to ten percent.~~:~~

~~A. Allow modification of Pparcel coverage regulations by up to five percent of the lot area for additions to existing structures;~~

~~B. Allow modification of the Nnumber of required parking spaces by up to five percent of the number of required spaces;~~

~~C. Allow the modification ofB building heights by up to two feet;~~

~~D. Fand fence heights by up to one foot;~~

~~D. Allow the modification ofY yard and setback requirements by up to one foot;.~~

~~E. Minimum lot width requirements by up to two feet; and~~

~~F. Minimum lot area by one percent of the required lot area.~~

~~17.255.030 Procedure for consideration.~~

~~A. After a determination that an application is complete, the Planning Director shall give notice of the application by mail, postage prepaid, to all owners of property adjoining the exterior boundaries of the property involved in the application.~~

~~B. All notices of an application for an adjustment shall state the nature of the request, the location of the property, and the manner in which additional information may be received. The notice shall also state that the deadline in which to make a written comment on the application is 14 days from the mailing of the notice of application for an adjustment.~~

~~17.255~~17.410.040 Review and findings.

Following expiration of the ~~time in which to submit a written~~public ~~-~~comment period, the Planning Director shall prepare a written decision which shall contain the findings of fact upon which such decision is based.

The Planning Director may approve an adjustment application in whole or in part, with or without conditions, if all of the following findings are made:

A. There are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, or to the intended use or development of the property that do not apply to other properties in the vicinity under an identical zoning classification.

B. The granting of such adjustment will not be detrimental nor injurious to the property or improvements in the general vicinity and district in which the property is located.

C. The strict application of the provisions of this chapter would result in practical difficulties or unnecessary hardships, not including economic difficulties or economic hardships.

D. The granting of an adjustment will not be contrary to nor in conflict with the general purposes and intent of this chapter, nor to the goals, objectives, and policies of the General Plan.

E. All the above specified requirements need not apply to adjustments which the ~~Zoning Administrator~~Planning Director finds are essential or desirable to the public convenience or welfare and are not in conflict with the General Plan and where the granting of the adjustment will not be materially detrimental nor injurious to property or improvements in the general vicinity and district in which the property is located.

F. The strict application of the provisions of this chapter would result in unreasonable deprivation of the use or enjoyment of the property.

~~**17.255.050 Appeal.**~~

~~In case an applicant or other interested person is not satisfied with the action of the Planning Director, as the case may be, the applicant or said person may appeal the decision to the Planning Commission, pursuant to the appeal procedure of Chapter 17.320 SMC.~~

~~**17.255.060 Adherence to approved plans.**~~

~~An adjustment permit shall be subject to the plans and other conditions on the basis of which it was granted.~~

~~**17.255.070 Effective date.**~~

~~No building or zoning permit shall be issued in any case where an adjustment is required by the terms of this code, until seven days after the granting of such permit, and then only in accordance with the terms and conditions of the permit granted.~~

Chapter ~~17.260~~17.415

USE PERMIT PROCEDURE

Sections:

~~17.260~~17.415.010 Purpose - Applicability.

The purpose of these provisions is to prescribe the procedure for the accommodation of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary, the imposition of special conditions of approval. This procedure shall apply to all proposals for which a use permit is required.

~~17.260.020 Application.~~

~~Application for a use permit shall be made by the owner of the affected property, or his authorized agent, on a form prescribed by the Planning Department, and shall be filed with such Department. The application shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data as may be required to enable the pertinent criteria to be applied to the proposal, and by the appropriate fee.~~

~~17.260~~17.415.030 ~~Procedure for consideration~~Criteria and Conditions.

~~A. Public Hearing Required. A public hearing shall be held on each application for use permit. Notice of the hearing shall be given as prescribed in Chapter 17.330 SMC.~~

~~B. Conditional Use Permit.~~

~~1. Application for use permit for a use type conditionally permitted by the applicable individual zoning regulations, for uses specified by SMC 17.60.070, and for structural alterations to a nonconforming structure, shall be considered by the Planning Commission.~~

~~2. Reserved.~~

~~3. The Commission shall consider the recommendation, if any, of the Design Review Board and shall determine whether the proposal conforms to the general use permit criteria set forth in subsection C of this section and to other applicable use permit criteria. In order to grant any use permit, the Commission must find that the general and other applicable use permit criteria are satisfied.~~

~~4. The Planning Commission may designate such conditions, in connection with the use permit, as it deems necessary in order to secure the purposes of this code, and may require guarantees and evidence that such conditions are being, or will be, complied with.~~

~~5. Notwithstanding subsections A and (B) (1), (4), and (5) of this section, the Planning Director shall have the authority to approve, deny, or approve with conditions~~

~~(a) Bed and breakfast inns of five or fewer rooms in nonresidential zones, and~~

~~(b) Bona fide restaurants of 35 seats or fewer with no live entertainment;~~

~~(c) Provided, that:~~

~~(i) The Planning Department provides written notice of the application to all property owners within 600 feet from the exterior boundaries of the property involved in the application and notice is published in a newspaper of general circulation within the jurisdiction of the City, and notice is posted in at least three public places including one public place in the area directly affected by the proceeding;~~

~~(ii) Said notice states that the deadline to request a hearing before the Planning Commission is 10 days from the mailing, publication and posting of the notice; and~~

~~(iii) If no written request for a public hearing is received within the stated period, the Planning Director may deny or approve the application in whole or part, with or without conditions, pursuant to the findings required by subsection C of this section.~~

~~C~~A. General Use Permit Criteria. A use permit may be granted only if the establishment, maintenance or operation of the proposed use or development applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

B. Standard Conditions. The following standard conditions shall apply to all minor use permits and use permits:

1. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of this Use Permit, constitutes cause for the revocation of said permit in accordance with the procedures set forth in this title.

2. Unless otherwise provided for in conditions of this Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use.

3. Minor changes may be approved administratively by the Planning Director or their respective designee upon receipt of a substantiated written request by the applicant. Prior to such approval, verification shall be made by each relevant Department or Division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment.

4. The use granted by this permit must be established within three years of the delivery of the signed permit to the Permittee. If any use for which a Use Permit has been granted is not established within three years of the date of receipt of the signed permit by the Permittee, the permit shall become null and void and re-application and a new permit shall be required to establish the use.

5. The terms and conditions of this permit shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors and assigns of the Permittee.

C. Additional Conditions. The review authority may require additional conditions, or remove or revise conditions recommended by staff, to ensure conformance with this chapter and/or to protect public health and safety, including but not limited to conditions related to:

1. Requirements for vehicular ingress/egress and corresponding traffic safety provisions, parking requirements and facilities, and hours of operation.

2. Regulation of public nuisance factors (e.g., light glare, noise, vibration, smoke, dust, dirt, odors, gases, and heat). Conditions may include, but are not limited to, setbacks, hours of operation, and use of machinery.

3. Regulation of maintenance and site restoration during and after termination of the use permit. A bond or other form of security acceptable to the review authority may be required prior to the initiation of the use to ensure cleanup after the use is finished.

17.315.30 Findings.
Use permits are discretionary and shall be granted only when the review authority determines that the proposed use or activity complies with all of the following findings:

A. The proposed use is consistent with the General Plan and all applicable provisions of this title.

B. The establishment, maintenance, and operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area of such use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

~~D. Appeal. In case an applicant or other interested person is not satisfied with the action of the City Manager or his designee, the Planning Director, or the Planning Commission, as the case may be, the applicant or said person may appeal the decision, pursuant to the appeal procedure of Chapter 17.320 SMC.~~

~~**17.260.040 Adherence to approved plans.**~~
~~Use permit shall be subject to the plans and other conditions on the basis of which it was granted.~~

~~**17.260.050 Effective date.**~~
~~No building or zoning permit shall be issued in any case where a use permit is required by the terms of this code, until seven days after the granting of such use permit by the City Manager or his designee or the Planning Commission, as the case may be, or after granting of such use permit by the Commission or the City Council, as the case may be, in the event of appeal, and then only in accordance with the terms and conditions of the use permit granted.~~

Chapter ~~17.~~17.420~~270~~

VARIANCE PROCEDURE

Sections:

~~17.270~~17.420.010 Purpose - Applicability.

The purpose of these provisions is to prescribe the procedure for the relaxation of any substantive provision of the zoning regulations, under specified conditions, so that the public welfare is secured and substantial justice done most nearly in accord with the intent and purposes of the Zoning Code.

~~17.270~~17.420.020 Application – Additional Requirements.

Application for a variance shall be made ~~in writing by the owner of the affected property, or his authorized agent, on a form prescribed by the Planning Commission and shall be accompanied by a fee established by resolution of the City Council, together with statements, plans and evidence showing~~in accordance with SMC Section 17.400 and shall be accompanied with evidence showing:

A. That there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, and/or uses in the same district.

B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

~~17.270~~17.420.030 ~~Procedure for consideration~~Findings and Conditions.

~~A. Public Hearing Required. A public hearing shall be held on each application for variance. Notice of the hearing shall be given to all property owners within 300 feet of the exterior boundaries of the property.~~

~~B. Action by the Planning Commission.~~

~~1. Any application for variance shall be considered by the Planning Commission.~~

~~2~~A. The Commission shall determine whether the proposal conforms to the criteria set forth in SMC ~~17.270~~17.420.020. After the conclusion of the public hearing, the Planning Commission shall make written findings of facts, showing whether the qualifications under SMC ~~17.270~~17.420.020 apply to the land, building or use for which the variance is sought, and whether such variance shall be in harmony with the general purposes of this code.

~~3~~B. The Planning Commission may designate such condition(s) in connection with the variance it deems necessary to secure the purposes of this code, and may require guarantees and evidence that such conditions are being, or will be, complied with.

~~C. Appeal. In case an applicant or other interested person is not satisfied with the action of the Planning Commission, the applicant or said person may appeal the decision, pursuant to the appeal procedure of Chapter 17.320 SMC.~~

~~17.270.040 Adherence to approved plans.~~

~~A variance shall be subject to the plans and other conditions on the basis of which it was granted.~~

~~17.270.050 Effective date.~~

~~No building or zoning permit shall be issued in any case where a variance is required by the terms of this code, until seven days after the granting of such variance by the Planning Commission, or after granting of such variance by the City Council in the event of appeal, and then only in accordance with the terms and conditions of the variance granted.~~

Chapter ~~17.275~~17.425

REASONABLE ACCOMMODATION UNDER THE FAIR HOUSING ACTS

Sections:

~~17.275~~17.425.010 Purpose.

This chapter provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

~~17.275~~17.425.020 Applicability.

A request for reasonable accommodation may be made by any person with a disability, their representative or any other entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. The Planning Director will grant a request for an accommodation whenever the accommodation is necessary and reasonable. (See SMC ~~17.275~~17.425.050, Review procedure Director Review.)

~~17.275~~17.425.030 Application requirements.

Requests for reasonable accommodation shall be submitted on an application form as required by SMC 17.400.030. Requests for reasonable accommodation ~~provided by the Planning Department, to the Director of Planning, and~~ shall contain the following information:

A. The applicant's name, address and telephone number.

B. Address of the property for which the request is being made.

C. The current actual use of the property.

D. The basis for the claim that the individual is considered disabled under the Acts.

E. The Zoning Code provision, regulation or policy from which reasonable accommodation is being requested.

F. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

G. Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to use permit, design review, General Plan amendment, zone change, annexation, etc.), then the applicant shall file the information required herein for concurrent review with the application for discretionary approval.

~~17.275~~17.425.040 Review authority.

A. Planning Director ~~of Planning~~. Requests for reasonable accommodation shall be reviewed by the ~~Director of~~ Planning Director ~~(Director)~~, or his designee if no approval is sought other than the request for reasonable accommodation.

B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

~~17.275~~17.425.050 Review P~~p~~rocedure ~~Director Review~~.

A. The Planning Director, or his designee, shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with SMC ~~17.275~~17.425.060 (Findings and decision).

B. Other Reviewing Authority. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the authority responsible for reviewing the discretionary land use application in compliance with the applicable review procedure for the discretionary review. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with this chapter.

~~17.275~~17.425.060 Findings and decision.

A. Findings. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

1. Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts.

2. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.

3. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.

4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.

5. The accommodation is necessary. (See Procedure No. 1 in subsection B of this section.)

6. The accommodation is reasonable (See Procedure No. 2 in subsection C of this section.)

7. Potential impact on surrounding uses.

8. Physical attributes of the property and structures.

9. Alternative reasonable accommodations which may provide an equivalent level of benefit.

B. Procedure No. 1 - Guidelines for Determining Necessity. It is not possible to anticipate every potential accessibility improvement in order to revise the zoning standards to allow for accessibility improvements

as a matter of right; therefore, modifications to any zoning standard shall be considered, per this guideline, when necessary to make an existing residential unit accessible.

1. The accommodation is necessary if, without the accommodation, the person with a disability would not have an equal opportunity to live in the dwelling of his or her choice.

2. A person would not have an equal opportunity to live in a dwelling if, without the accommodation:

    a. The person would be excluded from a neighborhood; or

    b. The person would have less of an opportunity to live in the neighborhood or the particular dwelling than persons who do not have disabilities.

    c. Example: If a person would not be able to live in a single-family dwelling without the accommodation, then the accommodation is necessary. Such an accommodation could include the necessity to remodel a restroom for wheelchair access, with the only design option to bump the room out into a required setback, or the need to install a wheelchair ramp in a required setback for access to a residence. A nonconforming addition to a residence which is otherwise accessible and may be reasonably occupied by a disabled person is an example of what would not be considered necessary under this guideline.

C. Procedure No. 2 - Guidelines for Determining Reasonableness.

1. An accommodation is reasonable if it:

    a. Does not create an undue financial or administrative burden for the City; and

    b. Will not fundamentally alter the zoning scheme of the City.

2. Undue Burden Analysis.

    a. To determine whether the accommodation will create an undue financial or administrative burden, I the reviewing authority shall consider whether it will cause significant and identifiable financial costs to the City.

    b. A waiver or modification of zoning requirements generally is not an undue burden if it does not impose any concrete, identifiable financial costs on the City.

    c. The undue burden analysis should not be based on anecdotal evidence or generalizations. For example, the belief that residences for persons with disabilities need more emergency services than other residences is not a valid reason to conclude that an accommodation would cause an undue burden.

D. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by this chapter.

~~**17.275.070 Appeal of determination.**~~

~~A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to the Planning Commission in compliance with Chapter 17.320 SMC.~~

Chapter ~~17.280~~17.430

TEMPORARY USE PERMITS

Sections:

~~17.280~~17.430.010 Purpose - Applicability.

The purpose of these provisions is to set forth the requirements and procedures for the review of specified temporary uses. The requirement for a temporary use permit shall apply to temporary uses, including contractor storage yards, temporary trailer offices for businesses, and circuses and carnivals and other temporary uses as determined by the Planning Director. A temporary use permit shall not be required for circuses, carnivals, and festivals sponsored by the City of Sebastopol, places of worship, or community nonprofit organizations on land controlled by said organizations or by public agencies, or for events which occur in theaters, meeting halls, other permanent public assembly facilities, or for private social gatherings.

17.430.020 Term~~E. Term.~~

The Planning Director may authorize temporary uses for one term of up to six months and may approve one extension of up to six months; terms in excess of six months shall be subject to Planning Commission review.

~~17.280.020 Application.~~

~~Application for a temporary use permit shall be made in writing by the owner of the affected property, or his authorized agent, on a form prescribed by the Planning Department and shall be accompanied by a fee established by resolution of the City Council, together with statements, plans and any other information required by the Planning Department.~~

~~17.280~~17.430.030 ~~Procedure for consideration~~Conditions.

~~A. Reviewing Authority. Applications for a temporary use permit shall be considered by the Planning Director except where the requested term is more than six months, in which case the Planning Commission shall consider the request.~~

~~B. Public Notice. Once the Planning Department has determined that the application is complete, written notice of the application shall be provided to all owners of property adjoining the subject property. Action on the permit request shall not occur earlier than 10 days after such notice is provided.~~

~~C. Conditions.~~ The ~~Planning Director or Planning Commission, as the case may be~~decision-making authority~~,~~ may designate such conditions as ~~he~~ determined to be~~ems~~ necessary in order to secure the purposes of this code, and may require such guarantees and evidence that such conditions are being, or will be, complied with.

17.430.040 Findings

~~D. Findings.~~ A temporary use permit may only be granted if the establishment, maintenance or operation of the proposed use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood

of such proposed use or development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

~~E. Term. The Planning Director may authorize temporary uses for one term of up to six months and may approve one extension of up to six months; terms in excess of six months shall be subject to Planning Commission review.~~

~~F. Effective Date. A temporary use permit shall not be effective for seven days after the granting of such temporary use permit or after granting of such permit by the Planning Commission in the event of an appeal, and then only in accordance with the terms and conditions of the permit granted.~~

~~G. Appeal. In case an applicant or other interested person is not satisfied with the action of the Planning Director or the Planning Commission, as the case may be, the applicant or said person may appeal the decision, pursuant to the appeal procedure of Chapter 17.320 SMC.~~

~~H. Adherence to Approved Plans. A temporary use permit shall be subject to the plans and other conditions on the basis of which it was granted.~~

Chapter 17.435

DOWNTOWN NOISE PERMITS

Sections:

17.435.010 Purpose - Applicability.

The purpose of these provisions is to set forth the requirements and procedures for the review of specified uses requesting to be permitted to periodically exceed the exterior noise standards contained in SMC 8.25.060. The requirement for a Downtown noise permit shall not be required for events sponsored by the City of Sebastopol, places of worship, or community nonprofit organizations on land controlled by said organizations or by public agencies.

17.435.020 Application Timing and Content; Review, Monitoring, and Enforcement Costs.

A. Downtown Noise Permit Application Deadlines. A complete Downtown Noise Permit application must be submitted prior to a proposed event or other activity which would result in periodic exceedances of the exterior noise standards contained in SMC 8.25.060. An incomplete application will not be processed or scheduled for review until all information is submitted in accordance with this chapter.

1. For small events (i.e., 50 people or less anticipated), complete applications must be submitted at least 30 days prior to the event or activity.

2. For large events (i.e., more than 50 people anticipated), complete applications must be submitted at least 45 days prior to the event or activity.

   Note: a special event shall not be advertised until the application has been approved by the City.

B. Downtown Noise Permit Content. A complete application must include the following:

1. Downtown Noise Permit Application Form with required attachments.

2. Payment of all required application fees, rental fees, costs and damage deposits.

3. A Site Plan that identifies the location of proposed noise sources and methods to attenuate noise to the extent feasible.

4. The application must include self-monitoring and reporting to the City of noise levels after each event. The application shall identify the method of verifiable self-monitoring that will be used, and all monitoring shall be conducted in accordance with SMC 8.25.050.

C. Costs associated with any City efforts to provide monitoring and enforcement of the Downtown Noise Permit shall be the responsibility of the applicant and shall include all costs incurred by the City, including actual time, material and equipment costs. This may include retention of a qualified consultant by the City. A cost estimate will be provided as part of City staff review of the application. A deposit for estimated costs shall be provided prior to the application being considered by the City.

D. All costs associated with the review and consideration of the Downtown Noise Permit application shall be the responsibility of the applicant. This may include retention of a qualified noise consultant by the City. A cost estimate will be provided with initial application review; a deposit for estimated costs shall be provided at the time the application is submitted and is required to complete the application process.

17.435.030 Term.
A Downtown noise permit shall not be effective for more than one year.

17.435.040 Conditions.
The decision-making body may designate such conditions deemed necessary in order to secure the purposes of this code, and may require such guarantees and evidence that activities are, or will be, consistent with the conditions.

17.435.050 Findings
A Downtown noise permit may only be granted if the establishment, maintenance or operation of the proposed use applied for: 1) is otherwise permitted under this code 2) will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City, and 3) the activity will provide community benefits that outweigh the discomfort or inconvenience experienced by the neighborhood, residents, and by the City generally associated with excessive noise.

17.435.050 Complaints
Persons may file an official complaint with the Sebastopol Planning Department in the event that a violation of the permit is suspected. Upon receipt of a complaint, the Planning Director or his designee shall investigate the complaint to determine the location and type of sound. If it is determined that a potential violation exists, the Planning Director or designee, equipped with a sound level meter, shall conduct field surveys when the excessive sound is anticipated. In conjunction with this investigation, the Planning Director shall consider the nature of the complaint, the history of the noise source, and the presence or absence of other complaints. The investigation shall consist of both a measurement and the gathering of data to adequately define the noise problem. Data gathered shall include the following:

A. Non-acoustic data;

B. Type of noise source;

C. Location of noise source relative to complainant's property;

D. Time period during which noise source is considered by complainant to be intrusive;

E. Duration of noise produced by noise source;

F. Date and time of noise measurement survey.

Chapter ~~17.~~17.440~~290~~

DEVELOPMENT AGREEMENTS

Sections:

~~17.290~~17.440.010 Purpose - Applicability.

The purpose of this chapter is to set forth the contents, procedures, and application requirements for development agreements. These regulations are adopted under the authority of Government Code Sections 65864 through 65869.5.

~~17.290~~17.440.020 Forms and information.

A. The Planning Director shall prescribe the form for each application, notice and document provided for or required by these regulations for the preparation and implementation of development agreements.

B. The Planning Director may require an applicant to submit such information and supporting data as he considers necessary to process the application.

~~17.290~~17.440.030 Qualification as an applicant.

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. The Planning Director may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Planning Director may obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

~~17.290~~17.440.040 Form of agreement.

Each application shall be prepared on the form established by the City Attorney with such additional alternatives or modifications or changes as may be proposed by the applicant and approved by the City Attorney.

~~17.290~~17.440.050 Agreement contents.
A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions; provided, that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time. The agreement may also include terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

~~17.290~~17.440.060 Duty to give notice.
The Planning Director shall give public notice of intention to consider adoption of the development agreement in accordance with Chapter ~~17.3~~17.463~~0~~ SMC and as provided below.

~~17.290~~17.440.070 Determination by Planning Commission.
After the hearing by the Planning Commission, which may be held in conjunction with other required hearings for the project including conditional use permits or subdivision maps, the Planning Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

A. Is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan.

B. Is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is located.

C. Is in conformity with public convenience, general welfare and good land use practice.

D. Will not be detrimental to the public health, safety and general welfare.

E. Will not adversely affect the orderly development of property.

F. Will provide sufficient benefit to the City to justify entering into the agreement.

~~17.290~~17.440.080 City Council hearing.
Following notice pursuant to Chapter ~~17.3~~17.430 SMC, the City Council shall hold a public hearing. It may accept, modify or disapprove the recommendation of the Planning Commission. The City Council shall not approve the development agreement unless it adopts the findings contained in SMC ~~17.290~~17.440.070 to support its action.

~~17.290~~17.440.090 Approval of development agreement.
If the City Council approves the development agreement, it shall do so by the adoption of an ordinance. After the ordinance approving the development agreement takes effect, the City of Sebastopol may enter into the agreement.

~~17.290~~17.440.100 Initiation of amendment or cancellation.
Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into. If proposed by the applicant, the procedure for proposing and adoption of an amendment to or cancellation, in whole or in part of the development agreement, shall be the same as the procedure for entering into an agreement. Where the City Council initiates the proposed amendment to or cancellation of the development agreement, it shall first give at least 30 calendar days'

notice to the applicant of its intention to initiate such proceedings in advance of giving notice of the public hearing.

~~17.290~~17.440.110 Recordation of development agreement.
A. Within 10 calendar days after the City of Sebastopol enters into the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

B. If the parties to the agreement or their successors in interest amend or cancel the agreement, or if the City of Sebastopol terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the Planning Director shall have notice of such action recorded with County Recorder.

~~17.290~~17.440.120 Time for and initiation of review.
The Planning Director shall review the development agreement at least once every 12 months from the date the agreement is entered into. The Planning Director shall report the findings of his review to the Planning Commission and City Council. The time for review may be modified by agreement between the parties.

~~17.290~~17.440.130 Notice of periodic review.
The Planning Director shall begin the review proceeding by giving notice to the applicant that the City of Sebastopol intends to undertake a periodic review of the development agreement. He shall give the notice at least 30 calendar days in advance of the time the matter will be considered by the Planning Commission.

~~17.290~~17.440.140 Public hearing by Planning Commission.
The Planning Commission shall conduct a public hearing at which time the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the applicant.

~~17.290~~17.440.150 Findings upon public hearing.
The Planning Commission shall determine upon the basis of substantial evidence whether or not the applicant has, for the period under review, complied in good faith with the terms and conditions of the agreement. The Planning Commission shall report its findings of compliance to the City Council in the form of a recommendation.

~~17.290~~17.440.160 Public hearing by City Council.
The City Council shall conduct a public hearing to review the recommendation of the Planning Commission and to determine for itself based on substantial evidence if the applicant has complied in good faith with the terms and conditions of the agreement. The burden of proof on this issue is upon the applicant.

A. The review is concluded if the applicant has complied in good faith with the terms and conditions of the agreement during the period under review.

B. The City Council shall order the applicant to cure the default within 60 calendar days if the applicant has not complied in good faith with the terms and conditions of the agreement during the period under review.

~~17.290~~17.440.170 Proceedings for modification or termination.
If the applicant fails to cure the default, the City Council may amend or terminate the agreement. The City Council shall give notice to the applicant of its intention to do so. The notice shall contain:

A. The time and place of the hearing.

B. A statement as to whether or not the City Council proposes to terminate or modify the development agreement.

C. Other information which the City Council considers necessary to inform the property owner of the nature of the proceeding.

~~17.290~~17.440.180 Hearing on modification or termination.

At the time and place set for the hearing on modification or termination, the applicant shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the City. The decision of the City Council is final.

Chapter ~~17.300~~17.445

GENERAL PLAN AND ZONING AMENDMENT PROCEDURE

Sections:

~~17.300~~17.445.010 Purpose - Applicability.

The purpose of these provisions is to prescribe the procedure by which changes may be made in the text of the General Plan or Zoning Code or the General Plan or Zoning Map. This procedure shall apply to all proposals to change land use designations on the General Plan map, change the text of the General Plan, rezone property, or to change the text of the Zoning Code.

~~17.300~~17.445.020 Application - Initiation.

A General Plan or zoning amendment may be initiated by:

A. The verified petition of one or more owners of property affected by the proposed amendment, which petition shall be filed with the Planning Commission and shall be accompanied by a fee established by resolution of the City Council, or by:

B. Resolution of intention of the City Council, or by:

C. Resolution of intention of the Planning Commission.

~~17.300~~17.445.030 Procedure for consideration.

A. Planning Commission Recommendation Required. The City Council shall not redesignate or rezone any property, or change the text of any provision of the General Plan or Zoning Code, until after it has received, pursuant to this procedure, a recommendation from the Planning Commission.

~~B. Public Hearing Required. A public hearing shall be held by both the Planning Commission and City Council on each application for General Plan or zoning amendment. Notice of the hearing shall be given as prescribed in Chapter 17.330 SMC.~~

B~~C~~. Action by Planning Commission.

1. Following its public hearing, the Planning Commission shall make a written resolution of its findings and recommendations with respect to the proposed amendment and shall file with the City Council an attested copy of such report within 90 days after the notice of the first of said hearings; provided, that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Such resolution shall include the reasons for the recommendation, and the relationship of the proposed amendment to applicable general and specific plans.

2. In making its recommendations, the Planning Commission shall determine whether the proposed amendment:

    a Is compatible with the general objectives of the General Plan and any applicable specific plan.

b. Is in conformity with public convenience, general welfare and good land use practice.

c. Will not be detrimental to the public health, safety and general welfare.

d. Will not adversely affect the orderly development of property.

3. Failure of the Planning Commission to report within 90 days without the aforesaid agreement shall be deemed to be a recommendation of approval of the proposed amendment by the Planning Commission.

~~D~~C. Action by City Council.

1. Upon receipt of such report from the Planning Commission, or upon the expiration of such 90 days, the City Council shall set the matter for public hearing.

2. After conclusion of the hearing, the City Council may adopt the amendment or any part thereof in such form as the City Council deems advisable, and shall notify the appropriate agencies as required by the Government Code, except that any substantial modification of the proposed amendment by the City Council not previously considered by the Commission shall first be referred to the Planning~~-~~ Commission for review and recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. Failure of the Planning Commission to report within 45 days after the referral, or such longer period as may be designated by the City Council, shall be deemed to be approval of the proposed modification.

3. In acting on the matter, the City Council shall determine whether the proposed amendment:

a. Is compatible with the general objectives of the General Plan and any applicable specific plan.

b. Is in conformity with public convenience, general welfare and good land use practice.

c. Will not be detrimental to the public health, safety and general welfare.

d. Will not adversely affect the orderly development of property.

e. Limitation on Resubmission. Whenever a private application for General Plan or zoning amendment has been denied by the City Council, no such application for the same proposal affecting the same property, or any portion thereof, shall be filed within one year after the date of denial.

~~17.300~~17.445.040 Urgency measure - Interim zoning ordinance.

Without following the procedures otherwise required prior to adoption of a zoning ordinance, the City Council, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated General Plan, specific plan, or zoning proposal that the City Council, Planning Commission, or Planning Department is considering or studying or intends to study within a reasonable time. Such interim ordinance shall conform to the requirements of Section 65858 of the California Government Code.

Chapter ~~17.3~~17.450~~10~~

DESIGN REVIEW PROCEDURE

Sections:

~~17.310~~17.450.010 Purpose - Applicability.

A. The purpose of these provisions is to prescribe the procedure for the review of the design and appearance of new development within the City. A design review permit shall be required for all new development or expansions to existing development as follows:

1. New residential developments of ~~two~~five or more lots in any district;

2. New single-family residences in new residential subdivisions of ~~two~~ five or more units;

3. Hillside developments in any district;

4. Proposed buildings or substantial additions or other substantial exterior modifications to existing buildings for which a building permit is required in districts other than single-family or duplex districts;

B. The following shall be exempt from the requirement for a design review permit:

1. Rooftop photovoltaic installations shall not require design review unless the Planning Director determines that review is appropriate due to unusual characteristics of the installation or building.

~~17.310~~17.450.020 Application.

Application for design review shall be made ~~by the owner of the affected property, or his authorized agent, on a form prescribed by the Planning Department~~as described at SMC 17.400.030. Applications for design review~~, and~~ shall be accompanied by such information including, but not necessarily limited to, architectural drawings showing all the elevations of the proposed building(s) or structure(s), the relationship of the proposed building(s) or structure(s) to surrounding buildings, and the proposed landscaping or other treatment of the ground around such building or structure, including building placement, off-street parking and preliminary grading plans as may be required to allow applicable design review criteria to be applied to the proposal~~, together with the fee prescribed by resolution of the City Council~~. All drawings shall be prepared by licensed design professionals, as may be required by State law.

~~17.310~~17.450.030 Procedure for consideration.

~~A. Public Hearing Not Required. A public hearing is not required for each application for design review. However, a public hearing shall be scheduled, at the discretion of the City Council or the Design Review Board or the Planning Director if the application does not require a public hearing before another board or commission, or the City Council and if the project involves, for residential developments, construction of 10 or more units, or for nonresidential or mixed-use development, construction of 10,000 square feet of floor area or more, except when the application qualifies for exemption from a public hearing requirement under State law. When a public hearing is held, notice of the hearing shall be given as prescribed in Chapter 17.330 SMC.~~

~~B. Action by the Design Review Board.~~

A~~1~~. The Design Review Board may delegate to the Planning Director of the City of ~~—~~Sebastopol the authority to approve applications for design review for minor exterior alteration of any building or structure in any district requiring design review, or to approve any other application for design review which has been approved in concept by the Design Review Board.

~~2~~B. In considering an application for design review, the Design Review Board, or the Planning Director, as the case may be, shall determine whether:

1~~a~~. The design of the proposal would be compatible with the neighborhood and with the general visual character of Sebastopol;

2~~b~~. The design provides appropriate transitions and relationships to adjacent properties and the public right-of-way;

3~~c~~. It would not impair the desirability of investment or occupation in the neighborhood;

4~~d~~. The design is internally consistent and harmonious;

5~~e~~. The design is in conformity with any guidelines and standards adopted pursuant to this chapter.

~~3~~C. The Design Review Board, or the Planning Director, as the case may be, shall render approval only in conformity with subsection (B)(2) of this section, and such other resolutions and actions of the Design Review Board establishing standards and guidelines.

~~4~~D. The Design Review Board, or the Planning Director, as the case may be, may designate such condition(s) in connection with the design review application it deems necessary to secure the purposes of this code, and may require such guarantee and evidence that such conditions are being, or will be, complied with.

~~C. Appeal Procedure.~~

~~1. In case the applicant or other interested person is not satisfied with the decision of the Planning Director regarding a design review determination, the applicant or said person may appeal the action to the Design Review Board, pursuant to the appeal procedure of Chapter 17.320 SMC.~~

~~2. In case the applicant or other interested person is not satisfied with the decision of the Design Review Board, the applicant or said person may appeal the action to the City Council, pursuant to the appeal procedure of Chapter 17.320 SMC.~~

~~**17.310.040 Adherence to approved plans.**~~
~~No building or other construction permit shall be issued in any case where design review approval is required by the terms of this code, until seven days after the granting of such approval in accordance with the provisions of this section. All buildings, structures, and grounds shall be constructed in accordance with the design review approval.~~

Chapter ~~17.320~~17.455

ADMINISTRATIVE APPEAL PROCEDURE

Sections:

~~17.3~~17.455~~20~~.010 Purpose - Applicability.

The purpose of these provisions is to prescribe the procedure by which an appeal may be taken to the Planning Commission or Design Review Board, from any administrative determination or interpretation made by City staff under the Zoning Code, or to the City Council, from a determination or interpretation made by the Planning Commission or Design Review Board, under the Zoning Code. This procedure shall apply to all appeals from such determinations and interpretations.

~~17.3~~17.455~~20~~.020 Procedure for appeal.

A. Appeal from Administrative Determination.

1. Appeal to Planning Commission. An appeal may be taken to the Planning Commission by an applicant or any interested party, from any administrative determination or interpretation made by City staff under the Zoning Code, except for matters relating to an application for design review or sign review. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by staff, or wherein their decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Action on the appeal shall be limited to the issues raised in the appeal. Upon receipt of the appeal, the Secretary of the Planning Commission shall set the date for consideration thereof, and, not less than five calendar days prior thereto, shall give written notice to the appellant and to any known adverse parties of the time and place of the consideration of the appeal.

2. Appeal to Design Review Board. An appeal may be taken to the Design Review Board by an applicant or any interested party, from any administrative determination or interpretation made by City staff relative to any application for design review or sign review. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by staff, or wherein their decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Action on the appeal shall be limited to the issues raised in the appeal. Upon receipt of the appeal, the Secretary of the Design Review Board shall set the date for consideration thereof, and, not less than five calendar days prior thereto, shall give written notice to the appellant and to any known adverse parties of the time and place of the consideration of the appeal.

3. An appeal filed pursuant to subsection (A) (1) or (2) of this section shall be filed with the Planning Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by staff, or wherein their decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Action on the appeal shall be limited to the specific issues raised in the appeal. Upon receipt of the appeal, the Secretary of the Planning Commission, or Design Review Board, as the case may be, shall set the date for consideration thereof, and, not less than five calendar days prior thereto, shall give written notice to the appellant and to any known adverse parties of the time and place of the consideration of the appeal.

B. Appeal from Planning Commission or Design Review/Tree Board Decision.

1. An appeal may be taken to the City Council by an applicant or any interested party, from any determination or interpretation made by the Planning Commission or the Design Review/Tree Board, as the case may be, under the Zoning Code.

2. An appeal filed pursuant to subsection (B) (1) of this section shall be filed with the Planning Department. The appeal shall include the appeal form, available at the Planning Department, and filing fee. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Commission or Design Review Board, as the case may be, or wherein their decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Action on the appeal shall be limited to the issues raised in the appeal. A filing fee, as established by resolution of the City Council, shall be paid at the time of filing the written appeal. Upon receipt of the appeal, the City Clerk shall set the date for consideration thereof, and, not less than five calendar days prior thereto, shall give written notice to the appellant and to any known adverse parties of the time and place of the consideration of the appeal.

C. Appeal of Housing Projects. Any appeal of a housing project shall address conformance with Government Code Section 65589.5.

C. Filing of Appeals. Any appeal under this chapter shall be filed within seven days of the relevant action.

~~17.3~~17.455~~20~~.030 Procedure for consideration.

A. Administrative Appeal.

1. In its review of an administrative appeal, the Planning Commission, or Design Review Board, as the case may be, shall consider the purpose and intent, as well as the letter, of the pertinent provision, and shall affirm, modify, or reverse the staff's determination or interpretation.

2. In case the applicant or other interested person is not satisfied with the action of the Planning Commission or Design Review Board, as the case may be, the applicant or said person may, within seven days after such action appeal in writing to the City Council.

B. Appeal from Planning Commission/Design Review Board.

1. In its review of an appeal from the Planning Commission, or Design Review Board, as the case may be, the City Council shall consider the purpose and intent, as well as the letter, of the pertinent provision, and shall affirm, modify, or reverse the Planning Commission or Design Review Board determination or interpretation. The decision of the City Council shall be final.

2. The City Council shall render its decision within 30 days of the hearing of the appeal, except that this time limit may be extended by mutual agreement of the City Council and the applicant.

Chapter ~~17.330~~17.460

PUBLIC HEARING PROCEDURE

Sections:

~~17.3~~17.46~~3~~0.010 Purpose - Applicability.

The purpose of these provisions is to prescribe the procedure for setting public hearings. These procedures shall apply in all instances where a public hearing is required pursuant to the Zoning Code.

~~17.3~~17.46~~3~~0.020 Procedure.

A. Notice of hearing shall be published once in a newspaper of general circulation within the jurisdiction of the City at least 10 days prior to the hearing. Notice shall contain the necessary information as required by Government Code Section 65904.

B. In the event the application or proposed amendment may affect the permitted use of real property, the following additional notice shall be given:

1. Notice of the hearing shall be mailed or delivered at least 12 days prior to the hearing to the owner of the real property or his agent, and to the project applicant, if any.

2. Notice of the hearing shall be mailed or delivered at least 12 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 600 feet of the real property that is the subject of the hearing.

3. Notice of the hearing shall be posted in at least three public places including one public place in the area directly affected by the proceeding at least 12 days prior to the date of the hearing. ~~Such posted notices shall be 11 inches by 17 inches.~~ The form and content of posted notices shall be specified by the Planning Director.

4. If the number of owners to whom notice would be mailed or delivered, as provided in subsection (B) (2) of this section, is greater than 1,000, notice may be given by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing, in lieu of mailed or delivered notice.

5. For projects involving non-residential development of 10,000 square feet or greater, 15~~10~~ lots or greater, or 15~~0~~ dwelling units or greater, a sign meeting the specifications of the City Council and describing the proposed project shall be posted on the project site at least 30 days in advance of any required public hearing.

6. For projects which elect or are required to conduct preliminary review before the Planning Commission or City Council, mailed notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property, as shown on the latest equalized assessment roll, within 600 feet of the real property that is the subject of the preliminary review.

Chapter ~~17.340~~17.470

ENFORCEMENT/PENALTIES

Sections:

~~17.340~~17.470.010 Purpose - Applicability.

The purpose of these provisions is to ensure compliance with the Zoning Code. These provisions shall apply to the enforcement of the Zoning Code, but shall not be deemed exclusive.

~~17.340~~17.470.020 Official actions.

All officials, departments and employees of the City of Sebastopol vested with the authority to issue permits, certificates or licenses shall adhere to, and require conformance with, the Zoning Code, and shall issue no permit, certificate or license for uses, buildings, or purposes in conflict with the provisions of this code; any such permit, certificate, or license issued in conflict with the provisions of this code shall be null and void.

~~17.340~~17.470.030 Inspection and right of entry.

It shall be the duty of the Building Inspector of the City to enforce the provisions of this code pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or structure. Whenever he shall have cause to suspect a violation of any provision of the Zoning Code, or whenever necessary to investigate an application for, or revocation of, any Zoning approval, the Building Inspector, or his duly authorized representative(s), may enter on any site or into any structure for the purposes of investigation, provided he shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant, which consent shall not be unreasonably withheld.

~~17.340~~17.470.040 Abatement.

Any building or structure or sign set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this chapter, and any use of any land, building or premises established, conducted, operated or maintained contrary to the provisions of this chapter, shall be hereby declared to be unlawful and a public nuisance; the City Attorney of the City shall, upon order of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinment thereof in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building contrary to the provisions of this chapter.

~~17.340~~17.470.050 Penalties.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this code, shall be guilty of an infraction, and upon conviction thereof, shall be punishable by a fine of not more than $500.00. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this code is committed or continued by such person, firm or corporation, and shall be punishable as herein provided. Unless otherwise specified, upon a fourth or subsequent conviction of a violation of this chapter committed within a period of one year, said violation shall constitute a

misdemeanor, punishable by a fine of not less than $100.00 nor more than $1,000 or by imprisonment in the County jail for a period of not more than six months, or by both such fine and imprisonment.

~~17.340~~17.470.060 Remedies.

The remedies provided for herein shall be cumulative and not exclusive.

Chapter ~~17.~~17.500~~350~~

CITY GROWTH MANAGEMENT PROGRAM

Sections:

~~17.350~~17.500.010 Authority and purpose.

The ordinance codified in this chapter is adopted pursuant to the general police powers of the City of Sebastopol to protect the health, safety and welfare of its residents; and, pursuant to the powers delegated to local agencies by the California Constitution, to make and enforce local ordinances not in conflict with general laws.

This chapter will allow the City to manage and balance new residential growth so as not to exceed available resources including public infrastructure capacity, public services, and fiscal resources; and to protect the character and quality of life for existing and future residents of Sebastopol.

~~17.350~~17.500.020 Findings.

Pursuant to Government Code Section 65863.6, the City makes the following specific findings:

A. Wastewater Treatment Capacity. The City of Sebastopol contracts with the City of Santa Rosa for wastewater treatment and disposal at the Laguna Subregional Treatment Plant, imposing a limitation on wastewater flows which limits ultimate development.

Increasing Sebastopol's wastewater treatment/ disposal capacity is dependent on decreasing existing flow, or purchase of additional treatment capacity, and Santa Rosa's ability to expand the wastewater disposal and storage capacity of the subregional treatment plant.

In order to increase its wastewater treatment allocation, the City would be required to pay it's pro rata share of the expansion of the treatment plant. This would result in significant increases in user fees for residents of Sebastopol.

In light of substantial added costs to the ratepayer should the City increase its wastewater treatment allocation as well as issues concerning the availability of such added capacity, the City of Sebastopol finds it necessary to plan within the limits of its existing subregional sewer treatment capacity entitlement.

B. Wastewater Collection System. Substantial funding would be required to upgrade and expand the City's aging sewage collection system (Sebastopol General Plan EIR). A lack of funding for upgrades to the following collection system components limits the number of housing units the City's existing sewage collection system can serve:

1. Southern Sebastopol contains a sizable area which would require a new gravity sewer system discharging directly to the Llano Road system and/or a new pump station and force main.

2. North High Street sewer main is in need of replacement.

3. Burnett Street sewer main is in need of replacement.

4. All of Sebastopol's sewage flows to the Morris Street Lift Station and is then pumped to the Santa Rosa Subregional Treatment Plant. As flows increase, the lift station and force main are expected to need upgrades.

The City finds it necessary to limit development in order not to exacerbate existing sewage collection system inadequacies and due to a lack of funding for upgrades.

C. Water Supply and Distribution. Sebastopol's water system is currently being supplied by four of five existing municipal wells. This is because one well is out of service due to contamination.

Although the City's water supply is presently adequate, this problem could easily become critical, should any of the other wells have to be removed from service due to contamination, mechanical failures or dwindling groundwater supply.

This constraint would affect existing and proposed development throughout the City's service area.

Sebastopol's water system is divided into two pressure zones, each of which is supplied by wells which pump into storage reservoirs. The water then feeds the distribution system by gravity from the reservoirs. Pressure Zone I, which serves the lower lying areas of town, currently extends to the southerly City limits at Gravenstein Highway South and Cooper Road.

In its most extreme reaches, water pressures in Zone I are marginal at best. Extensions of this system to service the southeast and southwest areas within our sphere of influence may not be possible under present conditions; that is, pressures would likely not be sufficient for domestic or firefighting requirements.

No further connections to this portion of the system are advised until a comprehensive study can be done and recommendations made for the best way to extend our system to the south. A report prepared for the City in February 2000 provides estimated costs of providing water, sewer, and storm drain service to this area; however, no funding for such extension is available at this time.

In addition, any updated water system study should include all areas identified in the General Plan but currently outside the City, to assure that infrastructure improvements are adequate to meet future demand.

D. Traffic Circulation System. Downtown Sebastopol is located at the crossroads of State Highways 116 and 12 (becoming Bodega Avenue at the intersection of Highway 116). With no alternate high quality parallel regional routes and few collector or arterial streets through town, traffic levels of service within Sebastopol are unacceptably low on the highways and their intersections with local streets

Enacting a residential building cap is necessary to minimize exacerbation of existing and projected traffic congestion (resulting in large part from regional traffic), which is beyond the sole authority for fiscal resources of the City to improve.

E. Fire Protection Services. The Sebastopol Fire Department maintains a volunteer Fire Department and adequate emergency response times has become more difficult over time. Managing the rate of residential growth is necessary to maintain adequate emergency response times, within the limitations of a volunteer Fire Department.

F. Police Services. While the City's crime rate is below the State average for similar-sized communities, it has continued to increase over the past few years. Managing the rate of residential growth is necessary

to maintain adequate emergency response times, within the limitations of the Police Services Department staff and resources.

G. School Facilities. The City finds it in the public interest of the community to manage residential growth until such time as the school districts have identified funding sources and sites for increased facilities expansions.

H. Fiscal Resources. Development demands for City services have exceeded the revenues generated to pay for such services.

The City finds that public infrastructure and service costs associated with unmanaged residential growth would exceed available resources and would result in further cuts in public services and community resources to the detriment of the public safety and welfare.

I. Jobs/Housing Balance.

The City finds that managing the mix of residential to nonresidential growth is necessary to balance the costs of providing public services and infrastructure to residential development with revenue-generating commercial development. Achieving a better jobs/housing balance will also assist in relieving traffic congestion, because there will be more employment opportunities for Sebastopol area residents in close proximity to their homes.

J. Affordable Housing Needs. Government Code Section 65583(b) requires municipalities to adopt quantified housing objectives, which need not be identical to projected housing needs, if the provisions of such housing would exceed available resources and the community's ability to satisfy this need within the content of general plan requirements'

~~17.350~~17.500.030 General provisions.

A. The Planning Director shall submit an annual report to the City Council at the end of each year to give the status on the level of service standards and guidelines for City services to include water, wastewater, parks, fire, police, drainage, schools, and traffic as set forth in the Sebastopol General Plan. If any of the standards or guidelines are determined to be exceeded, mitigation measures or actions necessary to bring compliance shall be included for City Council review and approval. If the City Council determines that it is not possible within the fiscal resources or regulatory authority of the City to meet the standards or guidelines, then additional allocations for the next calendar year shall be suspended for a period of 60 days to give the City Council time to adopt an urgency ordinance to restrict further dwelling allocation issuance, to remain in effect until the level of service(s) can be improved to meet the standards or guidelines contained in the General Plan.

B. Dwelling allocations shall be limited to 750 dwelling units through 2035, or the remaining wastewater treatment capacity for new residential dwellings as determined by the City Council under the existing contract for services with the City of Santa Rosa, whichever is less. Annual allocations shall be limited to 50 units.

C. Units in senior housing and single room occupancy projects, and units of less than 500 square feet shall count as one-half of a dwelling unit. Community care or health care facilities and homeless shelters shall be counted as zero dwelling units.

C. The following are exempt from the yearly dwelling allocation limitation in subsection B of this section:

1. Affordable housing units.

2. Accessory dwelling units.

3. Replacement residential structures.

4. Single-family homes on an existing lot of record as of November 1994.

5. Homeless shelters, single room occupancy residences, and community care or health care facilities.

6. Residential units in the Central Core.

Non-replacement affordable housing dwelling units, and non-replacement new single-family homes on an existing lot of record as of November 1994 still shall be charged against the total number of allocations that can be issued.

D. No residential building permit for a new dwelling unit shall be issued by the Building Official unless the Planning Director has issued a dwelling allocation under the provisions of this chapter or determined that the proposed dwelling unit is exempt as provided in subsection C of this section.

E. A growth management program allocation availability table shall be updated on an annual basis, or as determined appropriate by the Planning Director or City Council.

F. In December of each year, the Planning Department shall prepare an annual report on the growth management program which shall include the following:

1. The number of new dwelling unit allocations issued during the prior year to nonexempt residential units.

2. The number of new residential building permits issued during the prior year to exempt residential units.

3. The total number of new dwelling units issued to date for exempt and nonexempt residential units.

4. The number of dwelling allocations reserved.

5. The number of removed dwelling units during the prior year.

6. The number of Category C units annexed into the City, and the number of Category D units subject to out-of-service-area agreements.

7. A listing of any significant problems which arose during the prior year in administering the growth management ordinance and program.

8. A listing of any staff recommendations, with regard to changes or revisions to the ordinance to improve its effectiveness and/or administration.

9. A recommendation, if any, together with factual supporting data, as to whether the level of service program or growth management program policies and programs of the General Plan or the growth management ordinance itself should be substantially revised or discontinued.

10. A discussion of the findings of the annual level of service report and any adjustment to the growth management ordinance and annual dwelling allocation limitation as a result of changes in levels of service.

~~17.350~~17.500.040 Dwelling allocation procedures.

A. The Planning Director shall issue dwelling units in accordance with the limitations given under SMC ~~17.350~~17.500.030 and the specific requirements that follow:

B. Category A dwelling allocations consist of dwelling allocations for projects which involve residential dwelling units needing discretionary permits which include, but are not necessarily limited to: use permits, tentative subdivision maps, rezones, design review and/or annexations.

For large projects, the approving authority may impose a condition regarding phasing of allocations, if necessary to maintain reasonable capacity for other projects.

Once a Category A residential project has obtained final discretionary approval, then needed allocations can be issued on a first come, first served basis by the Planning Director for the remaining allocations available that year in accordance with SMC ~~17.350~~17.500.030(B). ~~The project developer must specify the year(s) that the allocation is needed.~~ These dwelling allocations are valid ~~the calendar year for which they are designated or~~ until the discretionary approval expires~~, whichever is sooner~~.

~~A potential recipient of a Category A allocation can request that the necessary allocations be phased over more than one calendar year. Likewise, I~~if the Planning Director determines that a project eligible for an allocation will exceed the remaining dwelling allocation in the subject calendar year, he or she can grant a partial allocation. Those projects denied allocations in one calendar year will have first priority for issuance of allocations in the following calendar year in order of the earliest date of denial of the full allocation, provided the requirements of SMC ~~17.350~~17.500.030 are met.

C. Unused or lapsed allocations may be carried over to the allocation for subsequent years for up to two years, after which they shall return to the base pool of allocations.

D. Once the enabling building permit or~~,~~ discretionary permit ~~or one-year time frame~~ has expired or lapsed, said allocations reserved for that project shall be returned to the total dwelling unit allocation for allocation in accordance with SMC ~~17.350~~17.500.030.

E. Removed dwelling units shall be added to the total dwelling unit allocation pool once the Building Official has verified removal.

F. Category B allocations for units which are exempt from the annual allocation limits, but which count towards the ultimate limit on dwelling units, shall be accounted for in the annual report provided to the City Council. If there are excess annual allocations available at the end of each calendar year, Category B allocations shall be charged to such excess allocations. Otherwise, Category B allocations shall be charged to the ultimate build-out limitations.

G. Category C projects which will include the annexation of existing residential dwelling units shall be required to pay any established in-lieu fee, or retrofit with low-flow fixtures to eliminate any net wastewater flows from the annexed residential units, in priority order (1) existing public facilities in the City limits or those owned by nonprofit corporations in the City limits, and (2) other residential occupancies in the City limits.

H. Category D projects which will include any residential dwellings subject to out-of-service-area agreements, which units shall be required to pay any established in-lieu fee, or retrofit with low-flow fixtures to eliminate any net wastewater flows from such units, in priority order:

~~(~~1.~~)~~ Existing public facilities in the City limits or those owned by nonprofit corporations in the City limits, and

~~(~~2.~~)~~ Other residential occupancies in the City limits.

~~17.350~~17.500.050 Administration.
The City Council, by resolution, may from time to time adopt procedures, policies, rules, and requirements, including the adoption of a processing fee, to implement and administer the provisions of this chapter.

~~17.350~~17.500.060 Appeals.
An applicant, or any other interested person, or any City official who considers a decision made under the provisions of this chapter to be erroneous, may appeal the same to the City Council.

A. The appeal shall be filed with the City within seven days from the date on which the decision was made and issued in written form by the Planning Director.

B. The appeal shall be made in writing and shall specifically describe the decision which is being appealed, each ground which the appellant is relying upon in making the appeal, and the specific action which the appellant wants the City Council to take.

C. A timely filed appeal shall stay all actions resulting from the decision. Any allocation(s) issued under the decision shall be preserved pending the Council's decision on the appeal; any allocations requested by an appellate which were denied by the decision shall also be preserved (or reserved) pending the Council's determination of the appeal to the extent that corresponding entitlements are still available for allocation at the time the City Clerk notifies the Planning Director of the filing of the appeal.

D. Upon the filing of an appeal, the City Clerk shall immediately notify the Planning Director, the person making the decision, of the appeal and shall forward a copy of the appeal to each such person.

E. A timely filed appeal shall be heard by the City Council within 30 days of its filing, and the Council shall decide the matter within 24 days of such hearing.

~~**17.35017.500.080 Rescission of Ordinance 910.**~~
~~Ordinance 910 is hereby rescinded.~~

ATTACHMENT B

PARKING REQUIREMENTS OF SELECT JURISDICTIONS

Attachment B – Parking Requirements of Select Jurisdictions

Table 1: Vehicle Parking Requirements

Use	City of Sebastopol	City of Santa Rosa	City of Healdsburg	City of Petaluma
Single Family unit	2 per unit	4 per unit (1 covered and 3 on-site or on-street if fronting lot)	2 per unit	3 per unit
Multifamily, Duplex through Fourplex per unit	1.5 per one bedroom unit 2 per two or more bedrooms unit	1.5 per studio or one bedroom unit 2.5 per two or more bedrooms unit	Ownership: 2 per unit plus 1 per 3 units Rental: 1.5 per unit plus 1 per 3 units	1 per each bedroom or per studio unit Overall ratio must not be less than 1.5 per unit
Multifamily, Five or more Units Single Family Attached	1 per studio unit 1.5 per one bedroom unit 2 per two or 3 bedroom unit 3 per 4 or more bedroom unit	1.5 per studio or one bedroom unit 2.5 per two or more bedrooms unit	Ownership: 2 per unit plus 1 per 3 units Rental: 1.5 per unit plus 1 per 3 units	1 per each bedroom or per studio unit Overall ratio must not be less than 1.5 per unit
Multifamily, affordable	90% of the parking requirement	1 per studio or one bedroom unit 2 per two or more bedrooms unit	Not specified	Not specified
Senior housing	0.75 per unit for the first 50 units plus 0.5 per unit for each additional unit	1 per unit plus 1 per 10 units	Not specified	Not specified
Senior housing, affordable	90% of the applicable parking requirement	1 per unit	Not specified	Not specified
Live-Work	1/750 s.f. nonresidential	2 per unit	-	-

Attachment B – Parking Requirements of Select Jurisdictions

Use	City of Sebastopol	City of Santa Rosa	City of Healdsburg	City of Petaluma
	0.5 per bedroom			
Housing, Low Income	90% of applicable requirement	See Multifamily, affordable and Senior, affordable	-	-
Commercial, Retail, Services, and Offices	1 per 300 s.f.	1 per 200 to 300 s.f.	1 per 150 to 300 s.f.	1 per 200 to 400 s.f.
Commercial, Hotels, Motels	1 per first 75 rooms, 0.75 space for rooms above 75 50% of requirement for on-site public uses	1 per room plus required spaces for accessory uses	1 per guest room or two beds, whichever is greater, plus 1 per each two employees	1 per each living or sleeping unit plus 1 for owner/manager
Restaurants	1 per 125 s.f. for first 2,500 s.f. 1 per each 150 s.f. over 2,500 s.f.	1 per 75 s.f. Table service: 1 per 3 dining seats	1 space per 3 seats	1 per 2.5 seats
Restaurants, Fast Food, Carryout, Bars	1 per 65 s.f.	Bar: 1 per 50 s.f. seating/lounge area, 1 per 30 s.f. dance area Fast-food: use permit	1 space per 100 s.f. seating area	Bar: 1 per 2.5 seats
Heavy Commercial, Light Industrial	1 per 300 s.f. of office 1 per 1,000 s.f. of warehouse 1 per 500 s.f. of production	< 50,000- s.f.: 1 per 350 s.f. 50,000 s.f. +: 1 per 700 s.f. Other: 1 per 1,000 s.f. of warehouse, wholesaling, etc.	1 per 600 s.f. of commercial service uses 1 per 500 s.f. of manufacturing uses 1 per 1,000 s.f. of warehouse and storage uses	1 for each 1.5 employees on the maximum shift or 1 space per 500 square feet of gross floor area or

Attachment B – Parking Requirements of Select Jurisdictions

Use	City of Sebastopol	City of Santa Rosa	City of Healdsburg	City of Petaluma
				35 spaces per acre, whichever is greater
Downtown, Non-residential	1 per 400 s.f. (Downtown Core/Northeast Specific Plan)	1 per 500 s.f. of new floor area (Railroad Square subarea)	In-lieu fee allowed in Downtown area	Not addressed in Zoning Code
Downtown, Residential	20% reduction (Downtown Core/Northeast Specific Plan)	1 per unit	Not addressed in Zoning Code	Not addressed in Zoning Code

Attachment B – Parking Requirements of Select Jurisdictions

Table 2: Bicycle Parking Requirements

Use	City of Sebastopol	City of Santa Rosa	Petaluma	City of Healdsburg	Sonoma County
Single family and Multifamily	15 percent of the required vehicle spaces	1 per 4 units*	10% of required automobile spaces, except commercial recreation and community facilities shall provide a minimum of 25% of the required automobile spaces	Lockable bicycle parking shall be provided for commercial and industrial projects with buildings greater than 5,000 square feet in size and for multi- family residential projects of ten (10) or more units.	
Senior housing		1 per 8 units*			
Housing, Low Income					
Single room occupancy					
Commercial, Retail, Services, and Offices		1 per 4,000 or 5,000 s.f.			1 per 5 spaces of required automobile parking
Commercial, Hotels, Motels		1, plus 1 per 10 guest rooms			1 per 5 spaces of required automobile parking
Restaurants and Bars		1 per 4,000 d/g/			1 per 5 spaces of required automobile parking
Heavy Commercial, Light Industrial		< 50,000 s.f.: 1 per 7,000 s.f. 50,000 s.f. +: 1 per 14,000 s.f.			1 per 5 spaces of required automobile parking
Downtown, Non-residential		1 per 5,000 d/g/			1 per 5 spaces of required automobile parking
Downtown, Residential		1 per 4 units*			1 per 5 spaces of required automobile parking

*If no private garage or private bicycle storage

Electric Vehicle Charging

No electric vehicle charging requirements were identified for the comparison communities of Santa Rosa, Healdsburg, or Petaluma or other northern California communities.

Pacifica is considering the following schedule:

Total Actual Parking Spaces	Number of Required EV Spaces	Number of Required EV Charging Stations
1-9	1	-
10-25	-	2
26-50	-	4
51-75	-	6
76-100	-	9
101-150	-	12
151-200	-	17
201 and over	-	10% of total (rounded up to the nearest whole number)

Rideshare/Carpool

No rideshare or carpool requirements were identified for the comparison communities of Santa Rosa, Healdsburg, or Petaluma or other northern California communities.

Glendale requires not less than than 3% of the total number of required parking in commercial projects; 8.5% of the total number of required parking in office/professional projects; and 9% of the total number of required parking in wholesale/warehouse and industrial/manufacturing projects

ATTACHMENT C

INCLUSIONARY HOUSING REQUIREMENTS OF NEARBY JURISDICTIONS

Attachment C – Inclusionary Housing Requirements of Nearby Jurisdictions

	Project Size Threshold	Inclusionary Requirement	Alternatives to On-Site Inclusionary Units
City of Sebastopol	**Three or more units**	**20% of units at low income level or below**	**In-lieu fee for fractional units.**
City of Santa Rosa	None.	Housing impact fee required for all residential developments. Projects of 70 or more units are required to consider providing 15% of total units as on-site, affordable units in lieu of the fee. Smaller projects may provide 15% of total units as on-site affordable units rather than pay the fee.	Off-site construction (equal to 20% of total project units). Land dedication. Other innovations.
City of Cotati (Chapter 17.31)	None.	15% of units at moderate income level or below, with 1/3 of inclusionary units at lower income or below, and 1/3 at very low income or below.	Off-site construction. Land dedication. Projects of nine or fewer units may pay an in-lieu fee.
City of Rohnert Park	Five or more units.	15% as follows: Rental housing: affordable to very low and low income households Single family housing: affordable to low and moderate income households.	Offsite construction. Land dedication. Affordability restrictions placed on existing units. Second dwelling units (up to 50% of the requirement). In-lieu fees for fractional requirements, developments on less than one acre, or a development of 10 or fewer units that is not part of a larger development.

Attachment C – Inclusionary Housing Requirements of Nearby Jurisdictions

	Project Size Threshold	Inclusionary Requirement	Alternatives to On-Site Inclusionary Units
City of Healdsburg	7 or more units	15% affordable, with 10% affordable to very low and low income households and 5% affordable to moderate income households	Off-site construction. If Planning Commission finds that on- and off-site construction is not feasible, project can pay in-lieu fees, dedicate land, or implement other equivalent method.
	Six or fewer units	Payment of in-lieu fee.	Land dedication. Other equivalent methods.
Sonoma County	No minimum project size; however, small homes of 1,000 square feet or less are exempt.	Ownership: 20% affordable requirement, with ½ for low income and ½ for moderate income households. Rental: 15% affordable to low and very low households or 10% affordable to extremely low and very low income households.	In-lieu fee.

ATTACHMENT D

FORMULA BUSINESS INFORMATION

FORMULA BUSINESS ORDINANCE RESEARCH

Recent Formula Business Ordinances in the US

Many jurisdictions across the country have passed formula business ordinances in the last decade as a response to the proliferation of "big box" and chain stores. The first step in crafting a formula business ordinance is to create one or more definitions for a "formula business". Once defined, communities have been able to restrict formula businesses in various ways. Some have placed bans on formulas citywide, others in only certain areas or districts of the city. Other communities have restricted the total number or percent of formula businesses overall. This strategy can be found all over the country. Take this brief list for example:

- *Sonoma, California* maintains four formula business definitions and regulates where these businesses are permitted. Per the regulations, new "formula" businesses locating in the Historic District need to meet Use Permit requirements relating to diversity, balance, and community character. The Use Permit requirement also applies to new formula businesses in locations outside the Historic District if they are larger than 10,000 square feet. In addition, the City's formula business ordinance specifically prohibits new large-scale formula restaurants, defined as having more than 250 existing outlets, from locating in the Sonoma Plaza area. The formula business requirements do not apply to the City's four largest shopping centers: Sonoma Marketplace Shopping Center, Fifth West Plaza, Sonoma Valley Center, and Maxwell Village Shopping Center. This jurisdiction does not offer an exemption for "locally-based" businesses. However, when a Use Permit review is required, the planning commission shall approve, with or without conditions, the establishment or expansion of a formula business only if all of the following findings can be made, in addition to those identified in Sonoma Municipal Code Section 19.54.040, Use permits:
    - The formula business establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;
    - The proposed use, together with its design and improvements, is consistent with the unique and historic character of Sonoma, and will preserve the distinctive visual appearance and shopping/dining experience of Sonoma for its residents and visitors.

  The following additional finding is required for the granting of a use permit for formula businesses on sites located within the Plaza Retail district:
    - The formula business establishment will be compatible with existing uses in the zone and will promote the zone's economic vitality as the commercial, cultural, and civic center of the community.
    - Definitions:[1]
        - "Formula business": auto parts sales, building material stores, furniture, furnishings and equipment stores, general retail uses, grocery stores, personal services, or restaurants, as defined in this section, which are required by contractual or other arrangement or affiliation to maintain a standardized ("formula") array of services and/or merchandise, menu, employee uniforms, decor, facade design, signage, color scheme, trademark or servicemark, name, or similar standardized features, which cause them to be substantially identical to 10 or more other businesses in the United States regardless of ownership or location at the time that the application is deemed complete.

[1] Sonoma Municipal Code, Section 19.92.020(F).

1. "Standardized array of services" shall be defined as a common menu or set of services priced and performed in a consistent manner.
2. "Standardized array of merchandise" shall be defined as 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.
3. "Trademark" shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others.
4. "Servicemark" shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of a service of one party from those of others.
5. "Decor" shall be defined as the style of interior furnishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.
6. "Color scheme" shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.
7. "Facade" shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.
8. "Uniform apparel" shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.
9. "Signage" shall be defined as a sign pursuant to SMC Titles 18 and 19.

- "Formula business, large": a formula business which occupies or is proposed to occupy a tenant space having an area of 10,000 square feet or greater.
- "Formula business, small": a formula business which occupies or is proposed to occupy a tenant space having an area of less than 10,000 square feet.
- "Formula restaurant, large": a formula restaurant substantially identical to 250 or more other restaurants in the United States regardless of ownership or location at the time that the application is deemed complete.

- *Calistoga, California* has regulated chain stores since 1995. The no-formula ordinance applies to restaurants and lodgings, and considers a business with three (3) or more locations to be a chain. It also states that a chain business' name or logo cannot be displayed anywhere on the property or employee uniforms, and the color scheme and architecture must be distinctive from other chain locations. This jurisdiction does not offer an exemption for "locally-based" businesses.
    - Definition:[2] "Formula business" shall mean a business or use, which by contractual or other arrangement, established or recognized business practice, or membership affiliation, maintains any of the following:
        A. Business name common to a similar business located elsewhere;
        B. Standardized services or uniforms common to a similar business located elsewhere;
        C. Interior decor common to a similar business located elsewhere;

[2] Calistoga Municipal Code. Section 17.04.132.

D. Architecture, exterior design, or signs common to a similar business located elsewhere;

E. Use of a trademark or logo common to a similar business located elsewhere (but not including logos or trademarks used by chambers of commerce, better business bureaus, or indicating a rating organization including, but not limited to, AAA, Mobile or Michelin); or

F. A name, appearance, business presentation or other similar features, which make the business substantially identical to another business within or outside Calistoga. (Ord. 567 § 3, 2000; Ord. 519 § 3, 1996).

- *San Francisco, California* restricts formula businesses in their neighborhood districts but not in the downtown or tourist districts. This jurisdiction does not offer an exemption for "locally-based" businesses.
    - Definition:[3] "Formula Retail": a type of retail sales or service activity or retail sales or service establishment that has eleven (11) or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the eleven (11) establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

- *Coronado, California* has two formula ordinances on the books. The Formula Restaurant Ordinance allows no more than 10 formula restaurants in the City. The Formula Retail Ordinance requires formula retail businesses to obtain a special use permit from the City and judged on a case-by-case basis based on its appropriateness. The latter was upheld by a California Appeals Court in 2003. This jurisdiction does not offer an exemption for "locally-based" businesses.
    - Definitions:[4]
        - "Formula Retail": a type of retail sales activity or retail sales establishment (other than a "formula fast food restaurant") which is required by contractual or other arrangement to maintain any of the following: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized feature.
        - "Formula Fast Food Restaurant": any "Fast food restaurant" having both of the following characteristics: (a) uses trademark, logo, service mark or other mutually identifying name or symbol that is shared by fifteen or more restaurants; and (b) serves a prescribed ("formula") menu that is substantially the same as fifteen or more restaurants that shares its trademark, logo, service mark or other mutually identifying name or symbol.

[3] San Francisco Planning Code, Section 303.1(B).
[4] Coronado Municipal Code. Appendix 1, Glossary of Terms.

- *McCall, Idaho* limits formula businesses to no more than 10 percent of the total number of "like businesses" in town. This jurisdiction does not offer an exemption for "locally-based" businesses.
    - Definitions:[5]
        - "Retail, Formula": a retail, service retail, or restaurant business (including fast food and coffee shops) that is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, decor, logos, architecture, signs, or similar features.
        - "Restaurant, Formula": An eating establishment devoted to the preparation and offering of food and beverages for sale to the public for consumption either on or off the premises which, by contractual or other arrangement, established or recognized business practice, or membership affiliation, maintains any of the following:
            (A) Business name common to a similar business located elsewhere;
            (B) Standardized menus, ingredients, food preparation, uniforms, or other standardized features common to a restaurant located elsewhere;
            (C) Interior decor common to a similar business located elsewhere;
            (D) Architecture or exterior signs common to a similar business located elsewhere;
            (E) Use of trademark or logo common to a similar business located elsewhere (but not including logos or trademarks used by chambers of commerce, better business bureaus, or indicating a rating organization including, but not limited to, AAA, Mobile or Michelin); or
            (F) A name, appearance, or food presentation format which causes it to be substantially identical to another restaurant within or outside Valley County.

- *Bristol, Rhode Island* prohibits formula businesses larger than 2,500 square feet from its downtown area. This jurisdiction does not offer an exemption for "locally-based" businesses.
    - Definition:[6] "Formula Business": a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than five (5) other businesses regardless of ownership or location. Formula businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B."

[5] McCall Municipal Code. Section 3.2.02.
[6] Bristol Code of Ordinances. Section 28-1.

The important distinction that puts formula business regulation on firm legal ground in these instances is the treatment of all businesses equally, applying the same standards to both the locally owned institution and the national chain. In fact, there is nothing in these laws themselves prohibiting chain stores from adapting in order to comply with these local ordinances. The interesting thing is that, apparently, few do. Per the Institute for Local Self-Reliance,

"A ban on formula businesses does not prevent a chain such as Starbucks from coming in, but it does require that Starbucks open a coffee shop that is distinct — in name, operations, and appearance — from all of its other outlets. Although there are a few examples of a chain complying with a formula business ordinance by opening a unique outlet, in most cases, they refuse to veer from their cookie-cutter formula and opt not to open."

Additional Sources:

- The New Localization. Formula Business Restriction's & The Fight Against Cookie Cutter Places. 2014. Available: <https://thenewlocalization.com/2014/12/07/formula-business-restrictions-the-fight-against-cookie-cutter-places/>.
- Institute for Local Self-Reliance. Formula Business Restrictions. 2008. Available: <https://ilsr.org/rule/formula-business-restrictions/>.
- North Bay Business Journal. Breaking the chains: Napa Valley discourages 'formula' businesses. 2017. Available: <http://www.northbaybusinessjournal.com/northbay/napacounty/6984579-181/napa-valley-retail-hospitality-regulation?artslide=0>.

Example Restaurant Chains in the US

The following table summarizes restaurant chains with less than 50 total units (i.e., stores). Some of these restaurants exist in California and may be desirable within Sebastopol. For example, Lemonade aims to offer a seasonally changing menu of California-inspired comfort foods made in-house daily. With locations mostly in Southern California, Lemonade recently branched up north, entering the San Francisco market. Currently, Lemonade maintains five locations in the Bay Area (Burlingame, Palo Alto, Walnut Creek, West Portal, and Yerba Buena Island).

Analysis of Cities with Formula Business Ordinances

When enacting a formula business ordinance, a city should articulate within the ordinance and its legislative history the public purposes the law will serve and specify how the restrictions will fulfill those purposes. This is key to crafting a sound ordinance that will not be susceptible to legal challenges. In response to a formula business ordinance proposed by the City of Malibu, a group of business owners submitted an analysis of cities with formula business ordinances to the City of Malibu Planning Commission in 2013. The letter and analysis are included after the following table.

RESTAURANT CHAINS WITH LESS THAN 50 UNITS

Chain	*US Systemwide Sales*	*% Change in Sales*	*Total US Units*	*% Change in Units*	*Average Unit Volume*
Fiorella's Jack Stack Barbecue	$28,300,000*	11.0%	5	25.0%	$6,300,000*
5 Napkin Burger	$25,200,000*	4.6%	6	20.0%	$4,580,000*
Rocco's Tacos and Tequila Bar	$37,900,000*	18.8%	7	16.7%	$5,825,000*
Pinstripes	$42,000,000*	12.3%	7	16.7%	$6,460,000*
Dos Caminos	$45,800,000*	6.5%	7	16.7%	$7,050,000*
b	$25,600,000*	24.9%	9	28.6%	$3,200,000*
The Matador	$28,800,000*	11.6%	9	28.6%	$3,600,000*
NoRTH Italia	$36,800,000*	20.7%	9	28.6%	$4,600,000*
Matchbox	$23,100,000*	25.5%	9	50.0%	$3,080,000*
Bartaco	$33,200,000*	46.9%	10	42.9%	$3,900,000*
Rock & Brews	$44,900,000*	39.9%	10	42.9%	$5,280,000*
Panini Cafe	$25,200,000*	10.5%	10	25.0%	$2,800,000*

Chain	*US Systemwide Sales*	*% Change in Sales*	*Total US Units*	*% Change in Units*	*Average Unit Volume*
Dinosaur Bar-B-Que	$32,200,000*	18.4%	10	25.0%	$3,575,000*
Arooga’s Grille House & Sports Bar	$27,424,000	29.4%	11	22.2%	$2,697,000
Blackfinn Ameripub	$27,300,000*	16.7%	11	22.2%	$2,730,000*
Tupelo Honey Café	$40,500,000*	28.2%	11	22.2%	$4,100,000*
Black Walnut Cafe	$29,700,000*	39.4%	14	40.0%	$2,475,000*
ShopHouse Southeast Asian Kitchen	$27,300,000*	58.3%	14	55.6%	$2,375,000*
The Original Gino's East of Chicago	$29,300,000*	25.8%	15	25.0%	$2,170,000*
Boiling Point	$32,900,000*	26.5%	16	33.3%	$2,350,000*
Patxi's Pizza	$25,900,000*	21.0%	17	21.4%	$1,700,000*
SPIN! Neapolitan Pizza	$26,000,000*	73.3%	18	80.0%	$1,860,000*
Luke's Lobster	$31,900,000*	24.6%	18	38.5%	$2,060,000*
Mission BBQ	$30,400,000*	85.4%	19	46.2%	$1,900,000*

Chain	*US Systemwide Sales*	*% Change in Sales*	*Total US Units*	*% Change in Units*	*Average Unit Volume*
Just Salad	$25,000,000*	36.6%	20	42.9%	$1,470,000*
Eureka! Restaurants	$43,000,000*	40.5%	20	42.9%	$2,530,000*
Modern Market	$30,000,000*	85.2%	20	100.0%	$2,000,000*
Burger 21	$25,400,000*	73.5%	21	40.0%	$1,410,000*
Rusty Bucket Restaurant and Tavern	$49,000,000	12.4%	21	23.5%	$2,800,000
Little Sheep Mongolian Hot Pot	$45,800,000*	29.4%	21	31.3%	$2,475,000*
Lemonade	$46,300,000*	28.6%	21	31.3%	$2,500,000*
Nando's	$44,000,000	32.5%	28	40.0%	$1,950,000
Andy's Frozen Custard	$30,900,000*	26.6%	29	26.1%	$1,190,000*
The Brass Tap	$28,300,000*	88.7%	30	76.5%	$1,205,000*
Slim Chickens	$31,700,000*	50.2%	30	76.5%	$1,350,000*
PizzaRev	$32,900,000*	93.5%	32	68.4%	$1,290,000*
BonChon	$29,400,000*	26.7%	35	45.8%	$995,000*

Chain	*US Systemwide Sales*	*% Change in Sales*	*Total US Units*	*% Change in Units*	*Average Unit Volume*
Snap Kitchen	$34,100,000*	73.1%	35	78.9%	$1,285,000*
Pizza Studio	$39,100,000*	106.9%	35	45.8%	$1,325,000*
Russo's New York Pizzeria	$41,209,000	18.0%	36	12.5%	$1,130,000
Torchy's Tacos	$32,800,000*	31.2%	38	46.2%	$1,025,000*
Caffebene	$32,500,000*	33.7%	40	29.0%	$1,000,000*
Wings Etc. Grill & Pub	$40,200,000*	22.2%	41	28.1%	$1,100,000*
Uncle Maddio's Pizza	$28,800,000*	46.9%	41	36.7%	$810,000*
Sub Zero Ice Cream & Yogurt	$29,600,000*	22.3%	45	32.4%	$750,000*
Jimmy's Egg	$33,225,000	18.9%	46	15.0%	$788,000

Notes: This data is from 2016.
** = Technomic estimate.*
The Future 50 is a measure of the fastest-growing restaurant concepts with annual sales between $25 million and $50 million. Data is compiled by Restaurant Business' sister company Technomic. Rankings are based on percent change in total units from 2014 to 2015; chains must have increased systemwide sales in 2015 to qualify. All unit counts are as of Dec. 31, 2015. Information was collected via mail, phone and email. When data was not provided, Technomic estimated sales based on public information, comparable concepts, market and other factors.

Source: Restaurant Business Online. "The Future 50". 2016. Available: <http://www.restaurantbusinessonline.com/special-reports/future-fifty>.

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July 29, 2013

File No. 067694

VIA EMAIL AND HAND DELIVERY

Jeffrey Jennings, Chair
Mikke Pierson, Vice Chair
David Brotman, Member
John Mazza, Member
Roohi Stack, Member
City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265

Date Received 07.29.13 Time 3:30
Planning Commission meeting of 07.29.13
Agenda Item No. 6D
Total No. of Pages 39

Re: Proposed Formula Retail Ordinance: Comparison to Other Ordinances

Dear Chair Jennings and Members of the Planning Commission:

This office represents a group of commercial property owners (the "Owners") in the Civic Center area who maintain significant concerns regarding the City's proposed formula retail ordinance (the "Ordinance"). This letter addresses a common and misinformed perception among many in the City that the proposed Ordinance is similar to those enacted in other cities. In fact, as demonstrated in the attached analysis prepared by ESA Associates, the contemplated Ordinance is more restrictive than each of the 23 ordinances studied.[1] In short, the City's sweeping proposal to regulate the retail market is an unprecedented interference with the most basic operations of private shopping centers and tenants. No other city has so regulated its retail landscape, and with good reason. Below we outline the key differences between the proposed Ordinance and those enacted in other cities.

Eight of the twenty-three studied ordinances address only formula restaurants and fast food establishments. These cities, which include Carmel-by-the-Sea and Solvang, among others, maintain no restrictions or limitations on non-restaurant formula retail, and are therefore poor examples of the types of restrictions Malibu is contemplating.

Of the remaining fifteen ordinances, *not a single one* caps formula retail with an arbitrary percentage of a center or of a parcel within a center that may be occupied by formula retail

[1] ESA studied the 23 ordinances cited by City Planning and members of the public throughout the course of public consideration of the Ordinance.

as the Ordinance does.[2] Many cities that review formula retail for compatibility with their overall retail environments place no limits on the square footage of individual retail stores, and not one limits the percentage of formula retail in a particular shopping center. Thus every other city studied provides much more flexibility to property owners regarding their ability to select tenants.

Further, several cities (Bristol, RI, Fredericksburg, TX, Nantucket, MA, Port Jefferson, NY and Solvang, CA) target their ordinances to historic districts or areas, where there already exists a clearly defined, unique retail environment that is arguably incompatible with modern retail chains. In contrast, Malibu maintains no historic district, nor could it designate one in the Civic Center. There is simply no comparison between the varied, modern retail environment of the Civic Center and the Nantucket, Massachusetts historic district, where many buildings are over 300 years old.

Some construe Ojai as a city that maintains an ordinance that approaches the restrictiveness of Malibu's Ordinance. Yet even in Ojai formula businesses outside of the defined downtown area may be up to 10,000 square feet. Further, Ojai places no limitation on the number of formula retail businesses (other than fast food restaurants, which are not permitted) even in its downtown area, where individual formula retail tenants are limited to 2,000 square feet. Additionally, there are significant differences between Malibu and Ojai. Malibu's population is almost twice as large as Ojai's, and Malibu's daytime population, especially in the summer months, far exceeds that of Ojai. Perhaps most importantly, Ojai's central business district is built out with older, smaller stores and a large historic structure and thus formula retail is not particularly well-suited to the downtown core regardless of the ordinance. In comparison, Malibu's Civic Center is a much larger shopping area, and has numerous parcels available for expansion.

The attached analysis demonstrates conclusively that Malibu's proposed Ordinance is an outlier that would place unprecedented limitations on the basic operation of commercial retail in the City. We urge the Planning Commission to take a more sensible, thoughtful approach and recommend against moving forward with such a restrictive Ordinance.

Sincerely,

David P. Waite

DPW/amd
Enclosures
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[2] McCall, Idaho, a ski resort city of under 3,000 residents, does potentially cap formula retail if it is substantially similar to "like businesses", although it is unclear how this determination is made. Regardless, the characteristics of Malibu and its retail environment are notably different than those of a small mountain ski resort town.

cc: Joseph Smith, Senior Planner
Jessica Blair, Administrative Analyst
Tamar C. Stein, Cox, Castle & Nicholson LLP

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Malibu, CA	DRAFT Formula Retail Ordinance	To regulate the location and operation of formula retail uses within the Civic Center commercial district in order to prevent the proliferation of elements that project a sense of sameness and familiarity and which conflict with and frustrate the City's goals of remaining unique while promoting a diverse retail base within the Civic Center. To encourage retail elements that promote variety while, contributing to and maintaining the City's rural charm and small-town feel.	Formula Retail	Civic Center Commercial District	Formula retail means any type of retail sales activity and/or retail service activity conducted within a retail establishment which, along with 10 or more other existing, operational retail establishments located within the United States, is required to maintain two or more of the following features: 1) standardized array of merchandise of menu (meaning only 50% or more of in-stock merchandise or menu items); 2) standardized color scheme; 3) standardized décor; 4) standardized façade; 5) standardized layout; 6) standardized signage, a service mark, or a trademark; and 7) uniform apparel.	Not indicated	A conditional use permit shall be required for all new formula retail establishments located within the Civic Center commercial district and for existing formula retail establishments located within the Civic Center that relocate to a new tenant space, expand by 200 square feet or more of gross floor area, or increase service area by 50 square feet or more. Exempt uses include: • Grocery stores, • Drug stores/pharmacies • Gas station, • Banks/financial services • Real estate, • Insurance, • Post offices • Medical, and • Lower-cost overnight accommodations	In lieu of the findings required by Section 17.66.080, the Planning Commission shall make all of the following findings of fact, in a positive manner, in order to approve a formula retail use within the Civic Center commercial district: 1. The nature of the formula retail use is an otherwise permitted or conditionally permitted use within the subject commercial zone and complies with the policies and standards of the General Plan and Local Coastal Program. 2. The formula retail establishment will not impair the City's unique, small town character by promoting a predominant sense of familiarity or sameness in the Civic Center commercial district as viewed from its main arterial streets including pacific Coast Highway, Cross Creek Road, Civic Center Way, Malibu Road, or Malibu Canyon Road. 3. The formula retail establishment will not exceed 2,500 square feet of gross floor area. 4. Approval of the formula retail establishment will not result in more than 50 percent of each floor of a shopping center, as	N/A

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
								determined by the percentage of overall square footage or the net number of leasable tenant spaces (excluding the uses described in Section 17.66.130(F)(2)), whichever is greater, from being occupied by formula retail establishments.	

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Arcata, CA	Formula Retail Sales and Services Ordinance	To regulate the location and operation of formula retail and/or service establishments in order to maintain the City of Arcata's unique small-town character, the diversity and vitality of the community's commercial district, including the Arcata Plaza Historical District, and the quality of life of Arcata's residents. It is assumed that establishing or preserving an appropriate balanced mix of local, regional, and national-based businesses and small, medium, and large-sized business will more effectively serve to achieve this purpose as a strategy to maintain the economic health of our community's business districts, the entrepreneurial	Formula Retail Sales and Services	All commercial districts in the City	A type of retail and/or service activity or retail sales and/or services establishment with greater than 10 outlets in the United States, other than "formula fast food restaurant" already addressed in another section of the Land Use code, which is required by contractual or other arrangement to use or maintain any one of the following: standardized array of services and/or merchandise, trademark, logo, service mark, signage, symbol, decor and/or color scheme, architecture, facade, lighting, layout, uniform apparel, or similar standardized feature.	Not indicated	1) Establishments determined to be formula retail and/or service businesses shall obtain a Use Permit, subject to Planning Commission Review, pursuant to findings in Section 9.72.080 of the LCU; 2) The building façade with the primary entrance of a formula retail and/or service establishment shall not have a street level frontage of greater than 50 linear feet and/or have its retail and/or service space occupy more than two stories. Existing structures which do not meet this standard shall be exempt; 3) The cumulative expansion of a formula retail and/or service establishment by 500 or more square feet of floor area, shall require a Use Permit amendment or initiate the Use Permit Process if the establishment does not already have such a permit. In addition to Use Permit findings as outlined in the Land Use Code, the review authority shall give special consideration to the following guidelines for approval: 1) Existing concentrations of formula retail/services in the City and surrounding areas of influence; 2) Availability of other similar retail/service uses within the City and surrounding areas of influence; 3) Compatibility of the proposed formula retail/service use with the existing architectural and aesthetic character of the surrounding neighborhood; 4) Compatibility	1) The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Land Use Code and the Municipal Code or is a nonconforming use in compliance with subsection 9.90.020A.1; 2) The proposed use is consistent with the General Plan, Local Coastal Program, and any applicable specific plan; 3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and potential future land uses in the vicinity; 4) The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and 5) Granting the permit will not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.	This ordinance applies to all commercial districts within Arcata and is intended to protect the City's small town character, while ensuring the health of all of its business districts. As does the proposed Malibu ordinance the Arcata ordinance considers businesses with more than 10 outlets in the United States as a formula business.

		spirit that is encouraged by the City of Arcata's General Plan 2020, and our small-town eclectic ambiance.					of the proposed formula retail/service use with the existing mix of uses within the City and/or surrounding neighborhood; 5) Impact of any formula retail and/or service establishment as non-obtrusive and/or helpful in the preservation of the character of both the City and the specific neighborhood in which the establishment is proposed to operate; 6) Existing retail/service vacancy rates within the surrounding neighborhood and in the City; and 7) Existing mix of Citywide-serving retail/service uses and neighborhood-serving retail/service uses.		

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Bainbridge Island, WA	Ordinance No. 89-28 (Ordinance to Define Formula Take-Out Food Restaurants and Eliminating Formula Take-Out Food Restaurants)	The City Council finds that formula take-outfood restaurants represent a type of business that is automobile-oriented or of a particular nature that theexistence of one such restaurant in the High School Road zone is a sufficient maximum number of that usefor the village character of Winslow to be preserved. That other or additional restaurants of that type in allzones should not be permitted hereafter; that expansion in number of such establishments should be disallowed entirely in order to establish at this time, an optimal mix of pedestrian-oriented and other kinds commercial and retail establishments; that to preclude further development of such restaurants	Formula Fast Food and Take Out	Citywide (but allowed in High School Road Zone I and II because of an existing formula retail take-out restaurant)	Formula Take-Out Food Restaurant means a restaurant required by contractual or other arrangement to offer standardized menus, ingredients, food preparation, interior and exterior design and/or uniforms; and serves its food in disposable containers.	Banned	None indicated	None indicated	This ordinance only bans formula fast food and take out businesses in the community, and does not address the broad array of uses restricted in Malibu's proposed ordinance. The intent of the ordinance is to preserve the town's pedestrian-oriented village character. The ordinance focuses on a specific type of food establishment in order to address traffic impacts and auto-centric effects this type of business may have on the community.

		in a town ofthis size prevents commercial overconcentration of automobile-oriented businesses and of that type of retail service establishment and will provide for smaller neighborhood-style pedestrian and other kinds of retailoutlets to best serve the varied needs of residents and consumers.							

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Benicia, CA	Ordinance No. 07-15 (Ordinance Amending Land Use Regulations of Commercial District and Adding Site Regulations for Retail Sales Larger than 20,000 Square Feet)	1) Preserve a balanced mix of locally, regionally, and nationally based businesses and small and medium sized businesses to maintain and promote the long-term economic health of businesses and the community as a whole; 2) Regulate the location and operation of formula businesses in order to maintain the City's unique historic small town character, the diversity and economic vitality of the community's commercial district and the quality of life of Benicia residents.	Formula Restaurants (eating and drinking establishments) and Formula retail >20,000 SF	Citywide (but Formula restaurants are allowed in the CG zone except for the Solano/Davies Square area where a use permit is required)	Formula Business means an eating and drinking establishment that maintains any of the following features in common with more than four other establishments in the nine Bay area counties: standardized array of services and/or merchandise, trademark, logo, service mark, symbol, sign, decor, uniform, menu, or other similar standardized feature.	Not indicated	Retail stores larger than 20,000 square feet and formula restaurants will not be approved unless they meet criteria outlined in the City's Municipal Code (For a list of criteria, see next column "Findings and Decision")	Approval of a use permit for a formula business and retail sales establishment larger than 20,000 square feet requires that the Planning Commission find that the proposed establishment will: 1) Complement existing uses and enhance the economic health of the surrounding area; 2) Be operated in a non-obtrusive manner that preserves the City's or area's distinctive character and ambiance; 3) Not result in a concentration of formula and/or retail sales establishments {larger than 20,000 square feet} in the vicinity of the proposed use or citywide; 4) Promote the diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor population; 5) Contribute to an appropriate balance of local, regional or national-based businesses and small, medium and large-sized businesses in the community; and 6) Avoid an appearance commonly associated with strip retail or shopping centers.	The intent of this ordinance is to preserve the City's historic small town character. The ordinance focuses on formula restaurants and formula retail larger than 20,000 SF, though there are some areas in the City where formula restaurants are allowed without discretionary review. In terms of formula retail, the City is focusing more on big-box businesses that may affect the community's small town character.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Bristol, RI	Ordinance No. 2004-11 (Ordinance Regarding Formula Businesses)	Establishing or preserving an appropriate and balanced mix of businesses will more effectively promote the district's economic health, property values, and colonial New England ambiance. The historic downtown district is unique not only because of its well preserved historic structures, but because of its small individualized shops and restaurants as well. The unique character would be adversely affected by a proliferation of formula businesses which are required by contractual or other arrangements to be virtually identical to businesses in other communities as a result of standardized services, merchandise, decor, uniforms and the like. The development of such businesses, if unchecked and unregulated, would conflict with the distinct atmosphere	Formula Businesses	Historic Downtown District	Formula Business is a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than one other businesses regardless of ownership or location. Formula businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.	Not indicated	A formula business seeking to operate within the Historic District Zone is required to first obtain a Certificate of Appropriateness from the Historic District Commission (design review), and is then required to obtain a special use permit from the Zoning Board. According to the ordinance, the proposed intensity of uses on the site should be appropriate given the uses permitted on the site and on adjoining sites, including but not limited to the following: 1) The size of any individual Formula Business shall not to exceed 2,500 square feet of gross floor area; 2) The street frontage of any individual Formula business shall not exceed 65 feet in width; 3) No drive thru windows shall be permitted; 4) The applicant shall submit a plan indicating the provision for rubbish removal, including the dumpster location with proper screening and buffering so that there are not any substantial impacts to abutting properties; 5) There shall not be substantial impact to the public safety from increased traffic; 6) There shall not be any impacts to the roadway or abutting properties from the loading area; 7) Advertising or anything with the corporate logo, may be forbidden to be displayed in the windows; and 8) No signs which are internally illuminated shall be allowed.	The proposed use would: 1) Not alter the identity of the Historic District Zone in a way which detracts from its uniqueness or contributes to a nationwide trend of standardized downtown offerings; 2) Contribute to a diverse and appropriate blend of businesses in the Historic Zone; 3) Complement those businesses already in the Historic District Zone and help promote and foster the local economic base as whole; 4) Compatible with existing surrounding uses, has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance.	This ordinance focuses on the City's Historic Downtown District, which has well preserved historic structures and independent shops and restaurants. The City's downtown character is a tourist attraction and businesses who wish to establish in the area are required to obtain a Certificate of Appropriateness from Historic District Commission. This requirement involves a thorough design review before issuance of a special use permit.

		and unique character for which Bristol's historic downtown district is famous.							

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Calistoga, CA	Ordinance No. 519	Preserve the unique and historic character of Calistoga's downtown commercial district, including regulating the aspect of businesses, services and merchandise that is reflective of the history and people of the community and which has become a cornerstone of the visitor industry which is a key component in the City's economy.	Formula Businesses	Citywide	Formula business shall mean a business which is required by contractual or other arrangement to maintain any of the following: standardized services, décor, uniforms, architecture, signs or other similar features. This shall include but not be limited to retail sales and service, visitor accommodations, wholesale and industrial operations. Formula restaurant shall mean a restaurant devoted to the preparation and offering of food and beverage for sale to the public for consumption either on or off the premises and which is required by contractual or other arrangement to offer any of the following: standardized menus, ingredients, food preparation, decor, uniforms, architecture, or similar standardized features.	Not indicated (formula restaurants and formula visitor accommodations are banned)	Formula restaurants and visitor accommodation are prohibited, while other types of formula businesses are required to undergo review and apply for a special use permit from the Planning Commission.	1) That the proposed development, together with any provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan and other applicable provisions of this code including the finding that the use as proposed is consistent with the historic, rural, small-town atmosphere of Calistoga; 2) That the site is physically suitable for the type and density of development; 3) That the proposed development has been reviewed in compliance with the California Environmental Quality Act (CEQA) and that the project will not result in detrimental or adverse impacts upon the public resources, wildlife or public health, safety and welfare; 4) Approval of the use permit application will not cause adverse impacts to maintaining an adequate supply of public water and an adequate capacity at the wastewater treatment facility; 5) Approval of the use permit application shall not cause the extension of service mains greater than 500 feet; 6) An allocation for water and/or wastewater service shall be made prior to project approval. Said allocation shall be valid for one year and shall not be subject to renewal; 7) That	This ordinance is applied Citywide and was adopted to protect the City's historic downtown commercial district. The ordinance outright prohibits formula restaurants and visitor accommodations, and includes provisions that a development of other types of formula uses must complement and enhance the architectural integrity and eclectic combination of architectural styles of Calistoga.

								the proposed development presents a scale and design which are in harmony with the historical and small-town character of Calistoga; 8) That the proposed development be consistent with and enhance Calistoga's history of independent, unique, and single location businesses, thus contributing to the uniqueness of the town, which is necessary to maintain a viable visitor industry in Calistoga and to preserve its economy; 9) That the proposed development complements and enhances the architectural integrity and eclectic combination of architectural styles of Calistoga; and 10) To receive a use permit, a finding shall be made that the proposed development or use would be resident serving. This finding shall only apply to formula businesses.	

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Carmel-by-the-Sea, CA	Formula Business Restriction	Preserve the unique character of the community and protect local businesses.	Formula Restaurants and Formula Fast Food and Take Out	Citywide	A business which: (a) is required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, employee uniforms, interior decor, signage or exterior design; or (b) adopts a name, appearance or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.	Banned	Formula restaurants including fast food, take-out and drive thru establishments are prohibited in the City.	None indicated	This ordinance only bans formula restaurants, including fast food and take out establishments, but does not address retail establishments.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Chesapeake City, MD	Ordinance No. 07-08-13 (Ordinance to Define Certain Formula Businesses and to Eliminate and Allow Certain Formula Businesses in Certain Zones)	Preserve the community's unique historic, rural and small town character while strengthening the local economy by limiting or further regulating in certain district the siting and proliferation of cookie-cutter chain or "formula" businesses that serve to undermine the Town's unique sense of place and history; and that preservation of the existing character, small town charm and scale of the Town's residential, commercial and historic districts is essential to attract residents, tourists and visitors alike.	Formula Businesses	Village & Waterfront Districts, and all commercial areas except one	Formula Business- Except for a service establishment (such as a professional office, insurance agent, stock broker, travel agent, bank, drive-in bank, financial institution, barber shop, beauty shop, dry cleaning/laundry, laundromat, plumbing, mechanical contractor, repair and painting, animal services and automotive services shop), a class of retail or wholesale sales establishment including but not limited to a convenience store, drive-in establishment, retail store, wholesale store, restaurant (standard, fast food, fast food cafeteria, fast food carry-out, drive-in or drive-thru), bar, pub, dancehall, nightclub, cocktail lounge, or tavern that along with 50 or more other establishments regardless of location in the United State is required by contractual or other business arrangements to	Banned	Formula businesses are prohibited (but formula fast food, formula drive-in, and formula drive thru restaurants are permitted by Special Exception by the Board of Appeals in the GC District) For formula fast food, formula drive-in, and formula drive-thru restaurants permitted by Special Exception in the GC District: 1) Buildings shall be designed so that facades, signs, and other appurtenances will have an integrated, harmonious and attractively arranged appearance, and in a size and manner which will not adversely affect the appearance of surrounding developments; 2) In place of box-type or internally illuminated signs, the Town may require use of halo-lit signs and die-cut metal sign panels with individually illuminated letters or logos, and may also require alternative materials or lighting solutions, and adjustments to the scale of trademark logos and graphics; 3) The Town may require adjustments to the extent, size or scale of the color scheme, trademark, service mark, signage and decor used throughout the interior or exterior of the establishment to mitigate contrasting color schemes and harmonize the color scheme, trademark, service mark, signage and decor with the surrounding neighborhood.	None indicated	This ordinance is focused on the Village and Waterfront Districts and commercial areas of the City. Though formula businesses are banned in these areas of the City, formula fast food and drive thru establishments are allowed in one district, if specific design standards are met. The ordinance defines a formula business as having **50** or more outlets in the United States.

					maintain any two or more of the following substantially identical features: standardized menu or array of merchandise, trademark or service mark, interior decor, color scheme, uniform, and building facade, floor area design or layout.				

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Coronado, CA	Formula Restaurant Ordinance	The purpose of the standards in this rule is to regulate the number, location and operation of formula fast food restaurants in order to maintain the City's unique village character, the vitality of our commercial districts, and the quality of life of Coronado residents.	Formula Fast Food	Citywide	A formula business is one that is required by contractual or other arrangement to maintain a standardized array of services or merchandise, and standardized architecture, uniforms, logos, decor, etc.	10	New formula restaurants must obtain a special use permit, may not locate on a corner, and must meet design standards.	A Formula Fast Food Restaurant may only be established or relocated: 1) On a site that is not located on a street corner; except such a restaurant may be located on a street corner where the immediate prior use was a Formula Fast Food Restaurant; 2) Where it would not result in two or more Formula Fast Food Restaurant operating on that site (i.e., two or more Formula Fast Food Restaurant business entities requiring separate business licenses, or displaying in a manner visible from public property separate business trademarks, logos, service marks or other mutually identifying names or symbols, for the daily or weekly conducting of business on the same site); 3) When it would not result in Formula Fast Food Restaurant operating at more than 10 sites under the jurisdiction of this Ordinance; and 4) So long as the Planning Commission finds that establishing or relocating the Formula Fast Food Restaurant will not increase the intensity of use on the site to a level that will adversely impact: land uses in the area, pedestrian or motor vehicle traffic, or the public welfare.	This citywide ordinance regulates formula fast food restaurants in the City. The ordinance limits the number of fast food establishments to 10, but allows for new fast food establishment to open provided that there will not be more than 10 fast food facilities in the City. Thus, once there are 10 such facilities in the city, a new fact food establishment can open only if it is taking the place of another fast food business.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Coronado, CA	Formula Retail Ordinance	The purpose of the standards in this Section is to regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, the diversity and vitality of the community's commercial districts, and the quality of life of Coronado residents. It is presumed that establishing or preserving an appropriate and balanced mix of local, regional, and national-based businesses and small, medium or large-sized businesses will more effectively serve to achieve this purpose as a strategy to maintain the economic health of the community's businesses districts and the small-scale eclectic ambiance.	Formula Retail	Citywide	Formula Retail means a type of retail sales activity or retail sales establishment (other than a "formula fast food restaurant") which is required by contractual or other arrangement to maintain any of the following: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized feature.	Not indicated	1) A formula retail establishment may be allowed in the Central Commercial, Limited Commercial and Hotel-Motel Zones with a Major Special Use Permit (MSUP); 2) The cumulative expansion of a formula retail establishment by 500 or more square feet of floor area shall require a Major Special Use Permit amendment or a Major SUP if the establishment does not already have a Major Special Use Permit; 3) A Formula Retail establishment (except for grocery stores, banks, saving and loans, Full Service Restaurants and theaters) shall not have a street level frontage of greater than 50 linear feet on any street or have its retail space occupy more than two stories; 4) A formula retail establishment shall fully comply with all applicable regulations of this Code including Environmental Design Review; and 5) Change of ownership of an existing formula retail establishment shall not, by itself, require obtaining a Major Special Use Permit or Major SUP amendment as applicable. Formula businesses must be compatible with surrounding uses and occupy no more than 50 linear feet of street frontage.	1) The formula retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance; 2) Approval of the formula retail establishment will be consistent with policies and standards of the General Plan and the Local Coastal Program, and that the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites by these documents; 3) Approval of the formula retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community; and 4) Approval of the formula retail establishment will contribute to an appropriate balance of small, medium and large-sized businesses in the community.	This ordinance regulates formula retail throughout the City. The findings to grant a special use permit are very similar to Malibu's draft ordinance. However, Coronado is largely built out, and the ordinance therefore applies to existing commercial development, rather than to new shopping centers and commercial buildings.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Fairfield, CT	Formula Business Restriction	Preserve character of the City's neighborhoods, mitigate traffic and other impacts, and support locally-owned businesses.	Formula Neighborhood Businesses	Citywide	Formula Neighborhood Business means any business that include, incorporates or utilize any two or more of the following standardized items that cause it to be substantially identical to more than five other stores, restaurants, businesses, offices or institutions regardless of ownership or location: a standardized array of products or merchandise, a standardized menu, uniform apparel, standardized architectural design, layout of facade, standardized decor or color scheme and/or standardized signs, trademarks, service marks or logos.	Not indicated	Formula businesses may not locate within any of the City's twelve neighborhood business districts unless they undergo review and obtain a special use permit. Stores and restaurants in neighborhood business districts can be no more than 4,000 square feet.	None indicated	This ordinance sets the maximum size for stores and restaurants at 4,000 square feet. This maximum is higher than the provision of 2,500 square feet set by the draft Malibu ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Fredericksburg, TX	Ordinance No. 18-002 (Ordinance to add Historic Shopping District Overlay)	The City's Historic Shopping District contains unique German Heritage and Hill Country architecture and its shopping opportunities and the continuation and promotion of such business and exposure is vital to the City's economic future. Certain kinds of businesses can be counterproductive and otherwise detract from the appeal of both the streetscape and overall historic downtown experience, particularly in view of the fact that other sections of the City offer plenty of opportunity for larger businesses and those which require the use of a marketing model or plan similar to those of other like businesses and are more likely to better accommodate the architectural, parking, service and technological needs of such businesses.	Formula Businesses	Historic Downtown District	Standardized Business shall mean a business which is required by contractual or other arrangement or affiliation to maintain one or more of the following items: standardized array of services and/or merchandise, trademark, logo, signs, service mark, symbol, decor, architecture, layout, uniform, menu, or similar standardized features and which causes it to be substantially identical to more than 10 other businesses regardless of ownership or location at the time of the application.	Not indicated	Standardized (Formula) Businesses must obtain a Conditional Use Permit The Planning and Zoning Commission may recommend and the Council shall require that a Standardized Business: 1) will not utilize or contain the features or attributes of a Standardized Business except the service, product or amusement, and a sign, no more than two square feet in size showing the franchise or business affiliation, if desired, 2) be pedestrian oriented as opposed to automobile oriented, to encourage walking in the District, 3) utilize a unique visual appearance that reflects or compliments the historic character of the District, and not project a visual appearance that is homogenous with its elements in other communities, and 4) not be in such close proximity to Standardized Businesses to significantly destroy a mix of standardized businesses with other businesses.	The business will not 1) materially alter the general characteristic of the surrounding areas of the small town German and Hill County environments; 2) detract from the uniqueness of, nor materially alter the identity of, the Historic Shopping District; 3) contribute to the nationwide trend of standardized offerings; 4) impact the intent of the ordinance of the comprehensive plan of the City; and the business will 1) add diversity to the mix of businesses in the area including type of service, amusement, product, price range and the like, 2) complement those businesses already in the Historic Shopping District; 3) help promote and foster the local economic base as a whole, or 4) is currently existing in the District or is regionally or locally based or is serving a community need or local demand.	This ordinance only applies to the City's Historic Downtown District, which contains German Heritage and Hill Country architecture and businesses that the City would like to preserve. The ordinance considers a formula business as being substantially identical to more than 10 other businesses.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
McCall, ID	Formula Business Restriction	Not indicated	Formula Restaurants and Formula Retail Businesses	Citywide	Formula Retail means a retail, service, or restaurant business (including fast food and coffee shops) that is required by contractual or other arrangement to maintain standardized services, merchandize, menus, ingredients, food preparation, uniforms, decor, logos, architecture signs, or similar features. (Exempts gas stations and supermarkets)	No more than 10% of the total number of restaurants and 10% of total "like businesses"	Retail, formula businesses are limited to no more than ten percent (10%) of the total of like businesses in McCall and the area of city impact. "Like businesses" in this context are those which have substantially the same product offering, such as food stores, furniture stores, auto parts stores, etc., and is not the total quantity of all categories of like businesses.	None indicated	This ordinance sets a maximum number of formula restaurants and formula retail businesses at 10% of the total number of restaurants and 10% or the total "like businesses" in the City.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Nantucket, MA	Article 42: Formula Business Overlay District	To address the adverse impact of nationwide standardized businesses of Nantucket's historic downtown area. The proliferation of formula businesses will have a negative impact on the island's economy, historical relevance, and unique character. These uses are therefore prohibited in order to maintain a unique retail and dining experience. Formula businesses frustrate this goal by detracting from the overall historic island experience and threatening its tourist economy.	Formula Businesses	Historic Downtown District	A type of retail sales establishment, restaurant, tavern, bar, or take-out food establishment which is under common ownership or control or is a franchise, and is 1 of 14 or more other businesses or establishment worldwide maintaining three or more of the following features: standardized menu or merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings; trademark or service mark; standardized color scheme; standardized uniform.	Banned	Formula businesses are prohibited from the Historic Downtown District	None indicated	This ordinance focuses on prohibiting formula businesses in the City's Historic Downtown District. Nantucket is known for a unique retail and dining experience that the City would like to preserve. Unlike Malibu's proposed ordinance, this ordinance considers formula businesses as having 14 or more outlets worldwide. In addition, Nantucket's historic district is built out with a well-defined character.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Ogunquit, ME	Ballot Measure	Maintain the town's character and keep dollars circulating in the local economy	Formula Restaurants and Formula Fast Food Restaurants	Citywide	Restaurants that prepare food and beverages on site for public sale and are required by contractual or other arrangements to utilize any of the following: prescribed employee uniforms, interior and exterior color schemes, architectural design, signage, name, presentation format, or similar standardized features which cause the restaurant to be substantially identical to another restaurant regardless of ownership or location.	Banned (Voter Initiative)	None indicated	None indicated	This ballot measure prohibits formula restaurants, including fast food restaurants, but does not address the other types of formula retail uses restricted by Malibu's proposed ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Ojai, CA	Ordinance: Formula Business Establishments	To regulate the location and design of formula business establishments in order to maintain the tourist attracting small town character of the City, the diversity of the community's unique commercial areas, and quality of life for visitors and residents.	Formula Businesses and Restaurants (banned Formula Fast Food and Take-Out)	Citywide	Formula Business means a type of commercial business establishment, retail sales or rental activity and retail sales or rental establishment, including restaurants, hotels and motels, which, along with 10 or more other establishments, maintains three or more of the following features: (i) standardized array of merchandise or standardized menu; (ii) standardized façade; (iii) standardized décor or color scheme; (iv) uniform apparel; (v) standardized signage; or (vi) trademark or service mark.	Not indicated	1) A Formula Business may only be established on a site after obtaining a conditional use permit from the City for the operation of that use on such site. Change of ownership, by itself, shall not require obtaining a conditional use permit pursuant to this section; (2) No permit application of any kind shall be accepted or processed for a Formula Business that also possesses at least two of the following characteristics: Specializes in short order or quick service food and/or drink; Serves food and/or drink primarily in paper, plastic or other disposable containers; and payment is made by customers before food and/or drink is consumed. No conditional use permit shall be issued for a use that is a Formula Business located within the area of the Downtown Commercial Land Use designation of the City's General Plan if either of the following are true: 1) such establishment has street-level frontage exceeding 25 linear feet on any street, or 2) the useable area of the building or structure wherein the Formula Business is to be located exceeds 2,000 square feet. For purposes of this section, "street level frontage" shall include frontage on private parking lots and access ways where the commercial building does not abut a public street. Except as provided in this section, no	In addition to the findings required by Section 10-2.2406 as prerequisite to the issuance of a conditional use permit, the Commission shall make all of the following findings prior to the issuance of a conditional use permit for a Formula Business: 1) The proposed Formula Business will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; 2) The proposed Formula Business will contribute to an appropriate balance of small, medium and large-sized businesses in the City; and 3) The proposed Formula Business has been designed to preserve and enhance the City's small town character and to integrate existing community architectural and design features which will preserve such character for the City's residents and visitors.	This citywide ordinance prohibits formula fast food and take-out establishments, and conditionally permits formula businesses and restaurants. The ordinance's findings include design requirements in order to preserve and enhance the City's small town character and to integrate into the existing community architecture. The ordinance considers businesses with more than 10 outlets as a formula business.

							conditional use permit shall be issued for a use that is a Formula Business if such establishment exceeds 10,000 square feet of net total floor area.		

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Pacific Grove, CA	Formula Business Restriction	Not indicated	Formula Fast Food and Take Out	Citywide	Formula food service establishments are required by contractual or other arrangements to operate with standardized menus, ingredients, food preparation, architecture, decor, uniforms, or similar standardized features.	Banned	No use permit application shall be accepted, processed or considered for a food service establishment having all of the following characteristics: 1) It specializes in short order or quick service food service; 2) It serves food primarily in paper, plastic or other disposable containers; 3) It delivers food or beverage products in such a manner that customers may remove such food or beverage products from the food service establishment for consumption; and 4) It is a formula food service establishment required by contractual or other arrangements to operate with standardized menus, ingredients, food preparation, architecture, decor, uniforms, or similar standardized features.	None indicated	This citywide ordinance prohibits formula fast food and take-out establishments, but does not address the broad array of formula uses restricted by Malibu's proposed ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Port Jefferson, NY	Ordinance: Formula Food Establishment	Preserve the unique character and ambiance of the Historic and Waterfront Districts.	Formula Fast Food and Take Out	Historic and Waterfront Districts	An establishment required by contractual or other arrangements to offer some or all of the following: 1) standardized menus, ingredients, food preparation, decor, external facade and/or uniforms; 2) pre-prepared food in a ready-to-consume state; 3) sold over the counter in disposable containers and wrappers; 4) selected from a limited menu; 5) for immediate consumption on or off the premises; 6) where the customer pays before eating.	Banned	None indicated	None indicated	This ordinance only applies to the City's Historic and Waterfront Districts in order to preserve those areas' unique character. The ordinance prohibits formula fast food and take-out establishments from opening in those specific areas, but does not address the broad array of formula uses restricted by Malibu's proposed ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Port Townsend, WA	Ordinance No. 2896: Defining and Regulating Formula Retail Establishments	Maintain the small town character of Port Townsend and develop local businesses that provide living wage jobs.	Formula Retail and Formula Restaurants	One commercial zone along the main street; otherwise banned from downtown and commercial areas	Formula Retail means a type of retail sales activity or retail sales establishment, including restaurant which, along with ten or more other retail sales establishments, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark or service mark.	Not indicated	The following businesses are not subject to the provisions of the ordinance: 1. Auto sales. 2. Auto tire sales and service. 3. Banks. 4. Gas (fueling) stations and convenience stores selling gasoline or other fuels. 5. Grocery stores. 6. Health care. 7. Services, including professional services (for example, real estate offices, insurance offices, copy centers, and mail centers). 8. Adult entertainment facilities are not subject to this ordinance, but are subject to other city requirements. (Ord. 2916 § 8, 2006; Ord. 2912 § 1, 2005).	The following regulations shall apply to all formula retail and formula restaurant establishments: 1. A formula retail or formula restaurant establishment shall not have a street-level frontage of greater than 50 linear feet on any street or have its retail space occupy more than two stories. For the purposes of this section, "street-level frontage" shall include frontage on private parking lots and access ways where the commercial building does not abut a public street. 2. A formula retail or restaurant establishment may not exceed 3,000 square feet of net total floor area. 3. No drive-through facilities are allowed. 4. Establishment or Relocation. A formula retail or restaurant establishment may only be located or relocated subject to all of the following requirements: a. On a site that is not located on a street corner, except such formula retail or restaurant establishment may be located on a street corner where the immediate	This ordinance regulates formula retail and formula restaurants in one commercial zone along the City's main street. The ordinance restricts the formula business to 3,000 square feet and one formula business per parcel, lot or tract. The ordinance also has a clear exemption for service uses, unlike Malibu's proposed ordinance that exempts only some service uses.

								prior use was a formula retail or restaurant establishment. i. For purposes of this section, “on a street corner” means the business establishment or occupiable building space that is the closest business establishment or occupiable building space within a block, tract, or parcel to the intersection of two streets (whether the business establishment or occupiable building space is immediately adjacent to the street corner or not, or fronts on the street corner or not, or whether the streets are developed in connection with the business establishment). A business establishment is not on a street corner if there is another business establishment or occupiable building space that is closer to the corner. Street corner includes frontage on private parking lots and access ways where the commercial building does not abut a public street. b. Where it would result in no more than one formula retail or restaurant establishment of any type operating within a single building, whether or not	

								the building is located on more than one lot (i.e., two or more formula retail establishments requiring separate business licenses, or displaying in a manner visible from public property separate business trademarks, logos, service marks or other mutually identifying names or symbols, for the daily or weekly conducting of business in the same building, is prohibited). 5. Any formula retail or restaurant establishment must be in a building that is shared with at least one other business that is not a formula retail establishment of any type. 6. The number of formula retail establishments per lot and maximum formula retail establishment density shall be as follows: • Lots with less than 20,000 s.f. of lot area=One formula retail establishment/lot • Lots with more than 20,000 s.f. of lot area=One formula retail establishment/20,000 s.f. of lot area. (This provision allows larger lots to have multiple formula retail establishments (i.e., a 40,000 square foot lot may have no more than two formula retail establishments, etc.)	

								provided the siting and design of the formula retail establishments meets all other applicable standards.)	

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
San Francisco, CA	Ordinance No. 62-04 (Finding for the Need to Regulate Formula Retail Uses)	To protect its vibrant small business sector and create a supportive environment for new small business innovations. The increase of formula retail businesses in the City's neighborhood commercial areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated and unmonitored establishment of additional formula retail uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, and unduly skew the mix of businesses towards national retailers in lieu of local or regional retailers, thereby decreasing the diversity of merchandise available to residents and visitors and the diversity of purveyors of merchandise.	Formula Retail and Formula Restaurants	Neighborhood commercial areas and most areas Citywide except downtown	The city's regulations define a formula retail use as an establishment that shares common features, such as a standardized array of merchandise, trademark, architecture, and décor, with at least 11 other establishments in the United States. The term "retail use" includes both stores and restaurants.	Not indicated (formula retail and formula restaurants are banned in North Beach and Hayes-Gough)	Throughout most of the city, including all of San Francisco's Neighborhood Commercial Districts, formula retail stores and restaurants are considered conditional uses and require a permit. This means they must be approved by the Planning Commission on a case-by-case basis.	The Planning Commission must consider the following factors when deciding whether to approve a formula business: 1) the existing concentration of formula retail businesses within the neighborhood; 2) whether similar goods or services are already available within the area; 3) the compatibility of the proposed business with the character of the neighborhood; 4) retail vacancy rates in the area; and 5) the balance of neighborhood-serving versus citywide or regional-serving businesses.	This ordinance applies to the City's neighborhood commercial areas and most areas Citywide except downtown. The intent of the ordinance is to protect the City's small business. The purpose and intent of the ordinance is different from Malibu's draft ordinance, which has similar provisions but identifies its intent as preserving community character and preventing a sense of sameness and familiarity.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
San Juan Bautista, CA	Ordinance 2007-04: Limits on the approval of Large Scale Retail, Formula Retail and Restaurant Businesses	Preserve the existing character and scale of the City's commercial and historic districts in order to continue the City's vitality and ability to attract tourism; and maintain the distinctive small town charm and character enjoyed by current residents.	Formula Retail and Formula Restaurants and Formula Visitor Accommodations	Citywide	FORMULA RETAIL OR RESTAURANT BUSINESS DEVELOPMENT. A retail, restaurant, or fast-food business that is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, décor, logos, architecture, signs, or similar features. FORMULA VISITOR ACCOMMODATIONS. A visitor accommodation business that incorporates physical features common among one or more of the other visitor accommodation businesses owned by the same company and that is required by contractual or other arrangement to maintain standardized services, merchandise, uniforms, décor, logos, architecture, signs, or similar features.	Not indicated	Formula Retail or Restaurant Business, and Formula Visitor Accommodations are subject to review by the Planning Commission so therefore the business/applicant shall fill out the Application Requirements for a Conditional Use Permit and any other pertinent applications as specified therein, pay fees specified, and submit plans as set forth therein.	The following findings shall be required: 1) The business offers merchandise and/or services that serve the unmet needs of the population; 2) Although the formula-based business may have other store locations throughout the country, state, or region, the business will complement and enhance the character of the City; 3) Both exterior and interior appearance and presentation of the business is compatible with the existing scale of development, distinctive architecture and pedestrian orientation of the town character and results in an enhancement of the look and feel (i.e., character) of the surrounding area; 4) Signs shall conform to the City sign standards and Design Guidelines; and 5) Drive-thru food establishments shall be prohibited.	This citywide ordinance regulates formula retail, restaurants, and visitor accommodations. The ordinance includes a finding that encourages compatibility with distinctive architecture and pedestrian orientation of the town and utilizes the City's Design Guidelines.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Sanibel, FL	Ordinance No. 96-10: Formula Restaurants	Preserve the small town community, remain unique through a development pattern which reflects the predominance of natural conditions and characteristics, and avoid "auto-urban" development influences. Formula restaurants will more likely increase traffic congestions and diminish the serene pace of the island.	Formula Restaurants	Citywide	An eating place that is one of a chain or group of 3 or more establishments and which satisfies at least two of the following three descriptions: a. it has the same or similar name, trade name, or trademark as others in the chain or group; b. it offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group: 2. uniforms, except that a personal identification or simple logo will not render the clothing a uniform; c. it is a fast food restaurant.	Banned	Formula restaurants are prohibited in the City	None indicated	This citywide ordinance prohibits formula restaurants in the City. The ordinance considers a formula business as having 3 or more outlets. This definition is more stringent than Malibu's definition of 10 or more outlets.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Sausalito, CA	10.44.240 Formula Retail Ordinance	The purpose of the standards in this Section regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of Sausalito residents. The City has determined that preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's businesses districts. The City has also determined that preserving a balanced mix of local, regional, and national-based businesses and small and medium sized businesses will maintain and promote the long-term economic health of visitor-serving businesses and the community as a whole. It is therefore the intention of the City	Formula Retail	Central commercial, Shopping Center, and Neighborhood commercial areas	Formula Retail means a type of retail sales activity or retail sales establishment, including food service, which is required to maintain any of the following: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, sign, decor, architecture, layout, uniform, or similar standardized feature.	Not indicated	A Conditional Use Permit shall be required for any Formula Retail establishment in the City.	1) The Formula Retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance; 2) The Formula Retail establishment will not result in an over-concentration of formula retail establishments in its immediate vicinity or the City as a whole; 3) The Formula Retail establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations; 4) The Formula Retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community; 5) The Formula Retail establishment will be mutually beneficial to and would enhance the economic health of surrounding uses in the district; 6) The Formula Retail establishment will contribute to an appropriate balance of small, medium and large-sized businesses in the community; and 7) The proposed use, together with its design and improvement, is consistent with the unique	This ordinance applies to the Central Commercial, Shopping Center, and Neighborhood Commercial areas of the City and regulates formula retail establishments. The City has determined that preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's businesses districts, and includes design requirements for any formula retail establishment in the City.

		that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique historical character of Sausalito, and that no such establishment shall project a visual appearance that is homogenous with its establishments in other communities.						historic character of Sausalito, and would preserve the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors.	

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Solvang, CA	Ordinance No. 94-151	To maintain the image of Solvang as a small town village in an open space/agricultural setting. The Village Area is unique not only because of its Danish architecture, but because of its small individualized shops and restaurants. This unique character would be adversely affected by a proliferation of "formula restaurants." The development of such restaurants would conflict with the distinct atmosphere and unique character for which Solvang's Village is famous.	Formula Restaurants	Village District	A restaurant devoted to the preparation and offering for sale of food and beverages to the public for consumption either on or off the premises and which is required by contractual or other arrangements to offer any of the following: standardized menus, ingredients, food preparation, decor, uniforms, or similar standardized features.	Banned	Formula restaurants are prohibited in the Village Center	None indicated	This ordinance prohibits formula restaurants in the City's Village Center. The Village Area is unique not only because of its Danish architecture, but because of its small individualized shops and restaurants. The development of such restaurants would conflict with the distinct atmosphere and unique character for which Solvang's Village is famous.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
York, ME	Fast Food and Formula Restaurant Prohibition	The historic character of York is unique, and is important to the people of the community and their collective identity as a community. Far more than most communities, York retains a large concentration of historic structures, which are integral to the fabric of the community. York is also traditionally home to small, locally owned and operated businesses. In these senses, York has maintained its identity in a manner unique in the region	Formula Restaurants and Formula Fast Food and Take Out	Citywide	Formula Restaurant shall mean a restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement to offer any of the following: standardized menu, employee uniforms, interior and/or exterior color scheme(s), architectural design, signage or similar standardized features, or which adopts a name or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.	Banned	Formula restaurants are prohibited in the town.	None indicated	This citywide ordinance prohibits formula restaurants and formula fast food and take-out establishments. The ordinance was adopted to preserve the historic character of York, which has retained a large concentration of historic structures.

APPENDIX E

CHAPTER 16.24 UPDATE

Chapter 16.24

SUBDIVISIONS OF FOUR OR FEWER PARCELS (MINOR SUBDIVISIONS)

Sections:

16.24.010 General.
The form and contents, submittal and approval of applications for tentative parcel maps and parcel maps for four or fewer parcels shall be governed by the provisions of this chapter.

16.24.020 Form and contents of tentative parcel map, accompanying data and reports.
The tentative parcel map shall be prepared in a manner acceptable to the City Engineer and shall be prepared by a registered civil engineer or licensed land surveyor as authorized under his or her enabling acts. The form, contents, accompanying data and reports shall comply and be consistent with the requirements of Chapter 16.28 SMC, unless waived pursuant to the procedure set forth in SMC 16.28.020(E).

16.24.030 Staff review.
The tentative parcel map application shall be filed with the Planning Department for review and transmittal in accordance with the provisions of SMC 16.28.040 and 16.28.050.

16.24.040 Action by Planning Commission.
A. Upon receipt of a tentative parcel map application that is determined by the Planning Director to be complete, the Planning Department shall prepare a report and set the matter for a public hearing before the Planning Commission.

B. The Planning Commission shall ~~recommend~~ conduct a public hearing to consider approval, conditional approval, or denial of the tentative parcel map ~~to the City Council~~ in accordance with the provisions and findings set forth in SMC 16.28.080. The Planning Commission shall take action within 50 days after certification of the environmental impact report, adoption of a negative declaration, or a determination that the project is exempt from the requirements of the California Environmental Quality Act. The City shall comply with the time periods referred to in Section 21151.5 of the Public Resources Code.

~~**16.24.050 Action by City Council.**~~
~~Within 30 days from the action of the Planning Commission, the City Council shall conduct a hearing on the map, unless the subdivider consents to a continuance.~~ The matter shall be considered in a public hearing after notice has been given according to SMC 16.04.100. The ~~City Council~~ Planning Commission may add, modify, or delete conditions recommended by the Planning ~~Commission~~ Director if the ~~City Council~~ Planning Commission determines that such changes are necessary to ensure that the tentative parcel map conforms to the State Subdivision Map Act and this code. The ~~City Council~~Planning Commission may deny the tentative parcel map on any of the grounds contained in SMC 16.28.070(D). Within 10 days following the conclusion of the hearing, the ~~City Council~~Planning Commission shall

render its decision. The subdivider or any interested person adversely affected may appeal the action of the Planning Commission to the City Council in accordance with the provisions of SMC 17.455.

16.24.0560 Expiration and extensions.
The approval or conditional approval of a tentative parcel map shall expire 24 months from its approval by the ~~City Council~~Planning Commission, unless the expiration date is extended in accordance with the provisions of SMC 16.28.100. The subdivider may request an extension of the expiration date in accordance with the provisions of SMC 16.28.110, except that the Planning Commission shall be responsible for the review of the request. The Planning Commission may approve, conditionally approve, or deny the request for an extension. The subdivider or any interested person adversely affected may appeal the action of the Planning Commission to the City Council in accordance with the provisions of SMC ~~16.28.060~~17.455.

16.24.0670 Tentative parcel map – Additional time limit.
Approval of a vesting tentative parcel map shall confer a vested right to proceed with development in accordance with Section 66498.11 of the State Subdivision Map Act. Such rights shall expire one year following the recordation of the parcel map.

16.24.0780 Amendments to approved or conditionally approved tentative parcel maps.
Amendments to the approved or conditionally approved tentative parcel map or conditions of approval shall be made in accordance with SMC 16.28.120, except that amendments which in the opinion of the Planning Director and City Engineer are not minor shall be processed in the same manner as the original tentative parcel map. Any approved amendment shall not alter the expiration date of the tentative parcel map unless an extension of such date is also specifically approved pursuant to the provisions of this chapter.

16.24.0890 Parcel maps.
The form and contents, submittal, approval and filing of parcel maps shall conform to the provisions of the State Subdivision Map Act and this section.

A. Survey Required. An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor in accordance with SMC 16.32.030.

B. Form and Contents. The form and contents of the parcel map shall conform to the final map form and contents requirements of SMC 16.32.040.

C. Preliminary Submittal. The subdivider shall submit prints of the parcel map to the City Engineer, accompanied by copies of the data, plans, reports and documents as required for final maps by SMC 16.32.050. The City Engineer shall review the parcel map and the subdivider shall make corrections and/or additions until the map is acceptable to the City Engineer. The City Engineer may waive any of the requirements of SMC 16.32.050 upon finding that the location or nature of the proposed subdivision does not justify compliance.

D. Recordation. Upon approval of the construction drawings and the parcel map and receipt of the subdivision improvement agreement and improvement security or upon acceptance of public improvements by the City, the City Engineer shall forward a recommendation for filing of the parcel map to the City Council and upon City Council approval the City Clerk shall execute the appropriate certificate on the certificate sheet and shall, subject to the provisions of Section 66464 of the State Subdivision Map Act, transmit the approved parcel map, or have an authorized agent forward the map, to the County Recorder.

E. Monumentation. Monumentation shall be in accordance with SMC 16.40.170.