

## ORDINANCE 663-AC

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEEDLES, CALIFORNIA, AMENDING THE MUNICIPAL CODE (NMC) SECTIONS: SECTIONS OF THE ZONING ORDINANCE AS FOLLOWS: SECTION 94 "PERMITS", SECTION 96 "USES", SECTION 97 "INTENSITY OF USES", SECTION 98 "SITE REQUIREMENTS", SECTION 99 "DEVELOPMENT STANDARDS", SECTION 111 "VEHICULAR PROVISIONS", SECTION 112 "SPECIAL REQUIREMENTS FOR CERTAIN USERS", SECTION 115 "NONCONFORMING SITUATIONS", NEEDLES MUNICIPAL CODE CHAPTER 19 "SUBDIVISION OF LAND"**

**WHEREAS**, the City of Needles ("City") is required by California Government Code Sections 65854 to 65857 to amend the Zoning Ordinance, as defined therein; and

**WHEREAS**, California Government Code Sections 65854 to 65857, authorizes the Planning Commission to amend the Zoning Ordinance if it is deemed to be in the public interest; and

**WHEREAS**, the City last completed a comprehensive update to its Zoning Ordinance in 1995; and

**WHEREAS**, by its very nature, the Zoning Ordinance is subject to update and revision to account for current and future community needs; and

**WHEREAS**, the Housing Element, Land Use, and Transportation Elements are three of the seven State mandated General Plan chapters or "elements" and are a component of the City's General Plan and have been recently updated in accordance with State Law; and

**WHEREAS**, changes to various sections of the Zoning Code related to permitted uses and development standards are proposed to implement and ensure consistency with the recently updated Housing, Land Use, and Transportation Elements; and

**WHEREAS**, pursuant to the California Environmental Quality Act ("CEQA"), the Zoning Ordinance Amendment is exempt under Section 15061(b)(3) of the State CEQA Guidelines; and

**WHEREAS**, as contained here, the City has endeavored in good faith to set forth the basis for its decisions on the Project; and

**WHEREAS**, the City has endeavored to take steps and impose all conditions necessary to ensure that impacts to the environment would not be significant; and

**WHEREAS**, all of the findings and conclusions made of the Planning Commission pursuant to this Resolution is based upon the oral and written testimony; and

**WHEREAS**, it is recognized that all findings made with regard to a Conditional Use Permits application that has been deemed complete by January 1, 2030 will be objective and quantifiable in nature, pursuant to Government Code Section 65589.5,

**WHEREAS**, a public hearing notice for the Needles City Council meeting was published in the Needles Desert Star on September 20, 2023; and

**WHEREAS**, the Needles City Council has sufficiently considered all testimony and evidence presented to them in order to make the following determination.

**WHEREAS**, on August 8, 2023, at a regularly-scheduled City Council meeting, a public workshop was held and the public was afforded an opportunity to comment and consider amendments to Zoning Code Sections 94, 96, 97, 98, 99, 111, 112, and 115, and Chapter 19 of the City's Municipal Code (collectively, the Zoning Ordinance Amendments known here on as "the Project"); and

**WHEREAS**, on October 4, 2023, the Needles Planning Commission approved **RESOLUTION NO. 10-04-2023-1 PC** recommending City Council approval of an Ordinance amendments to Zoning Code Sections 94, 96, 97, 98, 99, 111, 112, and 115, and Chapter 19 of the City's Municipal Code (collectively, the Zoning Ordinance Amendments known here on as "the Project"); and

**WHEREAS**, the Needles City Council has sufficiently considered all testimony and any documentary evidence presented to them in order to make the following determination.

**NOW, THEREFORE, BE IT ORDAINED** that the City Council of the City of Needles, California, approves an amendment to the City Code as follows set for herein:

**SECTION 1. Recitals.** The recitals above are hereby incorporated by reference as a substantive component of this Ordinance.

**SECTION 2. Compliance with CEQA.** As the advisory body to the City Council, the Planning Commission has independently reviewed and considered the project is exempt under the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines. A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission finds that the categorical exemption has been completed in compliance with CEQA and the State CEQA Guidelines.

**SECTION 3.** The City Council HEREBY FINDS AND DETERMINES that facts do exist to approve the amendments to the Needles Municipal Code and Needles Zoning Code, attached as "Exhibit "A".

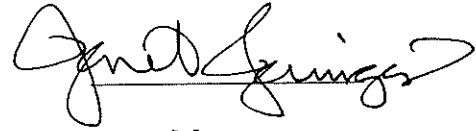
**SECTION 4.** The City Council HEREBY APPROVES Ordinance 663-AC for an amendment to the Needles Municipal Code and Needles Zoning Code, attached as Exhibit "A".

**SECTION 5.** This action shall become final and effective 30 days after this decision by the City Council as provided by the Needles City Code.

**INTRODUCED AND READ** for the first time and ordered posted at a regular meeting of the City Council of the City of Needles, California, held on the 10th day of October 2023, by the following roll call vote:

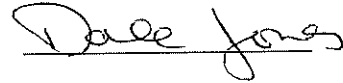
AYES: Council Members Campbell, Merritt, Pogue, Belt and Longbrake  
NOES None  
ABSENT Councilmember McCorkle

ABSTAIN None



Mayor

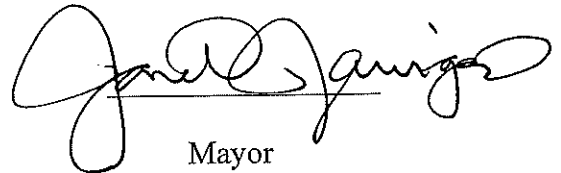
Attest:



City Clerk

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 24th day of October 2023.

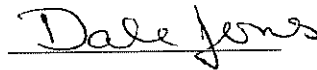
AYES: Council Members Campbell, McCorkle, Merritt, Pogue, Belt and Longbrake  
NOES: None  
ABSENT: None  
ABSTAIN: None



Mayor

(Seal)

Attest:



City Clerk

Approved as to form:



City Attorney

Exhibit A - City of Needles Amendment Tracker

666		Proposed Text																					
Table 96.01 Land Use Matrix		EXISTING TABLE											PROPOSED TABLE										
		R1	R2	R3	CR	C1	C2	C3	M1	M2	P	R1	R2	R3	CR	C1	C2	DT	C3	M1	M2	P	
		<b>1.00 RESIDENTIAL</b>											<b>1.00 RESIDENTIAL</b>										
		1.20.1 Single Family, 1 du / lot											1.10 Single-Family (Up to 2 du / lot)										
		1.20.2 Single Family, 2 du / lot											1.15 Single-Family Small Lot / Tiny Homes										
		1.30.1 Accessory Dwelling Units											1.20 Accessory and Junior Accessory Dwelling Units										
		1.30.2 Junior Accessory Dwelling Units											1.30 Duplex, Triplex, Quadplex										
		1.30.3 Manufactured & Tiny Homes											1.40 Multifamily Townhomes/Condos										
		1.40 Primary with accessory apartment											1.45 Multifamily Apartments										
		1.50 Duplex											1.50 Mobile Home Parks										
		1.60 Multifamily apartments											1.60 Planned Residential-Unit Development										
		1.62 Multi-Family Apt-Conversion											1.70 Mixed Use										
		1.70 Multifamily townhomes											1.80 Manufactured /3D Printed / Prefab Homes										
		1.75 Multifamily condos											1.90 Single-Room Occupancy Units										
		1.80 Mobilehome parks											<b>2.00 RESIDENTIAL/COMMERCIAL</b>										
		1.85 R.V. parks											2.10 Emergency Shelters										
		1.90 Planned residential development											2.20 Transitional Housing										
		1.95 Mixed-use residential***											2.25 Supportive Housing										
		<b>2.00 RESIDENTIAL/COMMERCIAL</b>											2.30 Low Barrier Navigation Centers										
		2.10 Homes for handicapped											2.40 Residential Care Facilities (6 or fewer residents)										
		2.20 Nursing care											2.45 Residential Care Facilities (7 or more residents)										
		2.30 Adult/child care (residence)											<del>2.50 Homes for Handicapped</del>										
		2.40 Halfway home											2.60 Adult/Child Care										
		2.50 Boarding house											<del>2.70 Boarding Houses</del>										
		2.55 Bed and breakfast											2.80 Bed and breakfast										
		2.60 Hotels, motels											2.85 Hotels, motels										
		2.65 Supportive Housing											2.100 Live/Work Units										
		2.70 Transitional Housing											2.110 R.V. Parks										
		2.75 Emergency Shelters											2.120 Employee Housing										
		<b>MISCELLANEOUS CHANGES</b>											<b>MISCELLANEOUS CHANGES</b>										
		9.60 EV Charging											9.60 EV Charging										
		12.30 Private homeowners keeping horses; one-half- acre minimum lot size											12.30 Private homeowners keeping horses; one-half- acre minimum lot size										

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provisions of this part if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in section 94.14, all development shall occur strictly in accordance with such approved plans and applications.

- (c) Physical improvements to land to be subdivided may not be commenced except in accordance with a conditional use permit.
- (d) A zoning permit, conditional use permit, special use permit, or sign permit shall be issued in the name of the applicant (except that application submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one (1) acre (except sign permits and zoning permits for single-family and two-family residential uses) shall be recorded in the San Bernardino County registry after execution by the record owner. (Ord. 427-AC)

(2) Site Plan Permit Requirements: A site plan shall be drawn to scale of an adequate size and shall indicate clearly and with full dimensions the following data where applicable:

- (a) Exterior boundary lines of the property indicating easements, dimensions and lot size.
- (b) All adjacent streets or rights-of-way, including 1 bicycle and/or hiking trails.
- (c) Location, elevations, size, height, dimensions, materials, colors, and proposed use of all buildings and structures (including walls, fences, signs, lighting and hooding devices) existing and intended to remain on the site.
- (d) Setback information for all buildings existing and proposed at the site. Distances between all structures and between all property lines or easements and structures.
- (e) Any nearby buildings which are relevant to this application.
- (f) Any existing significant natural features such as rock outcroppings, highly protected trees, creeks, knolls and ridgelines.
- (g) Location, number of spaces, and dimensions of off-street parking spaces, loading docks, and maneuvering areas; indicate internal circulation.
- (h) Pedestrian, vehicular and service points of ingress and egress; driveway widths, and distances between driveways.
- (i) Proposed landscaping; include quantity, location, varieties and container size.
- (j) Proposed grading plan (for sites having over five (5) foot grade differential), showing existing and proposed contours, and the direction and path of drainage on, through and off the site; indicate any proposed drainage channels or facilities.
- (k) Required and existing street dedications and improvements such as sidewalks, curbing and pavement. Indicate widths, radii of curves, street grades and whether streets are public or private.
- (l) Other such data as may be required to by the Planning Commission and City Council or the City Planner to make the required findings for approval of the specific type of application.
- (m) Scale shown as "Scale: 1 inch =feet" and North arrow.
- (n) Vicinity map indicating nearby cross streets in relation to site (need not be to scale).
- (o) Whether the proposed site is in a FEMA flood plain.

Sec. 94.01. Eligible Applicants

- (a) Applications for zoning, special use, conditional use, or sign permits will be accepted only from persons having the legal authority to take action in accordance with the permit approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this part, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
- (b) The city planner may require an applicant to submit evidence of his/her authority to submit the application in accordance with subsection (a) of this section whenever there appears to be a reasonable basis for questioning this authority. (Ord. 427-AC)

Sec. 94.02. Complete Applications

- (a) All applications for zoning, special use, conditional use, or sign permits must be complete before the permit issuing authority is required to consider the application.
- (b) Subject to subsection (c) of this section, an application is complete when it contains all of the information that is necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this part.
- (c) In this part, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one (1) or more of the appendices to this part. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information in the light of the substantive requirements set forth in this text of this part.
- (d) The city planner shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the City Planner to determine compliance with this part, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the city planner shall develop standard forms that will expedite the submission of the necessary plans and other required information. (Ord. 427-AC)

Sec. 94.04. Staff consultation before formal application

- (a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this part, preapplication consultation between the developer and the planning staff is encouraged or required as provided in this section.
- (b) Before submitting an application for a conditional use permit authorizing a development that consists of or contains a major subdivision, the developer shall submit to the City Planner a preliminary site-plan for such subdivision, drawn approximately to scale (one (1) inch equals one hundred (100) feet). The preliminary site plan shall contain:
  - (1) The name and address of the developer;
  - (2) The proposed name and location of the subdivision;

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- (3) The approximate total acreage of the proposed subdivision;
- (4) The tentative street and lot arrangement;
- (5) Topographic lines; and
- (6) Any other information the developer believes necessary to obtain the informal opinion of the planning staff as to the proposed subdivision's compliance with the requirements of this part.

The city planner shall meet with the developer as soon as conveniently possible to review the preliminary site plan.

(C) Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this part to the proposed development. (Ord. 427-AC)

Sec. 94.05. Staff consultation after application submitted

- (a) Upon receipt of a formal application for a zoning, special use, or conditional use permit, the city planner shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this part, that they have submitted all of the information that they intend to submit, and that the application represents precisely and completely what the applicant has proposed to do.
- (b) If the application is for a special use or conditional use permit, the city planner shall place the application on the agenda of the appropriate body when the application is deemed complete. (Ord. 427-AC)

Sec. 94.06. Zoning permits

- (a) A completed application form for a zoning permit shall be submitted to the City Planner by filing a copy of the application with the planning department.
- (b) The City Planner shall issue the zoning permit unless they finds, after reviewing the application and consulting with the applicant that:
  - (1) The requested permit is not within his jurisdiction according to the table of permissible uses; or
  - (2) The application is incomplete; or
  - (3) If completed as proposed in the application, the development will not comply with one (1) or more requirements of this part. (Ord. 427-AC)

Sec. 94.07. Special Use Permits and Conditional Use Permits

- (a) An application for a Special Use Permit shall be submitted to the Planning Department to be placed on a Planning Commission meeting agenda.
- (b) An application for a Conditional Use Permit shall be submitted to the Planning Department to be placed on a City Council meeting agenda for final approval.
- (c) Subject to subsection (d) of this section, the planning commission or the council, respectively, shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:
  - (1) The requested permit is not within its jurisdiction according to the table of permissible uses; or
  - (2) The application is incomplete; or
  - (3) If completed as proposed in the application, the development will not comply with one (1) or more requirements of this part.
- (d) Even if the permit-issuing body finds that the application complies with all other provisions of this part, it may still deny the permit if it concludes based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
  - (1) Will materially endanger the public health or safety; or
  - (2) Will not be in general conformity with the general plan. (Ord. 427-AC)

Sec. 94.08. Recommendations on conditional use permit applications

- (a) Before being presented to the council, an application for a conditional use permit shall be submitted to the planning commission for a public hearing and action.
- (b) When presented to the planning commission, the application shall be accompanied by a staff report setting forth the planning department's proposed findings concerning the application's compliance with other requirements of this part, as well as any staff recommendations for additional requirements to be imposed by the council. If the planning department's report proposes a finding or conclusion that the application fails to comply with any other requirement of this part, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- (c) The planning commission shall consider the application and the attached staff report in a timely fashion.
- (d) After planning commission action, the planning staff shall report to the council the planning commission recommendation and the reasons thereof.
- (e) In response to the planning commission recommendations, the applicant may modify his application prior to submission to the council, and the planning staff may likewise revise its recommendations. (Ord. 427-AC)

Sec. 94.09. Council action on conditional use permits

In considering whether to approve an application for a conditional use permit, the council shall proceed according to the following format:

- (1) The council shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the council that the application is complete.
- (2) The council shall consider whether the application complies with all of the applicable requirements of this part. If a motion to this effect passes, the council need not make timer findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this part. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application.

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(3) If the council concludes that the application fails to comply with one (1) or more requirements of this part, the application shall be denied.

If the council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one (1) or more of the reasons set forth in section 94.07(d). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. (Ord. 427-AC)

Sec. 94.10. Planning commission action on special use permits

In considering whether to approve an application for a special use permit, the planning commission shall proceed in the same manner as the council when considering conditional use permit applications.

- (1) The planning commission shall consider whether the application is complete. If the planning commission concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by two (2) members of the planning commission, shall constitute the planning commission's finding on this issue. If a motion to this effect is not made and concurred in by at least two (2) members, this shall be taken as an affirmative finding by the commission that the application is complete.
- (2) The planning commission shall consider whether the application complies with all of the applicable requirements of this part. If a motion to this effect passes by the necessary majority vote, the planning commission need not make further findings concerning such requirements. If such a motion fails to receive the necessary majority vote or is not made, then a motion shall be made that the application be found not in compliance with one (1) or more requirements of this part. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application, and a majority vote of the commission (excluding vacant seats) in favor of such a motion shall be sufficient to constitute such motion a finding of the commission.

If the planning commission concludes that the application fails to meet one (1) or more of the requirements of this part, the application shall be denied.

If the planning commission concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one (1) or more of the reasons set forth in section 94.07(d). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority vote. (Ord. 427-AC)

Sec. 94.11. Additional requirements on special use and conditional use permits

- (a) Subject to subsection (b) of this section, in granting a special or conditional use permit, the planning commissioner or city council, respectively, may attach to the permit such reasonable requirements in addition to those specified in this part as will ensure that the development in its proposed location;
  - (1) Will not endanger the public health or safety;
  - (2) Will be in conformity with the general plan.
- (b) The permit-issuing body may not attach additional conditions that modify or alter the specific requirements set forth in the ordinance codified in this part unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- (c) Without limiting the foregoing, the planning commission may attach to a permit a condition limiting the permit to a specified duration.
- (d) All additional conditions or requirements shall be entered on the permit. (Ord. 427-AC)

Sec. 94.12. No occupancy, use, or sale of subdivision lots until requirements fulfilled

Issuance of a conditional use, special use, zoning permit, or sign permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in section 94.13, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this part and all additional requirements imposed pursuant to the issuance of a conditional use or special use permit have been complied with, as required. (Ord. 427-AC)

Sec. 94.13. Completing developments in phases

- (a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c) of this section, the provisions of Section 94.12 (No occupancy, use, or sale of lots until requirements fulfilled) shall apply to each phase as if it were the entire development.
- (b) As a prerequisite to taking advantage of the provisions of subsection (a) of this section, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this part that will be satisfied with respect to each phase or stage.
- (c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one (1) or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the approved schedule. (Ord. 427-AC)

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Sec. 94.14. Expiration of permits

Zoning, special use, conditional use, and sign permits shall expire automatically if, within twelve (12) months after issuance of such permits:

- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
  - (2) Less than ten (10) percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development this requirement shall apply only to the first phase.
- (b) If after some physical alteration to land or structures begins to take place, such work is discontinued for a period of twelve (12) months, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of section 94.15.
- (c) The permit-issuing authority may extend for a period up to twelve (12) months the date when a permit would otherwise expire pursuant to subsections (a) or (b) of this section if it concludes that: (1) the permit has not yet expired; (2) the permit recipient has proceeded with due diligence and in good faith; and (3) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to twelve (12) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
- (d) For purposes of this section, the permit within the jurisdiction of the council or the planning commission is issued when such commission votes to approve the applications and issue the permit. A permit within the jurisdiction of the city planner is issued when the earlier of the following takes place:
- (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is mailed to the permit applicant or sent through electronic delivery; or
  - (2) The city planner notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required. (Ord. 427-AC)

Sec. 94.15. Effect of permit on successors and assigns

- (a) Zoning, special use, conditional use, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and
  - (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection (b) of this section) of the existence of the permit at the time they acquired their interest.
- (b) Whenever a special use, or conditional use permit is issued to authorize development (other than single-family or two-family residences) on a tract of land, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit. (Ord. 427-AC)

Sec. 94.15. Amendments to and modifications of permit

- (a) Insignificant deviations from the permit (including approved plans) issued by the city council, the planning commission or the city planner are permissible and the city planner may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the council or planning commission, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
- (d) The city planner shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (a), (b), and (c) of this section.
- (e) A developer requesting approval of changes shall submit a written request for such approval to the city planner and that request shall identify the changes. Approval of all changes must be given in writing. (Ord. 427-AC)

Sec. 94.16. Reconsideration of planning commission actions

- (a) Whenever: (1) the city council disapproves a conditional use permit application; or (2) the planning commission disapproves an application for a special use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective body at a later time unless the applicant clearly demonstrates that:
- (A) Circumstances affecting the property that is the subject of the application have substantially changed, or
  - (B) New information is available that could not with reasonable diligence have (C) The Applicant has substantially changed the design of the project.
- (c) The Applicant has substantially changed the design of the project.  
A request to be heard on this basis must be filed with the city planner within the time period for an appeal. However, such a request does not extend the period within which an appeal must be taken. (Ord. 427-AC)

Sec. 94.17. Applications to be processed expeditiously.

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Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the city shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this part. (Ord. 427-AC)

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Sec. 94.18. Maintenance of common areas, improvements and facilities

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The recipient of any zoning, special use, conditional use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this part or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed. (Ord. 427-AC)

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Sect. 94.19. Reasonable Accommodation applications

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Reasonable Accommodation: A modification in the application of land use or zoning regulations or in the application of land use, zoning, or building policies, procedures, or practices when necessary to eliminate barriers to housing opportunities, which does not impose undue financial or administrative burdens on the City or require a fundamental or substantial alteration of the City's regulations, policies, procedures or practices.

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Reasonable Accommodation for Residential Uses. A request for reasonable accommodation can be made by any individual with a disability, his or her representative, or a developer or provider of housing for an individual with a disability, when the application of a land use or zoning regulation, or land use, zoning, or building policy, practice or procedure acts as a barrier to fair housing.

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The purpose of granting an application for Reasonable Accommodation is to provide an individual with health conditions and impairments, the representative, or a developer or provider of housing for an individual with a disability, a modification with respect to the application of land use, or zoning regulations, and in the application of land use, zoning, or building policies, practices or procedures when those regulations, policies and procedures act as a barrier to fair housing. An application for Reasonable Accommodation may be filed with the Planning Department as provided in Article IV Section

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(1) Definitions. Article II Section 92 is hereby amended to add the following definitions:

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- (a) Fair Housing Laws: The Federal Fair Housing Act (42 U.S.C. § 3601 et. Seq.), the California Fair Employment and Housing Act (Government Code §12900 et seq.), and the California Disabled Persons Act (Civil Code § 54 et. Seq.). Individual with a Disability: A person who has a medical, physical, or mental conditions that limits a major life activity, as those terms are defined in California Government Code section 12926.

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(2) Submittal requirements for reasonable accommodations. Each application for a Reasonable Accommodation shall be accompanied by the site plan information required by Article IV Section 94 (2) (a) through (o). The application shall be accompanied by the following information:

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- (a) The name, address, and phone number for the applicant and owner of the property for which the reasonable accommodation request is being made;
- (b) The current and proposed use of the property for which the reasonable accommodation request is being made;
- (c) If the applicant is someone other than the property owner, a letter of agency or authorization signed by the property owner consenting to the application being made;
- (d) The basis for the claim that the individual to be reasonably accommodated is an Individual with a Disability under the Fair Housing Laws;
- (e) The land use or zoning regulation, or land use, zoning, or building policy, practice or procedure for which reasonable accommodation is being requested;
- (f) The type of accommodation sought;
- (g) The reason(s) why the accommodation is necessary for the needs of the people with health conditions or impairment person. Where appropriate, include a summary of any potential means and alternatives considered in evaluating the need for the accommodation;
- (h) Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation;
- (i) Other supportive information deemed necessary by the department to facilitate proper consideration of the request, consistent with fair housing laws;
- (j) Completion of a CEQA Checklist if proposed site is on vacant land.

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(3) Findings. The reviewing authority shall approve the application, with or without conditions, unless it determines on the basis of substantial evidence that one or more of the following findings cannot be made:

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- a. The accommodation is requested by or on behalf of an individual with a disability protected under the fair housing laws.
- b. The housing, which is subject to the requested accommodation, will be used by an individual with a disability protected under fair housing laws.
- c. The requested accommodation is necessary to provide an individual with a disability an equal opportunity to use and enjoy a dwelling.
- d. The requested accommodation will not impose an undue financial or administrative burden on the City.
- e. The requested accommodation would not require a fundamental alteration in the nature of a City program or law, including land use and zoning.

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(4) Other Discretionary approvals. If the project requires other discretionary approval (such as a Conditional Use Permit or Variance) independent of the reasonable accommodation request, then the reasonable accommodation application will be decided prior to the other applications. Such decisions shall not to be-reconsidered as part of the subsequent approvals but shall be regarded as independent entitlements.

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(5) Decisions. The City Planner shall, within 30 days of determining the application complete, approve, approve with conditions, or deny the application based on the findings set forth in Article IV Section 94.19 (2), and may impose such conditions as it deems necessary to ensure the accommodation will comply with the findings required in Article IV Section 94.19 (2) and fair housing laws. As part of consideration of a request for a reasonable accommodation related to construction of new dwelling or dwellings, the City Planner may consult with the Design Review Committee regarding the requested accommodation and any options that may result in a reasonable accommodation. While any request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect

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larger than the primary unit, and detached and attached accessory dwelling units shall comply with setback requirements, the required distance between units, open space requirements and maximum lot coverage/FAR requirements applicable to the parcel on which the unit is located.

8. Height. A detached Accessory Dwelling Unit shall not exceed the height of maximum height limit of its respective zone, 15 feet in height.
9. Passageway. No Passageway shall be required in conjunction with the construction of an Accessory Dwelling Unit.
10. Setback Exceptions. A detached Accessory Dwelling Unit must have a minimum set back of four (4) feet from side and rear property lines. No setback shall be required for a lawfully constructed garage or other accessory structure in existence prior to execution of this Ordinance that is converted to an Accessory Dwelling Unit, and a setback of no more than four (4) feet from the side and rear lot lines shall be required for an Accessory Dwelling Unit that is constructed above a garage. In the event an Accessory Dwelling Unit is permitted prior to the primary residence, a minimum front set back of 26 feet shall apply. Note: the adopted Fire Code setback standards must be met.
11. Parking. The application shall comply with parking provisions of Needles' Municipal Code Section 111, including parking setback limitations, except as set forth below:
  - a. One parking space per accessory dwelling unit or per bedroom, whichever is less, of the proposed Accessory Dwelling Unit in addition to those required for the Primary Unit(s).
  - b. Required parking for the Accessory Dwelling Unit may be uncovered.
  - c. Off-street parking for an Accessory Dwelling Unit may be in tandem with parking for the Primary Unit or may be allowed in the front setback, unless specific findings are made that such is not feasible based on specific site topographical or fire and life safety conditions. All parking spaces shall be on an Improved Parking Surface that satisfies City Standards.
  - d. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit, the City does not require that those parking spaces be replaced,
  - e. Subsections A through D of this Standard 11 shall not apply to a unit described in subsection 11F below.
  - f. On-site parking is not required for an Accessory Dwelling Unit in any of the following circumstances:
    - The unit is located within one-half mile of Public Transit.
    - The unit is part of the existing Primary Unit or an existing Accessory Building.
    - When on-street parking permits are required but not offered to the occupant of the unit.
    - When there is a car share vehicle located within one block of the unit.
12. Feasibility Inspection. Unless the project constitutes new construction, a building inspection shall be performed by the City's Building Dept. at applicant's cost, and a report establishing the feasibility of the project to meet applicable building and residential codes shall be provided to the City Planner, or his/her designee, of Development Services prior to approval of an Accessory Dwelling Unit permit.
13. Adequate sanitary service capacity for the additional increment of effluent resulting from the Accessory Dwelling Unit would be available. If the lot is connected to the public sewer system, the applicant has submitted a letter from the appropriate Sanitary District to that effect. If the lot is not connected to the public sewer system, the applicant will need to demonstrate that the individual or alternative sewage disposal system serving the lot has adequate capacity to accommodate the proposed Accessory Dwelling Unit.
14. The Accessory Dwelling Unit would comply with all applicable Fire District regulations, subject to provisions and limitations set forth in Government Code Section 65852.2.
15. The Accessory Dwelling Unit would comply with all applicable Water District regulations, subject to provisions and limitations set forth in Government Code Section 65852.2
- f. Standards for Accessory Dwelling Units Created Exclusively through Conversion of Existing Floorspace in a Single-Family Dwelling, Multifamily Structure, or a Detached Accessory Building**
  1. The unit shall be located in one of the following residential zones: R-1, R-2, R-3, CRR, and C-2.
  2. The unit shall be created within an existing legal structure (a single-family dwelling or a Detached Accessory Building appurtenant to a single-family dwelling) and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure.
  3. The unit shall provide independent exterior access from the Primary Unit.
  4. The unit has sufficient setbacks to meet fire safety requirements.
  5. There shall be no more than one Accessory Dwelling Unit per primary dwelling on a single family lot. On a multifamily lot, non-livable space may be converted into at least one ADU, and up to 25 percent of the number of existing multifamily dwelling units, if each converted unit complies with the state building standards for dwellings.
  6. Rental. The unit may be rented but may not be rented for a period less than 30 consecutive days or used as a Vacation Rental.
  7. Feasibility Inspection. A building inspection shall be performed by the City's Building Division at applicant's cost, and a memo establishing the feasibility of the project to meet applicable building and residential codes shall be provided to the City Planner, or his/her designee, of Community Development, prior to approval of a permit.

	<p><b>g. Standard for Junior Accessory Dwelling Units</b></p> <p>1. The proposed junior accessory dwelling unit would be located in a residential zone, including the R-1, R2, R-3 <del>and</del> CRR, <del>and</del> C-2 zones.</p>										
<p>Sec. 97.00. Residential zone densities with no bonuses.</p>	<p>Before any density bonuses are applied, the number of dwelling units permitted in a residential development shall not exceed <u>or be developed at less than</u> the following amounts:</p> <table border="1" data-bbox="388 504 652 665"> <thead> <tr> <th>ZONE</th> <th>DENSITY RANGE</th> </tr> </thead> <tbody> <tr> <td>R-1</td> <td>1.0 - 7.0</td> </tr> <tr> <td>R-2</td> <td>8.0 - 17.0</td> </tr> <tr> <td>R-3</td> <td>18.0 - 30.0</td> </tr> <tr> <td>CRR</td> <td>1.0 - 30.0</td> </tr> </tbody> </table> <p><u>Residential development shall equal at least the lowest value for each zone's density range, exclusive of properties encumbered by or proposed for deeded or dedicated easements, unless the property owner can demonstrate to the <del>City Planner</del> <u>City Planner</u> that physical or environmental constraints on the property make development to the minimum density infeasible.</u></p>	ZONE	DENSITY RANGE	R-1	1.0 - 7.0	R-2	8.0 - 17.0	R-3	18.0 - 30.0	CRR	1.0 - 30.0
ZONE	DENSITY RANGE										
R-1	1.0 - 7.0										
R-2	8.0 - 17.0										
R-3	18.0 - 30.0										
CRR	1.0 - 30.0										
<p>Sec. 97.01. Density Bonus and Related Incentives and Concessions Program.</p>	<p>Sec. 97.01(a). Purpose. The purpose of this Section 97.01 is to satisfy the requirements set forth in the Government Code Section 65915, et seq. (known as the State Density Bonus Law). If any provision of this Division conflicts with state law, or provides more rights than are legally required by state law, the minimum requirements of State law shall control.</p> <p><u>(1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within the City shall comply with this section.</u></p> <p><u>(2) The City shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit the City from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).</u></p> <p><u>(3) In order to provide for the expeditious processing of a density bonus application, the City shall do all of the following:</u></p> <p><u>(A) Adopt procedures and timelines for processing a density bonus application.</u></p> <p><u>(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.</u></p> <p><u>(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.</u></p> <p><u>(D) (i) If the City notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:</u></p> <p><u>(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.</u></p> <p><u>(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.</u></p> <p><u>(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the City to make a determination as to those incentives, concessions, or waivers or reductions of development standards.</u></p> <p><u>(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The City shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.</u></p> <p><u>(b) (1) The City shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:</u></p> <p><u>(A) Ten percent of the total units of a housing development, including a shared housing building development, for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code.</u></p>										

(B) Five percent of the total units of a housing development, including a shared housing building development, for rental or sale to very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. For purposes of this subparagraph, "development" includes a shared housing building development.

(D) Ten percent of the total dwelling units of a housing development are sold to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(i) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the City that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(ii) The applicable 20-percent units will be used for lower income students.

(iii) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(iv) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code. For purposes of this subparagraph, "development" includes a shared housing building development.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(c) (1) (A) An applicant shall agree to, and The City shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(i) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for lower income households, as those rents and incomes are determined by the California Tax Credit Allocation Committee.

(2) (A) An applicant shall agree to ensure, and The City shall ensure, that a for-sale unit that qualified the applicant for the award of the density bonus meets either of the following conditions:

(i) The unit is initially occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.

(ii) The unit is purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and that includes all of the following:

(i) A repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser.

(ii) An equity sharing agreement.

(iii) Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.

(B) For purposes of this paragraph, a "qualified nonprofit housing corporation" is a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(C) The City shall enforce an equity sharing agreement required pursuant to clause (i) or (ii) of subparagraph (A), unless it is in conflict with the requirements of another public funding source or law or may defer to the recapture provisions of the public funding source. The following apply to the equity sharing agreement:

(i) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation.

(ii) Except as provided in clause (v), the City shall recapture any initial subsidy, as defined in clause (iii), and its proportionate share of appreciation, as defined in clause (iv), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(iii) For purposes of this subdivision, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iv) For purposes of this subdivision, the City's proportionate share of appreciation shall be equal to the ratio of the City's initial subsidy to the fair market value of the home at the time of initial sale.

(v) If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to clause (ii) of subparagraph (A) the City may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the City.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through the City's valid exercise of its police power and that is or was occupied by persons or families above lower income, the City may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, The City before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to The City a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with The City. The City shall grant the concession or incentive requested by the applicant unless The City makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a development in which the units are for sale.

(D) Four incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(3) The applicant may initiate judicial proceedings if the City refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require the City to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require the City to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The City shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The City shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may The City apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to The City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the City. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require the City to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require the City to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless The City agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the City, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

<u>Percentage Low-Income Units</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>20</u>
<u>11</u>	<u>21.5</u>
<u>12</u>	<u>23</u>
<u>13</u>	<u>24.5</u>
<u>14</u>	<u>26</u>
<u>15</u>	<u>27.5</u>
<u>16</u>	<u>29</u>
<u>17</u>	<u>30.5</u>
<u>18</u>	<u>32</u>
<u>19</u>	<u>33.5</u>
<u>20</u>	<u>35</u>
<u>21</u>	<u>38.75</u>
<u>22</u>	<u>42.5</u>
<u>23</u>	<u>46.25</u>

24 50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the City shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the City shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28

<u>34</u>	<u>29</u>
<u>35</u>	<u>30</u>
<u>36</u>	<u>31</u>
<u>37</u>	<u>32</u>
<u>38</u>	<u>33</u>
<u>39</u>	<u>34</u>
<u>40</u>	<u>35</u>
<u>41</u>	<u>38.75</u>
<u>42</u>	<u>42.5</u>
<u>43</u>	<u>46.25</u>
<u>44</u>	<u>50</u>

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

<u>Percentage Very Low Income</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>15</u>
<u>11</u>	<u>16</u>
<u>12</u>	<u>17</u>
<u>13</u>	<u>18</u>
<u>14</u>	<u>19</u>
<u>15</u>	<u>20</u>
<u>16</u>	<u>21</u>
<u>17</u>	<u>22</u>
<u>18</u>	<u>23</u>
<u>19</u>	<u>24</u>
<u>20</u>	<u>25</u>
<u>21</u>	<u>26</u>
<u>22</u>	<u>27</u>
<u>23</u>	<u>28</u>
<u>24</u>	<u>29</u>
<u>25</u>	<u>30</u>
<u>26</u>	<u>31</u>
<u>27</u>	<u>32</u>
<u>28</u>	<u>33</u>
<u>29</u>	<u>34</u>
<u>30</u>	<u>35</u>

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

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

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the City may subject the proposed development to subsequent design review to the extent authorized by subdivision (l) of Section 65583.2 if the design is not reviewed by the City before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, The City shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The City shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, the City shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by The City and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the City, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit the City from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Designated county" includes the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura.

(2) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(3) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(4) "lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

(5) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(6) "Maximum allowable residential density" or "base density" means the maximum number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the maximum number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or specific plan, the greater shall prevail. Density shall be determined using dwelling units per acre. However, if the applicable zoning ordinance, specific plan, or land use element of the general plan does not provide a dwelling-units-per-acre standard for density, then the local agency shall calculate the number of units by:

(A) Estimating the realistic development capacity of the site based on the objective development standards applicable to the project, including, but not limited to, floor area ratio, site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open space requirements, minimum percentage or square footage of any nonresidential component, and parking requirements, unless not required for the base project. Parking requirements shall include considerations regarding number of spaces, location, design, type, and circulation. A developer may provide a base density study and the local agency shall accept it, provided that it includes all applicable objective development standards.

(B) Maintaining the same average unit size and other project details relevant to the base density study, excepting those that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.

(7) (A) (i) "Shared housing building" means a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(ii) A "shared housing building" may include other dwelling units that are not shared housing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the shared housing building. A shared housing building may include 100 percent shared housing units.

(B) "Shared housing unit" means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the "minimum room area" specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of "guestroom" in Section R202 of the California Residential Code. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(8) (A) "Total units" or "total dwelling units" means a calculation of the number of units that:

(i) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(ii) Includes a unit designated to satisfy an inclusionary zoning requirement of The City.

(B) For purposes of calculating a density bonus granted pursuant to this section for a shared housing building, "unit" means one shared housing unit and its pro rata share of associated common area facilities.

(9) "Very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. For purposes of this paragraph, "area" may include a travel analysis zone, hexagon, or grid. For the purposes of determining "regional vehicle miles traveled per capita" pursuant to this paragraph, a "region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, The City shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, The City shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit. Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, The City shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, "unobstructed access to the major transit stop" means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b), then, upon the request of the developer, The City shall not impose vehicular parking standards if the development meets any of the following criteria:

- (A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.
- (B) The development is a for-rent housing development for individuals who are 55 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- (C) The development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- (4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through on street parking.
- (5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).
- (6) This subdivision does not preclude The City from reducing or eliminating a parking requirement for development projects of any type in any location.
- (7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdiction wide parking study in the last seven years, then The City may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The City shall pay the costs of any new study. The City shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.
- (8) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).
- (g) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.
- (r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.
- (s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (B) and (C) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).
- (t) When an applicant proposes to construct a housing development that conforms to the requirements of subparagraph (A) or (B) of paragraph (1) of subdivision (b) that is a shared housing building, The City shall not require any minimum unit size requirements or minimum bedroom requirements that are in conflict with paragraph (7) of subdivision (o).

Sec. 99.00. Buildings. Every building shall be designed or remodeled to accommodate its use in accordance with applicable building codes and other laws. (Ord. 427)

Sec. 99.01. ~~Downtown Core Building Type.~~

The Downtown Core is intended to be a mix of medium-density, high-density, and mixed-use residential and commercial uses, with building and site designs that are pedestrian oriented and reflect and celebrate the historic downtown along and around Broadway.

Development Standards (to be inserted as a table):

<u>Downtown Core Development Standards</u>		
<u>Floor Area Ratio</u>		<u>2.0</u>
<u>Density Range</u>		<u>18 – 30 units/acre</u>
<u>Setbacks</u>		
<u>Primary Street Setback</u>		<u>Ground floor: 0 feet minimum / 5 feet maximum</u>
<u>Side Street Setback</u>		<u>Ground floor: 0 feet minimum / 5 feet maximum</u>
<u>Rear Setback</u>		<u>With Alley: 5 ft. minimum</u> <u>Without Alley: 15 ft. minimum</u>
<u>Height</u>		
<u>1. Top of plate height above adjacent sidewalk (max.) 45 ft.</u>		<u>45 ft.</u>
<u>2. Top of parapet height above top of plate (max.) 4 ft.</u>		<u>4 ft.</u>
<u>3. Pitched roof height above top of plate (max.) allowed</u>		<u>Allowed</u>
<u>4. Ground story floor to floor height (min.) 15 ft. min.</u>		<u>15 ft. min.</u>
<u>Parking</u>		
<u>Residential</u>	<u>Studio/Efficiency Units:</u>	<u>0.5 space/unit</u>
	<u>Units up to 999 sf</u>	<u>1.0 space/unit</u>
	<u>Units between 1,000 – 1,499 sf</u>	<u>1.5 spaces/unit</u>

Sec. 99.01. Building Type.

	Units 1,500 sf and greater:	2.0 spaces/unit
	Guest:	0.25/unit
<u>Lodging</u>		0.75 space/room
<u>Live/Work</u>	Units up to 1,499 sf	1.0 space/unit
	Units 1,500 sf and greater	See Commercial
<u>Commercial</u>	Ground floor commercial:	1/300 sf gross ground floor building area
	Upper Floor commercial:	1/350 sf gross upper floor building area
<u>Standalone Restaurant (A single restaurant, café, or similar business in a single building on a single parcel with on-site parking dedicated to the single restaurant use)</u>		1/150 sf gross restaurant area
<u>Civic</u>		1/350 sf gross building area

**Sec 99.01.01 Vehicular Access.**

- a. Parking shall be accessed from an alley.
- b. Where an alley is not present, parking/service areas may be accessed from primary street. Driveways shall be located as close to side property line as possible.
- c. Parking/service areas for corner lots shall be accessed from side street.
- d. Residential and commercial uses may utilize delineated parking stalls within the right-of-way adjacent to each respective lot as counting toward the required parking.
- e. Residential and commercial uses may utilize every 22 feet of useable lot frontage (excluding driveway entrances) along roadways conforming to the City's standards as counting toward one (1) stall of required parking.

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**Sec 99.01.02 Common On-Site Open Space.**

One (1) or more of the On-Site Open Space Types listed below shall be provided on each lot that accommodates residential uses. The required On-Site Open Space shall be generally rectangular in form, per the below listed minimum size requirements, and must be accommodated behind the Primary Street setback line.

Open Space Type:

- Courtyard, minimum of 10% of total lot area, minimum of 20 ft. x 20 ft.
- Roof Deck, minimum of 10% of total lot area, minimum of 20 ft. x 20 ft.

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**Sec 99.01.03 Private On-Site Open Space.**

Private open space in the form of a yard, balcony, or roof deck shall be provided for each residential unit.

- Min. area: 40 square feet.
- Min. width: 5 feet. Setbacks:
- Front, residential use: 10 feet
- Front, nonresidential use: 0 feet
- Side, residential use: 5 feet
- Side, nonresidential use: 0 feet
- Rear, residential use: 10 feet
- Rear, nonresidential use: 0 feet

Section 99.02

~~Sec. 99.02. Building Materials. Metal building materials, including shipping containers modified for habitation, are permitted outright via a zoning permit except when Municipal Code Section 96.01 "Table of Permissible Uses" requires an entitlement to be processed for the use, then may be approved with the entitlement and when compliant with the architecture requirements, except:~~

~~1) Shipping Containers~~

~~a. Zoning Permit (see also Section 99.06.05(b)).~~

Section 99.06.05

Sec. 99.06.05(b) Shipping Containers used as accessory buildings Ordinance 568-AC.

	<p>(1) Permitted in all zones, provided setbacks are met.</p> <p>(2) Units to be painted in a color that blends with the existing structures and surrounding area.</p> <p>(3) Containers may not be placed in a required parking area. Stacking of containers is not permitted.</p> <p>(4) Containers may not be placed between the primary structure and the immediately adjacent road or access easement (front of property).</p> <p><del>(5) Under no circumstances shall a shipping container be used for human or animal habitation, unless modified as such according to the California Building Standards Code and approved with the entitlement and when compliant with the architecture requirements.</del></p> <p><del>(5) unless modified as such according to the California Building Standards Code and approved with the entitlement and when compliant with the architecture requirements.</del></p> <p>(6) Units must be located or screened so as not to be in public view, <del>unless modified to be used as habitable space.</del> <del>unless modified to be used as habitable space.</del></p>																													
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Section 99.06.09.	<p>Sec. 99.06.09. Courts. In the CRR, R-2 and R-3 zones, where the arrangement of a building or buildings on the same lot creates a court (an open space surrounded on all sides by buildings, but not necessarily completely enclosed), such court shall contain a rectangular open area at least <del>thirty (30) feet by forty (40) feet</del> <u>twenty (20) by twenty (20) feet</u> in horizontal dimensions. (Ord. No. 427-AC, (part).) This standard shall also apply to multifamily and mixed-use residential development in the C-2 zone. (Ord. 427-AC, 659-AC).</p>																													

Section 99.07.03

**Sec. 99.07.03 Swimming pools, spas and other bodies of water.**

To ensure public safety, construction, installation and maintenance of all private swimming pools, spas and other bodies of water with a depth in excess of 18 inches at any given point shall be subject to the following provisions.

**Definitions.**

**A. "Swimming pool" or "pool" means any structure intended for swimming or recreational bathing that contains water over 18 inches deep. "Swimming pool" includes in-ground and above-ground structures and includes, but is not limited to, hot tubs, spas, portable spas, and nonportable wading pools.**

**B. "Public swimming pool" means a swimming pool operated for the use of the general public with or without charge, or for the use of the members and guests of a private club. Public swimming pool does not include a swimming pool located on the grounds of a private single-family home or multifamily residence.**

**C. "Enclosure" means a fence, wall, or other barrier that isolates a swimming pool from access to the home.**

**D. "Approved safety pool cover" means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.**

**E. "Exit alarms" means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.**

**Drowning prevention safety features required.**

**B. Whenever a building permit is issued for construction of a new swimming pool or spa, or any building permit is issued for remodeling of an existing pool or spa, at a private, single-family home or multifamily residence, the pool shall be isolated by an enclosure, or the pool shall incorporate removable mesh pool fencing that meets American Society for Testing and Materials (ASTM) Specifications F2286 Standards in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device, or the pool shall be equipped with an approved safety pool cover that meets all requirements of the ASTM Specifications F1346.**

**Design Standards**

**Pools must be set back a minimum of 5 feet from all property lines, structures, fencing, and walls.**

**D. Pools, spas, and other bodies of water are reviewed and approved by the City's Building Department. All pools, spas, and other bodies of water shall be compliant with the California Building Code.**

**Enclosures.**

An enclosure shall have all of the following characteristics:

**A. Any access gates through the enclosure open away from the swimming pool, and are self-closing with self-latching device placed no lower than 60 inches above the ground.**

**B. A minimum height of 60 inches.**

**C. A maximum vertical clearance from the ground to the bottom of the enclosure of two inches.**

**D. Gaps or voids, if any, do not allow passage of a sphere equal to or greater than four inches in diameter.**

**E. An outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of five years to climb over.**

**Exceptions to requirements of this Chapter.**

The requirements of this Chapter shall not apply to any of the following:

**A. Public swimming pools.**

**B. Hot tubs or spas with locking safety covers that comply with the American Society for Testing Materials Emergency Performance Specification (ASTM-ES-13-89).**

**Pool and spa requirements.**

**A. Whenever the building permit is issued for the construction of a new swimming pool or spa, the pool or spa shall meet all of the following requirements:**

**1. The suction outlet of the pool or spa for which the permit is issued shall be equipped to provide circulation throughout the pool or spa.**

**2. The swimming pool or spa shall have at least two circulation drains per pump that shall be hydraulically balanced and symmetrically plumbed through one or more "T" fittings, and that are separated by a distance of at least three feet in any dimension between the drains.**

**B. Suction outlets that are less than 12 inches across shall be covered with anti-entrapment grates, as specified in the ASME/ANSI Standard A, 112.19.8, that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.**

**C. Any backup safety system that an owner of a new swimming pool or spa may choose to install in addition to the requirements set forth in Subsections A. and B. shall meet the standards as published in the document, "Guidelines for Entrapment Hazards: Making Pools and Spas Safer," Publication Number 362, March 2005, United States Consumer Product Safety Commission.**

**C. D. Whenever a building permit is issued for the remodel or modification of an existing swimming pool, toddler pool, or spa, the permit shall require that the suction outlet of the existing swimming pool, toddler pool, or spa be upgraded so as to be equipped with an anti-entrapment cover meeting current standards of the American Society for Testing and Materials (ASTM) or the American Society of Mechanical Engineers (ASME).**

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Section 99.08.02	<p><u>Sec. 99.08.02. Fence height. (a) The maximum height of fences between two or more residential uses in residential zones shall be six (6) seven (7) feet, and the maximum height of any fence shall be fifteen (15) feet except where a greater height is required for sight-screening or noise reduction. The maximum height of a fence within the front setback shall be four (4) feet. In all setback areas, fences more than (4) feet in height shall be permitted only when approved under the site plan review procedure and subject to the terms of such approval.<sup>1</sup></u></p> <p><u>Other walls and fence regulations include:</u></p> <ul style="list-style-type: none"> <li>a. <u>Walls and fences within the front setback shall not exceed 4 feet in height.</u></li> <li>b. <u>Walls and fences height shall be measured from the highest grade.</u></li> </ul> <p><u>Prohibited fence materials in the residential and mixed-use zones include: sharp-edge, barbed wire, razor wire, and electrically charged fences.</u></p>
Section. 99.09.04 ©	<p><u>(25) On terms and in an amount acceptable to the City Planner, adequate surety is provided for reclamation of commercial solar energy generation facility sites should energy production cease for a continuous period of 180 days and/or if the site is abandoned.</u></p> <p><u>Solar Energy Development Standards.</u></p> <p><u>(c) Night Lighting. Outdoor lighting within a commercial solar energy generation facility shall comply with the provisions of Chapter 83.07 of this Development Code.</u></p> <p><u>(d) Public Safety Services Impact Fees. The developer of an approved commercial solar energy generation facility shall pay a fee on an annual basis according to the following schedule:</u></p> <p><u>(e) Special Use Permit. Prior to the start of construction, the developer of an approved commercial solar energy generation facility shall submit for review, and gain approval for, a Conditional Use Permit (CUP). Thereafter, the CUP shall be renewed annually subject to annual inspections and the payment of fees.</u></p> <p><u>The annual CUP inspections shall review and confirm continuing compliance with the performance standards included in the findings of fact and the listed conditions of approval, including all mitigation measures. This comprehensive compliance review shall include evaluation of the operation and maintenance of the entire commercial solar energy generation facility. Failure to comply shall cause enforcement actions against the operator and owner of the facility. Such actions may cause a hearing or an action that could result in revocation of the facility's conditional use permit and imposition of additional sanctions and/or penalties.</u></p> <p><u>(f) Project Notices. Notice of an application for approval of a commercial solar energy generation facility shall be provided to all property owners, whether located in a city or in the unincorporated area of the County, within the following parameters:</u></p> <p><u>(1) Area to be Notified: Owners of property located within 1,000 feet of the external boundaries of the parcel of the proposed site, or owners of property located up to 20 separate parcels away but not to exceed one quarter mile (1,320 ft.), whichever is greater.</u></p> <p><u>(A) Notification Timing. Notification shall be accomplished upon acceptance of a new Conditional Use Permit application or a Revision to an Approved Action application for a commercial solar energy generation facility, with additional notice of public hearings provided as required by law to property owners within the Area to be Notified cited above. Add SECTION ON SOLAR FACILITIES Required Findings for Approval of a Commercial Solar Energy Facility.</u></p> <p><u><del>(a) In order to approve a commercial solar energy generation facility, the Planning Commission shall determine that the location of the proposed commercial solar energy facility is appropriate in relation to the desirability and future development of communities, neighborhoods, and rural residential uses, and will not lead to loss of the scenic desert qualities that are key to maintaining a vibrant desert tourist economy by making each of the findings of fact in subdivision (c).</del></u></p> <p><u><del>(b) In making these findings of fact, the Planning Commission shall consider:</del></u></p> <ul style="list-style-type: none"> <li><u><del>(1) the characteristics of the commercial solar energy facility development site and its physical and environmental setting, as well as the physical layout and design of the proposed development in relation to nearby communities, neighborhoods, and rural residential uses; and</del></u></li> <li><u><del>(2) the location of other commercial solar energy generation facilities that have been constructed, approved, or applied for in the vicinity, whether within a city or unincorporated territory, or on state or federal land.</del></u></li> </ul> <p><u><del>(c) The finding of fact shall include the following:</del></u></p> <ul style="list-style-type: none"> <li><u><del>(1) The proposed commercial solar energy generation facility is either</del></u> <ul style="list-style-type: none"> <li><u><del>(A) sufficiently separated from existing communities and existing/developing rural residential areas so as to avoid adverse effects, or</del></u></li> <li><u><del>(B) of a sufficiently small size, provided with adequate setbacks, designed to be lower profile than otherwise permitted, and sufficiently screened from public view so as to not adversely affect the desirability and future development of communities, neighborhoods, and rural residential use.</del></u></li> </ul> </li> <li><u><del>(2) Proposed fencing, walls, landscaping, and other perimeter features of the proposed commercial solar energy generation facility will minimize the visual impact of the project so as to blend with and be subordinate to the environment and character of the area where the facility is to be located.</del></u></li> <li><u><del>(3) The siting and design of the proposed commercial solar energy generation facility will be either:</del></u> <ul style="list-style-type: none"> <li><u><del>(A) unobtrusive and not detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways, or</del></u></li> </ul> </li> </ul>

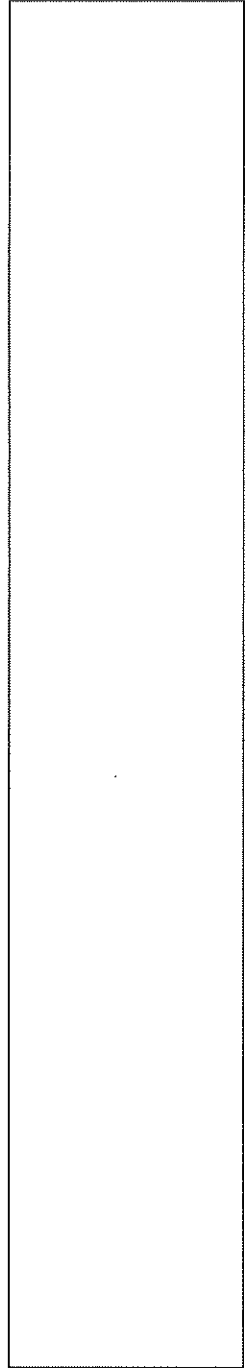
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Section 99.05 B  
Section 99.09.04

**Section 99.05 B**

(b) Antennae. Notwithstanding the restrictions of subsection (a) of this section, radio, television, ~~cellular, telecommunication~~**telecommunications tower, and** microwave antennae and similar equipment shall be subject to the following regulations:

- (1) Ground-mounted antennae ~~which are incidental or accessory uses~~ are permitted to a height of fifty (50) feet, unless permitted higher by a conditional use permit.
- (2) Roof-mounted antenna ~~and telecommunications facilities~~, which ~~shall~~ **may** include dishes to a maximum of twenty-four (24) inches in diameter, may be used but may not be more than twenty-five (25) feet higher than the highest point of the building to which they are attached, excluding chimneys and like projects, unless permitted higher by the issuance of a conditional use permit.

\*\*\*

**Add as Section 99.05 C**

All rooftop equipment shall be screened from public view by screening materials of the same nature as the building's basic materials. Mechanical equipment should be located below the highest vertical element of the building.

All rooftop mechanical equipment shall be located at a distance from the edge of the building so as not to be visible from the pedestrian level, from adjacent properties, and from adjacent roadways. If such units must be placed in a visible location for functional reasons, they shall be screened in a manner consistent with the building facade.

Landscaping and screening of areas needed for services, such as deliveries, trash collection is required. Other appurtenances such as ground mechanical units, utility boxes, back-flow devices, and similar equipment shall either be screened or blended with surrounding area.

**Add as Section 99.09.05**

A. Telecommunications tower on residentially zoned lots. A telecommunication tower is prohibited on a residentially zoned lot unless either of the following applies:

1. The residentially zoned lot is developed and used for nonresidential purposes; or
2. The residentially zoned lot is owned by a governmental entity.

B. New telecommunications towers.

1) Level of approval required.

- a. City Planner-level—A City Planner-level site plan and design review is required for a new roof-mounted telecommunications facility that is no higher than twenty-five (25) feet higher than the highest point of the building to which it is attached, or a new monopole under fifty (50) feet, or a new monopole that replaces an existing monopole, does not exceed the height of the existing pole where it is located, and is located in the same or proximate location as the monopole being replaced.
  - b. Commission-level. A conditional use permit is required for a new telecommunications tower that is not subject to City Planner-level review.
1. Site plan and design review. A new telecommunications tower is subject to site plan and design review approval at the same level as the conditional use permit.
  2. Standards applicable only to discretionary projects. All wireless telecommunications comply with the following, except that small wireless telecommunications facilities which comply with the most recent version of the City's wireless design standards, as approved by the City Council by resolution, after recommendation (for or against) by the Planning Commission, need not comply with the following:

- a. Screening. The applicant shall employ screening, undergrounding and camouflage design techniques to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.
  - b. Space. Each facility shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
  - c. Landscaping. Where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and maintained by applicant where such landscaping is deemed necessary by the City to provide screening or to conceal the facility.
  - d. Modification. Consistent with current State and Federal laws and if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.
  - e. Security. Permittee shall pay for and provide a performance bond or other form of security approved by the City Attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this Code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.
  - f. Noise. If a nearby property owner registers a noise complaint, the City shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the applicant. The permittee shall have 10 business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the City determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the City may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of this Section. The matter shall be reviewed by the City Planner. If the City Planner determines sound proofing or other sound attenuation measures are required to bring the project into compliance with the Code, the City Planner may impose conditions on the project to achieve said objective.
  - g. Undergrounding. Accessory equipment shall be placed underground unless City staff determines that there is either no room in the public right-of-way for undergrounding or undergrounding is not feasible. If either exception applies, the accessory equipment may be placed above ground provided it is sufficiently concealed with natural or manmade features. When accessory equipment will be ground-mounted, such accessory equipment shall be enclosed within a structure that does not exceed a height of 5 feet, not exceed a footprint of 15 square feet, and shall be fully screened and/or camouflaged with landscaping and/or architectural treatment. Required electrical meter cabinets shall be screened and/or camouflaged.
3. Standards for all facilities. The following requirements apply to all wireless telecommunications facilities.
- a. Antenna placement. Antenna elements shall be flush mounted, if feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers.
  - b. Traffic safety. Facilities shall be designed consistent with all applicable safety standards and shall be installed only in a location which does not violate pedestrian or traffic safety standards.
  - c. Blending methods. All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.
  - d. Poles. Pole mounted equipment and enclosure, exclusive of antennas, shall not exceed total volume allowed by City's design standards. Strand mounted equipment and enclosure shall not exceed 2 cubic feet in total volume.
  - e. Wind loads. Each facility shall be properly engineered to withstand wind loads as required by this Code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing facility.
  - f. Obstructions. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or safety hazards to pedestrians and motorists.
  - g. Public facilities. A facility shall not interfere with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
  - h. Screening. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least 18 inches from the curb and gutter flow line.
  - i. Accessory equipment—Accessory equipment—Location. In locations where homes are only along one side of a street, above-ground accessory equipment shall not be installed directly in front of a residence. Such above-ground accessory equipment shall be installed along the side of street with no homes.
  - j. Signage. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the City.
  - k. Lighting. No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.
  - l. Noise. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.
  - m. Security. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. For any discretionary permit, the City Planner may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements shall be installed as a security device.
  - n. Permit expiration. The installation and construction approved by a wireless telecommunications facility permit shall begin within one year after its approval or it will expire without further action by the City.
  - o. Signs. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission, California Public Utilities Commission, any applicable licenses or laws, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
  - p. Permit expiration. A condition setting forth the permit expiration date in accordance with subsection N shall be included in the conditions of approval.
  - r. Permit transfer. The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument.
  - s. Property rights. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the City shall be moved to accommodate a wireless telecommunications facility unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the City with documentation establishing to the City's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.
  - t. Liability. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.

- u. Repair obligations. The permittee shall repair, at its sole cost and expense, any damage, including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the City Engineer, Such time period for correction shall be based on the facts and circumstances, danger to the community and severity of the disrepair. Should the permittee not make said correction within the time period allotted the City Engineer shall cause such repair to be completed at permittee's sole cost and expense.
- v. Drip line. No facility shall be permitted to be installed in the drip line of any tree in the right-of-way unless the facility is to be collocated on an existing facility in the drip line.
- w. Insurance. The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies meeting the City of Westminster's insurance requirements for contractors to perform work with public right-of-way.
- x. Indemnification. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the City, and its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit the City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel after consulting with permittee and at permittee's expense.
- y. Hold harmless. Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the City and its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the City for any injury claim, and for property damage sustained by any person, arising out of, resulting from, or are in any way related to the wireless telecommunications facility, or to any work done by or use of the public right-of-way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the City and its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers.
- z. Cabinet removal. Should the utility company servicing the facility with electrical service that does not require the use of an above ground meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation 90 days of such service being offered and reasonably restore the area to its prior condition. An extension may be granted if circumstances arise outside of the control of the permittee.
- aa. Relocation. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to City, if and when made necessary by: (i) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or above ground facilities, including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by City or any other public agency; (ii) any abandonment of any street, sidewalk or other public facility; (iii) any change of grade, alignment or width of any street, sidewalk or other public facility; or (iv) a determination by the City Planner that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within 90 days of notification by City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a modified permit pursuant to the Code including applicable notice and hearing procedures. The permittee shall be entitled, on permittee's election, to either a pro rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Code allow. In the event the facility is not modified, removed, or relocated within said period of time, City may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.
- bb. Conditions. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within 30 days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the City within said 30-day period.
- cc. Right-of-way agreement. Prior to the issuance of any encroachment permit, permittee shall be required to enter into a right-of-way agreement with the City in accordance with the City's past practice.
- 5. Conditions of approval. In addition to compliance with the design and development standards outlined in this Section, all facilities shall be subject to the following conditions of approval (approval may be by operation of law), as well as any modification of these conditions or additional conditions of approval deemed necessary by the City Planner: As built drawings. The permittee shall submit an as built drawing within 90 days after installation of the facility. As-built drawings shall be in an electronic format acceptable to the City which can be linked to the City's GIS.
  - a. Contact information. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
    - 1. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
    - 2. The legal status of the owner of the wireless telecommunications facility.
  - b. Assignment. The permittee shall notify the City in writing at least 90 days prior to any transfer or assignment of the permit. The written notice required in this Section must include: (i) the transferee's legal name; (ii) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (iii) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The City Planner may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: Federal, State and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission. Noncompliance with the permit and all its conditions of approval, if any, or failure to submit the materials required by the City Planner shall be a cause for the City to revoke the applicable permits.
  - c. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the City Planner for the purpose of: (i) protecting the public health, safety, and welfare; (ii) preventing interference with pedestrian and vehicular traffic; and/or (iii) preventing damage to the public right-of-way or any adjacent property. The City may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the underlying permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.
- 6. Findings. No discretionary permit shall be granted for a wireless telecommunications facility unless the approving party makes all of the following findings:
  - a. All notices required for the proposed installation have been given.

	<p><u>b. The proposed facility would comply with all applicable laws.</u></p> <p><u>c. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to State or Federal law, or the applicant has entered into an agreement with the City permitting the applicant to use the public right-of-way.</u></p> <p><u>d. The applicant has demonstrated one of the following: (a) the design and location for the proposed installation will be minimally intrusive on the purposes of this Section 17.400.177; or (b) denial of the proposed facility would "effectively prohibit" the deployment of wireless facilities in violation of Federal law.</u></p>
<p>Section 111.01 and 111.03</p>	<p><b>Add to Section 111.01</b></p> <p><u>The off street parking facilities required by this title shall be located on the same lot or parcel of land as the use they are intended to serve, except that in cases of practical difficulty, the City Planner may approve substitute parking locations for ministerial projects which meet the following conditions:</u></p> <p><u>A. All or part of the substitute location is within two hundred feet (200') of the principal use for which the parking is being provided;</u></p> <p><u>B. The substitute lot is in the same possession as the use it is intended to serve. Such possession may be by deed or long term lease, the terms of which meet the approval of the city.</u></p> <p><u>C. The off street parking facilities required by this title shall be located on the same lot or parcel of land as the residential unit they are intended to serve.</u></p> <p><u>D. Parking spaces shall not be located in any required front yard, except in legal nonconforming lots where garages or carports may be located in the front yard when approved by the planning commission.</u></p> <p><u>E. Not more than three (3) carports or garages on any one lot shall have their entryway facing the street.</u></p> <p><u>For discretionary projects, the planning commission may approve substitute parking locations for ministerial projects which meet the above conditions, or recommend approval to the city council for projects requiring council approval.</u></p> <p><b>Add to Section 111.03</b></p> <p><u>Secondary driveways in residential zones:</u></p> <p><u>a. a. Driveways shall only be supported if lead to a garage, carport, or side yard area, and setback requirements are being met.</u></p> <p><del>No more than two driveway approaches per lot shall be permitted</del></p> <p><del>Secondary driveways in residential zones:</del></p> <p><del>a. Shall be permitted only on R1 Single Family Residential</del></p> <p><del>b. Driveways shall only be supported if lead to a garage, carport, or side yard area, and setback requirements are being met.</del></p> <p><del>c. No more than two driveway approaches per lot shall be permitted</del></p> <p><del>d. Approved driveways shall be constructed of impervious surface, such as concrete, asphalt, and pavers. Loose material such as gravel or decomposed granite, or similar material is prohibited for parking.</del></p> <p><del>e. Shall be permitted on corner lots or lots with more than one hundred (100) feet of street frontage</del></p> <p><del>The Planning Director with approval by the city engineer may approve a secondary driveway that is less than one hundred (100) feet, but in no case less than eighty five (85) feet, that is not located on a corner lot and that not substantially reduce on street parking and meets all of the following:</del></p> <ul style="list-style-type: none"> <li><del>• The second driveway must be at least ___ feet from the back of the curb return and at least ___ feet from the first driveway. &lt; Confer with Public Works/Engineering for appropriate distances</del></li> <li><del>• The driveway must be setback at least ___ feet from any driveway on an adjacent property.</del></li> <li><del>• The driveway must be setback at least ___ feet from a public utility.</del></li> <li><del>• The driveway shall be setback at least ___ feet away from an easement.</del></li> </ul> <p><del>Construction of a second driveway requires the issuance of an encroachment permit to be reviewed and approved by the Public Works City Engineer.</del></p> <p><del>Planning submittal requirements include a zoning application to be reviewed and approved by the Planning Division prior of receiving encroachment permit approvals.</del></p> <ul style="list-style-type: none"> <li><del>• Submittal requirements shall include a drawing or sketch (8 1/2 by 11 min - 11/17 max) to scale including, the locating and width of existing, proposed, and adjacent property driveways within 15 feet beyond the subject property, location of trees, street signs, light poles, fire hydrants, and any other existing facilities/ structures, property lines, easements.</del></li> <li><del>• Submittal shall include dimensions showing the distance between adjacent driveways, property lines, length of the proposed driveway, width of the proposed driveway, proposed material, dimensions showing the existing and proposed landscaped/hardscape areas in the front yard and percentages.</del></li> </ul>

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Section 111.04.	<p>Sec. 111.04. Parking requirements. It is the intent of this section to require off-street parking and loading spaces on each parcel for all land uses within the city. These spaces should be sufficient in number to accommodate the vehicles of residents, employees, customers and clients. The overall intent of this section is to reduce on-street parking, traffic congestion and to improve pedestrian safety within the city.</p> <p>At the time a business or residential activity is established, or a building is erected or enlarged, or there is a change of use at the subject location, sufficient vehicle off-street parking spaces shall be provided. Accessible off-street parking areas shall be provided and maintained for each land use or activity in accordance with the schedule set out in this part. (Ord. No. 427-AC)</p> <p>Sec. 111.04.01. Parking spaces required--Residential.</p>	
	<p>Type of Residential Use</p> <p>Single and two-family dwellings</p>	<p>Off-Street/On-Street Parking Stalls Required</p> <p><u>Parking is not required for residential uses within one-half mile of public transit.</u></p> <p><u>In all other cases: Two (2) stalls per dwelling unit, one (1) of which shall be a covered carport or garage.</u></p> <p><u>Residential uses may utilize every 22 feet of useable lot frontage (excluding driveway entrances) along local roads conforming to the City's standards as counting toward one (1) stall of required parking.</u></p>
	<p>Accessory dwelling units</p>	<p><u>Parking is not required for residential uses within one-half mile of public transit.</u></p> <p><u>In all other cases: One (1) new parking space shall be provided for each accessory dwelling unit on a lot. The new parking space(s) shall be located on the same lot where the accessory dwelling unit is located, shall not be on the street, and shall be in addition to all existing parking spaces on the lot. Except in the following circumstances:</u></p> <ul style="list-style-type: none"> <li>• <u>The accessory dwelling unit is located within one-half mile walking distance of public transit, as defined in Government Code Section 65852.2(f), as may be amended.</u></li> <li>• <u>The accessory dwelling unit is located within an architecturally and historically significant historic district.</u></li> <li>• <u>The accessory dwelling unit is located entirely within the proposed or existing primary residence or an accessory structure.</u></li> <li>• <u>When there is a car share vehicle located within one block of the accessory dwelling unit.</u></li> </ul> <p><u>Residential uses may utilize every 22 feet of useable lot frontage (excluding driveway entrances) along local roads conforming to the City's standards as counting toward one (1) stall of required parking.</u></p>
	<p>Multiple Family</p>	<p><u>Parking is not required for residential uses within one-half mile of public transit. However, this provision shall not reduce, eliminate, or preclude the enforcement of any state or local requirement imposed on a new multifamily residential development that is located within one-half mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the multifamily residential development.</u></p> <p><u>In all other cases: One and one-half (1 ½) stalls per efficiency dwelling unit, one and one-half (1 ½) stalls per dwelling unit, or two (2) stalls for each unit having three (3) or more bedrooms, plus one (1) stall for every four (4) units for guests. One (1) stall for each unit shall be covered with a garage or carport.</u></p> <p><u>Residential uses may utilize every 22 feet of useable lot frontage (excluding driveway entrances) along local roads conforming to the City's standards as counting toward one (1) stall of required parking.</u></p>
	<p>Rooming houses, residence clubs, fraternity and sorority houses</p>	<p>One (1) stall for every bedroom plus an additional four (4) stalls.</p>

\*Tandem parking shall be permissible in the Residential Uses

\*\*EV charging station requirements shall be compliant with the most current California Green Building Code, Title 24.

Sec. 111.04.03. Parking spaces required—Institutional.

Type of Institutional Use	Off-Street Parking Stalls Required
Hospitals	One (1) stall for each three (3) beds, plus one (1) stall per staff doctor, plus one (1) stall for each three (3) employees.
Convalescent homes, nursing homes and sanitariums	One (1) stall per staff or visiting doctor, plus one (1) stall per two (2) employees, plus one (1) stall for every four (4) beds.
Orphanages	One (1) stall for every three (3) employees plus one (1) stall for every ten (10) beds
Day care and nursery schools	One (1) stall for each employee, plus an additional two (2) stalls, plus one (1) loading/drop off space for every five (5) children
<u>Assembly Uses</u>	
Public, parochial and private elementary schools	One (1) stall for every four (4) seats or seven (7) linear feet of bench
Public, parochial and private high schools	One (1) stall for each employee, plus one (1) stall for every four (4) auditorium seats. Plus a bus loading area is required
Colleges, art, craft, music and dancing schools and business, professional and trade schools	One (1) stall for each employee, plus one (1) stall for each ten (10) students or one (1) stall for each four (4) auditorium seats, whichever is greater. Plus a bus loading area is required.
	One (1) stall for each employee, plus one (1) space for each four (4) students or one (1) stall for each four (4) auditorium seats, whichever is greater.

Sec. 111.04.05. Parking spaces required--Retail/commercial.

Type of Retail/Commercial Use	Off-Street Parking Requirements
General retail sales, repair and services	One (1) stall per two hundred fifty (250) square feet of gross floor area
Uncovered general retail sales, repair and services	One (1) stall per two hundred fifty (250) square feet of gross sales area
Retail sales of large appliances, furniture or other similar bulky merchandise	One (1) stall per four hundred (400) square feet of gross floor area
Restaurants, bars, taverns, lunch rooms, night clubs and cocktail lounges	One (1) stall for every three (3) seats or one hundred (100) square feet of gross floor area devoted to dining, whichever is greater. Plus one (1) stall for each shift employee
<del>Restaurants and other retail establishments with walk-up or drive-up windows and roadside stands</del>	<del>One (1) stall for every three (3) seats or one hundred (100) square feet of gross floor area, whichever is greater. Plus one (1) stall for each shift employee, plus eight (8) stalls for each exterior service window</del>
<del>Barber and beauty shops</del>	<del>One (1) stall per one hundred (100) square feet of gross floor area</del>
<del>Uncovered retail sales area for landscaping nurseries, vehicles and construction materials</del>	<del>One (1) stall for each four thousand (4,000) square feet of gross display area. Plus four (4) additional stalls, or one (1) stall per employee, whichever is greater</del>
<del>Service stations and vehicle repair garages</del>	<del>One (1) stall per four hundred (400) square feet of gross floor area. Plus three (3) additional stalls, or one (1) stall per employee (service bays shall not be counted as part of the required parking)</del>
<del>Hotels and motels</del>	<del>One (1) stall for each guest room, plus four (4) additional stalls, plus one (1) stall for each shift employee</del>
<del>Bus stations, train depots and other transportation depots</del>	<del>One (1) stall for each employee, plus user parking as determined by the city planner</del>

Sec. 111.04.07. General off-street parking requirements.

The parking requirements previously listed are minimum. The planning commission may require additional stalls and off-street parking areas deemed necessary to reduce off-street parking congestion, and improve traffic and pedestrian safety within the city.

Sec. 111.04.08 Calculations of fractions of parking stalls.

If the calculation for required off-street parking results in a fraction of one-half (1/2) or more of a parking stall, then one (1) parking stall shall be provided. No parking stall is required for fractions of less than one-half (1/2) of a stall. (Ord. No. 427-AC)

Sec. 111.04.09. Parking ratios for a combination of entities. Where there is a combination of uses or entities for any-one (1) facility on a parcel, the total required off-street parking shall be the sum of the required parking spaces for each use or entity. The parking provided for one (1) use may not be used to satisfy the parking requirements for another use on the same site, unless all the following conditions are met:

- (a) Structures on the site clearly can be used only during limited time periods.
- (b) The uses occur during completely difference periods of time.
- (c) The city planner determines there will be no conflicts or safety hazards between the proposed uses.
- (d) A conditional use permit is obtained. (Ord. No. 427-AC)

Sec. 111.04.10. Other parking uses. The parking ratio shall be determined by the city planner for uses that are not specifically included or are not closely related to other uses included in the parking space requirement schedule. (Ord. No. 427-AC)

- The city planner may require additional information, such as a parking analysis, a queuing analysis, a noise analysis, or other relatable information in order to analyze the proposed parking.

Sec. 111.04.11. Other commercial uses. Proposed commercial buildings without uses specified and confirmed (by lease or other legal agreement) shall provide one (1) parking space for every, two hundred fifty (250) square feet of gross floor area.

Determining Parking Ratio by Employee Shift. The required minimum number of parking spaces for uses having a parking ratio based upon the number of employees, shall be determined by the employment shift with the greatest number of employees.

(Ord. No. 427-AC)

- Discretionary Approved projects shall include conditions of approval to prevent project modifications that trigger parking changes such as increasing building square footage, and operational changes such as increasing the number of employees.

Sec. 111.04.12. Combined parking for separate lots. Every use shall provide the required parking on the same parcel except:

- (a) The owners of adjoining properties may provide parking space in common if said parking area is secured by easement or other sufficient legal document, and provided the total number of parking spaces is equal to the required sum for each individual use or entity.
  - Shared easement agreements shall run with the land and shall be reviewed by the City Staff and City Attorney prior to recordation.
  - The easement review and recording fees shall be borne by the applicant.

(b) (b)—Any use located within a parking assessment district formed under the provisions of this Code need not provide the required parking as specified in this part. (Ord. No. 427-AC)

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**Bicycle Parking requirements to be established as Section 111.05 (see Excel table for other cities samples)**

**1. Minimum Bicycle Parking Requirements.** Long-term bicycle parking shall be provided in secure, weather-protected facilities for multi-family building residents who need bicycle parking for several hours or longer. Short-term bicycle parking shall be located in publicly-accessible, highly-visible locations that serve the main entrance of a multi-family building. Short-term bicycle parking shall be visible to bicyclists on the street and is intended for visitors. Amounts of required long-term and short-term bicycle parking shall be provided as follows:

- a. Long-term Requirement. Multi-family buildings with 5 or more units, shall provide one (1) space per unit.
  - i. In-unit allowance standards. For sites with 20 or fewer units, up to 100% of bicycle parking spaces are permitted to be in dwelling units.
  - ii. For sites with more than twenty (20) units, up to 20% of bicycle parking are permitted in dwelling units.
  - iii. Elderly or disabled multi-family uses shall provide 1 bicycle parking space per 10 units.
- b. Long-Term Additional Requirements. Multi-family buildings with more than twenty (20) units, shall include:
  - i. Cargo or long-tail bicycle parking. A minimum of five (5) percent of bicycle spaces shall be provided for larger bicycles.
  - ii. Electrical bicycle charging. A minimum of five (5) percent of spaces shall have access to electrical outlets.
- c. Short-Term Requirement. Multi-family buildings with more than twenty (20) units shall provide a minimum of one (1) space per twenty units.

**2. Uniform Standards for All Bicycle Parking.** Where long-term and short-term bicycle parking must be provided in lockers or racks, the following standards shall be met:

- a. Bicycle parking area. The area devoted to bicycle parking must be hard surfaced.
- b. Bicycle Racks. Racks must be designed so that the bicycle frame and one wheel can be locked to a rigid portion of the rack with a U-shaped shackle lock when both wheels are left on the bicycle.
- c. Bicycle Parking Space, Maneuvering Area, and Clearance Dimensions. Bicycle parking spaces, aisles and clearances must meet the minimum dimensions of the following:
  - i. Standard Bicycle Parking Spaces Requirements. The standard required bicycle space is two (2) feet in width, six (6) feet in length and three (3) feet four (4) inches in height. There must be at least five (5) feet behind all bicycle parking spaces to allow room for bicycle maneuvering. Where short-term bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way; A wall clearance of two (2) feet six (6) inches must be provided. A minimum of one (1) foot five (5) inches shall be provided between spaces.
  - ii. Vertical Bicycle Parking Spaces Requirements. Vertical bicycle parking secures the parked bicycle perpendicular to the ground is permitted as an alternative to standard spaces. The vertical required bicycle space shall be two (2) feet in width, six (6) feet in height and two (2) feet in depth. There must be at least 5 feet behind all bicycle parking spaces to allow room for bicycle maneuvering. A minimum of one (1) foot five (5) inches shall be provided between spaces.
  - iii. Stacked Bicycle Parking Spaces Requirements. Stacked bicycle parking are racks that are stacked, one tier on top of another are permitted as an alternative to standard spaces. Bicycles shall be horizontal when in the final stored position. The rack must include a mechanically-assisted lifting mechanism to mount the bicycle on the top tier. There must be at least 5 feet behind all bicycle parking spaces to allow room for bicycle maneuvering. A minimum of one (1) foot five (5) inches shall be provided between spaces.
  - iv. Larger Cargo or Long-Tail Bicycle Parking Spaces Requirements. These standard space dimensions shall be ten (10) feet in depth by three (3) feet in width by three (3) feet four (4) inches in height. At least 5' feet behind the space shall be provided for maneuvering. A minimum of one (1) foot five (5) inches shall be provided between spaces.
- d. Bicycle Lockers. Bicycle lockers that are fully enclosed and secured are permitted. The locker must be anchored to the ground, and an aisle a minimum width of five (5) feet in width behind all bicycle lockers to allow room for bicycle maneuvering shall be

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~~provided. The locker space shall have a minimum depth of 6 feet and an access door that is a minimum of 2 feet in width.~~

~~i. One (1) bicycle locker with one hundred and twenty (120) volt ac power per four (4) units and one (1) bicycle rack parking per every four (4) dwelling units no more than one hundred (100) feet from furthest unit served~~

~~3. Standards for Long Term Bicycle Parking. Long term bicycle parking must be provided in lockers or racks that meet the following standards:~~

~~a. Security Standards. Long term bicycle parking must be provided in one or more of the following:~~

~~i. A restricted access, lockable room or enclosure, designated exclusively for bicycle parking;~~

~~ii. A bicycle locker;~~

~~iii. In a residential dwelling unit;~~

~~b. In-unit Parking Standards. Long term bicycle parking spaces may be provided in a dwelling unit if following conditions are met:~~

~~i. The residential unit shall include a dedicated bicycle parking area that meets the standard bicycle parking spacing dimensions above;~~

~~ii. For buildings with no elevators, long term in-unit bicycle parking shall be permitted only for first floor units;~~

~~iii. Balconies, terraces, or patios are prohibited for in-unit parking;~~

~~iv. Signage Standard. If bicycle parking is not visible from the public realm, a sign must be permanently posted at the main building or site entrance indicating the location of the bicycle parking;~~

~~4. Standards for Short term Bicycle Parking. Short term bicycle parking must meet the following standards:~~

~~a. Location. Bicycle parking must be on-site, outside the building, at the same grade as the sidewalk or at a location that can be reached by an accessible route;~~

~~b. Main Entrance Proximity. The bicycle parking must be within 50 feet of the main entrance to the building as measured along the most direct pedestrian access route.~~

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Section 112.01.

Sec. 112.01. Home occupations. (a) Purpose. The purpose of this section is to eliminate the detrimental effects of occupational activities in residential areas by setting forth reasonable and necessary limitations on such activities.

(b) Uses Permitted. No home occupation shall be conducted which, in order to be successfully operated, would necessitate exceeding the limitations set forth in this section or any other provision of this part.

(c) Limitations.

(1) Any sales activity shall be conducted only by mail or telephone. There shall be no direct sales of products or merchandise from the home, except for cottage food operations, or produce (fruit or vegetables) grown on the property.

(2) The individual responsible for the home occupation shall live in the dwelling.

(3) The space occupied by home occupations shall be limited to one (1) room in a dwelling unit or no more than twenty-five percent of the total square footage of the dwelling, whichever is less. Use of the garage for the home occupation may be permitted if such use does not obstruct required parking. The number of employees permitted by the home occupation shall be no more than one employee per 150 square feet of business space utilized by the home occupation, including the individual living in the dwelling.

(4) There shall be no interior or exterior remodeling or change in appearance of a dwelling in order to accommodate a home occupation.

	<p>(5) There shall be no signs, <u>such as public advertising of the business address</u> or other structures except those permitted for a dwelling use in the zone.</p> <p>(6) <del>Materials and equipment used in a home occupation shall be only of a type normally used in connection with household activities or hobbies.</del></p> <p>(7) Employment in a home occupation shall be limited to members of the resident family.</p> <p>(8) There shall be no transportation by commercial vehicle of materials or other items used in or produced by the home occupation, <u>except for those commercial vehicles intended for residential use.</u></p> <p>(9) <del>No significant vehicular or pedestrian traffic shall be generated by the home occupation.</del></p> <p>(10) A home occupation shall not place any added burden or demand on utility services or community facilities.</p> <p>(11) A home occupation shall not present any external evidence of nonresidential activity such as by appearance, noise, traffic, vibrations, odors, or lighting.</p> <p>(12) No accessory building or space outside of the main building shall be used for the home occupation. No outdoor storage, including the storage or parking of vehicles associated with the use, shall be permitted.</p> <p>(13) Written authorization from the legal property owner approving use of the dwelling for the Home Occupation must be submitted with the application.</p> <p><del>(b)(d) If the above conditions are maintained, home occupations are permitted in any dwelling through a business license.</del></p> <p><del>Prohibited Home Occupation Uses include, beauty shops, massage parlors, private clubs, dance studios, repair or construction of motor vehicles and appliances, machine shops, and cabinet shops.</del></p> <p><del>(c) Limitations-</del></p> <p><del>Any sales activity shall be conducted only by mail or telephone. There shall be no direct sales of products or merchandise from the home, except for produce (fruit or vegetables) grown on the property.</del></p> <p><del>The space occupied by home occupations shall be limited to one (1) room in a dwelling unit or no more than ten percent of the total square footage of the dwelling; whichever is less. Use of the garage for the home occupation may be permitted if such use does not obstruct required parking.</del></p> <p><del>There shall be no interior or exterior remodeling or change in appearance of a dwelling in order to accommodate a home occupation.</del></p> <p><del>There shall be no signs, such as public advertising of the business address or other structures except those permitted for a dwelling use in the zone.</del></p> <p><del>Materials and equipment used in a home occupation shall be only of a type normally used in connection with household activities or hobbies. The individual responsible for the home occupation shall live in the dwelling.</del></p> <p><del>Employment in a home occupation shall be limited to members of the resident family.</del></p> <p><del>There shall be no transportation by commercial vehicle of materials or other items used in or produced by the home occupation.</del></p> <p><del>No significant vehicular or pedestrian traffic shall be generated by the home occupation. However, incidental uses such as music lessons, tutoring, and the sale of produce may be permitted if the intensity of such use is approved by the Planning Director.</del></p> <p><del>A home occupation shall not place any added burden or demand on utility services or community facilities.</del></p> <p><del>A home occupation shall not present any external evidence of nonresidential activity such as by appearance, noise, traffic, vibrations, odors, or lighting.</del></p> <p><del>No accessory building or space outside of the main building shall be used for the home occupation. No outdoor storage, including the storage or parking of vehicles associated with the use, shall be permitted.</del></p> <p><del>Written authorization from the legal property owner approving use of the dwelling for the Home Occupation must be submitted with the application.</del></p> <p><del>If the above conditions are maintained, home occupations are permitted in any dwelling through a business license.</del></p> <p><del>Prohibited Home Occupation Uses include, beauty shops, massage parlors, private clubs, dance studios, repair or construction of motor vehicles and appliances, machine shops, and cabinet shops.</del></p>
Section 112.06.	<p>c. (b)(3) Minimum site design and development Standards. An emergency shelter is subject to all property development standards of the zoning district in which it is located except as modified by the following standards: (a) The maximum number of beds or persons to be served nightly by an emergency shelter shall be thirty-four (34). (b) Off-street parking shall include one (1) vehicle parking space per <del>three (3) beds and one (1) space</del> per employee on the largest shift. A covered and secure area for bicycle parking shall be provided for use by staff and clients, commensurate with demonstrated need, but no less than a minimum of eight (8) bike parking spaces.</p>

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**Add text to Section 112:**

Sec. 112.06. Emergency Shelters and Supportive and Transitional Housing, Elderly, Disabled, and Adult Care Facilities.

(a) Definitions.

Emergency shelter: means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay (as defined by California Health and Safety Code Section 50801(e)).

Supportive housing: means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite 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 (as defined by Government Code Section 65582) Supportive housing shall be 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.

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 (as defined by Government Code Section 65582).

Transitional housing: means a building or buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six (6) months from the beginning of the assistance (as defined by Section 50675.2 of the Health and Safety Code). Transitional housing shall be 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. Transitional housing does not include state licensed residential care facilities.

Elderly housing: means housing intended for and only occupied by persons 62 years of age or older.

Disabled housing: means a range of housing types that address the diverse needs and preferences of persons with disabilities.

Adult Care Facilities: means facilities that provide housing and care for adults, who have physical or mental limitations that restrict their ability to live independently. They offer assistance with personal care, social and recreational activities, and training in self-help skills.

Section 112.07

Section 112.07 Employee Housing

A. Qualified employee housing providing accommodations for six or fewer employees, pursuant to Health and Safety Code Section 17021.5(b), shall be deemed a single-family dwelling and is allowed in residential zones. Qualified employee housing is subject to all Municipal Codes, regulations and other standards generally applicable to other residential dwellings of the same type in the same zone.

B. Qualified employee housing providing accommodations for seven or more employees and consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household, pursuant to Health and Safety Code Section 17021.6(b), shall be deemed an agricultural land use and is allowed in such zones for agricultural use or an equivalent agricultural zone within a City approved Sectional Planning Area plan or Specific Plan. Qualified employee housing is subject to all Municipal Codes, regulations and other standards generally applicable to other agricultural activity in the same zone.

Zone	Lot Area (SQ Feet)	Street Frontage (feet)	Easement Frontage (feet)	Lot Width (feet)	Lot Depth (feet)
R-1	7,500	40		60	
R-2	3,000	50		<del>100</del> 50	
R-3	1,450	50		<del>100</del> 50	
CRR	1,000	50	Or 50	100	
C-1	3,000	50		50	60
C-2	5,000	50		50	50
C-3	6,000	50		75	75
M-1	10,000	100		100	100
M-2	25,000	150		150	150
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**115.01 Nonconforming lots**

(a) Determination Of Nonconforming Status: A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements of this title for the zoning district in which it is located, shall be considered to be a legal building site if it meets one of the criteria specified by this section. The applicant shall be responsible for providing sufficient evidence to establish the applicability of one or more of the following to the satisfaction of the Development Services City Planner or their designee.

1. Approved Subdivision: The lot was created through a subdivision approved by the City or the County, before incorporation.
2. Individual Lot Legally Created By Deed: The lot is under one ownership and record, and was legally created by a recorded deed before the effective date of the zoning amendment that made the lot nonconforming or before the City adopted regulations requiring a Parcel Map for minor subdivisions.
3. Variance Or Lot Line Adjustment: The lot was approved through the variance procedure or its current configuration resulted from a lot line adjustment.
4. Partial Government Acquisition: The lot was created in conformity with the provisions of this title, but was made nonconforming when a portion of the lot was acquired by a governmental entity.

(b) When a nonconforming lot can be used in conformity with all the regulations applicable to the intended use, except that the lot is smaller than the required minimums, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(c) When the use proposed for a nonconforming lot is one that is conforming in all other respects, but the applicable setback requirements cannot reasonably be complied with, then the entity authorized by this part to issue a permit for the proposed use (the city planner, planning commission, or council) may allow deviations from the applicable setback requirements if it finds that:

- (1) The property cannot reasonably be developed for the use proposed without such deviations;
- (2) These deviations are necessitated by the size or shape of the nonconforming lot; and
- (3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(d) For purposes of subsection (c) of this section, compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(e) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished.

(f) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section.

(g) ~~This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street, where such lot is located and within five hundred (500) feet of such lot, are also nonconforming. The intent of this subsection is to require nonconforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.~~

(h) Further Subdivision Prohibited: Where structures have been erected on a nonconforming lot, the area where the structures are located shall not be later subdivided, nor shall lot lines be altered through lot line adjustment, so as to reduce the building site area or frontage below the requirements of the applicable zoning district or other applicable provisions of this title, or in any way that makes the use of the lot more nonconforming.

(i) Parking. The City shall not require additional parking stalls for residential uses proposed on nonconforming lots.

<p>CUP application and future project resolutions.</p>	<p><del>At present, all development standards appear to be objective. Standards that are not strictly objective are highlighted below:</del></p> <p>CUP findings (from application):</p> <ul style="list-style-type: none"> <li>• <del>Does the proposal conform to the intent and purpose of the General Plan, zoning regulations and policies for protecting the physical and human environment of the neighborhood and community;</del></li> <li>• <del>The design of the improvements must be in harmony with the neighborhood and community objectives;</del></li> <li>• If the proposal is approved, conditions of approval may be imposed with respect to site design, building design, maintenance, improvements or operation of the use.</li> </ul> <p>CUP findings (from project resolution):</p> <ol style="list-style-type: none"> <li>A. <del>That the requested permit is within its jurisdiction according to the table of permissible uses.</del></li> <li>B. <del>The Application is Complete</del></li> <li>C. <del>The development is in general conformity with the Needles General Plan.</del></li> <li>D. <del>The development is in harmony with the area in which it is located.</del></li> <li>E. <del>The development will not materially endanger the public health or safety.</del></li> </ol> <p><del>The development will not substantially injure the value of adjoining or abutting properties.</del></p>
<p>Sec 19-4. Sec 19-8</p>	<p><b>ADD TO SECTION 19-4: DEPARTMENT REVIEW:</b></p> <p>(d) <u>The tentative map application shall be filed with the department. The application shall be determined by the department to be complete only when the form and contents of the tentative map conform to the requirements of this chapter and when all accompanying data and reports, as required by this chapter, and all fees and/or deposits as required, have been submitted and accepted by the department. The subdivider shall file with the department the number of tentative maps the community development City Planner may deem necessary. The department shall forward copies of the tentative map to the affected public agencies and utilities which may, in turn, forward to the department their findings and recommendations.</u></p> <p>(e) Prior to the consideration by the planning commission of a tentative map, and within ten days following its filing, the city manager shall make a report, in writing, to the planning commission as to any recommendations in connection with the tentative map and its bearing on particular functions.</p> <p><b>ADD TO SECTION 19-8: APPROVAL BY PLANNING COMMISSION</b></p> <p><u>A. Notice Of Public Hearings: Upon receipt of a complete tentative map application, the department shall prepare a report with recommendations. The department shall set the matter for public hearing before the planning commission. A copy of the department report shall be forwarded to the subdivider at least three (3) days prior to the public hearing. At least ten (10) calendar days before the public hearing, a notice shall be given of the time, date and place of the hearing, including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved. The notice shall be published at least once in a newspaper of general circulation, published and circulated in the city.</u></p> <p><u>In addition to notice by publication, the department shall give notice of the hearing by mail or delivery to the subdivider, the owner of the subject real property, if different from the subdivider, and to all persons, including businesses, corporations, or other public or private entities, shown on the last equalized assessment roll as owning real property within three hundred feet (300') of the property which is the subject to the proposed application. The department shall also give notice of the hearing by mail or delivery to each agency expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the subdivision, whose ability to provide those facilities and services may be significantly affected. A proposed conversion of residential real property to a condominium, community apartment or stock cooperative project shall be noticed in accordance with section 66451.3 of the subdivision map act.</u></p> <p><u>In the event that the proposed application has been submitted by a person other than the property owner shown on the last equalized assessment roll, the city shall also give notice by mail or delivery to the owner of the property as shown on the last equalized assessment roll. In addition, notice shall be given by mail or personal delivery to any person who has filed a written request with the city. The request may be submitted at any time during the calendar year and shall apply for the balance of the calendar year. The department may give such other notice that it deems necessary or advisable. Substantial compliance with these provisions for notice shall be sufficient, and a technical failure to comply shall not affect the validity of any action taken according to the procedures in this title.</u></p> <p><u>B. Action: The planning commission shall make its recommendation to the city council, or shall approve, conditionally approve or deny the tentative map if the planning commission is the approving body, and the department shall report the decision of the planning commission to the city council and the subdivider within fifty (50) days after the tentative map application has been determined to be complete. If the approving body is the city council, the city council shall approve, conditionally approve, or disapprove the tentative map within thirty (30) days after it receives the recommendation of the planning commission. In reaching a decision upon the tentative map, the approving body shall consider the effect of that decision on the housing needs of the region and balance these needs against the public service needs of its residents and available fiscal and environmental resources.</u></p> <p><u>C. Approval: The tentative map may be approved or conditionally approved by the approving body if it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan, any applicable specific plan, and all applicable provisions of this code. The approving body may require as a condition of its approval that the payment by the subdivider of all development fees required to be paid at the time of the application for, or issuance of, a building permit or other similar permit shall be made at the rate for such fees in effect at the time of such application or issuance.</u></p> <p><u>The approving body may modify or delete any of the conditions of approval recommended in the department's report. The approving body may add additional requirements as a condition of its approval.</u></p>

If no action is taken by the approving body within the time limits specified in this section, the tentative map, as filed, shall be deemed to be approved if it complies with all other applicable provisions of the subdivision map act, this title, this code, and the general plan.

D. Denial: The tentative map may be denied by the planning commission on any of the grounds provided by the subdivision map act or this code. The planning commission shall deny approval of the tentative map if it makes any of the following findings:

1. That the proposed map is inconsistent with the general plan or any applicable specific plan, or other applicable provisions of this code;

2. That the site is not physically suitable for the type of development;

3. That the site is not physically suitable for the proposed density of development;

4. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Notwithstanding the foregoing, the planning commission may approve such a tentative map if an environmental impact report was prepared with respect to the project and a finding was made pursuant to section 21081(c) of CEQA that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;

6. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the planning commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the planning commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision; or

7. Subject to section 66474.4 of the subdivision map act, that the land is subject to a contract entered into pursuant to the California land conservation act of 1965 (commencing with section 51200 of the Government Code) and that the resulting parcels following a subdivision of the land would be too small to sustain their agricultural use.

