

**Article 4**  
**Regulations For Specific Land Uses ~~A~~and Activities**

**CHAPTER 25.48**  
**STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES**

**§ 25.48.010. Purpose and Applicability.**

The purpose of this chapter is to establish standards for the location, site planning, development, and operations of certain land uses that are allowed within individual or multiple zoning districts, as set forth in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), and for activities that require special standards to reduce their potential adverse impacts.

(Ord. 2000 § 2, (2021))

**§ 25.48.020. Accessory Uses in Nonresidential Zoning Districts.**

- A. Purpose and Applicability. This section establishes standards for the location, development, and operation of accessory uses, as defined in Chapter 25.106 (Land Use Definitions), for nonresidential zoning districts where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). Unless more specific standards are presented elsewhere in this Article 4 (Regulations for Specific Land Uses and Activities) for unique accessory uses, the provisions in this section shall apply to accessory uses.
- B. Incidental Use. Any accessory use shall be incidental to, related, and clearly subordinate to a legal primary use established on the same parcel and shall not alter the primary use or serve property other than the parcel where the primary use is located.
- C. Maximum Percentage. For each tenant, any accessory use shall not exceed 25 percent of the floor area within the structure or equivalent area of the site.
- D. Creative Artisan and Small-Scale Manufacturing Accessory Uses. Notwithstanding other provisions in this title, the Director may authorize creative accessory uses that involve artisan or small-scale manufacturing, provided such accessory uses do not create any ascertainable vibration, noise, fumes, or other nuisances.

(Ord. 2000 § 2, (2021))

**§ 25.48.030. Accessory Dwelling Units.**

- A. Purpose and Applicability.
  1. The purpose of this chapter is to regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 66310 through 66341. This chapter is intended to implement the Housing Element of the Burlingame General Plan by providing for additional housing opportunities. This will be accomplished by increasing the number of units available within existing neighborhoods while maintaining the primarily single-unit and multi-unit residential character of the area, and establishing standards for the development and occupancy of accessory dwelling units and junior accessory dwelling units to ensure that they are compatible with neighboring uses and structures, adequately equipped with

public utility services, safe for human occupancy, and do not create unreasonable traffic and safety impacts.

2. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this chapter is in conflict with State law, the applicable provision of State law shall control, but all other provisions of this chapter shall remain in full force and effect.
3. An ADU or JADU which conforms to the requirements of this chapter shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing General Plan and zoning designations for the lot.

B. Definitions. The following terms shall have the following meanings for this chapter only and shall supersede the terms defined by Chapter 25.106 (Land Use Definitions):

"Accessory dwelling unit" or "ADU" means an attached, detached, or interior residential dwelling unit ancillary to a primary dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-unit or multi-unit dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code. This chapter recognizes three types of accessory dwelling units as defined below. Where a proposed accessory dwelling unit does not clearly fall into one of the defined types, the Director shall make a determination pursuant to Chapter 25.04 (Interpretation of the Zoning Ordinance).

1. "Attached accessory dwelling unit" or "Attached ADU" means an accessory dwelling unit that is constructed as a physical expansion (i.e., addition) of an existing or proposed primary dwelling unit, including construction of a new basement underneath a primary dwelling unit to accommodate an accessory dwelling unit.
2. "Detached accessory dwelling unit" or "Detached ADU" means an accessory dwelling unit that is constructed as a separate structure from the existing or proposed primary dwelling unit; or contained within the existing space of an accessory structure (as defined herein), including construction of a new basement underneath an accessory structure to accommodate an accessory dwelling unit.
3. "Interior accessory dwelling unit" or "Interior ADU" means an accessory dwelling unit that is contained within the space of an existing or proposed primary dwelling unit, including within its living area, basement, or attached garage; or created from non-livable space of a multi-unit dwelling.

"Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

"Efficiency kitchen" means a kitchen that includes each of the following:

1. A sink and cooking facility with appliances (e.g., microwave, toaster oven or hot

plate).

2. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Junior accessory dwelling unit" or "JADU" means a residential dwelling unit that:

1. Is no more than 500 square feet of interior livable space in size;
2. Is contained entirely within an existing or proposed single-unit dwelling; enclosed spaces within an existing or proposed single-unit dwelling, such as attached garages, are considered a part of the single-unit dwelling;
3. Includes its own separate sanitation facilities (bathroom containing a sink, toilet, and shower or tub), or may share sanitation facilities with the existing or proposed single-unit structure; JADUs without a separate bathroom shall include a separate entrance from the main entrance to the single-unit dwelling, with an interior entry to the main living area of the single-unit dwelling; and
4. Includes an efficiency kitchen, as defined above.

"Kitchen" means a kitchen that includes each of the following:

1. A sink and cooking facility (permanent stove and/or oven);
2. A refrigerator with separate doors for the refrigerator and freezer compartments; and
3. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the accessory dwelling unit.

"Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

"Living area" means the interior habitable floor area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Multi-unit dwelling" means two or more attached primary residential units contained on the same lot. Multiple detached single-unit dwellings on the same lot are not considered multi-unit dwellings for the purposes of this chapter.

"Nonconforming zoning conditions" means a physical improvement on a property that does not conform with current zoning standards.

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to the entrance of an accessory dwelling unit or junior accessory dwelling unit.

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

"Tandem parking" means a parking configuration where two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

C. Applications and Processing.

1. An applicant shall submit a permit application for an ADU or JADU to the Building Division which shall be considered by the Building Division ministerially and without discretionary review or public hearing.
2. Within 60 days of receipt of a complete application, the Building Division shall ministerially approve or deny any permit application for an ADU or JADU if there is an existing single-unit dwelling or multi-unit dwelling on the lot.
  - a. Incomplete applications will be returned by the Building Division to the applicant within 15 business days of receipt of the application and will include in writing a full set of comments with a list of items that are defective or deficient and how the application can be remedied by the applicant.
  - b. If the Building Division has not approved or denied the completed application for the ADU or JADU within such 60-day period, the application shall be deemed approved.
  - c. Upon finding that the ADU or JADU meets the requirements of this chapter, the application shall be approved.
  - d. All ADU and JADU applications are categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines.
- 2.3. If a permit application for an attached ADU or JADU is submitted with an application for an addition to an existing single-unit or multi-unit dwelling or construction of a new single-unit or multi-unit dwelling that is subject to design review or other discretionary permit for the same parcel, the permit application for the ADU or JADU shall not be acted upon until the application for design review or other discretionary permit is approved or denied. Following the approval for design review or other discretionary permit for the single-unit or multi-unit dwelling, the complete permit application for the ADU or JADU will be ministerially processed within 60 days and approved if it meets the requirements of this chapter.
4. If the applicant requests a delay, the 60-day time period for approval shall be tolled for the period of the delay.
5. Appeal of Incompleteness Determinations or Denials. An applicant may file an appeal of an incompleteness determination or denial to be heard by the Planning Commission pursuant to the process established in Section 25.98.030.B-E.

D. Minimum Standards of Eligibility.

1. No minimum lot area is required for creation of an ADU or JADU.
2. An ADU or JADU shall only be allowed on a parcel which has been legally created in compliance with the Subdivision Map Act and Title 26 (Subdivisions), and where the ADU or JADU is developed with an existing or proposed single-unit dwelling, except for ADUs constructed on multi-unit residential properties pursuant to subsection E.9.
3. ADUs may only be permitted in districts zoned to allow single-unit dwelling or multi-unit dwelling residential uses as a permitted use. ADUs are also permitted on any parcel that has a current and valid nonconforming single-unit or multi-unit residential use, so long as the ADU complies with all other portions of this chapter.

4. JADUs may only be permitted in districts zoned to allow a single-unit dwelling residential use as a permitted use. JADUs are also permitted on any parcel that has a current and valid nonconforming single-unit residential use, so long as the JADU complies with all other portions of this chapter.
- E. General Requirements and Restrictions. The following requirements and restrictions apply to all existing and new ADUs and JADUs, as applicable:
  1. ADUs and JADUs shall comply with all applicable provisions of this title and all applicable building, health and fire codes. However, ADUs shall not be required to provide fire sprinklers unless required for the primary single-unit dwelling or multi-unit dwelling structure.
  2. All development standards contained in the underlying zoning district, including those in Article 2, shall apply to ADUs and JADUs unless they are inconsistent with the provisions of this chapter, in which case the development standards of this chapter shall apply.
  3. Accessory Dwelling Units.
    - a. ADUs may be rented separately from the single-unit dwelling or multi-unit dwelling structure but may not be sold or otherwise conveyed separately from the other dwellings on the lot, except the ADU and single-unit dwelling may be owned by multiple owners as tenants in common if the single-unit dwelling and ADU were developed by a qualified nonprofit, as that term is defined in Government Code Section 66340, and if all of the provisions of Government Code Section 66341 are met.
    - b. ADUs may not be rented for fewer than 30 consecutive calendar days and may not be used as a short-term rental.
    - c. ADUs are not subject to any owner-occupancy requirement.
    - d. Interior Connection. Attached and interior ADUs may, but are not required, to contain an interior doorway connection between the single-unit dwelling and ADU.
    - e. Permanent Foundations.
      - i. All ADUs shall be permanently attached to a permanent foundation.
      - ii. A recreational vehicle, commercial coach, trailer, motor home, camper, camping trailer, boat, or similar vehicle shall not be used as an ADU.
    - f. Balconies/Decks. Balconies, second story decks, and rooftop terraces are prohibited, except for required landings sized to meet minimum requirements to allow ingress and egress.
  4. Junior Accessory Dwelling Units.
    - a. JADUs may be rented separately from the single-unit dwelling no fewer than 30 consecutive calendar days and may not be used as a short-term rental. ~~but JADUs~~ may not be sold or otherwise conveyed separately from the single-unit dwelling on the lot.
    - b. JADUs are subject to an owner-occupancy requirement if the JADU and primary

residence share sanitation facilities. A person with legal or equitable title to the property shall reside on the property in either the primary dwelling or JADU as that person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

5. If an ADU or JADU which was created within a single-unit dwelling, accessory structure or multi-unit dwelling structure is required to be removed or is voluntarily removed, the kitchen facility shall be removed from the space that is no longer an ADU or JADU and, unless permitted for a different use, the space shall be converted back to its original use. If an ADU was newly constructed:
  - a. The space or structure shall be entirely removed; or
  - b. The kitchen facility shall be removed and the space shall be converted to a permitted use allowed within the underlying zoning district; or
  - c. The kitchen facility shall be removed and the applicant shall obtain the appropriate land use permit for the proposed use within the space.
6. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before a certificate of occupancy is issued for the primary dwelling unit.
7. Deed Restriction. Prior to issuance of a building permit for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
  - a. The JADU shall not be sold separately from the primary dwelling.
  - b. The JADU is restricted to the approved size and to other attributes allowed by this section.
  - c. The deed restriction runs with the land and may be enforced against future property owners.
  - d. The deed restriction may be removed if the owner installs separate sanitation facilities for the primary residence and JADU or eliminates the JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the City, providing evidence that separate sanitation facilities are provided or the JADU has in fact been eliminated. The City may then determine whether the evidence supports the claim that the JADU has been eliminated. If the JADU is not entirely physically removed but has been modified is only eliminated by virtue of having a necessary component of a JADU or primary residence added removed, the remaining structure and improvements must otherwise comply with applicable provisions of this code.
  - e. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of this property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the

recorded restrictions or abatement of the illegal unit.

8. Single-Unit Dwellings. The following may be permitted on a parcel with an existing or proposed single-unit dwelling:
  - a. JADUs. One JADU that meets the standards in subsection G. JADUs are only permitted on a parcel with no more than one existing or proposed single-unit dwelling.
  - b. ADUs. Any one of the following may be permitted on a parcel with an existing or proposed single-unit dwelling:
    - i. One new construction attached or detached ADU that meets the standards in subsection F.
    - ii. Statewide Exemption ADUs as permitted under subsection E.10.a.-b.
9. Multi-Unit Dwellings. Any one of the following may be permitted on a parcel with an existing or proposed multi-unit dwelling:
  - a. One attached, detached, or interior ADU that meets the standards in subsection F.
  - b. Statewide Exemption ADUs as permitted under subsection E.10.c.-d.
10. Statewide Exemption ADUs. If an ADU or JADU does not exist or is not proposed pursuant to subsection E.8. or E.9. above, any of the following will be ministerially permitted on a parcel and is not subject to subsection F. below.
  - a. One ADU and one JADU per parcel with a proposed or existing single-unit dwelling if all of the following apply:
    - i. The ADU or JADU is within the proposed space of a single-unit dwelling or existing space of a single-unit dwelling or the ADU is within the existing accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
    - ii. The space has exterior access from the proposed or existing single-unit dwelling.
    - iii. The side and rear setbacks are sufficient for fire and safety.
    - iv. The JADU complies with the requirements of subsection G.
  - b. One detached, new construction ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-unit dwelling, does not exceed 800 square feet in floor area, and does not exceed the allowed height in subsection F.4. The ADU may be combined with a JADU that meets the standards as described in subsection G.
  - c. Multiple ADUs within the portions of a multi-unit dwelling that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that the dwellings comply

with building and fire code standards for dwellings. The number of ADUs permitted is equivalent to up to 25% of the number of existing, legally permitted units in the multi-unit dwelling, or one, whichever is greater. When calculating the number of allowed ADUs based on the percentage of existing multi-units, round down to the nearest integer.

- d. In addition to ADUs allowed by subsection 10.c. above, up to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less, may be allowed on lots with an existing multi-unit dwelling. These allowed units may be converted from existing detached garages on the site. On lots with a proposed multi-unit dwelling, up to two detached ADUs may be allowed. The ADUs must not exceed the allowed height in subsection F.4. and must have a minimum rear and side setbacks of four feet. If the existing multi-unit dwelling has a rear or side setback of less than four feet, the existing multi-unit dwelling will not be required to be modified to meet this setback.

F. Development Standards for Accessory Dwelling Units. An ADU shall be constructed only in accordance with the following development standards:

1. Maximum Size. The maximum floor area for an attached or detached ADU shall be 1,000 square feet of interior livable space.
2. Floor Area Ratio and Lot Coverage. An attached or detached ADU measuring no more than 800 square feet in size shall be exempt from floor area ratio and lot coverage requirements (includes floor area located in basements or lower level areas). For attached or detached ADUs measuring greater than 800 square feet, the entire ADU shall be counted and shall comply with floor area ratio and lot coverage regulations.
3. Setbacks. ADUs shall conform to the following setback standards:
  - a. No front setback shall be applied that would preclude the development of an 800 square foot ADU with at least four foot side and rear setbacks. ADUs exceeding 800 square feet shall comply with minimum front setback requirements.
  - b. A setback of at least four feet is required from the side and rear property lines; however, no setbacks shall be required under the following circumstances:
    - i. Existing livable space or an existing accessory structure that is converted, in whole or in part, to an ADU; and
    - ii. The detached ADU is constructed in the same location and to the same dimensions as an existing detached structure (with no expansion) that is demolished solely for the purpose of constructing the ADU.
4. Maximum Height Limits. ADUs shall be subject to the following height limits which shall be measured from highest adjacent grade:
  - a. A height of 16 feet for a detached ADU on a lot with an existing or proposed single-unit or multi-unit dwelling.
  - b. A height of 18 feet for a detached ADU on a lot with an existing or proposed single-unit or multi-unit dwelling unit that is within one-half mile distance of a major transit stop or a high-quality transit corridor, as defined in California Public

Resource Code Section 21155. An additional two feet in height shall be allowed to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

- c. A height of 18 feet for a detached ADU on a lot with an existing or proposed multi-unit, multi-story dwelling.
- d. A height of 30 feet (25 feet if located within the Hillside Overlay Zone) or the height limitation in the applicable zoning district, whichever is lower, for an ADU that is attached to a primary dwelling. The attached ADU may not exceed two stories.

5. Entrance. The entrance to the ADU should not face the same public street as the entrance to the single-unit dwelling, if feasible.

G. Development Standards for Junior Accessory Dwelling Units. A junior accessory dwelling unit shall be constructed only in accordance with the following development standards:

- 1. Maximum Size. The JADU shall not exceed 500 square feet of interior livable space in area. JADUs shall be exempt from floor area and lot coverage requirements when it is part of an existing single-unit dwelling.
- 2. Kitchen. The JADU shall contain an efficiency kitchen satisfying the following the criteria:
  - a. Contains a sink and cooking facility with appliances (e.g., microwave, toaster oven or hot plate).
  - b. Contains a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- 3. Bathroom. The JADU may have a separate bathroom or may share a bathroom with the single-unit dwelling. The bathroom shall contain a sink, toilet, and shower or tub. If the bathroom is shared, there must be an interior entry to the main living area of the single-unit dwelling.
- 4. Entrance. The JADU shall have a separate exterior entrance from the main entrance to the existing or proposed single-unit dwelling. A passageway from the ADU to a public street may be created but shall not be required.
- 5. A JADU is not considered a separate or new dwelling for purposes of fire safety or life safety. Fire sprinklers are not required for a JADU if the primary residence does not have fire sprinklers. The creation of a JADU does not trigger the requirement for fire sprinklers.

H. Parking.

- 1. Unless otherwise provided in this section, one off-street parking space shall be provided for the ADU in addition to the off-street parking spaces required for the single-unit dwelling or multi-unit residential structure. All parking shall be provided on a hard, all-weather surface.
- 2. The parking space may be provided in setback areas or as tandem parking unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

3. No parking shall be required for an ADU in any of the following instances:
  - a. The ADU is located within one-half mile distance of public transit. For the purposes of this section only, public transit is defined as a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
  - b. The ADU is located within an architecturally and historically significant historic district.
  - c. The ADU is part of the proposed or existing primary residence or an existing accessory structure.
  - d. When on-street parking permits are required but not offered to the occupant of the ADU.
  - e. When there is an established car share vehicle stop located within one block of the ADU.
  - f. When a permit application for an ADU is submitted with an application for a new single-unit dwelling or a new multi-unit dwelling on the same lot and meets one of the other requirements listed in subsections a. through e. above.
4. No parking shall be required for a JADU and any parking displaced by its construction, including conversion of all or part of an existing attached garage, are not required to be replaced.
5. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

#### I. Utilities and Impact Fees.

1. No ADU or JADU shall be permitted if it is determined that there is not adequate water or sewer service to the property, as determined by the City.
2. Except as provided in subsection 1.3, an ADU may be required to have a new or separate utility connection, including a separate sewer lateral, between the ADU and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the ADU or its drainage fixture unit (DFU) values. Separate electric and water meters shall be required for the ADU.
3. The following ADUs shall be exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges:
  - a. Junior accessory dwelling units.
  - b. ADUs converted from interior space of an existing single unit dwelling or existing accessory structure, unless the unit is constructed within a new single-unit dwelling.

4. Impact Fees.

- a. No impact fees may be imposed on ADUs that have 750 square feet or less of interior livable space or JADUs that have 500 square feet or less of interior livable space are less than 750 square feet in size. For purposes of this section, "impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.
- b. For ADUs that have a floor area of more than 750 square feet of interior livable space or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

J. Delay of Enforcement of Building Standard.

1. Prior to January 1, 2030 when the Chief Building Official provides a notice to correct a violation of any building standard, the Chief Building Official shall include in that notice a statement that the owner of the ADU has a right to request a delay in enforcement if the ADU that was built prior to January 1, 2020 or built when the City had a noncompliant ADU ordinance. The owner of the ADU may submit a written request to the Chief Building Official requesting that correction of any violation of building standards be delayed for five years. For purposes of this section, "building standards" refers to those standards enforced by local agencies under the authority of Section 17960 of the California Health and Safety Code.
2. The Chief Building Official will grant the application if the Chief Building Official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the Chief Building Official will consult with the Fire Marshal.
3. No applications pursuant to this section shall be approved on or after January 1, 2030. However, any delay that was approved by the City before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the approval of the application.
4. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an ADU built prior to adoption of the ordinance codified in this chapter, shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an ADU pursuant to this Section.

K. Unpermitted ADUs and JADUs.

1. Notwithstanding any other law, and except as otherwise provided in subsection 2. below, the City shall not deny a permit for an unpermitted ADU or unpermitted JADU that was constructed before January 1, 2020, due to either of the following:
  - a. The ADU or JADU is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.
  - b. The ADU or JADU does not comply with Government Code Sections 66310-66341 or this Chapter.

2. Notwithstanding subsection K.1. above, the City may deny a permit for an ADU or JADU subject to subsection K.1. if the City makes a finding that correcting the violation is necessary to comply with the standards specified in Health and Safety Code Section 17920.3.
3. A homeowner applying for a permit for a previously unpermitted ADU or JADU constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Health and Safety Code Section 17920.3 and when the fee is authorized by subsection I.
4. Subject to subsection K.3. above, upon receiving an application to permit a previously unpermitted ADU or JADU constructed before January 1, 2020, an inspector from the City may inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the City shall not penalize an applicant for having the unpermitted ADU or JADU and shall approve necessary permits to correct noncompliance with health and safety standards.

(Ord. 2000 § 2, (2021); Ord. 2035, 12/16/2024)

#### **§ 25.48.040. Adult Entertainment Businesses.**

A. Purpose. It is the intent of this section to prevent community-wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods that can be brought about by the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, places of religious assembly, City athletic facilities, and residentially zoned districts or uses. The Council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area and an increase in crime, and in addition to the effects described above, can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this section to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas.

B. Definitions. The following definitions apply to this section:

"Adult-oriented business" or "adult-oriented businesses" has the same meaning as defined in Section 25.106.020 (Definitions) of this code and incorporating into that term the definitions contained in that section.

"Places of religious assembly" are structures that are used primarily for religious worship and related religious activities.

"City athletic facility" means an athletic facility operated by or for the City and that regularly attracts minors to participate in or witness athletic skills or competition. The definition does not include a passive recreation area, such as open space, or a bicycle path, or similar trail or walking area.

"Establish" means and includes any and all of the following:

- a. The opening or commencement, or re-opening or recommencement, of any adult-oriented business as a new or restarted business; or
- b. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business as defined in this section; or
- c. The addition of any of the adult-oriented businesses defined in this section to any other existing adult-oriented business; or
- d. The relocation of any such adult-oriented business.

"School" means any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

C. Location Requirements.

- 1. No adult-oriented business shall be established or located in any zoning district in the City other than the Bayfront Commercial (BFC) zoning district.
- 2. Within this designated zoning district, an adult-oriented business shall not be established or located within the following minimum distances:
  - a. Within 1,000 feet of any other adult-oriented business.
  - b. Within 1,000 feet of any then-existing place of religious assembly, school, or City athletic facility.
- 3. The distances set forth above shall be measured as a radius from the property lines on which the adult-oriented business is located to the property lines of the property so used without regard to intervening structures.

D. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this section or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this section or any part thereof. The Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

(Ord. 2000 § 2, (2021))

**§ 25.48.050. Alcohol Sales.**

- A. Purpose. This section establishes regulations governing alcohol sales for off-site consumption.

B. Performance Standards. Alcohol sales for off-site consumption~~Off-site sales of alcohol~~ shall comply with the following requirements:

1. No noise shall be audible beyond the area under the control of the alcohol licensee(s).
2. The licensee(s) shall be responsible for maintaining, free of litter, the area in front of and adjacent to the premises over which they have control.
3. Graffiti shall be removed from the premises and all parking lots under the control of the licensee(s) within 72 hours of application. If the graffiti occurs on a Friday or weekend day, or on a holiday, the licensee(s) shall remove the graffiti within 72 hours following the beginning of the next weekday.
4. The exterior of the premises shall be equipped with lighting of sufficient illumination power to ~~illuminate and~~ make easily discernible the appearance and conduct of all persons on or about the premises. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.
5. Loitering (loitering is defined as "to stand idly about; linger aimlessly without lawful business") is prohibited on any sidewalks.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.060. Cannabis (Marijuana) Regulations.**

A. Purpose. This section establishes regulations governing cultivation, possession, manufacture, distribution, processing, storing, labeling, or sale of cannabis (commonly known as "marijuana") and cannabis products, whether for medicinal or adult use. The City finds it necessary to establish such regulations in the interest of the public health, safety, and welfare to regulate all cannabis-related activities.

B. Applicability. This section shall apply to the establishment of all land uses related to cannabis and cannabis products, whether for medicinal or adult use.

C. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

"Cannabis" (also known as "marijuana") means any or all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not, the seeds thereof, the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" shall not include industrial hemp, as defined in Health and Safety Code Section 11018.5.

"Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

"Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, labeling, or sale of cannabis and cannabis products for commercial purposes, whether for profit or nonprofit, and for which a state license is required under

Business and Professions Code Section 26000 et seq. Commercial cannabis activity shall not include delivery of cannabis and cannabis products as "delivery" is defined in State law.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Fully enclosed and secure structure" means a code-compliant space within a building, greenhouse, or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more locking doors.

"Indoor" means within a fully enclosed and secure structure as defined herein.

"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

D. Prohibited Activities. To the fullest extent permitted by law, all personal and commercial cannabis activities and commercial cannabis businesses are prohibited in all zoning districts, except as explicitly permitted in this section.

This section acknowledges that commercial cannabis activity is illegal under federal law, while granting limited immunity from local prosecution to those medical and nonmedical cannabis activities that do not violate the restrictions and limitations set forth in this section or California law.

E. Non-storefront Cannabis Retail Delivery. Non-storefront cannabis retail delivery is permitted in the City subject to the following requirements:

1. Zoning Districts Where Permitted.

- a. Delivery Permitted. Commercial delivery of cannabis to a fixed address within City limits is permitted throughout the City except at the following locations: schools, day care centers, youth centers, public parks and open space, public buildings, and eating or drinking establishments. All deliveries must be to a fixed address.
- b. Fixed Location Non-storefront Cannabis Retail Delivery Permitted. Fixed locations for non-storefront cannabis retail delivery businesses are prohibited everywhere in the City except in the Innovation Industrial (I-I) zoning land use district ~~-(Rollins Road (RR) and Inner Bayshore (IB) zoning districts)~~.

2. Conditional Use Permit Required. Fixed locations for non-storefront cannabis retail delivery businesses are only permitted in the zoning districts specified above with a conditional use permit approved by Planning Commission.
3. Distance Requirements. Fixed locations for non-storefront cannabis retail delivery businesses shall be sited a minimum of 600 feet from residential uses, schools, day care centers, and youth centers.
4. Operational Standards.
  - a. Operator Permits. All non-storefront cannabis retail delivery operations must

obtain and maintain a valid operator permit issued by the City pursuant to this section.

- b. Compliance with Law. All non-storefront cannabis retail delivery activities must be conducted in accordance with all applicable State laws and regulations, as may be amended from time to time, and all applicable local laws and regulations.
- c. Visibility. All cannabis, cannabis products, and any aspect of the delivery of cannabis that indicates the type of product(s) being delivered shall not be visible from the public right-of-way, exterior of a structure, and/or vehicle(s) where those commercial cannabis activities take place.
- d. All fixed location non-storefront cannabis retail delivery operations must comply with the provisions of a fire safety plan ensuring compliance with all applicable Fire Code and Building Code requirements prepared by a third-party engineer and approved by the City.
- e. Security in Vehicle.
  - i. All cannabis and cannabis products shall be stored in a lockbox that is permanently secured to the vehicle during transport.
  - ii. All delivery vehicles shall include video and audio monitoring equipment that retains recordings for 30 days, has date and time stamped recordings, and video overlays that indicate which vehicle the recording is from.
  - iii. All delivery vehicles must be plainly marked and not include any overt or obvious indications of the products being distributed.
- f. Security at Fixed Location Non-Storefront Cannabis Retail Delivery Business Locations. All fixed locations for non-storefront cannabis retail delivery businesses within the City must implement and maintain a security plan and surveillance system that complies with the requirements outlined in subsection M.1 of this section.
- g. In-Transit Requirements.
  - i. Delivery vehicles may only travel between the delivery business locations and drop-off destinations while transporting cannabis and/or cannabis products.
  - ii. Deliveries are only permitted during the hours specified under State law and/or regulations.
  - iii. Only operators and/or employees of operators may be present in the delivery vehicle while transporting cannabis or cannabis products.
  - iv. All drivers shall carry valid identification and proof of employment at a permitted delivery facility.
  - v. All drivers shall carry an inventory log of cannabis and cannabis products being transported.

- h. Vehicle Registration with Burlingame Police Department. All delivery vehicles must be registered with the Burlingame Police Department.
- i. Recordkeeping Requirements. Operators shall keep the following records:
  - i. All delivery vehicle maintenance records.
  - ii. All delivery vehicle ownership records.
  - iii. All shipping manifests for completed and in-transit deliveries.
  - iv. A contemporaneous inventory log.
  - v. Delivery log including location, time and delivery driver.
  - vi. Quality-assurance details for all cannabis and cannabis products stored and/or delivered by operator, destruction or loss of any cannabis and/or cannabis products.
- j. Operating Agreement. The City shall require delivery-only operations to enter into an operating agreement with the City, pursuant to subsection F, below.

F. Operator Permit Required. No person shall engage in commercial cannabis activity or operate a commercial cannabis business pursuant to this section without possessing a valid operator permit from the City and without possessing all other approvals or licenses that may be required pursuant to State law and regulations.

- 1. Additional permits or entitlements may be required depending on construction or improvements necessary for a building or site.
- 2. Regardless of the number of sites zoned for commercial cannabis operations in the City, the total number of commercial cannabis operator permits granted for each State license type may be established or limited by City Council Resolution.
- 3. The City may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this section, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of the Burlingame Municipal Code, or any other local, State or Federal law.
- 4. No property interest, vested right, or entitlement to receive a future permit to operate a commercial cannabis use shall ever inure to the benefit of such operator permit holder, as such permits are revocable. Operator permits issued pursuant to this section are specific to the operator, do not run with the land and are not transferable.

G. Permit Types. Prior to engaging in any commercial cannabis business, individuals must obtain an operator permit from the City corresponding to the category of activity or enterprise. The following permit types are available in the City:

- 1. Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit (Address Within Permitted Zoning Land Use District in City).
- 2. Cannabis Delivery Only Operator Permit (Commercial Cannabis Business Delivering

to City Address). This permit shall only be issued to retail operations holding a valid license or permit for retail sale of cannabis issued by the State of California and by the local jurisdiction where the retail operation is located.

H. Operator/Permit Holder Qualifications. All operator permit holders must meet the following minimum qualifications. The City reserves the right to require additional qualifications through the operator permit application procedures.

1. Operator permit holders and all employees and agents of said commercial cannabis business must be 21 years of age or older.
2. Operator permit holders and all employees and agents of said commercial cannabis business shall be subject to a background check by the California Department of Justice and local law enforcement.
3. Operator permits for commercial cannabis uses shall not be issued to any operators who have been convicted of a violent felony or any operators that have employees or agents that have been convicted of a violent felony. In addition, permits for commercial cannabis uses shall not be issued to operators (or operators that have employees or agents) who have been convicted of crimes (whether felony or misdemeanor) that involve crimes of moral turpitude.
4. Operator permit holders must meet the minimum qualifications established by this chapter and by the State for the applicable State license type.

I. Operator Permit Application. All applicants must submit applications to the Community Development Director. Any confidential information submitted by applicants pursuant to this section shall be marked as such. Confidential information submitted to the City may be withheld from public disclosure in accordance with applicable law. Applications shall include, at a minimum, the following:

1. Business Operators' Information. All necessary information related to the business operator, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last 10 years, investor and/or partner information, and Assessor Parcel Number (APN) number of the parcel upon which the business will be located. Such private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.
2. Payment of Application Fee. Applicants shall submit the application fee amount with their applications.
3. Business License. Each applicant shall submit proof that either the City has issued the applicant a business license or proof that the applicant has submitted a City business license application.
4. Signed Indemnity Provision. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, operators shall defend (with counsel acceptable to the City),

indemnify and hold harmless the City of Burlingame, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called "City") from any liability, damages, costs, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, prosecutions for violations of State or Federal law, or judgments (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") caused, in whole or in part, by operator's operation of a commercial cannabis business in the City or associated with any action against the City to attack, set aside, void or annul, any cannabis-related approvals and/or determinations. The City may elect, in its sole discretion, to participate in the defense of said action, and the operator shall reimburse the City for its reasonable legal costs and attorneys' fees. Operators shall be required to agree to the above obligations in writing and submit said writing as part of the operator permit application.

5. Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit Applications. Such applications also require:
  - a. Property Owner Permission. Written (and notarized) permission from the property owner and/or landlord to operate a commercial cannabis use on the site.
  - b. Employee Roster. Each application shall submit an employee roster with the names and birth dates of each proposed employee of the operation with a signed authorization from each such employee authorizing the City to conduct a background check.
  - c. Operating Plan. Each application shall submit a detailed operating plan identifying the features of the proposed business.
  - d. Security plan as required under subsection M.2 of this section.
  - e. Site Plans. Each application shall submit a detailed site plan identifying the layout and configuration of the proposed operation, as well as any proposed improvements to the site.
  - f. Proof of Notice. Applicants must provide notice to properties and property owners within 300 feet of the boundaries of the property upon which the commercial cannabis business is proposed at least 15 days prior to submission of an application for a permit and must include proof of such notice with the operator permit application.
  - g. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all Federal, State, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any Federal, State, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
  - h. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the City of

Burlingame pertaining to the establishment and operation of the commercial cannabis use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the operator permit shall, in no way, permit any activity contrary to the Burlingame Municipal Code, or any activity which is in violation of any applicable laws.

J. Permit Issuance, Validity, Rejection of Application, Revocation, Suspension, Renewal, and Transfer.

1. Cannabis Operator Permit Issuance. Cannabis operator permits shall require approval of Community Development Director or designee. Permit applicants must meet all operator and application requirements to be considered for permit issuance.
  - a. Cannabis operator permits shall be valid for one year from the date of issuance.
  - b. The City shall not issue any cannabis operator permit until the necessary State license(s) is obtained.
  - c. No Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit may be issued until the applicant obtains a conditional use permit from the Planning Commission.
  - d. No cannabis operator permit shall be issued until the operator has paid all required fees and applicable local and State taxes. Cannabis operator permit fees shall be set by resolution of the City Council.
2. Operator Permit Issuance Procedure. The Community Development Director, or designee, may design application forms and procedures specific to each permitted license type and require inspections of proposed facilities before issuing a permit under this section.
  - a. Applications shall be reviewed by City staff, as designated by the Community Development Director for completeness, sufficiency, and consistency with minimum qualifications. Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit applicants failing to meet minimum qualifications or application requirements will not be permitted to seek a conditional use permit from the Planning Commission.
  - b. Relevant City staff will engage in an inspection of the site and/or delivery vehicles to ensure compliance with the requirements of this chapter.
  - c. If staff determines that a Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit applicant meets the minimum qualifications and the application complies with all of the requirements outlined in subsection ED of this section and other applicable provisions of this chapter, said operator permit application will be granted pre-clearance and the applicant will be authorized to seek a conditional use permit from the Planning Commission. The applicant must seek a conditional use permit within one year from the date pre-clearance is issued. If an applicant has not sought a conditional use permit within the one-year period, the applicant's pre-clearance status will expire and a new application will have to

be submitted in order to seek a conditional use permit. The Director may, in his or her sole discretion, extend an applicant's pre-clearance status if the Director determines that there is a reasonable basis for the delay and the information contained in the initial application is still accurate.

- d. If a pre-cleared applicant successfully obtains a conditional use permit from the Planning Commission, the applicant will be issued an operator permit. If a pre-cleared applicant fails to obtain a conditional use permit, the City will not issue that applicant an operator permit.
3. Rejection of Applications/Revocation or Suspension of Operator Permit. The Community Development Director, or designee, has the authority and discretion to reject, suspend or revoke any application or permit. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit. Grounds for rejection of application or suspension/revocation of permit, include, but are not limited to:
  - a. Providing incomplete, late, or unresponsive applications.
  - b. Making false or misleading statements to the City.
  - c. Any owner, employee, or agent having been convicted of a violent felony or crime of moral turpitude.
  - d. Any owner has had a cannabis-related license or approval revoked from another jurisdiction.
  - e. Failure to comply with any provisions of this chapter, the Zoning Code, State law, or any other applicable laws or regulations.
  - f. Unpaid fees, fines, or administrative penalties.
  - g. Facts or circumstances exist which indicate that the operation does or would very likely constitute a threat to public health, safety and/or welfare.
  - h. Failure to obtain the necessary planning approvals or revocation of said planning approval in accordance with this chapter and the Zoning Code.
  - i. The operation as proposed would violate any provision of State or local laws or regulations.
  - j. Failure to implement and maintain a Security Plan in conformance with subsection M.2 of this section.
  - k. Failure to implement and maintain a Fire Safety Plan in conformance with this chapter.
  - l. The applicant has engaged in unlawful, fraudulent, unfair or deceptive business acts or practices.
  - m. The applicant's State license for commercial cannabis operations is suspended or revoked. The City shall not reinstate the permit until documentation is received

showing that the State license has been reinstated or reissued. It shall be up to the City's discretion whether the City reinstates any permit.

- n. State law permitting the use for which the permit was issued is amended or repealed resulting in the prohibition of such use, or the City receives credible information that the Federal government will commence enforcement measures against such businesses and/or local governments that permit them.
- 4. **Renewal.** Operators must renew operator permits each year to continue operating in the City. The Community Development Director shall have the authority and discretion to design renewal application procedures. Any renewal application shall require a site and/or vehicle inspection and submission of all information specified in subsection J of this section and approval of said application in accordance with the provisions of this chapter.
- 5. **Transfer.** Operator permits are personal to the operator and are nontransferable. In the event that an operator sells, disposes of or otherwise conveys a cannabis business in the City, the purchaser or successors-in-interest shall obtain a new operator permit from the City prior to commencing operations. Purchasers and/or successors-in-interest are not required to obtain new conditional use permits for existing cannabis businesses provided that the transfer of the business occurs during the five-year term of the conditional use permit.

K. **Operating Agreement.** The City shall require an operating agreement as a condition of receiving an operator's permit. Such operating agreement shall set forth the terms and conditions under which the commercial cannabis activity will operate, that are in addition to the requirements of the Burlingame Municipal Code. The terms and conditions may include, but are not limited to, the payment of fees, charges, and contributions as mutually agreed, and any such other terms which promote the public health, safety, and welfare and mitigate negative impacts of such use.

L. **Appeals.** Applicants/operators may appeal the denial, suspension or revocation of a cannabis operator permit by filing a written notice of appeal with the City Manager or designee within 10 days after receipt of a denial or order of suspension or revocation from the Community Development Director. The City Manager or designee shall hold a hearing within 30 days of receiving the request for appeal where the applicant and the City may present evidence regarding the denial, suspension, or revocation of the permit. The City Manager or designee shall render his or her decision in writing on the appeal within 45 days after the date of the hearing. Said decision shall be final and no appeal may be taken to the City Council.

M. **Commercial Cannabis Operation Security Requirements.**

- 1. **Approval of Security/Surveillance Plan.** All applicants for a Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permits must submit a security plan demonstrating compliance with the provisions of this section. Prior to the issuance of any permit, the Chief of Police, or designee, must approve the security plan. Said plan must, in the Chief's determination, demonstrate the applicant's ability to operate a safe operation that does not encourage criminal activity and prevents the theft or diversion of cannabis.

2. Mandatory Elements of the Security Plan. To be eligible for approval, the security plan must provide for all the following components:

- a. Robbery Alarm System. Installation and maintenance of a central station silent robbery alarm system that is hidden from plain view, but easily accessible to authorized personnel. Alarm systems shall be installed and maintained in compliance with the Burlingame Municipal Code.
- b. Burglary Alarm System. Installation and maintenance of a central station silent intrusion alarm system. The silent intrusion alarm system shall include contact sensors covering each entrance/exit, each skylight, as well as interior motion sensors. Alarm systems shall be installed and maintained in compliance with the Burlingame Municipal Code.
- c. Security Guards. Employment of at least one uniformed security guard present during normal business hours to include one-half hour before and after normal business hours. The security guard shall be charged with preventing violations of the law, reporting suspicious persons, vehicles, circumstances, and all criminal offenses to the Police Department. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of the State law. The sole purpose of the security guard shall be to provide for the protection and safety of the business and its authorized personnel and said guard shall not be required to perform additional, non-security related duties within the business. The Chief of Police reserves the right to review the number of guards and may require that the number of guards be increased or decreased as necessary.
- d. Recordkeeping/Product Tracking. Implementation of a recordkeeping/product tracking system to ensure that all cannabis is accounted for and any loss or theft is easily discoverable in accordance with State law. These records shall be kept for at least one year.
- e. Employee Roster. Operator must keep a current and updated employee roster on-file with the Police Department with the names and addresses of all operator's employees.
- f. Video Surveillance System. Installation of a video surveillance system meeting the following criteria:
  - i. Cameras that record at a resolution of 1280 x 720 or higher;
  - ii. Cameras that record in accurate color with a surveillance monitor that displays in accurate color;
  - iii. Sufficient storage capacity to retain data from all cameras for a period of 30 days;
  - iv. An on-site monitor no smaller than 15 diagonal inches for viewing of images;
  - v. The ability to view and record footage at the same time;

- vi. Accurate time and date stamps on recorded video images;
- vii. Locked and secure location of system to prevent destruction or tampering from customers or employees. Access to the system shall be restricted to management;
- viii. Cameras with clear and unobstructed view of the desired coverage areas;
- ix. A dedicated and secured power source to prevent intentional or accidental deactivation; and
- x. Separate cameras dedicated to each processing area, loading or shipping area, each entrance/exit of the business, and the parking lot. The cameras shall be placed in locations that allow a clear, unobstructed view of the desired locations and shall be periodically evaluated to ensure compliance. Enough cameras shall be placed at each location to cover the entirety of the intended area to be captured.

- g. Prohibition on External Signage. The business shall not display any external signage or other visual clues as to the nature of the business, including, but not limited to, green lights, depictions of marijuana leaves, "420," or other common terms or symbols associated with cannabis.
- h. Prohibition of On-Site Sales/Public Access. No access by the general public may occur. No on-site sales to any customers may occur.
- i. Prohibition on Delivery Vehicle Signage. No pickup or delivery vehicles may contain or depict any signage or other visual clues as to the nature of the business, including, but not limited to, green lights, depictions of marijuana leaves, "420," or other common terms or symbols associated with cannabis.
- j. Prohibition on Cannabis in Plain View. All cannabis, cannabis products, and any aspect of the commercial cannabis operation that indicates the type of product(s) inside shall not be visible from the public right-of-way, exterior of the structure, and/or vehicle(s) where those commercial cannabis activities take place.
- k. Prohibition on Advertising Business Address. The business shall not identify the business address in any communications, advertisements and marketing, as required under Chapter 15 of Division 10 of the California Business and Professions Code. The business may only display the business name and license number.
- l. Unauthorized Access. All entrances to the building shall remain locked at all times to prevent unauthorized access from the exterior. The business shall utilize an electronic card key system to allow access for authorized personnel. The system shall record and log all entries/exits from the premises and such records must be retained for one year by the system.
- m. Security of Loading/Shipping Areas. Loading/shipping areas shall have a double security door design that securely isolates the loading/shipping area from the main

warehouse/processing area of the building when pickups or deliveries are made.

- n. Drop Safes. Each cannabis business shall install, maintain, and use a time delay drop safe to store cash and limit the risk of robbery. Time delayed drop safes shall be rated at UL TL-15 or higher.
- o. Odor Control System. The business shall install, maintain, and use an odor control system to prevent cannabis odors from escaping and being detected within 10 feet outside the building.
- p. Implementation and On-Going Compliance. All businesses must implement and maintain the security systems and equipment required by this chapter in strict accordance with the approved security plan prior to commencing operations. If a business subject to this chapter does not meet or maintain the security standards required by this chapter, the business must take immediate steps to bring the security requirements into conformance with the provisions of this chapter. Failure to comply with the requirements of an approved security plan is grounds for revocation of a permit and cessation of operations.

N. Indoor Cultivation of up to Six Living Plants for Personal Use Permitted. Indoor cultivation of no more than six living cannabis plants for personal use is permitted in all zoning districts. No more than six living cannabis plants may be possessed, planted, cultivated, harvested, dried, or processed within a private residence at any one time, including within an accessory structure to a private residence that is fully enclosed and secure. The plants shall not be visible from a public place. Persons engaging in indoor cultivation must comply with State and local laws, including all applicable building, electrical fire, and water codes and regulations.

O. Public Nuisance. The establishment, maintenance or operation of a cannabis retail establishment, manufacturing facility, testing facility, distribution facility, delivery-only operation, indoor commercial cultivation operation, outdoor cultivation of cannabis or any other commercial cannabis activity in violation of or in non-compliance with any of the requirements of this chapter or applicable provisions of State law or the Burlingame Municipal Code, is declared a public nuisance and, in addition to or in lieu of prosecuting a criminal action, shall be subject to any enforcement or abatement remedies available under the law and/or the Burlingame City's Municipal Code. In addition, the City may enforce the violation of this chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction or by any other means authorized by the law.

P. Administrative Procedure. The City Manager may adopt reasonable administrative procedures necessary to implement this section.

Q. Conflict of Laws. In the event that any provision of this chapter is in conflict with State law or regulations, as may be amended from time to time, said State law or regulation shall control to the extent that said State law or regulation preempts local regulations. In the event of such preemption, all remaining portions of this chapter shall remain valid and enforceable.

(Ord. 2000 § 2, (2021))

**§ 25.48.070. (Reserved)**

### **§ 25.48.080. Communal Housing.**

- A. Purpose. This section is intended to support housing options that can reduce housing costs by providing smaller units and that can provide opportunities for residents to engage communally and offer supportive services to each other, all while maintaining the residential character of the neighborhoods in which such housing is located.
- B. Standards. Communal housing units shall be developed, located, and operated in compliance with the following:
  - 1. Density Calculation. For the purpose of establishing allowable density, each bedroom of a communal housing project that is less than 400 square feet in size shall be considered equivalent to 0.5 residential density units.
  - 2. Unit Configuration.
    - a. Access. Entry access to all tenant rooms shall be through the interior of the building. No exit doors from individual tenant rooms shall lead directly to the exterior of the building.
    - b. Congregate Dining Facility. Where individual units do not include kitchen facilities, at least one congregate dining facility shall be located on site for use by residents.
    - c. Bathrooms. Where individual units do not include bathrooms, each floor must contain at least one fully equipped bathroom, accessible from a common hallway, for every three units.
  - 3. Operational Plan. The Review Authority may request an operational plan that identifies roles and responsibilities, contact information, and operations. The operational plan may include, but is not limited to, how the applicant shall address the following:
    - a. On-Site Staff. On-site staff to provide security, property management, and oversight of resident conduct, including designation of a manager to serve as a liaison with the City.
    - b. Resident Responsibilities Policy. A policy defining resident responsibilities and behavioral expectations, as well as response to policy infractions.

(Ord. 2000 § 2, (2021))

### **§ 25.48.090. Day Care Centers.**

- A. BFC Zoning District Pick-Up and Drop-Off Plan. Day care centers in the Bayfront Commercial (BFC) zoning district shall be required to submit to the Director a plan and schedule for the pick-up and drop-off of children.
  - 1. Adequate Parking and Loading. The plan shall demonstrate that adequate parking and loading are provided to minimize congestion and conflict points on travel aisles and public streets.
  - 2. Client Agreement. The plan shall include an agreement for each parent or client to sign

that includes, at a minimum:

- a. A scheduled time for pick-up and drop-off with allowances for emergencies; and
- b. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

B. Day Care Centers in Other Zoning Districts. Day care centers, where permitted in any other zoning district other than BFC, shall indicate on site plans submitted with applications the planned locations of pick-up and drop-off areas.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.100. Emergency Shelters—Permanent.**

- A. Purpose. The requirements of this section apply only to permanent emergency shelters where permitted or conditionally permitted—pursuant to Article Division 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Standards. Emergency shelters shall conform to all property development standards of the applicable zoning district, except as modified by these performance standards. The following standards shall apply:
  1. Smoking Areas. Shelters shall have designated smoking areas that are not visible from the street and that comply with all other laws and regulations.
  2. Outdoor Areas. There shall be no space for outdoor congregating in front of the building and no outdoor public telephones.
  3. Refuse Area. There shall be a refuse area screened from view.
  4. Maximum Number of Persons/Beds. The emergency shelter shall contain no more than 24 beds.
  5. Exterior and Interior On-site Waiting and Client Intake Areas. Shelters shall provide a minimum of 100 square feet of interior on-site waiting and client intake space. In addition, there shall be at least two office areas provided for shelter staff. Waiting and client intake areas may be used for other purposes as needed during operations of the shelter.
  6. On-Site Management. On-site management and on-site security shall be provided during hours when the emergency shelter is in operation. The shelter shall be operated by a responsible agency or organization with experience in managing or providing social services.
  7. Distance to Similar Facilities. The shelter shall not be located within 300 feet one-half mile from any other emergency shelter.
  8. Length of Stay. No individual resident shall be permitted to reside in the shelter for more than 60 consecutive days and a total of 120 days within a calendar year. Extensions up to a total stay of 180 days in a calendar year may be provided if no alternative housing is available.

9. Management Plan. A management plan shall be required to address how the immediate sheltering needs of individuals who may be turned away from the shelter will be handled.
10. Parking. Parking shall be provided as set forth in Chapter 25.40 (Parking Regulations).  
(Ord. 2000 § 2, (2021))

#### **§ 25.48.110. Emergency Shelters—Temporary.**

- A. Purpose and Applicability. The requirements of this section apply only to temporary emergency shelters where permitted or conditionally permitted pursuant to Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Standards.
  1. Accessory Use. Temporary emergency shelters shall be permitted only as an accessory use to a permitted place of religious assembly or use operated by a nonprofit organization or government agency.
  2. Performance Standards. Temporary emergency shelters shall comply with the provisions of Section 25.48.100 (Emergency Shelters—Permanent), except subsections B.1, B.2, B.3, and B.5 shall not apply.
  3. Time Limit. Temporary emergency shelters shall operate for no more than six months within any consecutive 12-month period.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.120. Entertainment Businesses.**

The provisions of Chapter 6.16 (Entertainment Businesses) of the Municipal Code shall apply.  
(Ord. 2000 § 2, (2021))

#### **§ 25.48.130. Fortunetelling and Psychic Service.**

The provisions of Chapter 6.38 (Fortunetelling and Psychic Service) of the Municipal Code shall apply.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.140. (Reserved)**

#### **§ 25.48.150. Live/Work Units.**

- A. Purpose and Applicability. The requirements of provisions in this section shall apply to live/work units, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards). The development standards of this section are intended to facilitate the creation of new, adaptable live/work units in a manner that preserves the surrounding character, supports enhanced street level activity, maintains a consistent urban streetwall, and orients buildings and pedestrians toward public streets. Live/work units are intended to be designed with adequate workspace, higher ceilings, larger doors, sufficient natural light, open floor plans, and equipped with nonresidential finishes and features that support arts and production activities.

- B. Density/Floor Area Allocation. Live/work units consistent with the provisions of this section may be apportioned from the residential component and/or nonresidential allocations for a property. If apportioned from the residential component, the density shall be limited per the requirements of the zoning district.
- C. Limitations on Use. The nonresidential component of a live/work unit shall be a use allowed within the underlying zoning district pursuant to Article 2 (Zoning Districts, Allowable Uses, and Development Standards). Nonresidential/work is not required; however, each unit shall be designed to be adaptable and facilitate work activities per the provisions in this section. Nonresidential/work shall comply with the provisions of Chapter 25.72 (Home Occupation Permits).
- D. Floor Area Requirement. A live/work unit shall have a minimum floor area of ~~at least~~ 750 square feet. At least 150 square feet of a live/work unit shall be designated as suitable for workspace, and measure not less than 15 feet in at least one dimension and no less than 10 feet in any dimension. The area suitable for workspace for each unit shall be clearly demarcated on approved building plans.
- E. Separation of and Access to Individual Units. Access to each individual live/work unit shall be provided from shop fronts, directly from the sidewalk parallel to the primary or secondary street, or from common access areas, corridors, or halls. The access to each unit shall be clearly separate from other live/work units or other uses within the building.
- F. Location of Living Space – Ground Floor Units. Ground floor live/work units shall designate the front 20 feet of the unit as area suitable for workspace to maintain activity and commercial access along the frontage. Dedicated living space may be located in the rear portion of the ground level, provided the front 20 feet of the unit is designated as suitable for work.
- G. Ceiling Height. Ground floor live/work units shall have floor to ceiling height of 15 feet or greater, measured from top of floor to bottom of ceiling. Upper floor live/work units shall have floor to ceiling height of 10 feet or greater. A mezzanine space shall not be included in the calculation of minimum height for any floor or level.
- H. Integration of Living and Working Space. Areas within a live/work unit that are designated as living space shall be an integral part of the live/work unit and not separated (or occupied and/or rented separately) from the area designated for workspace.
- I. Client and Customer Visits. Client and customer visits to live/work units are permitted. (Ord. 2000 § 2, (2021))

#### **§ 25.48.160. Limited Corner Store Retail.**

- A. Purpose and Applicability. The purpose of this section is to ensure that limited corner store retail, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), provide a local service and are compatible with surrounding and adjacent uses.
- B. Maximum Size. Gross floor area shall not exceed 2,000 square feet per business.

- C. Limitation on Food Preparation and Dining Area. Food preparation and dining space for freshly prepared foods for on-site consumption or take-out shall not exceed 20 percent of the store's gross floor area.
- D. Hours of Operation. Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m.
- E. Security Bars. No permanently ~~installed~~ security bars shall be installed; ~~Only~~ retractable or removable security features may be used.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.170. Low Barrier Navigation Center.**

- A. Purpose and Applicability. The purpose of this ~~S~~ection is to ensure that low barrier navigation centers, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), are allowed consistent with Government Code Section 65660.
- B. Standards. Low barrier navigation centers shall meet the following specific requirements:
  1. Services. Offer services to connect people to permanent housing through a services plan that identifies services staffing.
  2. Coordinated Entry System. Link to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated entry system" means a centralized or coordinated assessment system ~~developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements~~ designed to coordinate program participant intake, assessment, and referrals as defined in 24 C.F.R. (Code of Federal Regulations) 578.3.
  3. Homeless Management Information System. Use a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined ~~in by 24 C.F.R. 578.3. Section 578.3 of Title 24 of the Code of Federal Regulations Section 65664.~~
  4. Housing First. Comply with Housing First pursuant to according to California Government Welfare and Institutions Code Section 8255 ~~et seq.~~
- C. Process. Within 30 days of receipt of an application for a low barrier navigation center development, the Director shall notify the applicant of application completeness pursuant to Government Code Section 65943. Within 60 days of receipt of a completed application for a low barrier navigation center development, the Director shall act upon its review of the application.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.180. Mobile Food Vending.**

- A. Purpose and Applicability. The purpose of this section is to ensure that off-street food trucks, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), are compatible with

surrounding and adjacent uses and do not create an adverse impact on adjacent properties by reason of noise, parking, and litter.

B. Permit and Licenses Required. In addition to obtaining a ~~t~~Temporary ~~u~~Use ~~p~~Permit pursuant to Chapter 25.82 (Temporary Use Permits), ~~O~~perators of food trucks shall comply with the following.

1. Health Permit Required. The food truck operator must have a valid permit issued by the County Department of Health. All required County Health permits must be in the possession of the food truck operator at all times during operations within the City.
2. Business License Required. The food truck operator must have a valid business license issued by the City. As part of its application for a business license, the food truck operator shall furnish to the City evidence of insurance, as deemed acceptable in the reasonable discretion of the City, against liability for death or injury to any person as a result of ownership, operation, or use of its vending vehicles.
3. Duration and Hours of Operation. No food truck shall operate for more than two consecutive days in the same location, and shall only operate between 6:00 a.m. and 11:00 p.m., including set up and clean up. Food trucks operating more than two consecutive days shall require a ~~m~~Minor ~~conditional~~ uUse ~~p~~Permit.
4. Written Approval of Owner. The written approval of the owner of the location shall be obtained. A copy of this approval shall be provided to the Director prior to operating at the location. The food truck operator shall maintain proof of the owner's approval in the vehicle. The person operating the food truck shall present this proof upon the demand of a peace officer or City employee authorized to enforce these provisions.
5. Consolidation. At the discretion of the Director, the following requests may be reviewed and permitted as a single, consolidated operation: (a) requests to operate more than one food truck by the same applicant or food truck business owner, (b) multiple requests for mobile food vending vehicle on a private property; and (c) in conjunction with a ~~t~~Temporary ~~u~~Use ~~p~~Permit for a larger event.

C. Operational Requirements. Food truck operators on private property shall comply with the following requirements:

1. Parking Location. The vehicle shall only be stopped, standing, or parked on surfaces paved with concrete, asphalt, or another all-weather material.
2. Staffing. A minimum of one person shall attend a food truck during the permitted hours of operation.
3. Food. Only the sale of food items for immediate consumption is permitted. Sale of food items in glass containers is prohibited.
4. Vehicle Types. No food may be sold from a vehicle used as a dwelling or as a recreational vehicle. Only commercial vehicles with current registration with the State are allowed to operate as food trucks.
5. Litter Removal. The food truck and surrounding property shall be maintained in a safe

and clean manner at all times. The food truck operator must remove litter caused by its products from any public and private property within a 25-foot radius of the vending vehicle's location.

6. No Discharge of Liquid. The food truck operator shall not discharge any liquid (e.g., water, grease, oil, etc.) onto or into City streets, storm drains, catch basins, or sewer facilities. All discharges shall be contained and properly disposed of by the food truck operator.
7. Noise. The food truck operator shall be subject to the noise provisions set forth in Section 10.40.035 (General Noise Regulations) of the Municipal Code. The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking, or other actions. The operator shall prohibit loitering at the site and shall control noisy patrons on site and those leaving the premises. No amplified music or loudspeakers shall be permitted.

D. Additional Conditions and Requirements. This section permits the Director or designee to exercise the discretion to review and request additional information, take authorized actions, and impose additional conditions that are more restrictive than allowed in this section.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.190. Outdoor Sales, Displays, and Storage.**

- A. Purpose and Applicability. This section provides standards for seasonal sales, as defined in Chapter 25.106 (Land Use Definitions) and where ~~permitted~~allowed in ~~compliance with~~ Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Temporary Sales of Christmas Trees and Other Agricultural Products. Upon approval of a ~~t~~Temporary ~~u~~Use ~~p~~Permit, premises within nonresidential zoning districts may be used for the sale of Christmas trees, pumpkins, flowers, seasonal produce, and the like subject to the following requirements and any other conditions that the Director deems necessary:
  1. Sales shall be limited to Christmas trees, pumpkins, flowers, seasonal produce, and the like and related accessory items only, as specified in the letter of approval.
  2. Sales of Christmas trees shall not be conducted before Thanksgiving or after December 26th. The duration of pumpkin and seasonal produce sales shall be subject to Director approval.
  3. The site shall be maintained in a neat and orderly manner at all times. All sales items, sales equipment, temporary power poles, other temporary structures, and signs shall be kept behind a 10-foot setback from all street rights-of-way, and they shall be removed within 10 days after the close of the sale. Trash and recycling receptacles shall be provided in a convenient location for customers and shall be maintained in a manner such that the receptacles do not overflow.
  4. A camper or trailer for overnight security may be parked on site for the duration of the permit. Any such camper or trailer shall be set back at least 10 feet from the street right-of-way.

5. The applicant may be required to post a refundable deposit, set by the Director, with the Community Development Department to ensure site clean-up. Deposit shall be in the form of a cashier's check or other form acceptable to the Director and shall be made prior to occupying the site.
6. Outdoor sales lots are subject to all fire safety measures, including location of fire extinguishers, as required by the Fire Marshal.
7. Any Christmas trees sold for use in public facilities shall be flame-proofed with a State Fire Marshal-approved material by a State-licensed application.
8. Applicants shall obtain a City business license. A copy of the Director's approval and the business license shall be posted in a conspicuous location at all times when the use is in operation.
9. The applicant shall secure a building permit for any structure requiring a permit and associated with the use. The plan shall show the proposed vehicular circulation pattern, parking layout, and location of structures. Plans shall also demonstrate compliance with Title 24 of the Code of Federal Regulations requirements for handicap accessibility.
10. The use shall comply with all requirements of the County Health Agency.
11. Restroom facilities shall be provided either on site or on a nearby property to the satisfaction of the Chief Building Official.
12. No sales or display shall take place in the public right-of-way.

C. Other Outdoor Sales and Storage.

1. Other outdoor sales and storage shall only be permitted in industrial zoning districts with issuance of a ~~m~~Minor ~~conditional~~uUse ~~p~~Permit. Any outdoor storage of materials shall be limited to the accessory storage of goods sold or utilized by the principal use of the lot where allowed in the zoning district in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). All stored materials shall be entirely screened from view from public rights-of-way by a minimum six-foot high solid fence or masonry wall. No materials shall be stacked or stored to be visible above the fence or wall.
2. Permanent outdoor sales and storage in commercial and mixed-use zoning districts is prohibited.

(Ord. 2000 § 2, (2021))

**§ 25.48.200. Recycling Facilities.**

- A. Purpose and Applicability. The provisions in this section shall apply to recycling facilities, as defined in Chapter 25.106 (Land Use Definitions) and where ~~permitted~~allowed in ~~compliance~~with Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Reverse Vending Machines.
  1. Accessory Use. Reverse vending machines may be installed as an accessory use to an

allowed or conditionally allowed primary use on the same site.

2. Location. Machines shall be located adjacent to or as near as feasibly possible to the entrance of the host use and shall not obstruct pedestrian or vehicular circulation. Machines can be located against a wall but not in parking areas.
3. Identification. Machines shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative.
4. Trash Receptacle. The owner or operator of the property shall provide a minimum 40-gallon garbage can for non-recyclable materials located adjacent to the reverse vending machine.

C. Small Recycling Collection Facilities.

1. Size. Recycling collection facilities shall not exceed a building site footprint of 500 square feet.
2. Equipment. No power-driven processing equipment, except for reverse vending machines, shall be used.
3. Location. Facilities shall be located at least 100 feet away from properties zoned for residential use and cannot occupy parking spaces required for the main use unless a parking study shows available capacity during the hours of recycling facility operation.
4. Setback. Facilities shall not be located within a required setback.
5. Containers. Containers shall be constructed of durable waterproof and rustproof materials and secured from unauthorized removal of material.
6. Identification. Containers shall be clearly marked to identify the type of accepted material, the name and telephone number of the facility operator, and the hours of operation.
7. Site Maintenance. Recycling facility sites shall be maintained clean, sanitary, and free of litter and any other undesirable materials.

(Ord. 2000 § 2, (2021))

**§ 25.48.210. Rental or Lease of Vacant School Properties.**

- A. Purpose and Applicability. The provisions of this section shall apply whenever all or part of real property owned by a public school district is to be rented, leased, or otherwise used for other than public school classroom or administration purposes by that school district.
- B. Conditional Use Permit Required. All uses of real property of a school district, whether individual classrooms or entire sites, other than for public school classroom or administration purposes of the district, shall be conditional uses requiring a eConditional uUse pPermit pursuant to the procedures of Chapter 25.66 (Conditional Use Permits and Minor Use Permits).
- C. General Regulations. Considerations in granting, denying, or conditioning such a permit shall

include, among others:

1. Neighborhood character within the environs of the school site;
2. Proximity to major streets and public transportation;
3. On-site facilities available to the proposed lessee or other organization;
4. Type of activity, hours of operation, and number of employees or others regularly visiting the property;
5. Parking and traffic impacts on adjacent streets;
6. Changes to the existing school district facilities;
7. Possible continued use of the site by neighborhood children and adults;
8. Such neighborhood criteria as may be developed by the school district.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.220. Residential Care Facilities.**

- A. Purpose and Applicability. This section establishes standards for the location, development, and operations for new residential care facilities that serve seven or more persons, as defined in Chapter 25.106 (Land Use Definitions) and where permitted allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). These requirements are in addition to any applicable State and/or Federal requirements.
- B. Management and Operation. The property shall be operated in compliance with applicable State, Federal, and local laws.
- C. Standards. Residential care facilities for seven or more persons shall comply with all of the following.
  1. Setbacks. The setbacks of the underlying zoning district shall apply. However, the Review Authority may establish greater setbacks where deemed necessary for the safety, welfare, and protection of any adjacent property.
  2. Parcel Area. The minimum parcel area for a new residential care facility shall not be less than 20,000 square feet.
  3. Signs. Only one sign per street frontage shall be permitted identifying the facility. All signs shall conform to the requirements of Chapter 25.42 (Signs).
  4. Lighting. All outside lighting shall be arranged and shielded to prevent any glare or reflection, nuisance, inconvenience, or hazardous interference of any kind onto adjoining streets or property. All lighting shall comply with the requirements of Section 25.31.100 (Outdoor Lighting and Illumination).
  5. Deliveries. For any facility located adjacent to a residential zoning district, all deliveries shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
  6. Refuse Collection Areas. All outside refuse and recyclable materials collection areas

shall be enclosed as required by Section 25.31.130 (Trash and Refuse Collection Areas).

D. State Approval. Where a facility is required to be licensed by the State, written proof shall be submitted to the City stating that the appropriate State licensing agency will be able to issue all required licenses and specifying the maximum number of beds for which a license will be issued by such agency.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.230. Spas, Bathing, Tanning, and Massage Establishments.**

A. Purpose and Applicability. The purpose of this section is to supplement Chapters 6.39 (Massage Establishments), 6.40 (Spa and Bathing Establishments), and 6.42 (Tanning Facilities) of the Burlingame Municipal Code relating to spas, bathing establishments, tanning facilities, and massage establishments as defined by those chapters.

B. Massage Establishments. Establishments with massage services that are incidental to a permitted use, such as massage services provided in a bona fide spa, beauty salon, or health facility are not subject to the distance requirements of Section 6.39.060(a)(1).

C. Retail Frontage Required. All spas, bathing establishments, tanning facilities, and massage establishments shall have primary access and frontage facing a public street.

D. Hours of Operation. All spas, bathing establishments, tanning facilities, and massage establishments shall be limited to the hours of 7:00 a.m. to 9:00 p.m. unless a ~~e~~Conditional Use ~~Permit~~ is approved by the Planning Commission to allow use outside those hours.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.240. Supportive and Transitional Housing.**

Supportive and transitional housing constitute a residential use of property and are subject only to those restrictions that apply to other residential uses of the same type in the same zoning district.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.250. Tasting Rooms as an Accessory Use.**

A. Purpose and Applicability. This section establishes standards for the location, development, and operations for tasting rooms, as defined in Chapter 25.108 (General Definitions) where ~~permitted~~allowed as an accessory use to breweries, distilleries, and wineries in ~~compliance with~~ Article 2 (Zoning Districts, Allowable Uses, and Development Standards). Tasting rooms that are a primary use are included in the definition of bars and taverns, as defined in Chapter 25.106 (Land Use Definitions).

B. Accessory Use. Where permitted pursuant to Article 2 (Zoning Districts, Allowable Uses, and Development Standards), breweries, wineries, and distilleries may include tasting rooms serving wine, beer, or spirits to the public for the purpose of sampling the product produced or offered for sale, with the following restrictions:

1. Tasting rooms shall occupy no more than 25 percent of the floor area of the square footage of facility.

2. Tasting rooms may conduct temporary special events consistent with Section 25.48.260.F. (Other Temporary or Intermittent Uses and Special Events), provided the use of amplified music is limited to indoor only.
3. Sanitary facilities and potable water shall be provided to the public.
4. Applicable licenses from the State of California Department of Alcohol Beverage Control and compliance with the California Retail Food Code regulations are required.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.260. Temporary Uses.**

- A. Purpose and Intent.
  1. The provisions codified in this section provide for certain temporary and intermittent uses as defined in Chapter 25.108 (General Definitions). This section establishes standards and procedures to ensure that such uses are compatible with their surroundings and the intent of these regulations.
  2. In approving a temporary or intermittent use, the Director may establish requirements related to, but not limited to, days and hours of operation, parking, temporary structures, and site planning, in addition to performance standards specified below. All such uses shall require issuance of a ~~Temporary Use Permit~~ (see Chapter 25.82, Temporary Use Permits). The Director shall determine the extent to which any permanent on-site parking and other facilities may satisfy the requirements for the proposed use. A temporary use approval is not intended to allow a land use that is not allowed in the primary zoning district, other than in the specific cases listed in subsection F. of this section.
- B. Accessory Building Used for Storage. A temporary accessory building, used solely for the storage of tools, materials, equipment, or implements, or as a field quarters incidental to the doing of any public work or to the construction, alteration, or repair of a building, structure, or other work for which a building permit has been issued pursuant to the provisions of this Code, may be erected and maintained. Such temporary accessory building shall be removed upon completion of the work. Acceptance of completion shall be withheld by the proper City official until such temporary accessory building is removed. No such temporary accessory building shall be placed by any person upon a public street or way, or any part thereof, unless such person first obtains a permit to do so from the City Engineer.
- C. Real Estate Sales Office in Tract. A temporary real estate sales office may be established in a residential development for the initial sale of property in that development, upon approval of a ~~Temporary Use Permit~~. Such an office may be located within a residence or a common or temporary building. If a temporary building is used, it shall be removed upon termination of the use.
- D. Mobile Structures~~Home~~ as Construction Office.
  1. A mobile ~~structure~~~~home~~ may be used as a temporary office at a construction site ~~for the duration of the construction activity for not more than one year~~ upon written approval of the Chief Building Official and subject to any conditions ~~imposed~~~~deemed necessary to protect health, safety, and welfare. Upon written request~~

~~received prior to expiration, the use may be continued for six month periods, not to exceed a total of 18 months, by the Chief Building Official.~~

2. A ~~Temporary Use Permit~~ is required to allow a mobile ~~structure~~~~home~~ as a temporary construction office when the mobile ~~structure~~~~home~~ is not located on the same property as the construction site ~~and subject to any conditions imposed. The same time limitations as stipulated in Section 25.48.260.D.1 above for an on-site mobile home would apply, with approvals for extensions of the use made by the Chief Building Official. Also, with the Chief Building Official's approval, the mobile home may be occupied by a resident guard or caretaker, provided it is properly connected to City utilities or other safe means of waste disposal are is ensured.~~
- E. Parades, Carnivals, Fairs, Festivals. Use of privately owned property for parades, carnivals, fairs, and festivals requires approval of a ~~Temporary Use Permit~~ (see Chapter 25.82, Temporary Use Permits). Where these events involve public property within the public rights-of-way, coordination with the Public Works Department is required. Where these events involve public property owned by the City of Burlingame, coordination with the City Manager's Office is required.
- F. Other Temporary or Intermittent Uses and Special Events. Upon approval of a ~~Temporary Use Permit~~, the Director may approve other temporary or intermittent uses, including, but not limited to, musical events, auctions, estate sales, clothing outlet sales, nonprofit benefits, parking lot sales, and car shows. At the discretion of the Director, certain small-scale events with limited duration, consisting of activities with no potential to detrimentally affect those working and living in the vicinity, may be allowed.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.270. Vehicle Fuel Sales and Accessory Service.**

- A. Purpose and Applicability. This section establishes standards for the location, development, and operations for vehicle fuel sales and accessory services, as defined in Chapter 25.106 (Land Use Definitions) and where ~~permitted~~~~allowed~~ in ~~compliance with~~ Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Required Conditions for Granting Permits for Vehicle Fuel Sales and Accessory Service Stations. Permits for vehicle fuel sales stations may not be granted unless the location of the station meets the following qualifications and restrictions:
  1. The vehicle fuels sales and accessory service location is on an arterial street or commercial connector, as designated in the General Plan Mobility Element;
  2. Both sides of the street where the property is located are in either commercial or industrial districts;
  3. Conditional ~~Use~~~~Permit~~s for vehicle fuel sales and accessory service station may be granted if the proposed development plans are first approved as provided in Chapter 25.66 (Conditional Use Permits and Minor Use Permits), and upon showing that the development and maintenance of structures, fences, walls and screening, drainage, landscaping, lighting, spaces for storage of waste products, appurtenant equipment, vending machines and off-street parking serve the interest of the business community

and the health, safety, peace, comfort, and general welfare of the public; and

4. An economic feasibility report may be required to accompany an application for a conditional use permit at either a new or an expanded old location.
- C. Lapse of Conditional Use Permit for Nonuse. If the use for which a ~~e~~Conditional ~~u~~Use ~~p~~Permit for a vehicle fuel sales and accessory service use has been granted is discontinued for a period of six consecutive months, such ~~e~~Conditional ~~u~~Use ~~p~~Permit shall terminate, and the property shall then be subject to the permitted uses and regulations provided for in the zoning district in which such property is situated.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.280. ~~Vehicle Sales~~—Heavy Equipment Rental, Sale, and Storage.**

**A. Purpose and Applicability.** This Section establishes standards for the location, development, and operations of Heavy Equipment Rental, Sale, and Storage, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards).

**A.B.** Location. Display and stored materials, including vehicles, shall not be located in front yard areas nor any required parking area.

**B.C.** Surface. The entire area used for display or storage shall be surfaced with asphalt or an equally serviceable hard pavement surface. The surface shall be maintained in good condition.

**C.D.** Screening. For any such use whereby the storage area abuts a property zoned for residential use or any property developed with a public or private school, the storage area shall be screened by a block wall or opaque fencing to a minimum height of eight feet.

(Ord. 2000 § 2, (2021))

#### **§ 25.48.290. Urban Agriculture and the Keeping of Animals.**

**A.** Purpose and Applicability. This section establishes standards for the location, development, and operations of urban agriculture, greenhouses, keeping of small animal and fowl, and keeping of horses, as defined in Chapter 25.106 (Land Use Definitions) and where permitted allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards) and in this section.

**B.** Urban Agriculture.

1. Permitted Activities. Urban agricultural uses are permitted, either as an accessory use or a primary use. Establishment of community gardens on vacant lots within the City may be permitted regardless of lot size.

2. Retail Sales of Products Produced on the Premises. The direct sale of products produced on the premises, including any roadside stands and signage, may be permitted in nonresidential and mixed-use zoning districts subject to issuance of a minor use permit.

3. Operational Standards.

- a. Maintenance. Urban agriculture uses shall be maintained in an orderly manner, including litter removal, irrigation, weeding, pruning, pest control, and removal of dead or diseased plant materials.

- b. Equipment. Use of mechanized farm equipment is prohibited in residential zoning districts. Landscaping equipment designed for household use is permitted.
- c. Structures. Accessory structures intended to support urban agriculture, such as storage sheds, coop-houses, and greenhouses, are permitted subject to the regulations of the underlying zoning district.
- d. Pollutants. Urban agriculture activities shall include best practices to prevent pollutants from entering the stormwater conveyance system and shall comply with all applicable Federal, State, and local laws, ordinances, and regulations.
- e. Compost Piles. Compost piles and containers shall be set back at least 20 feet from residential buildings when an urban agriculture use abuts a residential land use.

C. Keeping of Animals.

- 1. Standards. The keeping of animals shall comply with Chapter 9.08 of the Municipal Code (Keeping).
- 2. Bees. Up to three beehives are permitted on any parcel as an incidental use to a permitted use, subject to the following standards:
  - a. Hives shall be placed on the parcel such that they are enclosed by fencing or similar barrier that prevents unauthorized access.
  - b. A permanent fresh water source shall be provided on the same parcel prior to the establishment of bee hives and maintained within 15 feet of the hives.

(Ord. 2000 § 2, (2021))

**§ 25.48.300. Wireless Communications Facilities.**

A. Purpose. Based upon the principles of the Burlingame General Plan and the Specific Area Plans, the purpose of this chapter is to maintain and more importantly, to facilitate modernization of Burlingame's wireless infrastructure in a manner that improves the quality of the City's environment, the pleasant aesthetics of the City's neighborhoods, the City's architectural traditions dating to the early 20th century and the visual quality in the nonresidential areas of the City. More specifically, the purpose of this chapter is to regulate, as allowed by state and federal law and regulations, the design and location of wireless facilities in the City of Burlingame in a manner that recognizes the community benefits of communications technology, which provides clear guidance to the communications industry but also recognizes the strong need to preserve the City's aesthetic traditions.

The objectives of this section include:

- 1. Promoting wholesome, attractive, harmonious and economic use of property, building construction, civic service, activities and operations in conformity with and preserving the overall aesthetics of City neighborhoods.
- 2. Ensuring the character of City neighborhoods and preserving the century old architectural traditions of Burlingame.
- 3. Reducing, through the use of stealth designs and concealment elements, the visual

effects of wireless facilities throughout the City on public and private property.

4. Encouraging the installation of wireless facilities at locations where other such facilities already exist without aesthetically overwhelming those locations with additional facilities.
5. Encouraging the installation of such facilities in locations to minimize potential adverse aesthetic impacts.
6. Creating a transparent and open process by which City staff, citizens, and communications providers can collaboratively achieve solutions to the placement of wireless facilities to achieve these goals where City retains discretion regarding placements.
7. Encouraging industry to adopt best practices in all deployments, to utilize designs to minimize visual impacts, to share with the City future plans for deployments so that the cumulative impacts can be planned for, understood, and mitigated.

B. Definitions. For the purpose of this section, certain words and terms are hereby defined. Words used in the singular number shall include the plural and the plural the singular; unless more specifically defined, the word "building" is interchangeable with the word "structure," the word "shall" is mandatory and not discretionary. All equipment not specifically described herein shall be regulated in conformity with that equipment described herein which is most substantially similar, from a functionality standpoint. Reference to "facility" is interchangeable with "wireless communications facility" unless otherwise noted.

"Antenna" shall mean any system of wires, poles, rods, reflecting discs, or similar devices used in wireless communications for the transmission or reception of electromagnetic waves when such system is operated or operating from a fixed location.

"Applicant" or "provider" shall mean the person or entity applying for a permit to install wireless communications facilities.

"Base station" shall mean, as defined in 47 C.F.R. ([Code of Federal Regulations](#)) Section 1.6100(b)(1), or any successor provision, any structure or equipment at a fixed location that enables [F.C.C. \(Federal Communications Commission\)](#)-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

- a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).
- c. The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports

or houses equipment described in subsections 3.a and 3.b of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

- d. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in subsections 3.a. and 3.b. of this section.

"Collocation" shall mean the mounting or installation of transmission equipment on a legally existing base station or tower as defined:

- a. For the purposes of any eligible facilities request, the same as defined by the F.C.C. in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which defines that term as "the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the F.C.C.'s definition means to add transmission equipment to an existing facility and does not necessarily refer to two or more different facility operators in the same location; and
- b. For all other purposes, the same as defined in 47 C.F.R. Section 1.6002(g)(1) and (2), as may be amended, which defines the term collocation as: (i) mounting or installing an antenna facility on a pre-existing structure, and/or (ii) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

"Eligible facilities request" shall mean any request for modification of a legally existing tower or base station that does not substantially change the physical dimensions of such tower or base station as defined in 47 C.F.R. Section 1.6100(b)(3), or any successor provision.

"Major wireless facilities" shall mean any and all new wireless facilities or modifications to existing wireless facilities that are not otherwise exempt from this chapter and that do not qualify as small cell facilities, collocations, temporary facilities or eligible facilities requests.

"Microwave antenna" shall mean a bowl-shaped antenna used to link communication sites together by wireless transmission of voice or data in a specific directional pattern.

"Monopole" shall mean a free-standing pole like a slim line, flagpole, or similar structure.

"Owner" shall mean the person or entity that has legal ownership or control over the tangible wireless communications facilities.

"Personal wireless services" shall mean those services as defined in 47 U.S.C. ([United States Code](#)) Section 332(c)(7)(C)(i) or any successor provision, current examples of which include, but are not limited to, commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

"Public rights-of-way" shall mean any portion of any land dedicated, condemned or established and improved for use as a public thoroughfare for vehicular use and owned, maintained or managed by the City. Public right(s)-of-way includes public streets, roads,

lanes, and alleys (including portions used for sidewalks, medians, and parkways). For the purposes of this section, the public right(s)-of-way includes public utility easements and does not include private streets.

"Roof-mounted" shall mean any type of facility in which antennas are mounted on the roof, parapet or similar feature of a structure and extends past the roofline of the building.

"Residential zoning district" shall mean the R-1, R-2, R-3, and R-4 residential zoning districts as delineated on the City of Burlingame zoning map.

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

"Small cell facility" shall have the same meaning as "small wireless facility" in 47 C.F.R. Section 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

- a. The facilities:
  - i. Are mounted on structures 50 feet or less in height including their antennas as defined in this section; or
  - ii. Are mounted on structures no more than 10 percent taller than other adjacent structures;
  - iii. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
- b. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in ~~47 C.F.R. 1.1320(d) the definition of antenna~~), is no more than three cubic feet in volume;
- c. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- d. The facilities do not require antenna structure registration under ~~47~~ C.F.R. Part 17;
- e. The facilities are not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and
- f. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

"Stealth facilities" shall mean facilities designed to look like something other than a wireless facility.

"Support structure" shall mean any structure capable of supporting a base station, as defined in 47 C.F.R. Section 1.6002(m) or any successor provision.

"Temporary facility" shall mean any wireless communication facility intended or used to

provide wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a single location or following a duly proclaimed local or state emergency as defined in Government Code Section 8558 requiring additional service capabilities. Temporary facilities include, without limitation, cells on wheels (also referred to as COWs), sites on wheels (also referred as SOWs), cells on light trucks (also referred to as COLTs), or other similar wireless facilities: (a) that will be in place for no more than six months, or such other longer time as the City may allow in light of the event or emergency; (b) for which required notice is provided to the FAA ([Federal Aviation Administration](#)); (c) that do not require marking or lighting under FAA regulations; (d) that will not exceed the height limit in the applicable zoning district; and (e) that will either involve no excavation or involve excavation only as required to safely anchor the facility, where the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least two feet.

"Tower" shall mean, as defined in 47 C.F.R. Section 1.6100(b)(9), or any successor provision, any structure built for the sole or primary purpose of supporting any F.C.C.-licensed or authorized antennas and their associated facilities, including structures that are constructed for personal wireless services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

"Utility pole" shall mean any structure designed to support electric, telephone, and similar utility lines. A tower is not a utility pole.

"Wireless communications facilities" and "facilities" shall mean any transmitters, antenna structures, equipment cabinets, concealment, meters, switches, cabling, and other types of facilities used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

C. Applicability. This section shall apply to all wireless communication facilities which transmit and/or receive electromagnetic signals in order to provide services, including, but not limited to, personal communications services (such as mobile telephone services, internet services, location and monitoring services, data, e-mail, texting, streaming video and audio and paging), fixed microwave services, and mobile data services. This [section chapter](#) shall apply to the entire area within the City of Burlingame city limits, including all zoning districts, and all public property except public rights-of-way. This [section chapter](#) shall not be applied or interpreted, to prohibit or to have the effect of prohibiting wireless communications services or telecommunications services, to regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency ("RF") emissions, provided that such facilities comply with [Federal Communications Commission \("F.C.C."\)](#) regulations, or to unreasonably discriminate among providers of functionally equivalent wireless communications services. Where conflict occurs between the provisions of this chapter and any other City codes, ordinances, resolutions, guidelines or regulations, the more restrictive provision shall [apply control](#) unless otherwise specified or mandated by law.

This [section chapter](#) shall not apply to:

1. Wireless communications facilities that are located [and](#) completely enclosed within a

permitted structure, are incidental to a permitted use in that structure, and are not located within a residential zoning district.

2. Hand-held mobile, marine, and portable radio transmitters and/or receivers which are not affixed to land or a structure.
3. Wireless communications facilities required on a temporary basis not to exceed 14 consecutive days provided any necessary building permit or other approval is obtained and the landowner's written consent is provided to the City in advance of placement.
4. Traditional terrestrial radio and television mobile broadcast facilities.
5. A single ground-mounted or building-mounted antenna not exceeding the maximum height permitted by this chapter including any mast, subject to the following restrictions:
  - a. Satellite Dish 39.37 Inches (one meter) or Less. A satellite dish antenna 39.37 inches (one meter) or less in diameter: (i) intended for the sole use of a person occupying the same parcel to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite; or (ii) a hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services, is permitted anywhere on a lot provided it does not exceed the height of the ridgeline of the primary structure on the same parcel;
  - b. Non-Satellite Dish 39.37 Inches (one meter) or Less. A dish antenna 39.37 inches (one meter) or less in diameter or diagonal measurement: (i) intended for the sole use of a person occupying the same parcel to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite; or (ii) a hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services, is permitted anywhere on a lot provided it does not exceed the height of the ridgeline of the primary structure on the same parcel.
6. Amateur radio antennas meeting the following requirements:
  - a. That are completely enclosed within a permitted building; or
  - b. That consist of a single wire not exceeding one-fourth inch in diameter. Such wire antennas may be located in setback areas provided the antenna does not extend above the maximum building height in the zoning district; or
  - c. That consist of a single ground-mounted vertical pole or whip antenna not exceeding 50 feet in height in residential zoning district~~se classifications~~ or 105 feet in height in nonresidential zoning district~~se classifications~~, measured from finish grade at the base of the antenna, and not located in any required setback area. Support structures or masts for pole or whip antennas shall conform to standards set out in the California Building Standards Code. A building permit may be required for the support structure or mast.

7. ~~Like-In~~-kind equipment replacements that consist solely of replacing or changing equipment in an existing cabinet, vault, or shroud that does not increase pre-existing visual or noise impacts and has the same or less RF emissions. The existing equipment must have been approved by the City and the equipment must be in compliance with all permit conditions. Qualifying ~~in-like~~-kind equipment replacements that do not require City approval consist of upgrades or exchanges of equipment that are substantially similar in appearance and the same or less in size, dimensions, weight, and RF emissions to the then-existing and approved equipment. This exemption does not apply to generators.
8. Wireless communications facilities which are proposed to be located in the public rights-of-way. These are subject to permitting under Chapter 12.11 ([Wireless Facilities in Public Rights-of-Way](#)) of this ~~Code~~.

D. Nonconforming Facilities. Any wireless communication facility that was lawfully erected prior to the effective date of the ordinance codified in this chapter shall not be required to meet the requirements of this ~~section chapter and shall be considered nonconforming~~. The nonconforming wireless communications facilities shall be allowed to continue as they exist as of the effective date of the ordinance codifying these regulations, but will be considered as lawful nonconforming legal uses and shall be subject to the restrictions of Article 5 (Nonconformities) of this ~~Title~~. The foregoing notwithstanding, non-conforming wireless communication facilities shall be required to comply with the requirements of this ~~section chapter~~ if any nonconforming facility or component of a nonconforming facility is modified or when the permittee applies to renew its permit, at which time the provisions of the revised ordinance shall apply in full force going forward as to such facility.

E. Permit Requirement.

1. Permit Requirement for Location of Wireless Communications Facilities. No wireless communication facility shall be constructed, erected, placed, or modified anywhere within the City without first obtaining a permit pursuant to the requirements of this section and without obtaining any permits required under any other applicable State, Federal, or local laws or regulations, unless exempt pursuant to subsection C ([Applicability](#)) of this section. Applications for approval of a wireless communication facility shall be submitted to and processed by the Planning Division of the Community Development Department and shall be reviewed and either approved, modified or denied by the Director or the Planning Commission, depending upon the application's classification as defined in this section.
2. Administrative Use Permit. An administrative use permit for wireless communications facilities shall be required for the installation or modification of any facility that qualifies as a small cell facility, eligible facilities request, temporary facility or collocation, and such application shall be considered by the Community Development Director. Notice of the proposed approval on such Administrative Use Permit application shall be provided in accordance with [Section 25.48.300.N subsection N. of this section](#).
3. Conditional Use Permit. Major wireless facilities shall require a conditional use permit. A conditional use permit application for wireless communication facilities shall be submitted to and processed by the Community Development Department to determine that the proposed facility complies with all the requirements of this section and with all ~~other the~~ applicable requirements ~~in of other chapters of~~ the Burlingame Municipal

Code. Once the application is complete, it shall be placed on the action calendar of the next available Planning Commission meeting for consideration. A conditional use permit for wireless communication facilities may be granted only after a public hearing before and approval by the Commission. Notice of such conditional use permit application shall be provided in accordance with Section 25.48.300.L subsection L. of this section.

F. Voluntary Pre-Application Meeting. Prior to filing an application for a use permit for the installation or modification of wireless communication facility, an applicant is encouraged to schedule a pre-application meeting with the Community Development Department to discuss the proposed facility, all of the requirements of this section, and any potential impacts of the proposed facility. The applicant will be encouraged to perform an early-stage outreach with residents and property owners near the proposed facilities in order to address and, if possible, resolve any impacts of the proposed facilities on the surrounding neighborhood. Conducting this voluntary pre-application meeting shall not initiate any applicable "shot clock."

G. Appeals.

1. Administrative Use Permit for Wireless Communications Facilities.

- a. Any person adversely affected by a decision of the Director pursuant to this chapter may appeal the Director's decision to the Hearing Officer who may decide the issues *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the personal wireless communications facility.
- b. All appeals must be filed within five days of the effective date of the written decision of the Director, unless the Director extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law. Where the Director grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable Federal law, the decision shall be automatically appealed to the Hearing Officer.

2. Conditional Use Permit for Wireless Communications Facilities.

- a. Any person adversely affected by a decision of the Planning Commission pursuant to this chapter may appeal the Commission's decision to the City Council who may decide the issues *de novo*, and whose written decision will be the final decision of the City.
- b. All appeals must be filed within 10 calendar days of the effective date of the decision of the Commission, unless a different period is specified by the Commission. The City may extend the time period for filing an appeal for due cause but an extension may not be granted where such extension would result in approval of the application by operation of law.

3. All Appeals.

- a. In order to request an appeal, the appellant shall submit to the City Clerk a request

specifying the decision being appealed and the appellants full name and contact information, along with a full amount of the appeal fee in the manner directed in the Director's or Commission's decision notice. The appeal shall be considered invalid if the appeal fee is not paid in full.

- b. Any appeal hearing shall be conducted so that a timely written decision may be issued in accordance with applicable law.
- c. If a timely and complete request for appeal is not submitted, the Director's or the Commission's decision shall be deemed final.

#### H. Contents of Permit Application.

- 1. Conditional Use Permit. An applicant for a wireless communication facility conditional use permit shall complete and submit an application to the Community Development Department for review and processing, upon the form published by the Director, which may be updated from time to time. In addition to any requirements specified by the application form, the wireless communication facility conditional use permit application shall at minimum require submission of the following:
  - a. Name, address, phone number, email address of:
    - i. The owner of the proposed facility;
    - ii. The applicant if different than owner;
    - iii. The proposed service provider that plans to make use of the facility.
  - b. A clear written description of the proposed facility that includes the number of antennas, the location and length of fiber/cable, the location and dimensions of all related equipment (cabinets, generators, batteries, cooling, transmitters, hubs etc.).
  - c. A site plan with photos or photo-simulations, depicting the location and dimension of the proposed wireless communication facilities and of the existing surrounding area features including structures, roads, trees, and similar items.
  - d. A map illustrating the estimated coverage area (search area) for the proposed wireless communication facility.
  - e. Visual impact demonstrations using clear, accurate and readable photo-simulations of all of the proposed wireless communication facilities. The simulations must contain dimensions, height measurements and color, size and shape (proper coloration and blending of the facility with the proposed site) of the proposed facilities in order to facilitate determination of potential visual impacts.
  - f. If applicable, a landscape plan that shows existing vegetation, indicating any vegetation proposed for removal, and identifying proposed plantings by type, size and location and a description of applicant's proposed landscape maintenance schedule for the life-time of the facility.
  - g. Information regarding potential environmental impacts (e.g., noise, visual, traffic,

etc.) that may result from the installation of the wireless communication facility.

- h. Certification by a qualified third party that the proposed wireless communication facility will comply with applicable ~~radio frequency~~ (RF) emission standards as established by the ~~F.C.C.~~ Such documentation may be satisfied by a written demonstration of compliance with ~~F.C.C.~~ OET Bulletin ~~OET~~ 65, as amended.
- i. Written description of any noise, light and/or heat generated by the facility, including, but not limited to, retractable monopole motors, antenna rotators, power generation, cooling equipment and similar items.
- j. If applicable, an explanation for any deviation of the proposed facility from any of the design standards or other requirements of this chapter. Deviations are discouraged and shall only be granted by waiver or where required by State or Federal law.

2. **Administrative Use Permit.** An applicant for an administrative use permit for wireless communication facility shall complete and submit an application to the Community Development Department for review and processing, upon the form published by the Director, which may be updated from time to time. In addition to any requirements specified by the application form, the wireless communication facility administrative use permit application shall at minimum require submission of the information required under subsection H.1. above, except subsection H.1.d. is not required for an eligible facilities request.

3. **Incomplete Application.** To promote efficient review and timely decisions, if the applicant fails to tender a substantive response to the Community Development Department within 90 calendar days after the Director deems the application incomplete in a timely written notice to the applicant, the Director may, in the Director's discretion, deny the application for a conditional use permit or an administrative use permit without prejudice to submit a new application and associated fees for the same proposed facility.

4. **Third Party Review.** At the applicant's expense, the City may require verification of the applicant's submitted technical data by a qualified independent third party selected by the City.

I. **Application Fee.** The application shall be accompanied by an application fee in an amount necessary to recover the City's reasonable cost of processing the application. The fee shall be set by resolution of the City Council and included in the City's master fee schedule. Failure to include the fee with the application shall render the application incomplete and no action will be taken on the application until the fee is paid.

J. **General Requirements.**

- 1. **State or Federal Requirements.** All wireless communication facilities shall meet or exceed current standards and regulations of the ~~F.C.C.~~, the FAA, and any other agency of the State or Federal government with the authority to regulate wireless communication facilities. If such standards and regulations are changed and are made applicable to existing facilities, the owners of the facilities governed by this chapter shall bring such facilities into compliance with such revised standards and regulations within six months

of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring wireless communication facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the facilities at the owner's expense, revocation of any permit or imposition of any other applicable penalty.

2. Building Codes and Safety Standards. To ensure the structural integrity of wireless communication facilities, the owner shall ensure that the facility is constructed and maintained in compliance with standards contained in applicable State or local building codes and the applicable standards that are published by the Telecommunications Industry Association, as amended from time to time. If, upon inspection, the City concludes that a wireless communication facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner and the opportunity to be heard as afforded by the applicable building code, the owner shall have 90 days to bring such facility into compliance with such standards. Failure to bring such facility into compliance within said 30 days shall constitute grounds for the removal of the facility at the owner's expense, revocation of any permit or imposition of any other applicable penalty.

**K. Wireless Communications Facility Design and Location Standards and Standard Conditions of Approval.**

1. By resolution, the City Council will provide Wireless Communications Facilities Design and Location Standards which shall describe the design and location standards, and provide pictorial examples of stealth designs for wireless communication facilities, preferred types of screening, landscaping and camouflaging, preferred locations for ground-mounted, roof-mounted and side-mounted facilities and dimensions for height, setback and bulk. The Community Development Department will update the Standards for City Council approval from time to time in order to consider the inclusion of new technologies, innovations and current best examples which would further the goal of reducing the impacts of facilities. The pictorial examples are examples of facilities which may comply with the design standards contained in the City Standards. However, the design standards and the findings of the reviewing authority shall take~~have~~ precedence over the pictorial examples. Because of the speed of technological change and the time between updates of the City Standards, the applicant should understand that the pictorial examples are intended to assist the applicant in choosing potentially preferred designs, but are not intended to suggest that such examples will be approved or that such examples are mandated.
2. The Standards document may include photos and descriptions of:
  - a. Monopoles that blend into surrounding vegetation, and avoid guy wires, while still meeting safety standards.
  - b. Facilities utilizing existing towers to extend wireless service area.
  - c. Stealth structures and design features which exhibit uniform consistency in size, character and color to that of the surrounding environment (e.g., public art, foliage, trees, buildings, rocks, church steeples or other structures, including samples of

size and coloring).

- d. Ground-mounted, roof-mounted, and side-mounted facilities with dimensions, and measurements for height, setback and bulk of the facilities.
- 3. By resolution, the City Council will adopt Standard Conditions of Approval which shall describe the standard conditions that shall apply to all permits granted pursuant to this ~~section~~chapter or by operation of law, unless modified by the approving authority.

L. Conditional Use Permit – Notice of Public Hearing to Property Owners – Action by Planning Commission.

- 1. Notice of Public Hearing. Once the application and all supporting information and documentation ~~have~~ been received and reviewed by the Community Development Department, notice of a public hearing before the Planning Commission regarding the ~~e~~Conditional ~~u~~Use ~~p~~Permit for wireless communications facilities shall be given pursuant to according to the provision of Chapter 25.100 (Public Hearings and Notice). Notice shall be mailed to all owners of property which lies within a radius of 300 feet of the proposed wireless communication facility.
- 2. Notice Posted on Site. The notice of public hearing shall also be posted in a conspicuous location on or near the site of the proposed facilities
- 3. Action by Planning Commission. On the time and date set for the public hearing, the Commission shall conduct the public hearing regarding the application for conditional use permit for wireless communication facilities and shall take action pursuant to Section 25.100.060 (Decision and Notice) ~~of this title~~.

M. Administrative Use Permit – Notice of Project to Property Owners – Action by Community Development Director.

- 1. Notice. Once the application and all supporting information and documentation have been received and reviewed by the Community Development Department, notice of the proposed decision shall be given to the applicant and mailed to all owners of property which lies within a radius of 300 feet of the proposed ~~wireless communication facility~~facilities and any alternative sites identified by the applicant. The following information shall be provided:
  - a. Project description and site plan as provided in the application.
  - b. Map which accurately and clearly depicts location of entire project as provided in the application.
  - c. A summary of the proposed decision.
  - d. The effective date of the proposed decision and how to submit an appeal.
- 2. Additional Information. More detailed information, including, but not limited to, photo simulations, elevations, and alternatives analysis, as provided in the application, shall be placed on the City's website and this information shall be referenced in the notice.

N. Renewal. An applicant may renew a ~~e~~Conditional ~~u~~Use ~~p~~Permit or an ~~a~~Administrative ~~u~~Use ~~p~~Permit for wireless communication facilities pursuant to the provisions of this section.

1. At least 120 days prior to the expiration of the term of the permit, the applicant shall complete and submit a renewal application to the Director. The application shall be in the same form as the application for a new facility permit as specified in this section and processed in accordance with ~~subsection H of this section Section 25.48.300.H~~ corresponding to the applicable permit requested for the facility.
2. The renewal application shall be accompanied by a fee designed to recover the reasonable cost of processing the application. Failure to include the fee with the renewal application shall render the application incomplete and no action will be taken on it until the fee is paid.

O. Findings for Approval.

1. General Findings for Approval for All Wireless Facilities Subject to This Section. No use permit for the installation or modification of a wireless communication facility, other than eligible facilities requests, shall be approved unless, on the basis of the application and other materials or evidence provided in review thereof, the applicable approval authority finds the following:
  - a. The facility complies with all applicable requirements of this ~~section chapter~~, including all requirements for the requested permit; all application requirements; and all applicable design, location, and development standards, or has a waiver thereof; and
  - b. The facility meets applicable requirements and standards of Federal and State law, including all applicable general orders of the California Public Utilities Commission.
2. Additional Findings for Temporary Facilities. No permit shall be approved for a temporary facility unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:
  - a. The facility qualifies as a temporary facility; and
  - b. There is an adequate need for the facility (e.g., wireless communication facility relocation or large-scale event).
3. Findings for Eligible Facilities Requests. No permit shall be approved for an eligible facilities request unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:
  - a. The proposed collocation or modification meets each and every one of the applicable criteria for an eligible facilities request stated in 47 C.F.R. Sections 1.6100(b)(3)-(9), or any successor provisions, after application of the definitions in 47 C.F.R. Section 1.6100(b). The reviewing authority shall make an express finding for each criterion;
  - b. The proposed facility complies with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, except to the extent preempted by 47 C.F.R. Sections 1.6100(b)(7)(i)

- through (iv), or any successor provisions; and
- c. The proposed facility will comply with all generally applicable laws.

P. Waivers of Requirements.

1. The reviewing authority may grant waivers of the requirements for wireless communications facilities subject to this section if it is determined that the applicant has established that denial of an application or strict adherence to the location and design standards would:
  - a. Prohibit or effectively prohibit the provision of personal wireless services, within the meaning of Federal law; or
  - b. Otherwise violate applicable laws or regulations; or
  - c. Require a technically infeasible design or installation of a wireless facility.
2. If that determination is made, said requirements may be waived, but only to the minimum extent required to avoid the prohibition, violation, or technically infeasible design or installation.

(Ord. 2000 § 2, (2021))