

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLINGAME AMENDING TITLE 25 (ZONING) OF THE BURLINGAME MUNICIPAL CODE, EXCLUDING CHAPTERS 25.22, 25.35, 25.36, 25.41, 25.42, 25.43, 25.44, 25.76, 25.84, 25.102, AND 25.103; AND AUTHORIZING THE CITY MANAGER TO INCORPORATE ADDITIONAL AMENDMENTS TO TITLE 25 (ZONING) OF THE BURLINGAME MUNICIPAL CODE AS REQUIRED BY APPLICABLE GOVERNMENTAL AGENCIES; CEQA DETERMINATION: EXEMPT PURSUANT TO STATE CEQA GUIDELINES 15378, 15061(b)(3)

PROJECT NO. ZOA25-0001

WHEREAS, the City of Burlingame’s Zoning Ordinance is codified in Title 25 of the Burlingame Municipal Code and was last comprehensively updated in 2021 (Ordinance no. 2000); and

WHEREAS, the proposed amendments to Title 25 (Zoning) will address typographical errors, reference corrections and clarification of ambiguous or contradicting language; and

WHEREAS, on March 4, 2024, the City of Burlingame adopted the City’s 2023-20231 6th Cycle Housing Element (“Housing Element”) (Resolution No. 026-2024), in compliance with State Housing Element Law, as provided in Government Code Section 65580 et seq.; and

WHEREAS, the proposed amendments to Title 25 (Zoning) implement the policies and programs that were adopted and certified in the Housing Element including the removal of governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities, in compliance with State Housing Element Law; and

WHEREAS, Government Code Sections 66310-66341 require the City of Burlingame to adopt zoning regulations in compliance with State law provisions regarding accessory dwelling units and junior accessory dwelling units. The proposed text amendments would ensure that the Burlingame Municipal Code is consistent with adopted State regulations and to help clarify and improve various provisions of the accessory dwelling unit law to promote the development of accessory dwelling units and junior accessory dwelling units; as reflected in the edits to Title 25, Chapter 25.48, as detailed in Section 6, below; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the transportation planning, financing, and coordinating agency for the San Francisco Bay Area. In 2021, MTC and the Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2050, the region’s long-range plan for transportation, housing, economy, and the environment; and

WHEREAS, MTC adopted a Transit-Oriented Communities (TOC) Policy in 2022 with revisions made in 2023 as an implementation policy of Plan Bay Area 2050 with the goal to “make it easier for people in the Bay Area to live a car-free or car-light lifestyle,” by increasing the density of housing, jobs, and activities near stations, and improving connections around and between station areas; and

WHEREAS, the proposed amendments to Title 25 (Zoning) include implementation of TOC Policy programs for compliance to qualify for future One Bay Area Grant (OBAG) funding; and

WHEREAS, the proposed text amendments to Title 25 (Zoning) are Statutorily Exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt from the definition of a Project in Section 15378(b)(2) in that it concerns general policy and procedure making; and

WHEREAS, said matters were heard by the Planning Commission of the City of Burlingame on December 8, 2025, and January 12, 2026, at which time it reviewed and considered the staff report and all other written materials and testimony presented at duly noticed public hearings; and

WHEREAS, on January 12, 2026, by a vote of 5-0 (Commissioner Tse absent), the Planning Commission adopted Resolution 2026-01.12-7E.2, recommending that the City Council adopt the proposed text amendments to Title 25, with certain modifications to Sections 25.48.030(E)(10), 25.33.030(C)(1), and 25.20040(B); and

WHEREAS, on February 17, 2026, the City Council of the City of Burlingame held a duly noticed public hearing to consider the proposed text amendments to Title 25 (Zoning) at which time it reviewed and considered the staff report and all other written materials and testimony presented at said hearing;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF BURLINGAME DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT

The purpose and intent of this Ordinance is to adopt the Amendments to Title 25 (Zoning) of the Burlingame Municipal Code, excluding chapters 25.35, 25.36, 25.41, 25.42, 25.43, 25.44, 25.76, 25.84, 25.102, and 25.103.

SECTION TWO. REQUIRED FINDINGS

Upon receipt of the Planning Commission's recommendation to approve the proposed Amendments to Title 25 (Zoning) the City Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed Amendments based on the following findings:

1. *The proposed amendment is consistent with the General Plan and any applicable specific plan.*

The proposed amendments to Title 25 (Zoning) implement the policies and programs that were adopted and certified in the 2023-20231 6th Cycle Housing Element of the General Plan (Programs H(A-4), H(A-5), H(A-7), H(B-4), H(C-2), H(D-2), H(D-3), and H(D-5)) and work toward the removal of governmental constraints to the maintenance, improvement,

and development of housing, including housing for all income levels and housing for persons with disabilities, in compliance with State Housing Element Law.

In addition, the proposed amendments align with *Principle 1: Balanced and Smart Growth* of the General Plan to allow residential growth to occur in targeted areas near transit by implementing provisions of the Metropolitan Transportation Commission adopted a Transit-Oriented Communities (TOC) Policy which has the same objective, and *Principle 2: Community Character/Urban Forest* of the General Plan to be receptive to modern design approaches that complement the Burlingame aesthetic and are harmonious with their surroundings by adjusting development standards to balance new approaches with the existing built environment.

Also, the proposed amendments to Title 25 (Zoning) of the Burlingame Municipal Code, which was last comprehensively updated in 2021, are intended to align the City's requirements with new State Laws that have been adopted since that time.

2. *The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.*

The proposed amendments to Title 25 (Zoning) maintain the necessary development standards, review processes, and requirements that regulate new development and modifications to existing development within the City of Burlingame to protect the public interest, health, safety, convenience, or welfare of the City.

3. *The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.*

The proposed amendments to Title 25 (Zoning) address typographical errors, reference corrections and clarification of ambiguous or contradicting language to make the Zoning Code more internally consistent and consistent with the Downtown Specific Plan and North Rollins Road Specific Plan. No new provisions or requirements have been added to the Zoning Code that would be inconsistent with other provisions of the Ordinance.

SECTION THREE. REPLACING ARTICLE 1 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE

Article 1 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following.

Article 1 General Provisions

CHAPTER 25.02 PURPOSE AND APPLICABILITY

§ 25.02.010. Title.

The provisions of this Title 25 of the City of Burlingame Municipal Code shall be known and cited as the "City of Burlingame Zoning Ordinance" or "Zoning Ordinance" or "Zoning Code".

§ 25.02.020. Purpose and Authority.

This Zoning Code is intended to regulate the use and development of land within the City consistent with the City of Burlingame General Plan. It is also the intent of this Zoning Code to protect and promote the public health, safety, comfort, convenience, and general welfare of the Burlingame community; and to provide the physical, environmental, economic, and social advantages that result from the orderly planned use of land resources.

The Zoning Regulations are enacted based on the authority vested in the City of Burlingame and the State of California, including, but not limited to, the State Constitution, Planning and Zoning Law (California Government Code Section 65000 et seq.), and the California Health and Safety Code.

§ 25.02.030. Relationship to Prior Ordinances.

The provisions of this Zoning Code, as it existed prior to the effective date of the ordinance codified in this title, are repealed and superseded as provided in the ordinance enacting this Title 25. No provision of this Zoning Code shall validate or legalize any land use or structure established, constructed, or maintained in violation of the Zoning Code as it existed prior to repeal by the ordinance enacting this Zoning Code, except as addressed by nonconformities created by this Zoning Code.

§ 25.02.040. Relationship to General Plan and CEQA.

- A. This Zoning Code is the primary tool used by the City to carry out the goals, objectives, and policies of the General Plan. It is intended that all provisions of this Zoning Code be consistent with the General Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent with the General Plan.
- B. When a project application pursuant to the provisions of the Zoning Code is determined to be subject to the provisions of the California Environmental Quality Act (CEQA), the application shall be reviewed in accordance with the provisions of this Zoning Code, CEQA (Public Resources Code, Section 21000 et seq.), the CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.), and any environmental guidelines and other applicable rules adopted by the City.

§ 25.02.050. Prior Rights and Violations.

The enactment of this Zoning Code shall not terminate nor otherwise affect vested land use development permits, approvals, or agreements authorized under the provisions of any ordinance or resolution, nor shall violation of any prior ordinance or resolution be excused by the adoption of this title.

§ 25.02.060. Application to Municipal Buildings and Uses.

The provisions of this Zoning Code shall apply to all buildings, improvements, lots, and premises, owned, leased, operated, or controlled by the City or any department thereof, or by any other municipal or quasi-municipal or public corporation or governmental agency. The uses of all buildings and property engaged in the performance of a public function may be permitted in any zone or zoning district described in this Zoning Code, provided such use is, in the opinion of the Council, after determination and recommendation by the Planning Commission, not obnoxious or detrimental to the welfare of the community.

§ 25.02.070. Violation Constitutes a Public Nuisance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Zoning Code and other applicable regulations. Violations of the requirements (including violations of conditions and safeguards) shall constitute a public nuisance. Nothing herein shall prevent the City from taking lawful action as is necessary to prevent or remedy any violation consistent with Chapter 1.16 (Abatement of Nuisances) of the Municipal Code.

§ 25.02.080. Severability.

If any portion of this Zoning Code is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity, constitutionality, or enforceability of the remaining portions of this title. The Council hereby declares that this Zoning Code and each chapter, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and portion thereof is adopted without regard to the fact that one or more portions of this Zoning Code may be declared invalid, unconstitutional, or unenforceable.

CHAPTER 25.04
INTERPRETATION OF THE ZONING CODE

§ 25.04.010. Purpose.

The purpose of this section is to specify the authority and procedures for clarifying any ambiguity in the regulations of this Zoning Code and to ensure the Zoning Code's consistent interpretation and application.

§ 25.04.020. Rules of Interpretation.

- A. Authority. The Director has the authority to interpret provisions of this Zoning Code according to Section 25.04.030 (Procedures for Interpretation). Whenever the Director determines that the meaning or applicability of a Zoning Code requirement is subject to interpretation, the Director shall issue a written interpretation.
- B. Terminology. When used in this chapter, the following rules apply to all provisions of this Zoning Code:
 - 1. Language. When used in this Zoning Code, the words "shall," "must," "will," "is to," and "are to" are mandatory. "Should" is not mandatory but is strongly recommended, and "may" is permissive.
 - 2. Tense. The present tense includes the past and future tense, and the future tense includes the present.
 - 3. Number. The singular number includes the plural number, and the plural the singular, unless the natural construction of the words indicates otherwise.
 - 4. Calculations. Residential density and other calculations shall be consistent with the provisions of Section 25.30.020 (Fractions).
 - 5. Conjunctions. "And" indicates that all connected items or provisions shall apply. "Or" indicates that the connected items or provisions may apply singly or in any combination. "Either...or" indicates that the connected items and provisions shall

apply singly but not in combination. "Includes" and "including" shall mean "including but not limited to."

6. Local Reference. "City" as used in this Zoning Code means the City of Burlingame, and all public officials, bodies, and agencies referenced are those of the City unless otherwise stated.
 7. Definitions. As defined in Article 8 (Definitions) and/or as determined/interpreted by the Director.
 8. State Law Requirements. References to applicable provisions of State law (e.g., the California Government Code, Subdivision Map Act, Public Resources Code) shall be construed to refer to the applicable State law provisions, as they may be amended from time to time.
- C. Number of Days. Whenever the number of days is specified in this Zoning Code, or in any permit, condition of approval, or notice issued or given as provided in this Zoning Code, the number of days shall be construed as calendar days, unless otherwise specified. When the last of the specified number of days falls on a weekend or City holiday, time limits shall extend to the end of the next working day.
 - D. Minimum Requirements. When interpreting and applying the regulations of this Zoning Code, all provisions shall be considered to be minimum requirements, unless specifically stated otherwise.
 - E. Ambiguity. If ambiguity arises concerning the appropriate classification of a particular use or regulation within the meaning or intent of this Zoning Code based on established or unforeseen circumstances, including technological changes in processing or application of materials, the Director shall have the authority to interpret the regulation based on understanding of this Zoning Code.

§ 25.04.030. Procedures for Interpretation.

- A. Authority of Director to Interpret. Whenever the Director or designee determines that the meaning or applicability of any of the requirements of this Zoning Code is subject to interpretation generally, or as applied to a specific case, the Director may issue an official interpretation.
- B. Request for Interpretation. Any party may file a request for an interpretation or determination of this Zoning Code with the Director and shall include with such request the specific provisions in question and any other information necessary to assist the Director in the review.
- C. Record of Interpretation/Determinations. All interpretations and determinations shall be made in writing, and a permanent record of such interpretations and determinations shall be kept.
- D. Appeals. Applicants may appeal the Director's interpretation to the Planning Commission for review and interpretation, which shall be final; thereafter, such interpretation shall govern.

§ 25.04.040. Uses Not Classified.

- A. Use Not Listed Is Not Allowed. If a use of land is not specifically listed in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), the use shall not be allowed,

except as provided below.

- B. Director's Determination. Based on the authority granted in Section 25.04.030 (Procedures for Interpretation), the Director may determine that a land use that is not listed in Article 2 (Zoning Districts, Allowable Uses, and Development Standards) may be allowed. In making this determination, the Director shall first make all of the following findings:
1. The characteristics of, and activities associated with, the use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, emissions, or similar impacts than the uses listed in the zoning district;
 2. The use will meet the purpose/intent of the zoning district that is applied to the location of the use; and
 3. The use will be consistent with the goals, objectives, and policies of the General Plan and/or any applicable Specific Plan or Planned Development Permit.
- C. Applicable Standards and Permit Requirements. When the Director determines that an unlisted land use is equivalent to a listed use, the unlisted use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Title 25 apply.

§ 25.04.050. Illustrations.

In case of a conflict between the Zoning Code text and any diagram, illustration, graphic, or image contained in this Zoning Code, the text shall take precedence.

CHAPTER 25.06
ZONING MAP AND ZONING DISTRICTS

§ 25.06.010. Establishment of Zoning Districts.

- A. General. The City is divided into zoning districts to allow for orderly, planned development and to implement the General Plan. Table 25.06-1 (Zoning Districts Established) identifies all zoning districts. All zoning districts shall be listed and appropriately designated on the official zoning map. For purpose of the regulations set out in this title, the following zoning districts are created:

Table 25.06-1: Zoning Districts Established	
Residential Zoning Districts	
R-1	Low Density Residential
R-2	Medium Density Residential
R-3	Medium/High Density Residential
R-4	High Density Residential
Nonresidential Zoning Districts	
C-1	General Commercial
BFC	Bayfront Commercial
I-I	Innovation Industrial
PI	Public/Institutional
PR	Parks and Recreation

TPB	Tidal Plain/Bay
Mixed-Use Zoning Districts	
BRMU	Broadway Mixed-Use
CMU	California Drive Mixed-Use
NBMU	North Burlingame Mixed-Use
RRMU	North Rollins Road Mixed-Use
Downtown Specific Plan Zoning Districts	
BAC	Burlingame Avenue Commercial
BMU	Bayswater Mixed-Use
CAC	Chapin Avenue Commercial
CAR	California Drive Auto Row
DAC	Donnelly Avenue Commercial
HMU	Howard Mixed-Use
MMU	Myrtle Road Mixed-Use
Overlay Zoning Districts	
AR	Anita Road Overlay
CR	Commercial Residential Overlay for California Drive/Edgehill Drive
DPS	Downtown Parking Sector Overlay
H	Hillside Overlay
MUR	Multi-Unit Residential Overlay
R4I	R-4 Incentive Overlay
RRR	Rollins Road Residential Overlay
R-1-2	Two-Unit Residential Overlay

- B. Base Zoning District. Every parcel shall have a base zoning district that establishes the primary type and intensity of land use permitted, along with development regulations for that particular type and intensity of land use.
- C. Overlay Zoning District. An overlay zoning district supplements the base zoning district for the purpose of establishing special use or development regulations for a particular area in addition to the provisions of the underlying base zoning district. In the event of conflict between the base zoning district regulations and the overlay zoning district regulations, the provisions of the overlay zoning district shall apply.

§ 25.06.020. Zoning Map.

This title, together with the zoning map, is hereby adopted in compliance with current State planning, zoning, and development laws. Changes in the boundaries of any identified zoning districts shall be made by ordinance. The boundaries, designations, and locations of the zoning districts established by this Zoning Code shall be shown upon the map(s) entitled "City of Burlingame Zoning Map" and referred to in this Zoning Code as the Zoning Map. Any additional maps (e.g., setback map, height map) adopted shall also be a part of this Zoning Code by reference.

§ 25.06.030. Rights-of-Way and Vacated Boundary Lines.

Where a public street or alley is officially vacated, the property areas associated with the vacated street or alley shall be included within the zoning district or zoning districts of the adjoining properties. If the adjoining properties are in different zoning districts, the boundary lines shall be the centerline of the former street or alley and the extension of the side yard lines of the abutting properties. In the event such street, alley, or right-of-way was a boundary

between two or more different zoning districts, the new zoning district or zoning district boundary shall be the property line that is created by the vacation.

§ 25.06.040. Uncertainty of Boundaries.

If there is uncertainty about the location of a zoning district boundary shown on the official Zoning Map, the Director shall determine the location of the boundary in the following manner, except as provided in Section 25.06.030 (Rights-of-Way and Vacated Boundary Lines), above:

1. When a zoning district or area boundary is indicated as approximately following a parcel line, street line or alley line, such boundary shall be construed to follow the centerline of such parcel line, street line or alley line.
2. Where a zoning district or area boundary is indicated as approximately following a line between two or more recorded lots, such boundary shall be construed to follow the line dividing such lots as shown on the most recently approved record of survey parcel map or subdivision map.
3. Any party may file a request for an interpretation or determination of the Zoning Map as provided in Section 25.04.030 (Procedures for Interpretation).

§ 25.06.050. Classification of Annexed Lands.

- A. Any land annexed to the City of Burlingame shall be deemed to be zoned under such classification under this title as is most nearly the equivalent zoning classification or General Plan land use designation of the City of Burlingame.
- B. Whenever it is deemed that the zoning of annexed lands is inconsistent with the adopted General Plan land use policy or other City policies, the Planning Commission may recommend and the Council may adopt the zoning district classifications which shall apply to the annexed lands in the manner prescribed in Article 6 (Permit Processing Procedures) for amending this title.

SECTION FOUR. REPLACING ARTICLE 2 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE, EXCLUDING CHAPTERS 25.22 AND 25.24

Article 2 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following, excluding Chapters 25.22.

**Article 2
Zoning Districts, Allowable Uses, And Development Standards**

**CHAPTER 25.10
RESIDENTIAL ZONING DISTRICTS (R-1, R-2, R-3, R-4)**

§ 25.10.010. Purpose and Applicability.

- A. Residential Zoning Districts Purpose. The purpose of the residential zoning districts is to:
1. Provide for a full range of housing types and densities consistent with the General Plan;
 2. Preserve, protect, and enhance the character of Burlingame's different residential neighborhoods;
 3. Ensure adequate light, air, privacy, and open space for each dwelling;
 4. Ensure that the scale and design of new development and alterations to existing structures are compatible with the scale, mass, and character of their neighborhoods; and
 5. Provide sites for public and semi-public land uses, such as parks and public safety facilities, that will serve City residents and will complement surrounding residential development.
- B. Low Density Residential Zoning District (R-1) Purpose. The R-1 zoning district is intended to provide areas for detached single-unit and accessory dwelling units and ancillary structures. This zoning district implements the General Plan Low Density Residential designation.
- C. Medium Density Residential Zoning District (R-2) Purpose. The R-2 zoning district is intended to provide areas for detached and attached housing units, with no more than two separate residential units in a structure, and ancillary structures. This zoning district implements the General Plan Medium Density Residential designation.
- D. Medium/High Density Residential Zoning District (R-3) Purpose. The R-3 zoning district is intended to provide areas for a variety of medium/high density multi-unit housing types (e.g., row houses, townhouses, condominiums, and apartments) and ancillary structures, generally located along or with immediate access to arterial streets and/or near major activity centers. This zoning district implements the General Plan Medium/High Density Residential designation.
- E. High Density Residential Zoning District (R-4) Purpose. The R-4 zoning district is intended to provide areas for a variety of high-density multi-unit housing types and ancillary structures, generally located in targeted locations near transit or with immediate access to arterial streets and/or near major activity centers. This zoning district implements the General Plan High Density Residential designation.

§ 25.10.020. Land Use Regulations.

- A. Allowed Uses. Table 25.10-1 (Residential Zoning Districts Use Regulations) indicates the uses allowed within each residential zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.10-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.10-1 (Residential Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.10-1: Residential Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted					
Land Use	R-1	R-2	R-3	R-4	Specific Use Regulations
Residential Housing Types					
Dwellings					
Single-Unit Dwelling	P	P	--	--	In the R-3 zoning district, bungalow courts, court apartments, and similar uses may be composed of two or more detached dwellings on the same lot. In the R-3 and R-4 zoning districts, additions to existing single-unit dwellings are allowed, provided such additions conform with the standards for the zoning district in which they are located.
Two-Unit Dwellings	--	P	P	P	
Multi-Unit Dwellings	--	--	P	P	Within the boundaries of the Downtown Specific Plan, average maximum unit size shall not exceed 1,250 sq. ft.
Accessory Dwelling Unit	A	A	A	A	See Chapter 25.48.030
Special Residential Uses					
Communal Housing	--	--	P	P	See Chapter 25.48.080
Emergency Shelters - Permanent	--	--	--	--	See Chapter 25.48.100

Table 25.10-1: Residential Zoning Districts Use Regulations

	P	Permitted	TUP	Temporary Use Permit	
	CUP	Conditional Use Permit	A	Accessory Use	
	MUP	Minor Use Permit	--	Not Permitted	
Land Use	R-1	R-2	R-3	R-4	Specific Use Regulations
Emergency Shelters - Temporary	--	--	CUP	CUP	Allowed as an accessory use only. See Chapter 25.48.110
Residential Care Facilities					
Limited	P	P	P	P	Section 25.48.220
General	--	--	CUP	CUP	Section 25.48.220
Senior	--	--	CUP	CUP	Section 25.48.220
Supportive and Transitional Housing	P	P	P	P	
Other Uses					
Urban Agriculture	A	A	A	A	See Section 25.48.290
Community Assembly Facilities	--	--	--	--	
Family Day Care - Small	P	P	P	P	
Family Day Care - Large	P	P	P	P	
Government Buildings and Facilities	P	P	P	P	
Home Occupations	A	A	A	A	See Section 25.72
Limited Corner Store Retail	--	--	--	--	See Section 25.48.160
Park and Recreation Facilities, Public	P	P	P	P	
Religious Assembly Facilities	CUP	CUP	CUP	CUP	
Schools, Primary and Secondary	CUP	CUP	CUP	CUP	
Utility Structures and Service Facilities, Small	MUP	MUP	MUP	MUP	
Utility Structures and Service Facilities, Large	--	--	--	--	
Wireless Communications Facilities	See Section 25.48.300				

§ 25.10.030. Development Standards—General.

The general property development standards for the R-1, R-2, R-3, and R-4 zoning districts shall be as set forth in Table 25.10-2 (Residential Zoning Districts Development Standards).

Table 25.10-2: Residential Zoning Districts Development Standards

Development Standards	R-1	R-2	R-3	R-4	Additional Regulations
Density - Maximum	8 du/ac	20 du/ac	50 du/ac	80 du/ac	
Height - Maximum	30 ft.	30 ft.	Tier 1: 46 ft.	Tier 1: 46 ft.	See Sections 25.10.035 and 25.10.040 for exceptions.

Table 25.10-2: Residential Zoning Districts Development Standards

Development Standards	R-1	R-2	R-3	R-4	Additional Regulations
	(36 ft. with Special Permit)	(36 ft. with Special Permit)	Tier 2: 55 ft.	Tier 2: 75 ft.	See Section 25.30.040 for measurement.
Plate Height – Maximum	1 st Story: 9 ft. 6 in. Upper Stories: 8 ft. 6 in.	1 st Story: 9 ft. 6 in. Upper Stories: 8 ft. 6 in.	--	--	Measured from finished floor. See Section 25.10.035 for requests to exceed maximum plate height.
FAR - Maximum	See Section 25.10.060	See Section 25.10.60	n/a	n/a	See Section 25.30.060 for measurement and exceptions.
Setbacks - Minimum					
Front 1 st Story 2 nd Story	15 ft. 20 ft.	15 ft. 15 ft.	15 ft. 15 ft.	15 ft. 15 ft.	See Section 25.10.045 for special front setback requirements.
Side	Lot widths of 42 ft. or less: 3 ft. Lots wider than 42 ft., but less than 51 ft.: 4 ft. Lots 51 ft. wide or more, but less than 54 ft.: 5 ft. Lots 54 ft. wide or more, but less than 61 ft.: 6 ft. Lots 61 ft. wide or more: 7 ft.				See Section 25.10.050 for special side setback requirements.
Side Upper Stories	See Section 25.10.050				See Section 25.30.080 for setback measurement and exceptions.
Corner Lot: Street Side 1 st Story 2 nd Story	7.5 ft. 12 ft. average	7.5 ft. 7.5 ft.	7.5 ft. 7.5 ft.	7.5 ft. 7.5 ft.	
More than 2 Stories	12 ft. average	7.5 ft.	See Section 25.10.050.C		
Rear 1 st Story 2 nd Story More than 2 Stories	15 ft. 20 ft. 20 ft.	15 ft. 15 ft. 15 ft.	15 ft. 15 ft. 20 ft.	15 ft. 15 ft. 20 ft.	
Public and Institutional Uses – All Setbacks (Minimum)	Comply with standards of the applicable zoning district				
Lot Coverage - Maximum	40%		Interior lots 60% Corner lots: 70%	Interior lots 60% Corner lots: 70%	See Section 25.30.070 for lot coverage exceptions.
Unit Size - Maximum	--	--			Average maximum unit size of 1,250 sq. ft. for multi-unit residential uses located within Downtown Specific Plan
Front Setback Impervious Surfaces - Maximum	40%		50%		See Chapter 25.36 for additional landscape requirements.
Open Space - Minimum	n/a	n/a	175 sq. ft. per unit		See Section 25.36.030.
2 nd Floor Decks/Balconies	Up to 75 sf maximum per lot with approval of Special Permit		--		Does not apply to lots located within the Hillside Overlay.

Table 25.10-2: Residential Zoning Districts Development Standards

Development Standards	R-1	R-2	R-3	R-4	Additional Regulations
Minimum Side Setback	Two times minimum required side setback				Special Permit required for 2 nd floor decks/balconies (75 SF maximum per lot). Special Permit application may be filed to exceed minimum required side setback.

§ 25.10.035. Special Permit Requirements in R-1 Zoning District.

Applicability. The following structures and development approaches are allowed in the R-1 zoning district with a Special Permit. In granting such a permit, the Review Authority shall make the findings required in Section 25.78.020.B (Required Findings).

1. Attached garages for single-unit dwellings, except for replacement of an existing attached garage or for existing attached garages that are extended no more than 10 feet in length. In all cases the attached garage shall comply with the minimum required front setback requirements in Section 25.10.050 (Special Front Setback Requirements).
2. Construction exceeding the limits of the declining height envelope.
3. Building height exceeding 30 feet, but not to exceed 36 feet.
4. A detached garage or other accessory structure, other than an accessory dwelling unit, that is in the rear of the lot and that is more than 28 feet in width or depth.
5. Plate height exceeding maximum indicated in Table 25.10-2 (Residential Zoning Districts Development Standards).
6. Except in the Hillside Overlay, any second-floor deck or balcony up to a maximum of 75 square feet and/or to exceed the minimum required side setback for a second-floor deck or balcony. Second-floor decks and balconies shall not be designed as viewing platforms and shall be designed to consider surrounding context, including window location of adjacent properties.

§ 25.10.040. Structures and Development Approaches in the R-2 Zoning District Requiring a Special Permit.

Applicability. The following structures and development approaches are allowed in the R-2 zoning district with a Special Permit. In granting such a permit, the Review Authority shall make the findings required in Section 25.78.030.B (Required Findings).

1. Building height exceeding 30 feet, but not to exceed 36 feet.
2. Construction exceeding the limits of the declining height envelope.

§ 25.10.045. Special Permit Requirements in the R-3 and R-4 Zoning Districts.

- A. Additional Special Permit Requirements for the R-3 Zoning District within the Anita Road Overlay and within the Rollins Road Residential Overlay, and R-4 Zoning District within the R-4 Incentive Overlay can be found in Sections 25.20.010, 25.20.060, and 25.20.070,

respectively.

- B. Circular Drives. In the R-3 and R-4 zoning districts, if a circular drive is provided, a reduction of the required front setback landscaping to 45 percent of the lot area within the required front setback shall be allowed with approval of a Special Permit.
- C. Community Benefits Option. A developer may elect to develop consistent with either Tier 1 or Tier 2 development standards. Projects using Tier 2 standards shall provide community benefits pursuant to this subsection and shall require a Special Permit.
 - 1. Purpose and Applicability. To provide an incentive for development, and in partnership with the City to provide community benefits that would not otherwise be created, the Planning Commission may grant increased height in return for provision of specific community benefits, as listed below or subsequently identified by the City Council, for a proposed residential project, if doing so is in the City's interest and will help implement the General Plan. A variety of objectives are listed to ensure that proposed project features are appropriate for the site and surroundings, and to allow for a wide range of possible project types.
 - 2. Review Authority and Tier Requirements.
 - a. Planning Commission Approval of Community Benefits Bonuses. The Planning Commission is the Review Authority for an application for Tier 2 projects.
 - b. Tier 2 Requirements and Number of Community Benefits. The Planning Commission may approve a Special Permit approving a Tier 2 project if it determines that the project includes at least two community benefits from subsection 3 of this section (Community Benefit Options).
 - 3. Community Benefit Options.
 - a. Pedestrian Amenities. The project includes major pedestrian connections exceeding minimum pedestrian requirements.
 - b. Off-Site Streetscape Improvements. The project includes off-site streetscape improvements and amenities; these provisions do not include improvements along the frontage of a development site that would normally be required by law or as a condition of project approval. The provision of selected amenities may require approval of a development agreement. Examples of amenities include:
 - i. Enhanced pedestrian and bicycle-oriented streetscapes.
 - ii. Protected bicycle lanes and pedestrian pathways, improved bicycle and pedestrian crossings/signals, bicycle racks/shelters.
 - iii. New pedestrian and bicycle connections to transit facilities, neighborhoods, trails, commercial areas, etc.
 - iv. Removal of existing pedestrian and bicycle barriers.
 - v. Upgrading traffic signals to enhance pedestrian and bicycle safety.
 - vi. Enhanced crosswalk materials.
 - vii. Contribution to capital project funds that would not otherwise be required.

- c. Near Zero Net Energy. The project provides up to 98 percent of total building energy load measured as kilowatt per square foot through solar panels, wind turbines, or other renewable sources.
- d. Net Zero Water Use. The project provides on-site and/or off-site water usage off-sets to achieve net zero water use. Water usage off-sets may include grey water systems, the retrofit of plumbing fixtures in other buildings, etc.
- e. Flexible (Miscellaneous) Benefit. The project provides a currently undefined community benefit approved by the Review Authority that is significant and substantially beyond normal requirements. Examples are inclusion of a child care center in a new development project, off-site utility infrastructure improvements above and beyond those required to serve the development, additional funding for City programs such as contribution to park improvement funds (beyond required impact fees).
- f. Additional Affordable Units. The project provides at least 15 percent low, or 10 percent very-low, or 5 percent extremely-low deed restricted affordable units beyond those required by the onsite alternative option of the Residential Impact Fee (see Code Section 25.45.070).
- g. Public Art. The project provides funding for the maintenance or installation of public art not located on the project site or the installation and maintenance of public art in a publicly accessible space on the project site. The valuation of the public art shall equate to at least one percent of the project construction costs.

§ 25.10.050. Special Front Setback Requirements.

- A. Subdivision Maps. The front setback delineated on any approved subdivision map shall supersede any provision of this chapter.
- B. Residential Front Setbacks.
 - 1. Average Front Setbacks over 15 Feet. The front setback line for any new structure or addition in the R-1, R-2, R-3, and R-4 zoning districts shall be the average of the actual front setback of such existing structures, including the existing structure on the subject property, located on the same side of the same block, if such average exceeds 15 feet. The measurement shall be taken from the front property line to the nearest first floor wall or covered projection of any existing structures (e.g., house, porch, or garage). Excluded from the average front setback calculation shall be corner lots and the least and greatest existing front setbacks. For blocks that contain fewer than five parcels, the average front setback shall be based on the interior lots.
 - 2. R-1 Front Setbacks – Additional Regulations.
 - a. Second Floor and Upper Stories. For stories above the first story, the minimum front setback shall be block average front setback, measured as noted above in Section B.1., or 20 feet, whichever is greater.
 - b. Garages. The minimum front setback of an attached garage or attached covered parking structure shall be:
 - i. Single car garage: 25 feet.
 - ii. Two car garage: 35 feet. However, if the garage doors for the two-car

garage are provided by two single doors, the front setback may be staggered at 20 feet for one door and 25 feet for the second door or side-by-side at 25 feet. See Figure 25.10-1: R-1 Garage Front Setbacks.

- c. El Camino Real. The minimum front setback of all structures on lots fronting on El Camino Real shall be 20 feet; this shall apply whether the lot frontage is considered the front, street side or rear of the lot.
- 3. R-2 Front Setbacks – Garages. The minimum front setback to the face of any garage or covered parking shall be 20 feet.
- 4. R-3 and R-4 Front Setbacks – Front Setbacks on Certain Streets. Front setbacks on certain streets shall be as indicated in Table 25.10-3: Front Setbacks on Certain Streets.

Figure 25.10-1: R-1 Garage Front Setbacks

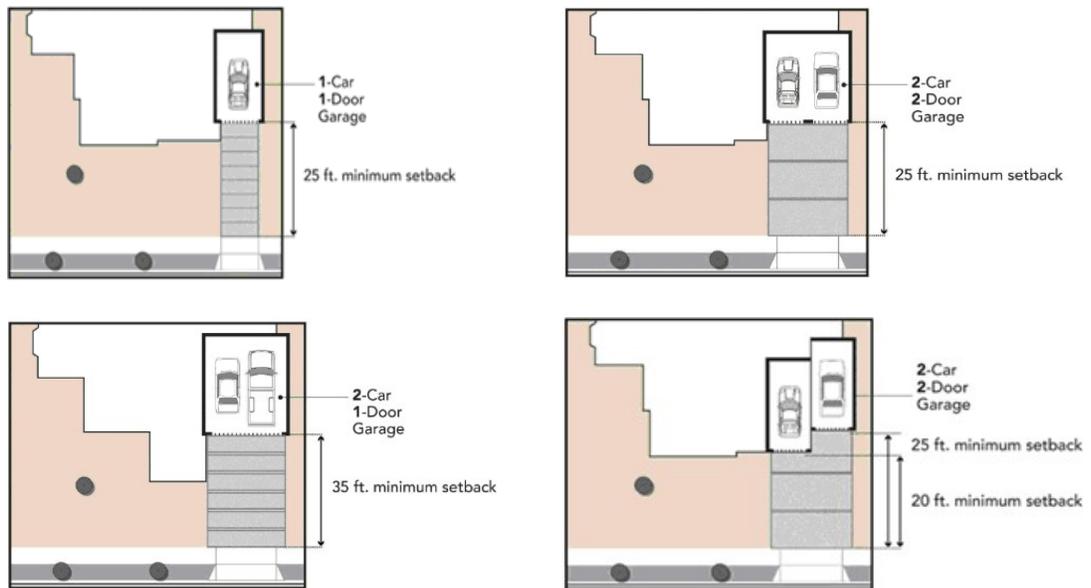


Table 25.10-3: Front Setbacks on Certain Streets

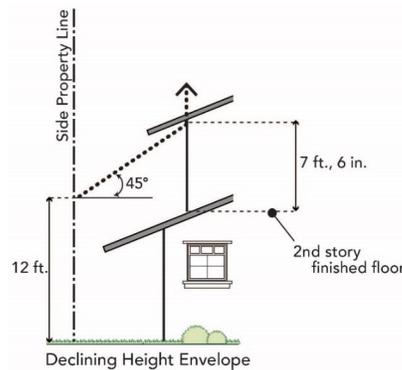
Street	Front Setback
Park Road, between Howard and Peninsula Avenues	5 ft.
Primrose Road, between Howard and Bayswater Avenues	10 ft.
El Camino Real Frontage (includes street side or rear of lot)	20 ft.

§ 25.10.055. Special Side Setback Requirements.

- A. R-1 and R-2 Side Setbacks – Additional Regulations for Interior Lots.
- B. Declining Height Envelope. In addition to complying with the minimum side setback requirements in Table 25.10-2, structures on interior lots in the R-1 and R-2 zoning districts shall not extend above or beyond the second story declining height envelope. The declining height envelope shall depart from 12 feet above original existing grade at each side property line and extend at an angle of 45 degrees. The declining height envelope line shall extend until it intersects with a point seven feet six inches above the second story finished floor, then the line shall extend vertically. The original existing grade

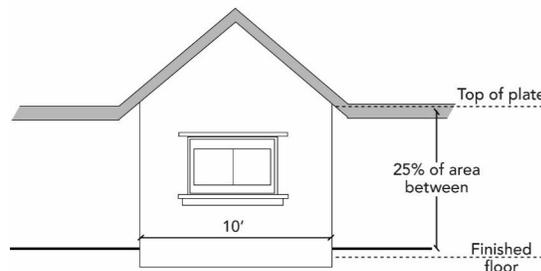
shall be determined by the average of the elevations at the front and rear property line corners at each side.

Figure 25.10-2: R-1 and R-2 Declining Height Envelope



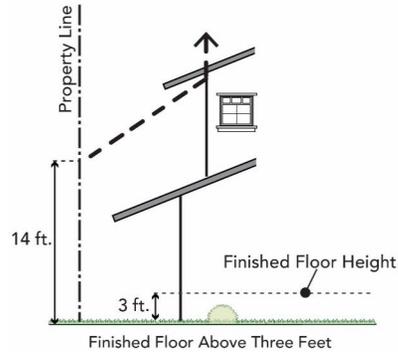
1. Exemptions. In addition to allowed projections in Section 25.30.080 (Determining Setbacks), the following are exempt from the declining height envelope:
 - a. Window Enclosures. Window enclosures that create no more than 35 square feet of floor area per side and have a length no greater than 10 feet. At least 25 percent of the face of such enclosure as measured between the finished floor and the plate line shall be window area.

Figure 25.10-3: R-1 and R-2 Window Enclosure Exception for Declining Height Envelope



- b. Sloping Lots. Where the slope on a lot between the front setback and rear setback lines on either side property line varies by two feet or more, the measurement for the declining height envelope point of departure shall be the average elevation as taken at the intersection of the adjacent side property lines with the 15-foot front setback line and the 15-foot rear setback line.
- c. Elevated Finished First Floor. Where the finished first floor of a house is more than three feet above average finished grade, as determined by the average elevations at the four exterior corners of the existing house, and the area below or basement is not improved area, the measurement for the declining height envelope shall be 14 feet above the side property line.

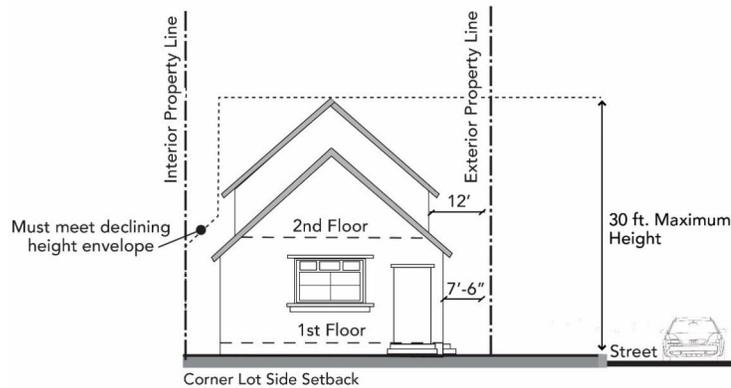
Figure 25.10-4: R-1 and R-1 Finish First Floor Exception for Declining Height Envelope



C. R-1 Side Setbacks – Additional Regulations for Corner Lots.

1. Interior Side Setback. The second-floor side setback along the interior side of a corner lot shall comply with the minimum side setback requirement in Table 25.10-2 and the declining height envelope requirements.
2. Street Side Setback. The second-floor side setback on a corner lot shall average at least 12 feet from the street side property line. No more than 25 percent of the length of the second-floor wall shall be placed in the area between 12 feet and seven feet six inches from the street side property line.

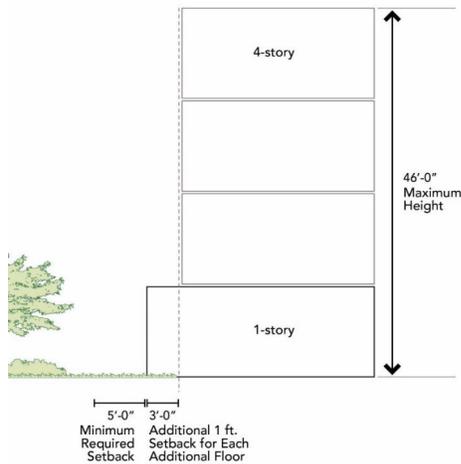
Figure 25.10-5: R-1 Corner Lot Side Setbacks



D. Special Side Setback Requirements in the R-3 and R-4 Zoning Districts.

1. Increased Setback for Upper Stories. The side setback requirement shall be increased by one foot for each story above the first story. This side setback requirement shall apply to all stories above the first story.

Figure 25.15-6: R-3 and R-4 Upper Story Side Setback Requirements



2. Corner Lots – Street Side Setback. The street side setback on a corner lot shall be seven feet six inches for a building of two stories or less and shall increase one foot for each additional story. Setback for upper stories applies only to that portion of the structure that exceeds two stories.

§ 25.10.060. Floor Area Ratio in the R-1 Zoning District.

In the R-1 zoning district, the maximum allowable floor area ratio (FAR) shall be as described in Table 25.10-4 (R-1 Zoning District Floor Area Ratio). See also Sections 25.30.060 (Determining Floor Area) and 25.48.030 (Accessory Dwelling Units).

In the R-2 zoning district, single-unit dwellings are also subject to the maximum allowable floor area ratio (FAR) as described in Table 25.10-4 (R-1 Zoning District Floor Area Ratio).

Table 25.10-4: R-1 Zoning District Floor Area Ratio		
Type of Lot	Floor Area Ratio	Structures Included
Interior lots with attached garages	32 percent plus 1,100 sq. ft	Includes attached garage, attached covered parking and other accessory structures
Interior lots with detached garages	32 percent plus 1,100 sq. ft., plus up to an additional 400 sq. ft. for detached garage and other accessory structures	Includes all accessory structures
Corner lots with attached garages	32 percent plus 900 sq. ft.	Includes attached garage, attached covered parking and other accessory structures
Corner lots with detached garages	32 percent plus 900 sq. ft., plus up to an additional 350 sq. ft. for detached garage and other accessory structures	Includes all accessory structures

§ 25.10.070. Interior Access in the R-1 Zoning District.

A stairway, elevator, ramp, or similar access shall be provided between all floors of improved area within a single-unit residential structure. Such access shall be located within the exterior walls of the structure.

§ 25.10.080. Open Space in R-3 and R-4 Zoning Districts.

Open space may be provided as either private, common, or include both private and common open space.

§ 25.10.090. Lot Frontage, Width, and Size for All Residential Zones.

- A. Lot Width. Each lot shall have an average width of not less than 50 feet.
- B. Lot Frontage. The minimum frontage for parcels shall be as indicated in Table 25.10-5.

Table 25.10-5: Minimum Lot Frontage

Lot Size	Minimum Lot Frontage
Lot Frontage on Public Street	
Less than 6,999 sf	50 ft.
7,000 – 9,999 sf	55 ft.
10,000 sf or more	60 ft.
Frontage for Lots Facing on a Curved Street	
Less than 6,999 sf	30 ft.
7,000 – 9,999 sf	35 ft.
10,000 sf or more	40 ft.

- C. Lot Sizes in Residential Zones. Minimum lot sizes in residential zones shall be as indicated on the map adopted by Ordinance 712 and as subsequently amended:
 - 1. 5,000 Square Feet. All lots shown in white shall have an area of not less than 5,000 square feet;
 - 2. 7,000 Square Feet. All lots shown within a border of horizontal crosshatching shall have an area of not less than 7,000 square feet; and
 - 3. 10,000 Square Feet. All lots shown within a border of vertical crosshatching shall have an area of not less than 10,000 square feet.
- D. Special Requirements Related to Lot Width, Frontage, and Size.
 - 1. Effect on Lots or Parcels Recorded Before 1958. The average width, lot frontage, and minimum areas provided for in subsections A, B, and C of this section shall not apply to any lot or parcel of land of smaller dimensions appearing of record in the office of the County Recorder of the County of San Mateo, or of the City Engineer of the City of Burlingame, prior to June 18, 1958. No building permit shall be issued for the construction of any building on any lot divided or subdivided after said date which does not comply with the minimum requirements set forth above, except as varied by subsection B above or through an approved variance.
 - 2. Conformance to this Section. All the development requirements in this section shall apply to lands hereafter subdivided in accordance with the provisions of the Subdivision Map Act of the State of California, provided, however, that the Commission and Council may, in the considerations and acceptance of any

tentative or final map submitted pursuant to the provisions of said Subdivision Map Act, approve or accept any such tentative or final map wherein one or more lots or parcels of land do not conform to all of the provisions of this section, when the Commission and Council find that by reason of exceptional or extraordinary circumstances the approval or acceptance of such maps is consistent with General Plan policy.

3. Minimum Lot Size for Lands Annexed After 1960. No lands annexed to the City after May 31, 1960, which are classified for residential uses, shall be divided into lots having areas of less than 10,000 square feet each.

§ 25.10.100. Minor Modifications.

Certain minor modifications from development standards are permitted consistent with Chapter 25.74.

§ 25.10.110. Design Review.

Design review shall be required pursuant to the provisions of Chapter 25.68 (Design Review).

CHAPTER 25.12
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS (C-1, BFC, I-I)

§ 25.12.010. Purpose and Applicability.

- A. Commercial and Industrial Zoning Districts Purpose. The purpose of the commercial and industrial zoning districts is to:
 1. Provide opportunities for a variety of commercial and industrial business types that contribute to the stability of the City's economy.
 2. Encourage a diverse mix of goods, services, office, and research and development uses, including small and independent businesses, to enrich the lives of residents, employees, and visitors and to increase employment opportunities.
 3. Promote commercial and industrial development that will foster and enhance the identity and vitality of specific areas and corridors.
- B. General Commercial Zoning District (C-1) Purpose. The purpose of the General Commercial (C-1) zoning district is to implement the General Plan General Commercial designation by establishing areas for lower-intensity commercial uses intended to meet the needs of residents and employees. General Commercial uses are in targeted locations where higher-intensity uses and development are not appropriate and where low-intensity commercial businesses have minimal impact on adjacent residential areas. General Commercial design standards encourage pedestrian access and compatibility with surrounding uses in terms of scale and appearance.
- C. Bayfront Commercial Zoning District (BFC) Purpose. The purpose of the Bayfront Commercial (BFC) zoning district is to provide opportunities for office and research and development, as well as both local and tourist commercial uses that take advantage of views of and access to the Bay, where residents, employees and visitors can work, shop, eat, bike and walk, and enjoy nature. A critical component is prioritization on public access to the waterfront.

- D. Innovation Industrial Zoning District (I-I) Purpose. The purpose of the Innovation Industrial (I-I) zoning district is to accommodate and encourage places for diverse and compatible light industrial, research and development, and creative business enterprises. Adaptive reuse of existing buildings with creative and design commercial uses is encouraged, as well as façade and site improvements on industrial properties.

§ 25.12.020. Land Use Regulations.

- A. Allowed Uses. Table 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations) indicates the uses allowed within each commercial and industrial zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.12-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.
- D. Airport Land Use Compatibility. Uses must comply with Safety Compatibility Policies SP-1 through SP-3 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP) including Noise/Land Use Compatibility and Safety Compatibility Criteria listed in Tables IV-1 and IV-2. Some uses listed in Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) may be incompatible in safety zones. Refer to ALUCP Exhibit IV-9 for a map of the safety compatibility zones.
- E. Conditionally Allowed Uses in Drainage Rights-of-Way in I-I Zoning District.
1. Supplemental Parking. Supplemental parking for permitted or conditionally permitted uses in the I-I zoning district may be allowed within drainage rights-of-way with a Conditional Use Permit.
 2. Storage of Operable Vehicles. Storage of operable vehicles may be allowed in the I-I zoning district only within drainage rights-of-way and subject to a Conditional Use Permit and the following conditions:
 - a. Vehicles must be in operable condition and must be managed at all times by a single, responsible person with access to the keys for all vehicles.
 - b. Vehicles shall be moved by appointment only and shall not be moved during a.m. and p.m. peak hour traffic periods as defined by the City Engineer.
 - c. Site size must be a minimum of 0.7 acres.
 - d. Site must have approved access to a public street.
 - e. No customers shall visit the site.
 - f. Recreational vehicles and boats shall not be moved during a.m. and p.m. peak hour traffic periods as defined by the City Traffic Engineer.

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P CUP MUP		Permitted Conditional Use Permit Minor Use Permit		TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	C-1	BFC	I-I	Specific Use Regulations	
Commercial – Retail					
Eating and Drinking Establishments					
Bars and Taverns	--	P	--	Breweries, Distilleries, and Wineries are allowed as an accessory use to a restaurant with a CUP. For Breweries, Distilleries and Wineries as a primary use, see Industrial Uses in this table.	
Night Clubs	--	CUP	--		
Outdoor Dining	P	P	P		
Restaurants	P	P	P		
Restaurants – Drive-through	--	--	CUP		
Tasting Rooms	A	A	A		
Food and Beverage Sales					
Alcohol Sales Store	--	--	--	Maximum size of accessory food and beverage sales uses in these zoning districts is 1,500 sq. ft. Accessory convenience store uses limited to 2,500 square feet.	
Convenience Store	MUP	A	A; MUP for standalone		
General Market	MUP	A	A; MUP for standalone		
Nurseries and Garden Centers	P	--	P		
Retail Sales					
General	P	A	--	No outdoor storage or sales permitted in conjunction with any permitted use, except for permitted temporary sales. In the I/I zone, may be permitted with a Minor Use Permit subject to Section 25.48.190 (Outdoor Sales, Displays, and Storage)	
Large Format	--	--	--		
Specialized	--	--	--		
Vehicle Fuel Sales and Accessory Service	CUP	CUP	CUP		
Vehicle Sales					
Auto and Light Truck	CUP	--	CUP		
Heavy Equipment Sales (and Rental)	--	--	CUP	See Section 25.48.280	
Commercial – Services and Recreation					
Animal Care Services					
Kennels	--	--	MUP		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

	P CUP MUP	Permitted Conditional Use Permit Minor Use Permit	TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	C-1	BFC	I-I	Specific Use Regulations
Grooming	P	P	P	No overnight animal stays permitted.
Pet Hotels	--	--	CUP	
Veterinarian	P	--	P	
Banks and Financial Institutions	P	P	--	
Building Materials and Contractor Services	--	--	P	Showroom and direct retail sales allowed up to 50% of floor area. See 25.48.190 for outdoor storage
Business Services	P	P	P	
Check Cashing and Pay Day Loan Establishments	--	--	--	
Commercial Recreation – Large Scale	CUP	CUP	CUP	
Commercial Recreation – Small Scale	MUP	MUP	MUP	
Day Care Centers	MUP	P	MUP	See Section 25.48.090 For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et. Seq., and licensed to serve 15 or more children not allowed. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business allowed with a CUP.
Food Preparation (catering)	P	--	P	
Funeral Services and Cemeteries	--	--	--	
Office – Co-Working	P	P	P	
Office – Medical or Dental	CUP	P	P	In I-I zoning district: Permitted only east of Highway 101.

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

	P CUP MUP	Permitted Conditional Use Permit Minor Use Permit	TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	C-1	BFC	I-I	Specific Use Regulations
Office – Professional	P	P	P	In I-I zoning district: <ul style="list-style-type: none"> In area east of Highway 101, general offices permitted. In areas west of Highway 101, offices are limited to creative offices, including architects, interior designers, and other offices related to design services.
Office – Research and Development	P	P	P	For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, CUP required if use entails hazardous materials. For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, Biosafety Level 3 and 4 facilities not allowed.
Personal Services – General	P	P	--	
Personal Services – Specialized	CUP	--	--	
Studios – Arts	P	P	P	
Theaters – Live	--	P	--	
Theaters – Movie or similar	--	P	--	
Educational Services				
Schools, Primary and Secondary (Private)	CUP	CUP	CUP	For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, public and private schools serving preschool through grade 12 not allowed.
Trade Schools	--	CUP	P	In I-I zoning district, limited to 20% of floor area; CUP if over 20%.
Tutoring and Educational Services	P	P	P	
Industry, Manufacturing and Processing, Warehousing, and Wholesaling Uses				
Breweries, Wineries, and Distilleries	MUP	MUP	MUP	See Section 25.48.250 (Tasting Rooms as an Accessory Use).

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P CUP MUP		Permitted Conditional Use Permit Minor Use Permit		TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	C-1	BFC	I-I	Specific Use Regulations	
Food Processing and Production	--	--	CUP	Only permitted for small-scale hand production or artisan endeavors with incidental direct sale of goods produced on-site.	
Laboratories/Research and Development	--	P	P		
Light Industrial	--	--	P		
Recycling facilities					
Light processing	--	--	P	See Section 25.48.200	
Reverse Vending Machine(s)	A	--	A		
Small collection	CUP	--	P		
Vehicle Services and Repair					
Minor (Minor Repair/Maintenance)	CUP	--	P	Only permitted west of Highway 101 and south of Easton Creek.	
Major (Major Repair/Body Work)	--	--	P		
Vehicle Rental	CUP	--	CUP		
Car Wash	CUP	--	CUP		
Warehousing/Logistics	--	--	P		
Wholesaling	--	--	P		
Lodging					
Extended Stay Hotels	--	P	P	In I-I zoning district, hotels and motels only permitted on properties with frontage on Old Bayshore Highway. For park-and-fly facilities associated with hotels, see Park and Fly, Accessory to Hotel.	
Hotels and Motels	--	P	P	In I-I zoning district, hotels and motels only permitted on properties with frontage on Old Bayshore Highway. For park-and-fly facilities associated with hotels, see Park and Fly, Accessory to Hotel, below.	
Public and Quasi-Public Uses					
Assembly Facilities					
Community Assembly Facility	CUP	--	CUP		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

	P CUP MUP	Permitted Conditional Use Permit Minor Use Permit	TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	C-1	BFC	I-I	Specific Use Regulations
Religious Assembly Facility	CUP	--	CUP	
Community Open Space	P	P	P	
Emergency Shelters – Permanent	--	--	P	Permitted only on properties located north of Mills Creek
Emergency Shelters – Temporary	--	--	P	Shall be located within a transportation corridor and shall not occur continuously at any one location for more than six months of any 12-month period.
Low Barrier Navigation Center	P	--	--	See Section 25.48.170
Government Buildings and Facilities	P	P	P	
Hospitals	--	--	--	
Medical Clinics	P	P	P	
Park and Recreation Facilities, Public	P	P	P	
Residential Uses				
Caretaker Quarters	A	A	A	
Transportation, Communication, and Infrastructure Uses				
Air Courier, Terminal, and Freight Services	--	--	MUP	
Park and Fly, Accessory	--	MUP	MUP	Only permitted as an accessory use to hotel or office uses as part of a larger development plan. Parking shall be in parking structures.
Park and Fly, Primary Use	--	--	--	
Parking Facility, Accessory Use	A	A	A	
Parking Facility, Primary Use	--	--	CUP	
Transit Facilities	--	P	P	
Utility Structures and Service Facilities, Small	--	MUP	MUP	
Utility Structures and Service Facilities, Large	--	--	--	
Vehicle Storage	--	--	CUP	

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

	P CUP MUP	Permitted Conditional Use Permit Minor Use Permit	TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	C-1	BFC	I-I	Specific Use Regulations
Wireless Telecommunication Facilities	See Section 25.48.300			
Specific and Temporary Uses				
Adult Entertainment Businesses	--	P	--	Comply with Section 25.48.040
Drive-Through or Drive-Up Facilities	--	--	--	
Outdoor Storage	--	--	CUP	Must be related to immediately abutting uses which are permitted or conditional in the district. See Section 25.48.190
Outdoor Temporary and/or Seasonal Sales	TUP	TUP	TUP	See Section 25.48.190
Temporary Uses	TUP	TUP	TUP	See Section 25.48.260
Urban Agriculture	P	P	P	See Section 25.48.290 (Urban Agriculture)

§ 25.12.030. Development Standards.

The general property development standards for C-1, BFC, and I-I zoning districts shall be as set forth in Table 25.12-2 (Commercial and Industrial Development Standards).

Table 25.12-2: Commercial and Industrial Development Standards

Development Standards	C-1	BFC	I-I	Additional Regulations
Height – Maximum ¹	35 ft. (46 ft. with Special Permit)	65 ft. (Special Permit required for heights greater than 65 ft.)	35 ft. (65 ft. with Special Permit) Properties fronting on Bayshore Hwy: 65 ft. (Special Permit required for heights greater than 65 ft.)	
Floor Area Ratio (FAR) – Maximum	1.0	Tier 1: 1.0 Tier 2: 2.0 Tier 3: 3.0	Properties fronting Bayshore Hwy: 0.75	Balconies and decks exempted from FAR (to be discussed in calculation of FAR)

Table 25.12-2: Commercial and Industrial Development Standards

Development Standards	C-1	BFC	I-I	Additional Regulations
			Hospitality: 3.0 Office/Research & Development: Tier 1: 0.75 Tier 2: 2.0 Tier 3: 2.75	See Section 25.12.040 regarding community benefits findings for FAR Tiers 2 and 3
Minimum Setbacks				
Front	10 ft., except 20 ft. on El Camino Real frontage	10 ft.	10 ft.	No parking in front setback.
Side – Interior	--	10 ft.	10 ft, except for parcels located between Easton Creek and Broadway, including properties with lot frontage on Broadway or otherwise for parcels under common ownership or with consent of adjacent property owner	For the BFC zoning district, see 25.12.060.B (View Corridor Requirement)
Side – Street	--	10 ft.	10 ft.	
Rear	--	10 ft.	0 ft., except 10 ft. on Bayshore Highway	
Edge Conditions – Minimum	1 st story: 10-ft setback Upper stories: 15-ft setback	--	1 st story: 10-ft setback Upper stories: 15-ft setback	Applicable to any portion of property that is adjacent to any portion of property developed with residential uses.
Lot Coverage – Maximum	--	60%	70%	
Lot Dimensions – Minimum				
Size	10,000 sq. ft.	20,000 sq. ft.	10,000 sq. ft.	
Frontage	50 ft.	50 ft.	50 ft.	
Open Space – Minimum (per residential unit)	175 sq. ft.	--	--	See Section 25.36.030
Percent Landscape Coverage – Minimum	--	20% of site	15% of site	See Chapter 25.36 for additional landscape requirements.

¹ Maximum building heights are also required to comply with Airspace Protection Policies AP-1 through AP-4 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP).

This includes determining the need to file Form 7460-1, Notice of Proposed Construction or Alteration, with the FAA for any proposed project that would exceed the FAA notification heights, as shown approximately on ALUCP Exhibit IV-10 and complying with FAA Aeronautical Study Findings. It also includes complying with the maximum compatible building height, which includes all parapets, elevator overruns, etc. of a building, as noted in ALUCP policy AP-3 and depicted in Exhibits IV-17 and IV-18 of the ALUCP.

§ 25.12.040. Community Benefits for Increased FAR in the BFC and I-I Zoning Districts.

A. Purpose and Applicability.

1. **Purpose.** To provide an incentive for development, and in partnership with the City to provide community benefits that would not otherwise be created, the Planning Commission, through a discretionary review and public hearing process, may grant increased FAR in return for provision of specific community benefits, as listed below or subsequently identified by the City Council, if doing so is in the City's interest and will help implement the General Plan. A variety of objectives are listed to ensure that proposed project features are appropriate for the site and surroundings, and to allow for a wide range of possible project types.
2. **Applicability.** A developer may elect to develop consistent with either Tier 1, Tier 2, or Tier 3 development standards. Projects using Tiers 2 or 3 standards shall provide community benefits pursuant to this section and shall require a special permit.
3. **Findings.** For Tier 2 and 3 projects, the Planning Commission shall make additional findings that the project proposes public benefits in excess of the City's normal requirements that improve the quality of life of employees, residents, and/or visitors, or assists the City in implementing an important plan or policy. See Section 25.78.050.

B. Review Authority and Tier Requirements.

1. **Planning Commission Approval of Community Benefits Bonuses.** The Planning Commission is the Review Authority for an application for Tier 2 or 3 projects.
2. **Tier 2 Requirements and Number of Community Benefits.** The Planning Commission may approve Tier 2 projects if it determines that the project includes at least two community benefits from subsection C of this section (Community Benefit Objectives).
3. **Tier 3 Requirements and Number of Community Benefits.** The Planning Commission may approve Tier 3 projects if it determines that the project includes at least three community benefits from subsection C of this section (Community Benefit Objectives).

C. Community Benefit Objectives. Community Benefits provided pursuant to this section may include, but are not limited to, the following:

1. **Public Plazas.** The project includes public plaza(s) that comply with this subsection.
 - a. The minimum area of any public plaza shall be 5,000 square feet and shall be measured as one single open space.
 - b. The public plaza shall be owned, operated, and maintained by the developer or property manager in accordance with an approved maintenance plan. to be reviewed and approved by the Director.

- c. Each part of the public plaza shall be accessible from other parts of the open space without leaving the open space area.
 - d. The public plaza shall be on the ground level and directly accessible from the sidewalk and be accessible to persons with disabilities.
 - e. The public plaza shall be open to the public, without charge, each day of the year, except for temporary closures for necessary maintenance or public safety.
 - f. At a minimum, the following elements shall be included: trees and landscaping, seating, bicycle racks, trash and recycling receptacles, and signage that include hours of operation.
2. Publicly Accessible Park Space. The project provides a contribution towards the provision of public parks in the BFC or I-I zones as applicable. Contribution can be in the form of dedication of land, provisions of improvements, or payment of fee in excess of that under Chapter 25.46 (Public Facilities Impact Fees).
 3. Childcare Facilities. The project provides for the establishment and ongoing maintenance of on-site or off-site child care facilities.
 4. Cultural Arts and Community Events Spaces. The project includes space for visual arts, performing arts, community events, and other activities that support arts and culture.
 5. Off-Site Streetscape Improvements. The project includes off-site streetscape improvements and amenities; these provisions do not include improvements along the frontage of a development site that would normally be required. Examples of amenities include:
 - a. Enhanced pedestrian and bicycle-oriented streetscapes.
 - b. Protected bicycle lanes and pedestrian pathways, improved bicycle and pedestrian crossings/signals, bicycle racks/shelters.
 - c. New pedestrian and bicycle connections to transit facilities, neighborhoods, trails, commercial areas, etc.
 - d. Removal of existing pedestrian and bicycle barriers (e.g., dead-ends and cul-de-sacs).
 - e. Upgrading traffic signals to enhance pedestrian and bicycle safety.
 - f. Monetary contribution to streetscape projects within the BFC and/or I-I Districts.
 6. Off-Site Infrastructure Improvements. The project includes monetary contributions to off-site infrastructure improvements exceeding obligations under Chapter 25.46 (Public Facilities Impact Fees). Examples of off-site infrastructure improvements may include, but are not limited to, grade separation projects, bicycle/pedestrian facilities, and sewer and water infrastructure.
 7. Land Dedication for Community Facilities. Land dedication to accommodate community facilities such as public safety or educational facilities.

8. Habitat Restoration. The project incorporates habitat restoration features at appropriate locations.
9. Near Zero Net Energy. The project provides for 98 percent of total building energy load measured as kilowatt per square foot through solar panels, wind turbines, or other renewable sources.
10. Net Zero Water Use. The project provides on-site and/or off-site water usage off-sets to achieve net zero water use. Water usage off-sets may include grey water systems, purple pipe infrastructure, the retrofit of plumbing fixtures in existing buildings, etc.
11. Climate Change Measures. Additional measures incorporated physically or operationally into the project that contribute significantly to reduction of its carbon footprint and/or provide resilience to sea level rise and storms.
12. Sea Level Rise Infrastructure. The project provides funding for or implements substantial sea level rise infrastructure along the Bayshore beyond what is required of the project, if applicable.
13. Flexible Significant Community Benefit. Other currently undefined community benefits that are significant and substantially beyond normal requirements. Examples include funding for City programs such as contribution to business improvement programs, community-serving transportation services, or subsidy of retail facilities that would be beneficial to the community but not otherwise commercially viable.
14. Public Art. The project provides funding for the maintenance or installation of public art not located on the project site or the installation and maintenance of public art in a publicly accessible space on the project site. The valuation of the public art shall equate to at least one percent of the project construction costs.

§ 25.12.050. Public Access, Flood and Sea Level Rise Performance Guidelines.

- A. Performance Standards – Variations. Development shall conform to the standards outlined in this section. Unless otherwise stated below, the Planning Commission shall have the authority to allow variations to particular standards in this section in order to encourage sound site planning and development practices, provided any such variation shall meet the overall intent of the particular standard and remain consistent with the General Plan.
- B. City of Burlingame Map of Future Conditions. The City of Burlingame Map of Future Conditions (Map) was adopted by the City Council to provide community resilience to sea level rise and storms. The Map may be revised by the City Council based on updates to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), sea level rise science, monitoring results, and shoreline and creek conditions. All proposals for new construction shall be based on the Map currently in effect at the time a complete project application is submitted (application date).
- C. Bay Access – Buffer Zones. Buffer zones extending 100 feet inland from the San Francisco Bay Shoreline are intended to provide an area to accommodate and maintain built and natural shoreline infrastructure for sea level rise protection, environmental enhancement, and public access trails. For the purposes of this section, the San Francisco Bay Shoreline (Shoreline) is defined by California Code of Regulations Section 10121, which describes the jurisdiction of the Bay Conservation and Development

Commission (BCDC) within a 100-foot "shoreline band." Building encroachments may be accommodated within the 100-foot buffer zones provided that the City determines that such encroachments do not inhibit a planned infrastructure project of the City and San Mateo County Flood and Sea Level Rise Resiliency District (District) as of the application date. Project applicants shall coordinate with staff of the City and District to obtain the most current design standards for the planned infrastructure project. Buffer zones shall be developed and maintained based on the applicable water frontage and BCDC's public access guidelines and as follows:

1. On San Francisco Bay. A minimum buffer zone of 100 feet from the Shoreline within which the shoreline infrastructure will be built. The top of this infrastructure must include a trail consistent with guidelines of the San Francisco Bay Trail Project and, unless otherwise directed by BCDC, the inboard (opposite the Bay) edge of that trail shall be located an average of 75 feet from the Shoreline.
 2. On Anza Lagoon, Bay Front Channel, and Burlingame Lagoon. A minimum buffer zone of 100 feet from the Shoreline within which the shoreline infrastructure will be built. The top of this infrastructure must include a trail consistent with guidelines of the San Francisco Bay Trail Project.
- D. Bay Access – Public Access. Public access shall be maintained and developed within the Shoreline buffer zones based on the City-adopted and Bay Conservation and Development Commission-approved public access guidelines.
- E. Bay Access – Trail Connectivity. Unless it is demonstrated to the satisfaction of City staff that no feasible alternative exists, any property with frontage on the Shoreline within the jurisdiction of the BCDC shall be required to provide, as a part of the on-site landscaping plan and Shoreline infrastructure, connectivity improvements by constructing a new or improved portion of the Bay Trail along the site, including improving access to the Bay Trail from and through the site. The trail shall be compliant with specifications of the City Public Works Department, BCDC, and San Francisco Bay Trail Program. Each such trail segment shall connect directly to the trail segment of adjacent properties.
- F. Bay Access – Maintenance. All areas improved for public access within the jurisdiction of BCDC shall be maintained by the property owner and shall be available to the public in perpetuity, as determined by the BCDC.
- G. Creek Access – Buffer Zones. Buffer zones measured from the top of creek bank are intended to provide an area to accommodate and maintain flood protection and public access trail infrastructure. For properties with frontage on Sanchez Creek, Easton Creek, Mills Creek, Gilbreth Creek, and El Portal Creek, a minimum buffer zone of 35 feet from the top of creek bank is required to accommodate and maintain future infrastructure and a public access trail. Building encroachments may be accommodated within the buffer zones provided that the City determines that such encroachments do not inhibit planned infrastructure projects of the City and District as of the application date.
- H. Creek Access – Trail Connectivity. Unless it is demonstrated to the satisfaction of City staff that no feasible alternative exists, any property with frontage on Sanchez, Easton, Mills, Gilbreth, and El Portal Creeks shall be required to provide, as a part of the on-site landscaping plan, a paved public-access trail along the top of the bank for the portion of the creek bank on the site. The trail shall be compliant with specifications of the City Public Works Department and BCDC, if applicable. Each such trail segment shall connect directly to the termination of the public access trail segment along the Shoreline (e.g., the Bay Trail) or the creek bank on each adjacent property.

- I. Flood Protection and Sea Level Rise Resilience – Building Elevations and Shoreline Infrastructure. For all properties within the Sea Level Rise Overlay Area indicated on the City's Map of Future Conditions current as of the application date, the first floor of new buildings must be elevated in conformance with this Map. For properties that are also with frontage on San Francisco Bay, Anza Lagoon, Bay Front Channel, and Burlingame Lagoon, new construction requiring discretionary review must include shoreline infrastructure that meets the requirements included in this Map. All required elevations shall be certified by a professional land surveyor.
- J. Flood Protection and Sea Level Rise Resilience – Determination of Compliance. Prior to issuance of a Building Permit, a registered professional engineer retained by the applicant shall certify that the design, specifications, and plans for the construction of Shoreline infrastructure are in accordance with the requirements in Sections 25.12.050.E, 25.12.050.I, and FEMA guidance and the Code of Federal Regulations (CFR) related to the mapping of areas protected by levee systems in place as of the application date. An applicant's proposal that meets the requirements in Sections 25.12.050.E, 25.12.050.I, and the CFR, but is not consistent with the planned infrastructure project of the City and District, shall be permitted if the proposal is demonstrated to be a less or equally environmentally impactful practical alternative (including environmentally-beneficial features such as listed species habitat, marsh, open space, etc.).
- K. Flood Protection and Sea Level Rise Resilience – Data Collection. Applicant shall submit two topographic surveys of the property, such as a LiDAR or field survey, prepared by a licensed professional land surveyor: one within 12 months of the application date and prior to construction, and one within 12 months of project completion. Such survey shall be at the landowner or applicant's expense and shall be conducted in consultation with City staff to be approved as compliant with City survey standards.
- L. Flood Protection and Sea Level Rise Resilience – Maintenance. As a condition of project approval, the applicant shall execute an agreement with the City identifying the landowner's ongoing maintenance obligations for the shoreline infrastructure approved as part of a development.
- M. Flood Protection and Sea Level Rise Resilience – Stormwater Drainage. One hundred percent of the drainage from impervious surfaces on the site shall be captured and retained on site with sufficient storage to keep the first 1.25 inches of rainwater from an individual rain event on site without discharging onto neighboring properties or rights-of-way unless a regional stormwater management system is available to serve the development and the specific discharges from the site into the system have been approved by the City Public Works Department.
- N. Flood Protection and Sea Level Rise Resilience – Real Estate Disclosure of Hazards. In any contract for the sale of real estate located in the Sea Level Rise Overlay Area indicated on the current Map of Future Conditions adopted by the City of Burlingame, the seller shall include in the contract a real estate disclosure of all hazards associated with anticipated sea level rise, geologic hazards, groundwater inundation, or coastal and fluvial flooding. Any site-specific analyses related to sea level rise must also be disclosed in real estate transactions.

§ 25.12.060. Design Principles for the BFC Zoning District.

The following design principles shall be used by decision-makers in evaluating whether plans conform to the requirements of this section:

- A. Design Intent. Development shall relate to both the street and to the Bay to provide view corridors from and across Bayshore Highway and Airport Boulevard, and to create gateways at key locations. Development shall support the pattern of diverse architectural styles and the role of the shoreline in creating a network of interconnected open spaces.
- B. View Corridor Requirement. To provide a view corridor, the width of a structure or combined structures on a lot shall not obstruct more than 75 percent of the length of the property line along Bayshore Highway and Airport Boulevard, including setbacks. For purposes of this requirement, structure or combined structures shall not include architectural elements, but may include an elevated podium to accommodate flood elevations and/or parking.
- C. Support the Shoreline. On visually prominent sites and sites with shoreline as defined by the Bay Conservation and Development Commission, design shall fit the site and be compatible with surrounding development, support the Bay Trail and its park and recreational uses, provide for maximum user access, and support recreational use by those who work in the area as well as those who visit. Pedestrian amenities are encouraged along the shoreline adjacent to the Bay Trail.
- D. Orientation. Building entries shall be readily visible from the street and be easily identifiable, preferably on Bayshore Highway or Airport Boulevard. Buildings that are setback from the street shall have attractively landscaped plazas leading to the main building entry, and seating areas are encouraged in the front setback. Businesses at important intersections are encouraged to locate their entrances at the building corner.
- E. Ground Floor Transparency. At least 25 percent of the exterior walls on the ground floor or first level facing the street shall include windows, doors, or other openings.
- F. Building Articulation. Each side of buildings shall have a cohesive approach to design and detail. Articulation of building and structural elements, including windows, entries, and bays shall be achieved. Design features such as canopies, trellis, and grillwork shall be designed as part of the building's composition of design elements. A variety of materials should be used to articulate building elements, such as the base, the ground floor, and upper floors, if any.
- G. Building Design. The pattern of diverse architectural styles throughout the district and the role of the shoreline in creating a network of interconnected open spaces is encouraged. New developments shall implement a single architectural style for the project, with consistency among primary elements of the structure(s).
- H. Streetscape. Development shall respect and promote the streetscape through building placement to maximize the commercial use of the street frontage, off-street public spaces, and by locating parking to minimize its impact on street frontages. For properties with any water frontage, design shall be sensitive to the surrounding bodies of water, physical and visual presence of the Bay Trail, and the orientation of the prevailing winds.
- I. Location of Surface Parking. Surface parking areas shall be located to the sides and rear of the building, when feasible, to encourage a pedestrian-friendly street edge. No surface parking areas shall be located between any structure and the lot frontage, except for limited visitor parking areas. Driveways are allowed in the setback, but the driveways shall not be considered as landscaped area.
- J. Location and Design of Structured Parking. Structured parking shall be designed to be compatible with the architectural design and materials of the buildings.

- K. Bird Friendly Design. All development shall incorporate bird-friendly design that minimizes potential adverse impacts to native and migratory birds, such as fritted or patterned glass, projecting architectural features, lighting design, and screening with trees.
- L. Protection of the Bay Environment. Site features shall include orientation to minimize wind obstruction on San Francisco Bay, protection of the Bay environment, and landscaping and pedestrian circulation that enrich and enhance the existing recreation opportunities of the area, including extension of the Bay Trail as well as the commercial neighborhood.

§ 25.12.070. Design Principles for the I-I Zoning District.

The following design principles shall be used by decision-makers in evaluating whether plans conform to the requirements of this section.

- A. Design Intent. The overall design intent of the I-I zoning district is to provide for an eclectic mix of commercial and light industrial development that has an industrial and contemporary look in terms of materials used, architectural styles, and building forms.
- B. Building Design. Recognizing the varied commercial and industrial character of the area, new development and redevelopment projects shall feature modern industrial design features.
- C. Art and Murals. Use of murals, artwork, sculptures, special paving, and fountains are encouraged to be incorporated into building design to provide interest and excitement to the district.
- D. Orientation. The main building of a development shall be oriented to face a public street. Building frontages shall be generally parallel to streets. At least one primary entrance to a ground-floor use shall face the adjacent street right-of-way. Business and reception areas shall face public access to buildings.
- E. Ground Floor Transparency. At least 25 percent of the exterior walls on the ground floor facing the street shall include windows, doors, or other openings.
- F. Building Articulation. Each side of buildings shall have a uniform approach to design and detail. Articulation of building and structural elements, including windows, entries, and bays shall be achieved. Design features such as canopies, trellis, and grillwork shall be designed as part of the building's composition of design elements. A variety of materials should be used to articulate building elements, such as the base, the ground floor, and upper floors, if any.
- G. Streetscape. Landscaping along the street shall provide an attractive streetscape by screening parking areas from the public street and ensuring a pleasant pedestrian environment.
- H. Compatibility. The design of new infill development shall respect, complement, and be compatible with the scale, style, theme, and design of surrounding buildings.
- I. Location of Parking. Any surface parking facilities shall be located to the side or rear of any proposed project unless no other feasible location exists.
- J. Creekside Open Space. New buildings on parcels adjacent to Mills Creek and Easton Creek, where possible, shall incorporate outdoor open space and trail network components into their site planning, particularly on those parts of sites that face a creek.

- K. Service and Delivery Areas. Service areas and ground-mounted equipment shall be screened from view by fences or walls that conform to the style and materials of the accompanying building(s).

§ 25.12.080. Minor Modifications.

Certain minor modifications from development standards are permitted consistent with Section 25.74.020.

§ 25.12.090. Design Review Required.

Design review shall be required pursuant to Chapter 25.68 (Design Review).

CHAPTER 25.14
MIXED-USE ZONING DISTRICTS (RRMU, NBMU, BRMU, CMU)

§ 25.14.010. Purpose and Applicability.

- A. Mixed-Use Zoning Districts Purpose. The mixed-use zoning districts are intended to provide opportunities for a mixture of residential and commercial development to create vibrant activity nodes, dynamic commercial corridors, and housing opportunities for all income levels. The term "mixed use" applies to a compatible array of varied uses in a single building or comprehensive development, as well as a mix of uses within a zoning district.
- B. California Drive Mixed-Use Zoning District Purpose. The purpose of the California Drive Mixed-Use (CMU) zoning district is to implement the General Plan California Mixed-Use designation by providing a district with an eclectic mix of uses reflective of long-established use patterns at a pedestrian scale, with locally owned retail and service commercial businesses and upper-story residential units. Prototypical commercial uses are those that serve Burlingame residents and nearby communities, do not involve late-night hours, and do not have any operating characteristics that adversely impact residential uses. Stand-alone residential development is allowed as a nonconforming use, where legally established prior to the adoption of the ordinance codifying these regulations, and the provisions in Article 5 (Nonconformities) shall not apply. The overall design intent of the CMU zoning district is to provide for an eclectic and compatible mix of residential, live/work units, and small-scale commercial businesses. Creativity in design using a wide variety of colors, building materials, and roof features is encouraged.
- C. Broadway Mixed-Use Zoning District Purpose. The purpose of the Broadway Mixed-Use (BRMU) zoning district is to implement the General Plan Broadway Mixed-Use designation by establishing a mixed-use corridor that maintains commercial uses and pedestrian activity along the Broadway frontage. To provide for a rich pedestrian experience, the primary ground floor uses shall be retail and service oriented, with residential uses limited to upper floors and office uses generally ancillary to other commercial uses.
- D. North Rollins Road Mixed-Use Zoning District Purpose. The purpose of the North Rollins Road Mixed-Use (RRMU) zoning district is to implement the General Plan Live/Work land use designation by creating and sustaining a new neighborhood of creative live/work units and developments, small-scale support commercial businesses, and other employment uses within easy walking distance to the Millbrae multimodal transit station. Long-established industrial uses are permitted to remain as conforming uses, provided

they comply with all applicable standards and operational conditions. The overall design intent of the RRMU zoning district is to provide for an eclectic mix of residential, live/work, commercial, and light industrial development that has an industrial and contemporary look in terms of materials used, architectural styles, and building forms.

- E. North Burlingame Mixed-Use Zoning District Purpose. The purpose of the North Burlingame Mixed-Use (NBMU) zoning district is to implement the General Plan North Burlingame Mixed-Use designation by providing a distinct defining area at the City's north gateway on El Camino Real, with housing and complementary commercial and office uses at urban-level intensities, and that takes advantage of the adjacent multimodal transit center.

This transit-oriented development district accommodates housing at progressively higher densities based on the level of community benefits provided, with the goal of ensuring that new development adds value for all in the City.

§ 25.14.020. Land Use Regulations.

- A. Allowed Uses. Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) indicates the uses allowed within each mixed-use zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.14-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.
- D. Airport Land Use Compatibility. Uses must comply with Safety Compatibility Policies SP-1 through SP-3 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP) including Noise/Land Use Compatibility and Safety Compatibility Criteria listed in Tables IV-1 and IV-2. Some uses listed in Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) may be incompatible in safety zones. Refer to ALUCP Exhibit IV-9 for a map of the safety compatibility zones.
- E. Conditionally Allowed Uses in Drainage Rights-of-Way in RRMU Zoning District.
 - 1. Supplemental Parking. Supplemental parking for permitted or conditionally permitted uses in the RRMU zoning district may be allowed within drainage rights-of-way with a Conditional Use Permit.
 - 2. Storage of Operable Vehicles. Storage of operable vehicles may be allowed in the RRMU zoning district only within drainage rights-of-way and subject to a CUP and the following conditions:
 - a. Vehicles must be in operable condition and must be managed at all times by a single, responsible person with access to the keys for all vehicles.

- b. Vehicles shall be moved by appointment only and shall not be moved during a.m. and p.m. peak hour traffic periods as defined by the City Engineer.
- c. Site size must be a minimum of 0.7 acres.
- d. Site must have approved access to a public street.
- e. No customers shall visit the site.
- f. Recreational vehicles and boats shall not be moved during a.m. and p.m. peak hour traffic periods as defined by the City Traffic Engineer

Table 25.14-1: Mixed Use Zoning Districts Use Regulations

Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
<p style="text-align: center;"> P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted </p>					
Commercial – Retail					
Eating and Drinking Establishments					
Bars and Taverns	--	MUP	MUP	MUP	Breweries, Distilleries, and Wineries may be allowed as an accessory use to a restaurant -with alcohol sales.
Night Clubs	--	--	CUP	CUP	
Outdoor Dining	P	P	P	P	
Restaurants	P	P	P	P	
Restaurants – Drive-through	--	--	--	CUP	In NBMU, Restaurants – Drive-through only permitted with CUP within area bounded by El Camino Real, Trousdale Drive, Magnolia Drive, and Murchison Drive.
Food and Beverage Sales					
Alcohol Sales Store	--	MUP	--	--	
Convenience Store	P	P	MUP	CUP	
General Market	P	P	P	P	
Nurseries and Garden Centers	--	--	--	--	
Retail Sales					
General	P	P	P	P	No outdoor storage or sales permitted in conjunction with any permitted use, except for permitted temporary sales.
Large Format	--	--	--	--	
Specialized	CUP	CUP	CUP	CUP	
Vehicle Fuel Sales and Accessory Service	CUP	--	--	CUP	
Vehicle Sales					
Auto and Light Truck	--	--	--	--	
Heavy Equipment Sales (and Rentals)	--	--	--	--	
Commercial – Services and Recreation					

Table 25.14-1: Mixed Use Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted					
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Animal Care Services					
Boarding/Kennels	--	--	--	--	
Pet Hotels	--	--	--	--	
Grooming	P	P	P	P	No overnight animal stays permitted.
Veterinarian	P	P	MUP	MUP	
Banks and Financial Institutions	P	P	P	P	
Check Cashing and Pay Day Loan Establishments	--	--	--	--	
Commercial Recreation – Large Scale	--	--	CUP	CUP	
Commercial Recreation – Small Scale	MUP	MUP	MUP	MUP	
Day Care Centers	MUP	MUP	MUP	MUP	See Section 25.48.090 SFO Safety Compatibility Zone 3: Commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et. Seq., and licensed to serve 15 or more children not allowed. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business allowed with a CUP. SFO Safety Compatibility Zone 2: Commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et. Seq., and licensed to serve 15 or more children not allowed. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business not allowed.
Food Preparation (catering)	MUP	A	MUP	MUP	
Funeral Services and Cemeteries	--	--	--	--	
Office – Co-Working	P	P	P	P	

Table 25.14-1: Mixed Use Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted					
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Office – Medical or Dental	P	P	CUP	P	In CMU and BRMU, permitted on upper stories; CUP for ground floor. In RRMU, limited to 5,000 sq. ft.
Office – Professional	P	P	P	P	
Office – Research and Development	P	--	P	MUP	
Personal Services – General	P	P	P	P	
Personal Services – Specialized	CUP	CUP	CUP	CUP	See Section 25.48.230
Studios – Arts	P	P	P	P	
Theaters – Live	--	CUP	CUP	CUP	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.
Theaters – Movie or similar	--	--	CUP	CUP	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.
Educational Services					
Schools, Primary and Secondary	CUP	--	CUP	CUP	Public and private schools serving preschool through grade 12 not allowed in RRMU or NBMU.
Trade Schools	--	--	--	--	
Tutoring and Educational Services	P	P	CUP	CUP	
Industry, Manufacturing and Processing, Warehousing, and Wholesaling Uses					
Breweries, Wineries, and Distilleries	MUP	MUP	MUP	MUP	See Section 25.48.250 (Tasting Rooms as an Accessory Use).
Food Processing and Production	--	--	CUP	--	
Laboratories/Research and Development	--	--	P	P	SFO Safety Compatibility Zone 3: CUP required if use entails hazardous materials. Biosafety Level 3 and 4 facilities not allowed. SFO Safety Compatibility Zone 2: Not allowed if use entails hazardous materials.
Light Industrial	--	--	MUP	--	
Personal Storage	--	--	CUP	--	
Recycling facilities					
Light Processing	--	--	MUP	--	In NBMU, Small Collection recycling facility only
Reverse Vending Machine(s)	--	--	MUP	--	

Table 25.14-1: Mixed Use Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit						TUP Temporary Use Permit A Accessory Use -- Not Permitted	
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations		
Small Collection	--	--	CUP	MUP	permitted with CUP within area bounded by El Camino Real, Trousdale Drive, Magnolia Drive and Murchison Drive. See Section 25.48.200		
Vehicle Services and Repair							
Major (Major Repair/Body Work)	CUP	--	--	--			
Minor (Minor Repair/Maintenance)	CUP	--	--	--			
Vehicle Rental	A	A	--	A			
Car Wash	--	--	--	--			
Warehousing/Logistics	--	--	CUP	--			
Wholesaling	--	--	A	--	Accessory to a permitted industrial or live/work use.		
Lodging							
Extended Stay Hotels	--	--	--	--			
Hostels	--	--	--	--			
Hotels and Motels	CUP	CUP	--	CUP	In CMU, only permitted if less than 20 rooms.		
Mixed Uses							
Mixed Use Developments	P	P	P	P	With individual specific uses subject to land use regulatory requirements set forth in this table.		
Public and Quasi-Public Uses							
Assembly Facilities							
Community Assembly Facility	--	--	CUP	--	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.		
Religious Assembly Facility	CUP	--	CUP	CUP	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.		
Community Open Space	P	P	P	P			
Emergency Shelters – Permanent	--	--	P	--	See Section 25.48.100		
Emergency Shelters – Temporary	A	--	A	A	See Section 25.48.110		
Government Buildings and Facilities	P	P	P	P			
Hospitals	--	--	--	--			

Table 25.14-1: Mixed Use Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted					
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Low Barrier Navigation Center	P	P	P	P	See Section 25.48.170
Medical Clinics	P	--	CUP	CUP	
Park and Recreation Facilities, Public	P	P	P	P	
Residential Uses					
Caretaker Quarters	--	--	A	--	
Communal Housing	P	P	P	P	
Elderly and Long-Term Care	--	--	CUP	CUP	Nursing homes not allowed in RRMU or NBMU.
Family Day Care – Small	P	P	P	P	
Family Day Care – Large	P	P	P	P	
Live/Work	P	P	P	--	Live/Work not permitted on ground floor on Broadway or California Drive. See Section 25.48.150
Single-Unit and Two-Unit Dwellings	--	--	--	--	New single- and two-unit dwellings not permitted. See Section 25.56.020.B for expansion of existing uses.
Multi-Unit Dwellings	P	P	P	P	Multi-unit dwellings not permitted on ground floor in BRMU.
Residential Care Facilities					
Limited	P	--	P	P	
General	CUP	--	CUP	CUP	See Section 25.48.220
Senior	CUP	--	CUP	CUP	See Section 25.48.220
Supportive and Transitional Housing	P	P	P	P	
Transportation, Communication, and Infrastructure Uses					
Air Courier, Terminal, and Freight Services	--	--	--	--	
Park and Fly, Accessory	--	--	--	--	
Park and Fly, Primary Use	--	--	--	--	
Parking Facility, Accessory	A	A	A	A	
Parking Facility, Primary Use	--	--	--	--	See exception in Section 25.14.020.D for RRMU only.
Publicly Owned and Operated Drainage Facilities and Improvements	--	--	--	--	

Table 25.14-1: Mixed Use Zoning Districts Use Regulations

Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Transit Facilities	--	--	--	CUP	
Utility Structures and Service Facilities	CUP	CUP	MUP	MUP	
Vehicle Storage	--	--	--	--	See exception in Section 25.14.020.E for RRMU only
Wireless Telecommunication Facilities	See Section 25.48.300				
Specific and Temporary Uses					
Adult Entertainment Uses	--	--	--	--	
Donation Box – Outdoor	--	--	--	--	
Drive-Through or Drive-Up Facilities	--	--	--	CUP	In NBMU, only permitted with CUP within area bounded by El Camino Real, Trousdale Drive, Magnolia Drive and Murchison Drive.
Outdoor Storage	--	--	CUP	--	Must be related to immediately abutting uses which are permitted or conditional in the district. See Section 25.48.190
Outdoor Temporary and/or Seasonal Sales	TUP	TUP	TUP	TUP	See Section 25.48.190
Temporary Uses	TUP	TUP	TUP	TUP	See Section 25.48.260
Urban Agriculture	P	P	P	P	See Section 25.48.290

§ 25.14.030. RRMU Development Standards.

- A. Development Standards Generally. The general property development standards for the RRMU zoning district shall be as set forth in Table 25.14-2 (RRMU Development Standards).

Table 25.14-2: RRMU Development Standards

Development Standards	Live/Work, Residential, Mixed Use and Commercial Development			Industrial and Institutional Development	Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)		
Height – Maximum ¹	40 ft. 3 stories	55 ft. 5 stories	80 ft. 7 stories	50 ft.	See Section 25.14.050.C
Density – Maximum	30 du/ac	50 du/ac	70 du/ac	N/A	Tiers 2 and 3 shall provide community benefits per Section 25.14.050.

Table 25.14-2: RRMU Development Standards

Development Standards	Live/Work, Residential, Mixed Use and Commercial Development			Industrial and Institutional Development	Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)		
Floor Area Ratio – Maximum	0.50	0.75	1.0	1.0; 1.5 with CUP	
Minimum Setbacks					
Front: Mixed-Use Arterial (Rollins Road)	5 feet min. & 15 feet max.			15 ft.	Subject to streetscape frontage standards in Table 25.14-3.
Front: All other streets	10 ft.	10 ft.	10 ft.	10 ft.	
Side – Interior	10 ft.			0 feet, adjacent to industrial use, 20 feet min. adjacent to all other uses	Setbacks for industrial uses apply only to new construction. Established uses shall be considered conforming with regard to required setbacks.
Side – Street	10 ft.			N/A	Subject to streetscape frontage standards in Table 25.14-3
Rear	20 ft.			0 ft. adjacent to industrial use 20 ft. adjacent to all other uses	Setbacks for industrial uses apply only to new construction.
Edge Conditions - Minimum	R-3/R-4 upper story side setback standards (see Section 25.10.050.C.2) shall apply to property line(s) with an existing residential use on the abutting property.				
Lot Dimensions – Minimum					
Size	10,000 sq. ft.				
Width at street frontage	100 ft. Residential subdivision: 40 ft.			50 ft	
Lot Coverage – Maximum	60%			60%	Lot coverage may be increased if additional useable common open space equivalent to the additional lot coverage (in square feet) is provided on a podium-level (non-rooftop) landscaped courtyard or plaza.
Open Space – Minimum (per residential unit)	Live/work units: 100 sq. ft. per unit Multifamily housing or mixed use: 125 sq. ft. per unit			N/A	Pedestrian plaza/public space required by Section 25.14.030.D may count toward up to 50% of the open space requirement. Common open space may include common activity rooms, gyms, pools, and rooftop terraces.

Table 25.14-2: RRMU Development Standards

Development Standards	Live/Work, Residential, Mixed Use and Commercial Development			Industrial and Institutional Development	Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)		
					See Chapter 25.36.
Percent landscape coverage – Minimum	15%	20%	20%	15%	See Chapter 25.36 and Section 25.40.080.D.

¹ Maximum building heights are also required to comply with Airspace Protection Policies AP-1 through AP-4 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP). This includes determining the need to file Form 7460-1, Notice of Proposed Construction or Alteration, with the FAA for any proposed project that would exceed the FAA notification heights, as shown approximately on ALUCP Exhibit IV-10 and complying with FAA Aeronautical Study Findings. It also includes complying with the maximum compatible building height, which includes all parapets, elevator overruns, etc. of a building, as noted in ALUCP policy AP-3 and depicted in Exhibits IV-17 and IV-18 of the ALUCP.

B. Site Layout.

1. Streetscape.

- a. Street frontages shall meet the standards set forth in Table 25.14-3 (RRMU Sidewalk Standards).

TABLE 25.14-3: RRMU SIDEWALK STANDARDS

Street Type		
Mixed-Use Arterial and Collector (Rollins Road and Adrian Road)	Sidewalk Width	7 ft. minimum
	Amenity/Planter Width	3 ft. minimum
Mixed-Use Access (Adrian Court, Broderick Road, Guittard Road, Ingold Road)	Sidewalk Width	6 ft. minimum
	Amenity/Planter Width	3 ft. minimum
Exceptions	Exceptions to sidewalk and planter widths may be granted to accommodate conflicts with recorded easements, rights-of-ways, etc.	

- b. Amenity/Planter Area. The required amenity/planter area (see Table 25.14-3) is additive to required sidewalk widths. The amenity/planter area shall include street trees and may also include plantings, walkways, and other amenities such as benches, bike racks, etc.
2. Location of Parking. Any surface parking facilities shall be located to the side or rear of any proposed project. No more than 35 percent of the site area at the ground level may be used for surface parking facilities.
 3. Service and Delivery Areas. Service and loading areas shall be screened from residential areas and integrated with the design of the building. When designing loading facilities adjacent to residential uses, techniques such as block walls, enhanced setbacks, or enclosed loading shall be used to minimize adverse impacts to residents.

C. Required Plazas for Large Sites.

1. Pedestrian Plaza/Public Space. Where total lot area or development site equals

50,000 square feet or greater, a pedestrian plaza or other public open space/gathering space shall be provided that meets the following design criteria:

- a. Is a minimum of 1,500 square feet in size;
 - b. Has a minimum dimension at least 30 feet on any side;
 - c. Is at least 50 percent open to the sky;
 - d. Is located at ground level with direct pedestrian and ADA access to the adjacent public street;
 - e. Is unenclosed by any wall, fence, gate, or other obstruction across the subject property;
 - f. Is open to the public, without charge, each day of the year, except for temporary closures for necessary maintenance or public safety; and
 - g. Includes at least one gathering space with a fountain or other focal element.
2. Mid-Block Plazas and Paseos. Where blocks (measured from curb face to curb face) are longer than 400 feet, and where a development has more than 300 feet of frontage, at least one plaza, pedestrian pathway or paseo shall be provided perpendicular to the block face. All such plazas and paseos shall meet the following design criteria:
- a. Be open to the public and remain so during daylight hours;
 - b. Be at least 15 feet wide, and 15 feet deep if a plaza;
 - c. Have a clear line of sight to the back of the paseo, gathering place, or focal element; and
 - d. Be at least 50 percent open to the sky or covered with a transparent material.
- D. Creek Access. Any lot in the RRMU zoning district or within any specific plan with any lot line on Easton, Mills, and El Portal Creeks shall be required to provide, as a part of the on-site landscaping plan, a paved public-access trail along the top of the bank for the portion of the creek bank on the site. The design of the trail shall be compliant with specifications of the Public Works Department. Each such trail segment shall connect directly to the termination of the public access trail segment along the creek bank on each adjacent property.

§ 25.14.040. NBMU Development Standards.

- A. Development Standards Generally. The general property development standards for the NBMU zoning district shall be as set forth in Table 25.14-4 (NBMU Development Standards).

Table 25.14-4: NBMU Development Standards

Development Standards	Live/Work, Residential, Mixed Use and Commercial Development			Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	
Height – Maximum	45 ft.	55 ft.	80 ft.	

Table 25.14-4: NBMU Development Standards

Development Standards	Live/Work, Residential, Mixed Use and Commercial Development			Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	
			For properties on the east side of El Camino Real, 100 ft.; see additional setback standards below	Maximum heights also established by the Federal Aviation Administration for parcels affected by airport safety zoning districts. Tiers 2 and 3 shall provide community benefits per Section 25.14.050.C.
Density – Maximum	40 du/ac	80 du/ac	140 du/ac	
Floor Area Ratio – Maximum	Office: 0.50 Commercial: 0.25	Office: 1.25 Commercial: 0.50	Office: 2.0 Commercial: 1.0	
Height Special Requirements	Building frontages facing Trousdale Drive (west of El Camino Real), Murchison Drive (west of El Camino Real), Magnolia Drive, Ogden Drive, and Marco Polo Way: a. 35% of the linear frontage above the third story must step back a minimum 10 feet, in the form of insets, balconies, or stepbacks, or b. 80% of a building's linear frontage above the fifth story must step back a minimum of 10 feet, in the form of insets, balconies, or stepbacks			
Setbacks – Minimum				
El Camino Real Front:	15 ft.			
Mixed-Use Arterial Front (Trousdale Drive, Murchison Drive, California Drive):	10 ft.			
Mixed-Use Collector Front: (Magnolia Drive) and Neighborhood Access Front (Ogden Drive, Marco Polo Way)	10 ft.			
Side – Interior: El Camino Real, Trousdale Drive, Murchison Drive, California Drive, Ogden Drive, and Marco Polo Way	10 ft.			
Side – Street	10 ft.			
Rear	15 ft. 20 ft. if abutting a lot zoned R-1 or R-2			
Edge Conditions - Minimum	R-3/R-4 upper story side setback standards (see Section 25.10.050.C.2) shall apply to property line(s) with an existing residential use on the abutting property.			
Lot Dimensions – Minimum				
Size	20,000 sq. ft.			

Table 25.14-4: NBMU Development Standards

Development Standards	Live/Work, Residential, Mixed Use and Commercial Development			Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	
Width at street frontage		150 ft.		Minimum applies to new subdivisions of land; legally established lots of smaller size may be developed consistent with the requirements of this Section 25.14.040.
Lot Coverage – Maximum		80%		Lot coverage may be increased if additional, usable common open space generally equivalent to the additional lot coverage (in square feet) is provided on a podium-level (non-rooftop) landscaped courtyard or plaza.
Open Space – Minimum (per residential unit)		100 sq. ft. per unit		Common open space may include common activity rooms, gyms, pools, and rooftop terraces. See Chapter 25.36.
Percent landscape coverage – Minimum		10% of entire site		See Chapter 25.36, Section 25.40.080.D, and Section 25.14.040.C.

B. Site Layout.

1. Streetscape.

- a. Street frontages shall meet the standards set forth in Table 25.14-5 (NBMU Street Frontage Standards).

Table 25.14-5: NBMU Street Frontage Standards

Street Type	Frontage – Measured from Back of Curb to Building Face	
El Camino Real	Sidewalk Width	6 ft. minimum
	Amenity/Planter Width	4 ft. minimum
Mixed-Use Arterial (Trousdale Drive, Murchison Drive, California Drive)	Sidewalk Width	6 ft. minimum
	Amenity/Planter Width	4 ft. minimum
Mixed-Use Collector (Magnolia Avenue)	Sidewalk Width	5 ft. minimum
	Amenity/Planter Width	5 ft. minimum
Neighborhood Access	Sidewalk Width	5 ft. minimum

Table 25.14-5: NBMU Street Frontage Standards

Street Type	Frontage – Measured from Back of Curb to Building Face	
(Ogden Drive, Marco Polo Drive)	Amenity/Planter Width	5 ft. minimum
Exceptions	Exceptions to Building Frontage Standards may be granted to accommodate conflicts with recorded easements, rights-of-ways, etc.	

- b. Amenity/Planter Area. The required amenity/planter area (see Table 25.14-5) is additive to required sidewalk widths. The amenity/planter area shall include street trees and may also include plantings, walkways, and other amenities such as benches, bike racks, etc.
- 2. Parking Locations. No at-grade parking shall be visible from El Camino Real.
- 3. Service and Delivery Areas. Service and loading areas shall be screened from residential areas and integrated with the design of the building. When designing loading facilities adjacent to residential uses, techniques such as block walls, enhanced setbacks, or enclosed loading shall be used to minimize adverse impacts to residents.
- C. Landscaping in Front and Street Side Setbacks. Within any required front setback area or side setback area adjacent to a public street, at least 60 percent of the required setback area shall be landscaped to provide a transition to the sidewalk.

§ 25.14.050. Community Benefits for Increased FAR, Density, and Height in NBMU and RRMU Zoning Districts.

- A. Purpose and Applicability.
 - 1. Purpose. To provide an incentive for development, and in partnership with the City to provide community benefits that would not otherwise be created, the Planning Commission, through a discretionary review and public hearing process, may grant increased FAR, density, and/or height in return for provision of specific community benefits, as listed below or subsequently identified by the City Council, if doing so is in the City's interest and will help implement the General Plan. A variety of objectives are listed to ensure that proposed project features are appropriate for the site and surroundings, and to allow for a wide range of possible project types.
 - 2. Applicability. A developer may elect to develop consistent with either Tier 1, Tier 2, or Tier 3 development standards. Projects using Tiers 2 or 3 standards shall include a residential component, shall provide community benefits pursuant to this section, and shall require a special permit.
- B. Review Authority and Tier Requirements.
 - 1. Planning Commission Approval of Community Benefits Bonuses. The Planning Commission is the Review Authority for an application for Tier 2 or 3 projects.
 - 2. Tier 2 Requirements and Number of Community Benefits. The Planning Commission may approve Tier 2 projects if it determines that the project includes at least two community benefits from subsection C of this section (Community Benefit Objectives).

3. Tier 3 Requirements and Number of Community Benefits. The Planning Commission may approve Tier 3 projects if it determines that the project includes at least three community benefits from subsection C of this section (Community Benefit Objectives).

C. Community Benefit Objectives.

1. Pedestrian Amenities. To effectuate the goal of creating walkable and bikeable environments, the project includes improved pedestrian ways and other paths open to the public that accommodate easy movement across and between properties under separate ownership, beyond minimum requirements.
2. Public Plazas Beyond Minimum. The project includes public plaza(s) that comply with this subsection.
 - a. In RRMU, public plazas or other publicly accessible open spaces that are at least 50 percent larger than the minimum required. In NBMU, the minimum area of any public plaza shall be 2,000 square feet and shall be measured as one single open space.
 - b. The public plaza shall be owned, operated, and maintained by the developer or property manager in accordance with an approved maintenance plan to be reviewed and approved by the Director.
 - c. Each part of the public plaza shall be accessible from other parts of the open space without leaving the open space area.
 - d. The public plaza shall be on the ground level and directly accessible from the sidewalk and be accessible to persons with disabilities.
 - e. The public plaza shall be open to the public, without charge, each day of the year, except for temporary closures for necessary maintenance or public safety.
 - f. At a minimum, the following elements shall be included: trees and landscaping, seating, bicycle racks, trash and recycling receptacles, and signage that include hours of operation.
3. Off-Site Streetscape Improvements. The project includes off-site streetscape improvements and amenities; these provisions do not include improvements along the frontage of a development site that would normally be required. Examples of amenities include:
 - a. Enhanced pedestrian and bicycle-oriented streetscapes.
 - b. Protected bicycle lanes and pedestrian pathways, improved bicycle and pedestrian crossings/signals, bicycle racks/shelters.
 - c. New pedestrian and bicycle connections to transit facilities, neighborhoods, trails, commercial areas, etc.
 - d. Removal of existing pedestrian and bicycle barriers (e.g., dead-ends and cul-de-sacs).
 - e. Upgrading traffic signals to enhance pedestrian and bicycle safety.

4. Cultural Arts Space. The project includes space for visual arts, performing arts, artist housing, and other activities that support arts and culture.
5. Historic Preservation (Off-Site). Where no historic resources exist on a site, the project provides for the permanent preservation of a building off site that is listed in the City's inventory of historical resources through the recordation of a historic preservation agreement.
6. Near Zero Net Energy. The project provides 98 percent of total building energy load measured as kilowatt per square foot through solar panels, wind turbines, or other renewable sources.
7. Net Zero Water Use. The project provides on-site and/or off-site water usage off-sets to achieve net zero water use. Water usage off-sets may include grey water systems, the retrofit of plumbing fixtures in other buildings, etc.
8. Publicly Accessible Park Space. Contribution towards the provision of public parks in the North Rollins Road area or North Burlingame Road area, as applicable. Contribution can be in the form of dedication of land, provisions of improvements, or payment of fee in excess of that normally required for parks.
9. Public Parking Facilities. The project provides publicly accessible parking to serve area- wide parking needs. To qualify, the parking spaces should be permanently available for public use and subject to easements or restrictions acceptable to the City.
10. Flexible (Miscellaneous) Benefit. The applicant agrees to provide a currently undefined community benefit approved by the Review Authority that is significant and substantially beyond normal requirements. Examples are inclusion of a child care center in a new development project, off-site utility infrastructure improvements above and beyond those required to serve the development, additional funding for City programs such as contribution to a local façade improvement program, or subsidy for existing commercial tenants or other local small businesses.
11. Public Art. The project provides funding for the maintenance or installation of public art not located on the project site or the installation and maintenance of public art in a publicly accessible space on the project site. The valuation of the public art shall equate to at least one percent of the project construction costs.
12. Additional Affordable Units. The project provides at least 15 percent low, or 10 percent very-low, or 5 percent extremely-low deed restricted affordable units beyond those required by the onsite alternative option of the Residential Impact Fee (see Code Section 25.45.070).

§ 25.14.060. California Drive and Broadway Mixed-Use Zoning Districts.

A. Development Standards Generally.

1. General Development Standards. The general property development standards for the CMU and BRMU zoning districts shall be as set forth in Table 25.14-6 (CMU and BRMU Development Standards).
2. Single-Unit Dwellings. Legal non-conforming single-unit dwellings are not subject to Article 5 (Nonconformities) as long as they remain in conformance with the development standards for the R-1 zoning district set forth in Chapter 25.10

(Residential Zoning Districts).

Table 25.14-6: CMU And BRMU Development Standards

Development Standards	Standard		Additional Regulations
	CMU	BRMU	
Height – Maximum	35 ft.; 46 ft. with Special Permit	35 ft.; 46 ft. with Special Permit	Maximum allowed building height on California Drive south of Oak Grove Avenue is 55 ft. Architectural features exceeding maximum building height allowed with SP (See Section 25.78.050).
Density – Maximum	20 du/ac	50 du/ac	
Floor Area Ratio – Maximum	0.6	2.0	
Minimum Setbacks			
Front	--		
El Camino Real – Minimum Frontage, Street Side, or Rear	N/A	15 ft.	
Side – Interior	--	--	Where an application fails to comply with upper story setback requirements, upper story setbacks may be adjusted through the Design Review process based on site-specific circumstances and adjacent land uses, with the goal of achieving façade articulation and consideration of privacy of adjacent uses. In CMU, if adjacent to existing residential, see Edge Conditions requirement below.
Side – Street	5 ft. minimum	--	
Rear	1 st and 2 nd stories: 15 ft. 3 rd story and above: 20 ft.	1 st story: 0 ft. Upper stories: 2 nd story: 10 ft. 3 rd story and above: 15 ft.	
Edge Conditions (adjacent to existing residential uses)	1 st story: 5 ft. Upper stories: 10 ft.	--	
Lot Dimensions – Minimum			
Size	5,000 sq. ft.		
Width at Street Frontage	50 ft		
Open Space – Minimum (per residential unit)	100 sq. ft. per unit		Common open space may include common activity rooms, gyms, pools, and rooftop terraces. See Chapter 25.36.
Landscaping	See Chapter 25.36.		

B. Site Layout.

1. **Parking Locations.** Parking shall be located to the side or rear of new buildings

2. Location of Residential Units. In mixed-use developments, residential units shall not occupy the ground floor within the first 30 feet of floor area, measured from each building face adjacent to the street, unless the Review Authority finds that the project is designed in a manner that a residential ground-floor component enhances the pedestrian environment, such as with live/work units.
3. Service and Delivery Areas. Service and loading areas shall be screened from residential areas and integrated with the design of the building. Special attention shall be given when designing loading facilities in a location that is proximate to residential uses. Techniques such as block walls, enhanced setbacks, or enclosed loading shall be used to minimize adverse impacts to residents.

§ 25.14.070. Minor Modifications.

Certain minor modifications from development standards are permitted consistent with Section 25.74.020.

§ 25.14.080. Design Review Required.

Design review shall be required pursuant to Chapter 25.68 (Design Review).

CHAPTER 25.16

DOWNTOWN SPECIFIC PLAN ZONING DISTRICTS (BAC, HMU, MMU, BMU, DAC, CAC, CAR)

§ 25.16.010. Purpose and Applicability.

- A. Downtown Specific Plan Zoning Districts Purpose. The Downtown Specific Plan zoning districts are intended to implement the Downtown Specific Plan, build upon the successes of the vibrant Burlingame Avenue commercial area, and implement policies that encourage continued success of the entire Downtown area and its environs and promote land uses that will enliven the area.
- B. Burlingame Avenue Commercial Zoning District Purpose. The Burlingame Avenue Commercial (BAC) zoning district applies to the commercial and retail heart of Downtown Burlingame. The purpose of this zoning district is to encourage and maintain the current mixture of retail, personal service, and restaurant uses that keep the heart of the downtown area lively.
- C. Bayswater Mixed-Use Zoning District Purpose. The Bayswater Mixed-Use (BMU) zoning district is centered on Bayswater Avenue between El Camino Real and Park Road. Development in this zoning district shall be consistent with the existing neighborhood scale of small streets and varied commercial and residential buildings. New development shall maintain the existing pattern at a scale consistent with the adjacent residential areas to serve as a buffer between the downtown commercial district and the residential neighborhoods to the south and east.
- D. Chapin Avenue Commercial Zoning District Purpose. The Chapin Avenue Commercial (CAC) zoning district applies to properties on both sides of Chapin Avenue between Primrose Road and El Camino Real. The area is characterized by a concentration of financial institutions and real estate and other office uses.

- E. California Drive Auto Row Zoning District Purpose. The California Drive Auto Row (CAR) zoning district applies to properties along California Drive between Burlingame and Peninsula Avenues, which has long been known as Burlingame's "Auto Row." Automobile- related uses dominate in this area. Non-auto uses are allowed only where uses clearly can be identified as compatible with the area's traditional focus on automobile businesses.
- F. Donnelly Avenue Commercial Zoning District Purpose. The Donnelly Avenue Commercial (DAC) zoning district applies to properties immediately north of Burlingame Avenue and is an extension of the primary commercial area. The purpose of this zoning district is to encourage and maintain a mix of retail, personal service, and office uses. Legally established existing residential uses may remain, but new residential uses are not allowed.
- G. Howard Mixed-Use Zoning District Purpose. The Howard Mixed-Use (HMU) zoning district applies to properties south of Burlingame Avenue in Downtown Burlingame. The streets that connect Howard Avenue with Burlingame Avenue act as connectors with the commercial uses along those streets, strengthening the relationship between Burlingame and Howard Avenues. While ground floor retail represents the predominant use, housing can be established on upper levels and office uses that operate beyond a typical weekday schedule may be permitted subject to discretionary review.
- H. Myrtle Road Mixed-Use Zoning District Purpose. The Myrtle Road Mixed-Use (MMU) zoning district applies to properties centered on Myrtle Road and East Lane, east of the railroad tracks. New development shall maintain the existing pattern at a scale consistent with the adjacent residential areas, to serve as a buffer between the downtown commercial district and the residential neighborhoods to the east.

§ 25.16.020. Land Use Regulations.

- A. Allowed Uses. Table 25.16-1 (Downtown Zoning Districts Use Regulations) indicates the uses allowed within each downtown zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.16-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.16-1 (Downtown Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.16-1: Downtown Zoning Districts Use Regulations

Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Permits		
								P Permitted	TUP Temporary Use Permit	
									CUP Conditional Use Permit	A Accessory Use
									MUP Minor Use Permit	-- Not Permitted
Commercial - Retail										

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Eating and Drinking Establishments								
Bars and Taverns	P	--	P	CUP	P	P	--	Breweries, Distilleries, and Wineries may be allowed as an accessory use to a restaurant.
Night Clubs	CUP	--	--	--	--	--	--	
Outdoor Dining	P	--	P	P	P	P	P	
Restaurants	P	--	P	P	P	P	--	
Restaurants - Drive-through	--	--	--	--	--	--	--	
Food and Beverage Sales								
Alcohol Sales Store	CUP	--	CUP	CUP	CUP	CUP	CUP	Any food or beverage sales establishment that includes the off-site sale of alcohol shall require a CUP.
Convenience Store	--	--	--	--	--	--	--	
General Market	MUP	--	P	--	P	CUP	P	
Nurseries and Garden Centers	--	--	--	--	--	--	--	
Retail Sales								
General	P	--	P	MUP	P	P	P	In CAR, retail other than auto related requires MUP. In MMU, 6,000 sq. ft. maximum size.
Limited Corner Store Retail	--	CUP	--	--	--	--	--	See Section 25.48.160
Large Format	--	--	--	--	--	--	--	
Specialized	MUP	MUP	MUP	--	MUP	MUP	MUP	
Vehicle Fuel Sales and Accessory Service	--	--	--	--	--	--	--	
Vehicle Sales								
Auto and Light Truck	--	--	--	P	--	--	--	
Heavy Equipment Rental and Sales	--	--	--	--	--	--	--	
Commercial – Services and Recreation								
Animal Care Services								
Boarding/Kennels	--	--	--	--	--	--	--	No overnight animal stays permitted.
Grooming	MUP	MUP	--	MUP	MUP	--	--	
Pet Hotels	--	--	--	--	--	--	--	

Table 25.16-1: Downtown Zoning Districts Use Regulations

Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Veterinarian	--	P	--	--	--	P	--	
Banks and Financial Institutions	P	P	P	--	P	P	CUP	Not allowed on ground floor in BAC or MMU.
Business Services	P	P	P	MUP	P	P	P	In CAR, MUP for services other than auto related
Check Cashing and Pay Day Loan Establishments	--	--	--	--	--	--	--	
Commercial Recreation – Large Scale	--	CUP	CUP	--	CUP	CUP	--	Where permitted, must have active visible uses with clear storefront glass.
Commercial Recreation – Small Scale	--	MUP	MUP	--	MUP	MUP	MUP	
Day Care Center	MUP	MUP	MUP	--	MUP	MUP	MUP	See Section 25.48.090
Food Preparation (catering)	--	--	--	--	--	--	--	
Funeral Services and Cemeteries	--	--	--	--	--	--	--	
Office – Co-Working	P	P	P	P; CUP for ground floor	P	P	P	Above and below the first floor only in BAC
Office - Medical or Dental	P	CUP	P	--	P	P	CUP	Above and below the first floor only in BAC and HMU
Office - Professional	P	P	P	P; CUP for ground floor	P	P	P	In BAC and HMU: Above and below the first floor only and behind a minimum 30-foot depth of commercial retail space on ground floor
Office - Research and Development	--	--	--	--	--	--	--	

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Personal Services - General	P	P	P	MUP	P	P	P	In CAR, MUP for other than auto related. In BAC, dry cleaning requires an MUP.
Personal Services – Specialized	MUP	MUP	CUP	MUP	MUP	MUP	MUP	
Studios – Arts	P	P	P	CUP	P	P	P	
Theaters - Live	CUP	--	CUP	--	CUP	CUP	--	
Theaters - Movie or similar	--	--	--	--	--	--	--	
Educational Services								
Schools - Primary and Secondary, Private	MUP	MUP	--	--	--	MUP	--	Above or below ground floor only
Trade Schools	MUP	MUP	MUP	--	MUP	MUP	--	Above or below first floor only and operate outside of peak retail hours
Tutoring and Educational Services	P	P	P	--	P	P	P	In CAC, DAC, and HMU, accessory only to retail or service use. In BAC and BMU, above or below first floor only and operate outside of peak retail hours
Industry, Manufacturing and Processing, Warehousing, and Wholesaling Uses								
Breweries, Distilleries, Wineries	--	--	--	--	--	--	--	See Section 25.48.250 (Tasting Rooms).
Cannabis Processing, Production, or any other similar use	--	--	--	--	--	--	--	
Food Processing and Production	--	--	--	--	--	--	--	
Laboratories/Research and Development	--	--	--	--	--	--	--	
Light Industrial	--	--	--	--	--	--	--	

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Personal Storage	--	--	--	--	--	--	--	
Recycling facilities								
Light processing	--	--	--	--	--	--	--	
Reverse Vending Machine(s)	--	--	--	--	--	--	--	
Small collection	--	--	--	--	--	--	--	
Vehicle Services and Repair								
Major (Major Repair/Body Work)	--	--	--	--	--	--	--	
Minor (Minor Repair/Maintenance)	--	--	--	--	--	--	P	Less than 6,000 sq. ft.
Vehicle Rental	--	--	--	CUP	--	--	--	Maximum of 50 vehicles; all parking must be provided on site.
Car Wash	--	--	--	--	--	--	--	
Warehousing/Logistics	--	--	--	--	--	--	--	
Wholesaling	--	--	--	--	--	--	--	
Lodging								
Extended Stay Hotels	--	--	--	--	--	--	--	
Hostels	--	--	--	--	--	--	--	
Hotels and Motels	P	--	P	CUP	P	P	--	
Mixed Uses								
Mixed Use Developments	P	P	P	P	P	P	P	With individual specific uses subject to land use regulatory requirements set forth in this table.
Public and Quasi-Public Uses								
Assembly Facilities								
Community Assembly Facility	--	--	--	--	--	CUP	--	
Religious Assembly Facility	--	CUP	--	--	--	CUP	--	Incidental uses such as instruction and temporary homeless shelters allowed.
Community Open Space	P	P	P	P	P	P	P	

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Emergency Shelters – Permanent	--	--	--	--	--	--	--	See 25.48.100 (Emergency Shelters - Permanent)
Emergency Shelters – Temporary	--	CUP	--	--	--	--	--	See 25.48.110 (Emergency Shelters - Temporary)
Government Buildings and Facilities	P	P	P	P	P	P	P	
Hospitals	--	--	--	--	--	--	--	
Low Barrier Navigation Center	--	P	--	P	--	P	P	Above first floor only. See Section 26.48.170
Medical Clinics	CUP	CUP	P	--	P	P	CUP	In BAC, above and below ground floor only
Park and Recreation Facilities, Public	P	P	P	P	P	P	P	
Residential Uses								
Communal Housing	--	CUP	--	CUP	--	CUP	CUP	
Elderly and Long-Term Care	--	CUP	--	--	--	CUP	CUP	
Family Day Care - Small	--	P	--	P	--	P	P	
Family Day Care - Large	--	P	--	P	--	P	P	

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Live/Work	--	P	--	P	--	P	CUP	Average maximum unit size shall be 1,250 sq. ft. Above first floor only in CAR, DAC and HMU zones. In the DAC zone, residential uses are permitted only on north side of Donnelly Ave. and on parcels that have sole frontage on Donnelly Ave.
Multi-Unit Dwellings	--	P	--	P	P	P	P	
Residential Care								
Limited	--	P	--	P	P	P	P	Section 25.48.220
General	--	CUP	--	CUP	--	CUP	CUP	Section 25.48.220
Senior	--	CUP	--	CUP	--	CUP	CUP	Section 25.48.220
Supportive and Transitional Housing	--	P	--	P	P	P	P	See Section 25.48.240
Transportation, Communication, and Infrastructure Uses								
Air Courier, Terminal, and Freight, Services	--	--	--	--	--	--	--	
Park and Fly, Accessory	--	--	--	--	--	--	--	
Park and Fly, Primary Use	--	--	--	--	--	--	--	
Parking Facility, Accessory Use	P	P	P	P	P	P	P	
Parking Facility, Primary Use	MUP							
Transit Facilities	--	--	--	--	--	--	--	
Utility Structures and Service Facilities, Small	MUP							

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit TUP Temporary Use Permit A Accessory Use -- Not Permitted								
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Utility Structures and Service Facilities, Large	--	--	--	--	--	--	--	
Vehicle Storage	--	--	--	--	--	--	--	
Wireless Telecommunication Facilities	See Section 25.48.300							
Specific and Temporary Uses								
Adult Business Uses	--	--	--	--	--	--	--	
Donation Box – Outdoor	--	--	--	--	--	--	--	
Drive-Through or Drive-Up Facilities	--	--	--	--	--	--	--	
Outdoor Storage	--	--	--	--	--	--	--	
Outdoor Temporary and/or Seasonal Sales	TUP	TUP	TUP	TUP	TUP	TUP	TUP	See Section 25.48.190
Temporary Uses	TUP	TUP	TUP	TUP	TUP	TUP	TUP	See Section 25.48.260
Urban Agriculture	P	P	P	P	P	P	P	See Section 25.46.290

§ 25.16.030. Development Standards.

Development projects in Downtown zoning districts shall comply with the development standards set forth in Table 25.16-2 (Development Standards for Downtown Zoning Districts) and Table 3-2 (Development Standards) of the Downtown Specific Plan.

Table 25.16-2: Development Standards for Downtown Zoning Districts

Development Standards	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Additional Regulations
Height – Maximum	35 ft. (55 ft. with SP)	55 ft.	35 ft. (45 ft. with SP)	Architectural features exceeding maximum building height allowed with SP (See Section 25.78.050).				
Density – Maximum	--	--	--	--	--	--	--	
Floor Area Ratio – Maximum	--	--	--	--	--	--	--	

Table 25.16-2: Development Standards for Downtown Zoning Districts

Development Standards	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Additional Regulations
Ground Floor Ceiling Height – Minimum	15 ft.	--	15 ft.	15 ft.	15 ft.	15 ft.	--	
Minimum Setbacks								
Front Setback - Minimum	--	10 ft.	--	--	--	--	10 ft	
El Camino Real – Minimum Frontage, Street Side, or Rear	10 ft.	20 ft.	10 ft.	N/A	N/A	10 ft.	N/A	
Side-Interior	--	--	--	--	--	--	--	
Side-Street	--	--	10 ft.	--	--	--	10 ft.	
Rear	--	20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	20 ft.	In BMU, CAC, CAR, DAC and HMU Districts, rear setback requirement shall apply only when there is an existing residential use on the abutting rear property line.
Edge Conditions	R-3/R-4 upper story side setback standards (see Section 25.10.055.C) shall apply to property line(s) with an existing residential use on the abutting property.							Does not apply to the BAC zone
Lot Coverage – Maximum	--	75%	--	--	--	--	75%	
Lot Dimensions – Minimum								
Size	5,000 sq. ft.							
Width at street frontage	50 ft.							

Table 25.16-2: Development Standards for Downtown Zoning Districts

Development Standards	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Additional Regulations
Open Space – Minimum (per residential unit in multifamily, mixed use, or live/work)	--	100 sq. ft. per unit	--	100 sq. ft. per unit	Common open space may include common activity rooms, gyms, pools, and rooftop terraces.			
Minimum Landscaping	--	10% of front setback	--	--	--	--	10% of front setback	See Chapter 25.36

§ 25.16.040. Additional Regulations.

- A. Design Standards. See the Downtown Specific Plan for design standards, guidelines, and additional regulations.
- B. Food Establishments in BAC. All food establishments in the BAC zoning district shall comply with the following:
 - 1. Provide trash receptacle(s) at location(s) and of a design selected by the City.
 - 2. Provide litter control along all frontages of the business and within 50 feet of all frontages of the business.
- C. Minor Modifications. Certain minor modifications from development standards are permitted consistent with Section 25.74.020.

CHAPTER 25.18

PUBLIC/INSTITUTIONAL, PARKS AND RECREATION, AND TIDAL PLAN/BAY ZONING DISTRICTS (P-I, P-R, TPB)

§ 25.18.010. Purpose and Applicability.

- A. Public and Open Space Zoning Districts Purpose. These zoning districts are established to provide areas designated for public facilities, parks and open spaces, and baylands in the City.
- B. Public/Institutional Zoning District Purpose. The Public/Institutional (PI) zoning district is intended to accommodate public, semi-public, and institutional uses, including, but not limited to, government buildings, educational and cultural facilities, health care uses and hospitals, unique private institutional uses, utilities infrastructure and easements, and rail corridors, lines, and ancillary uses including commuter parking areas. Expansion or development of such facilities should be sensitive to the surrounding uses, particularly when development is adjacent to residential neighborhoods. This zoning district implements the General Plan Public/Institutional designation.

- C. **Parks and Recreation Zoning District Purpose.** The Parks and Recreation (PR) zoning district is intended to provide areas for regional parks, community and neighborhood parks, and special use facilities such as community centers, golf courses, and trails that accommodate active recreation activities. This zoning district implements the General Plan Parks and Recreation designation.
- D. **Tidal Plain/Bay Zoning District Purpose.** The Tidal Plain/Bay (TPB) zoning district is intended to regulate areas within the waters in the San Francisco Bay and other waters subject to bay tidal influences. The TPB zoning district provides for open space; proper treatment of storm and sanitary drainage; and to prevent structures of such height as may create hazards to air transportation and otherwise to guard the health, safety and general welfare of the people. No development is permitted except as authorized by State law.

§ 25.18.020. Land Use Regulations.

- A. **Allowed Uses.** Table 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations) indicates the uses allowed within each residential zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Uses defined in Article 8 (Definitions) and not listed in Table 25.18-1 are prohibited.
- B. **Director Determination.** Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. **Specific Use Regulations.** Where the last column in Table 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.18-1 Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations

	P Permitted CUP Conditional Use Permit MUP Minor Use Permit			TUP Temporary Use Permit A Accessory Use -- Not Permitted	
Land Use	PI	PR	TPB		Specific Use Regulations
Public and Quasi-Public					
Government Facilities	P	--	--		
Hospitals	CUP	--	--		
Medical Clinics	CUP	--	--		
Office - Professional	P	--	--		Limited to offices of government agencies only. CUP if a non-governmental agency.
Park and Recreation Facilities, Public	P	P	P		
Open Space and Conservation Uses	P	P	P		

Table 25.18-1 Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations

Land Use	P Permitted CUP Conditional Use Permit MUP Minor Use Permit			TUP Temporary Use Permit A Accessory Use -- Not Permitted	
	PI	PR	TPB	Specific Use Regulations	
Schools, Public	P	--	--		
Schools, Private	CUP	--	--		
Other Uses					
Rail and Public Transit Facilities	P	--	--		
Parking Facility, Accessory Use	A	A	A		
Parking Facility, Primary Use	P	P	--		
Urban Agriculture	P	P	P	See Section 25.48.290	
Utility Structures and Service Facilities	P	P	CUP	Allowed only on City-owned properties and public rights-of-way.	
Vehicle Storage	P	P	--	Allowed only if property is owned by a governmental entity and leased to a third party.	
Wireless Communication Facilities	See Section 25.48.300				

§ 25.18.030. Development Standards.

Development in these zoning districts is generally under the purview of a governmental agency or quasi-public organization. Generally, development standards are determined on a case-by-case basis as part of the public review process by that governmental agency or as part of the conditional use permit process.

Table 25.18-2: Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Development Standards

Development Standard	PI	PR	Additional Regulations
Building Height – Maximum	35 ft.	N/A	Deviations to the development standards may be approved as part of conditional use permit.
Setbacks			
Front	20 ft.	N/A	
Interior Side and Rear	20 ft.	N/A	
Corner Lot – Street Side	20 ft.	N/A	
Floor Area Ratio – Maximum			
Government, education, cultural facilities	1.5	N/A	
Hospitals	3.0	N/A	

§ 25.18.040. Additional Regulations—Setbacks and Public Access from San Francisco Bay and its Estuaries.

- A. Setback. Public access shall be maintained and developed based on the City-adopted and Bay Conservation and Development Commission-approved public access guidelines

for Burlingame based on the applicable water frontage as follows:

1. On San Francisco Bay. An average setback of 75 feet of the lot (or as may otherwise be required by the Bay Conservation and Development Commission) as measured from the shoreline as defined by the Bay Conservation and Development Commission; in no case shall the area as measured from the top of bank be less than the minimum width for the Bay Trail as required by the Bay Conservation and Development Commission; and
 2. On Anza Lagoon, Sanchez Channel, and Burlingame Lagoon. An average setback of 65 feet (or as otherwise may be required by the Bay Conservation and Development Commission) as measured from the shoreline as defined by the Bay Conservation and Development Commission; in no case shall the area as measured from the top of bank be less than the minimum width for the Bay Trail as required by the Bay Conservation and Development Commission.
- B. Maintenance. All areas improved for public access within the jurisdiction of the Bay Conservation and Development Commission shall be maintained by the property owner and shall be available to the public in perpetuity as determined by the Bay Conservation and Development Commission.

CHAPTER 25.20 OVERLAY ZONING DISTRICTS

§ 25.20.005. Purpose and Applicability.

- A. Purpose. This chapter regulates new and existing structures and land uses in the overlay zoning districts established by Section 25.06.010 (Establishment of Zoning Districts). The provisions of this chapter provide guidance for development in addition to the standards and regulations of the base zoning districts, where important site, environmental, safety, compatibility, or design issues require particular attention in project planning.
- B. Applicability. In the event of any perceived conflict between the provisions of this chapter and any other provision of these Zoning Regulations, the regulations of this chapter shall control.

§ 25.20.010. Anita Road Overlay (AR).

- A. Purpose and Applicability. The purpose of the Anita Road Overlay is to provide a transition and buffer between the downtown commercial area and Myrtle Road mixed use area to the west and the single-family neighborhood to the east.
- B. Height – Special Requirements.
1. Maximum Height. Buildings over 35 feet in height and not more than 45 feet in height shall require a special permit. No building shall be constructed in the Anita Road Overlay that exceeds 45 feet in height.
 2. Special Permit Findings. See Section 25.78.040.
- C. Rear Setback – Special Requirements. There shall be a minimum rear setback of 20 feet.
- D. Corner Store Retail. Limited corner store retail as defined in Article 8 (Definitions) and subject to standards in Section 25.48.160 (Limited Corner Store Retail) may be allowed

with a conditional use permit in the Anita Road Overlay.

§ 25.20.020. Commercial Residential Overlay (CR) for California Drive/Edgehill Drive.

- A. Purpose. The Commercial Residential Overlay is located within the California Drive Mixed- Use (CMU) zoning district. The purpose of this overlay district is to encourage mixed residential and commercial land uses with pedestrian oriented retail uses compatible with adjacent residential uses, recognizing the unique nature of the Edgehill Drive interface.
- B. Allowed Uses. Allowed uses for CMU shall not apply in the CR Overlay. Table 25.20-1 (CR Overlay Zoning District Use Regulations) indicates the uses allowed within the overlay zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Uses defined in Article 8 (Definitions) and not listed in Table 25.20-1 are prohibited.
 - 1. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
 - 2. Specific Use Regulations. Where the last column in Table 25.20-1 (CR Overlay Zoning District Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.20-1 CR Overlay Zoning District Use Regulations

	P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use -- Not Permitted
Land Use	CR Overlay	Specific Use Regulations
Commercial – Retail		
Retail Sales – General	P	--
Commercial – Services and Recreation		
Animal Care Services – Grooming	P	--
Personal Services – General	P	Massage services not permitted.
Studios – Arts	P	
Educational Services		
Tutoring and Educational Services	P	
Mixed Uses		
Mixed Use Developments	P	With individual specific uses subject to land use regulatory requirements set forth in this table.
Residential Uses		
Communal Housing	P	

Table 25.20-1 CR Overlay Zoning District Use Regulations

	P CUP MUP	Permitted Conditional Use Permit Minor Use Permit	TUP A --	Temporary Use Permit Accessory Use Not Permitted
Land Use	CR Overlay		Specific Use Regulations	
Commercial – Retail				
Live/Work	P			
Multi-Unit Dwellings	P			
Residential Care Facilities – Limited	P			
Supportive and Transitional Housing	P		See Section 25.48.240	

C. Development Standard.

1. Height – Special Requirements.

- a. Maximum Height. The maximum height of all buildings shall be 30 feet as measured from top of curb at Edgehill Drive. Buildings over 30 feet in height and not more than 36 feet in height shall require a special permit.
- b. Special Permit Findings. See Section 25.78.050.B.1.

2. Residential Uses. Residential uses shall conform to the requirements of the CMU zoning district with the following exceptions:

- a. Maximum Number. The maximum number of residential units per lot shall be two, except where the only use on the lot is residential, then a maximum of three dwelling units shall be allowed; if two or more parcels are combined the maximum number of residential units shall be two per original lot plus commercial or three per original lot if the only use of the combined lots is residential;
- b. Access. The front pedestrian entrance and vehicular driveway access for parking shall be from Edgehill Drive; and
- c. Setback Exceptions. Residential development built over commercial use shall be allowed to extend to the side and rear property lines so long as the residential use does not cover more than 70 percent of the lot including that portion of the residential area over commercial use; this shall not include exterior decks open to the sky.

3. Commercial Uses. Commercial uses shall conform to the requirements of the CMU zoning district with the following exceptions:

- a. Front on California Drive. All commercial uses shall front only on California Drive with no vehicular access onto Edgehill Drive;
- b. Maximum Depth and Lot Coverage. Structures or portions of structures housing commercial uses shall have a maximum depth of 30 feet from the property line parallel to California Drive and shall cover no more than 33 percent of the lot or combined lots; and

- c. Parking. On-site parking shall not be required for single story commercial development fronting on California Drive except that second story commercial uses shall require on-site parking accessible from California Drive consistent with the requirements of Chapter 25.40 (Parking Regulations).

§ 25.20.030. Downtown Parking Sector Overlay.

See Section 25.40.030.C (Special Requirements for Downtown Specific Plan).

§ 25.20.040. Hillside Overlay (H).

- A. Purpose and Applicability. The Hillside Overlay Zone applies to all construction of structures in the designated hillside area, as identified in Article 6 (Permit Processing Procedures). The Director may require a survey and slope analysis to determine whether the provisions of this chapter apply to a specific property or development. The purpose of this zone is to:
 - 1. Protect public health and safety by minimizing hazards, including soil erosion and fire danger associated with development on hillsides;
 - 2. Preserve and enhance the City's scenic character, including its natural hillsides and views of San Francisco Bay;
 - 3. Respect natural features in the design and construction of hillside development; and
 - 4. Design hillside development to be sensitive to existing terrain, distant views, and significant natural landforms and features.
- B. View Preservation. Hillside development shall be designed to preserve existing distant views. View preservation shall be limited to obstruction of distant views to San Francisco Bay, the San Francisco Airport, and Mills Canyon from primary indoor living areas excluding kitchens, bathrooms, dens, stairwells, entryways, and bedrooms.
- C. General Site Planning. Each structure shall be located in the most accessible, least visually prominent, most geologically stable portion or portions of the site, and at the lowest feasible elevation. Structures shall also be aligned with the natural contours of the site and shall preserve existing landforms to the maximum extent feasible, as determined by the Planning Commission. Siting structures in the least prominent locations is especially important on open hillsides where the high visibility of construction is to be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features.
- D. Grading. Grading and excavations shall result in the minimal disturbance feasible to the terrain and natural land features. Cuts and fills shall not exceed the standards outlined in Chapter 18.20 (Grading, Excavation, Fills). Existing trees and native vegetation shall be retained to the extent possible to stabilize hillsides, reduce erosion, and preserve the natural scenic beauty of the area.
- E. Driveway Slopes. See Section 25.40.070.C (Driveways).
- F. Reduced Setbacks for Parking. To reduce grading, the Planning Commission may approve a special permit for reduced setbacks for garages and carports if the finding is made that the character of the neighborhood is maintained.
- G. Retaining Walls. Large retaining walls in a uniform plane shall be avoided. Retaining

walls shall be divided into terraces with variations in plane and include landscaping to break up the length of walls and to screen them from view. No retaining wall located in the front or rear yard area shall be higher than six feet and must incorporate a three-foot recessed offset feature every 30 feet or other methods of articulation acceptable to the Review Authority. Exceptions to these standards may be approved by the Planning Commission with issuance of a special permit.

- H. Mechanical Equipment. Mechanical equipment under stilt-type structures shall be screened from view with landscaping and/or screen walls.
- I. Landscaping. Special landscaping consideration shall be given in hillside areas to screen retaining walls, accessory structures, and buildings visible from a downslope. Deep-rooted plants for slope stabilization should be used for cut and fill slopes.

§ 25.20.050. Multi-Unit Residential Overlay (MUR).

- A. Purpose. The Multi-Unit Residential Overlay is established to provide options for development of multi-unit residential uses on properties that historically have supported commercial uses but which, due to evolving consumer preferences and practices, may no longer be able to attract viable retail or service users. The Multi-Unit Residential Overlay requires compatibility with surrounding land uses, property access, and availability of services.
- B. Permitted Uses. Multi-unit residential uses are permitted in this overlay district. Other uses consistent with the underlying zoning district are also permitted.
- C. Development Standards. Multi-unit residential developments shall comply with the development standards for the R-3 zoning district set forth in Chapter 25.10 (Residential Zoning Districts).

§ 25.20.060. R-4 Incentive Overlay (R-4-I).

- A. Purpose. The R-4 Incentive Overlay is located within the Burlingame Downtown Specific Plan Area (refer to Figure 3.2 of the Downtown Specific Plan) located south of Howard Avenue between Highland Avenue and Park Road. The purpose is to provide an incentive for high density residential uses within this area.
- B. Height – Special Requirements.
 - 1. Maximum Height. Buildings or structures up to 55 feet in height are allowed by right within this overlay. A special permit is required for any building or structure which is more than 55 feet in height.
 - 2. Special Permit Findings. See Section 25.78.040.
- C. Corner Store Retail. Limited corner store retail as defined in Article 8 (Definitions) and subject to standards in Section 25.48.160 (Limited Corner Store Retail) may be allowed with a conditional use permit in the R-4 Incentive Overlay.

§ 25.20.070. Rollins Road Residential (RRR) Overlay.

- A. Purpose. The Rollins Road Residential Overlay is intended to provide design sensitivity, a more livable environment for reuse and new development, and an appropriate transition between the existing freeway and intercommunity arterial for the R-3 properties within this overlay zone and the adjacent established single-family residential area.

- B. Height Special Requirements.
 - 1. Maximum Height. Buildings or structures shall not exceed 30 feet in height. Buildings and structures up to 36 feet in height may be allowed with approval of a special permit. In no case shall buildings or structures exceed two stories.
 - 2. Special Permit Findings. See Section 25.78.040.
- C. Setback Special Requirement. Minimum front setback shall be 10 feet or the average of the block, whichever is greater.
- D. Common Open Space. Minimum required common open space shall be 100 square feet per unit with a minimum dimension of 15 feet. A minimum of 25 percent of the common open space shall be soft landscaping.
- E. Private Open Space. No private open space is required.

§ 25.20.080. Two-Unit Residential Overlay.

- A. Purpose. The purpose of this section is to regulate two-unit residential development in compliance with California Government Code Sections 66452.6, 65852.21 and 66411.7 to allow two detached or attached housing units on one parcel, and ancillary uses and structures. A proposed two-unit housing development shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the requirements in this section.
- B. Applicability. The Two-Unit Residential Overlay shall apply to properties within the Low Density Residential Zoning District (R-1) and Medium Density Residential Zoning District (R-2), with the following exceptions:
 - 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - 3. Housing that has been occupied by a tenant in the last three years.
 - 4. A parcel on which an owner of residential real property has exercised the owner's rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - 5. The parcel is within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
- C. Permitted Uses.
 - 1. Single-unit dwellings and two-unit dwellings are allowed as a permitted use.
 - 2. Home occupations are allowed as an accessory use.
 - 3. Accessory dwelling units and junior accessory dwelling units, except for lot splits as set forth in Section 25.20.080.E.

4. Short-term rentals rented for a period of 30 days or less are not permitted.
- D. Development Standards. Residential developments shall comply with the development standards for the R-1 zoning district set forth in Chapter 25.10 (Residential Zoning Districts) and Table 25.10-1 with the following exceptions:
1. Number and Size. In no instances shall the application of development standards for the R-1 zoning district set forth in Chapter 25.10 preclude construction of up to two units, or that would physically preclude either of the two units being at least 800 square feet in floor area.
 2. Maximum Height. Buildings or structures shall not exceed 30 feet in height. Within the rear 20 feet of a parcel, buildings or structures shall not exceed 10 feet, or 15 feet when the roof is pitched from ridge to plate on at least two sides, and the ridge is no closer than four feet to a side or rear property line.
 3. Side and Rear Setbacks. Per Table 25.10-2, but no more than four feet required. Notwithstanding, no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
 4. Off-Street Parking. One space per unit (may be covered or uncovered), with the exception that no parking is required if the parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or if the parcel is located within one block of a car share facility. In no instances shall parking be allowed in the required front setback.
- E. Lot Splits. A parcel map for an urban lot split shall be allowed with ministerial review per the requirements in this section.
1. Parcel Map. A parcel map for an urban lot split shall be allowed with ministerial review if the parcel map for the lot split meets all the following requirements:
 - a. The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
 - b. Both newly created parcels are no smaller than 1,200 square feet.
 - c. Both parcels resulting from the urban lot split have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements.
 - d. The parcel has not been established through prior exercise of an urban lot split as provided for in this section.
 - e. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.
 - f. The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as

otherwise expressly provided in this section.

- g. The existing parcel is not vacant.
2. **Development Standards.** Development standards for each new parcel resulting from an urban lot split shall conform to Section 25.20.080.D. Development standards shall be applied to each new parcel individually.
3. **Number of Units.** No more than two residential units shall be allowed on a parcel created through the exercise of the authority contained within this section.
4. **Accessory Dwelling Units.** Accessory dwelling units and junior accessory dwelling units shall not be permitted on parcels resulting from an urban lot split created under the authority contained within this section.
5. **Nonconforming Zoning Conditions.** Correction of nonconforming zoning conditions shall not be required as a condition for ministerial approval of a parcel map application for the creation of an urban lot split.
6. **Residency Requirement.** An applicant for an urban lot split shall sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

CHAPTER 25.24

COMPREHENSIVE AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY

§ 25.24.010. Purpose.

Development must comply with Safety Compatibility Policies SP-1 through SP-3 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP) including Noise/Land Use Compatibility and Safety Compatibility Criteria listed in Tables IV-1 and IV-2 of the ALUCP. Some uses may be incompatible in certain safety zones. Refer to ALUCP Exhibit IV-9 for a map of the safety compatibility zones. (Ord. 2000 § 2, (2021))

§ 25.24.020. Airport Disclosure Notices.

All new development is required to comply with the real estate disclosure requirements of State law. The following statement must be included in the notice of intention to offer the property for sale:

"Notice of Airport in Vicinity

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you."

(Ord. 2000 § 2, (2021))

§ 25.24.030. Airport Noise Evaluation and Mitigation.

Project applicants shall be required to evaluate potential airport noise impacts if the project is located within the 65 CNEL contour line of San Francisco International Airport (as mapped in the Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport). All projects shall be required to mitigate impacts to comply with the interior (CNEL 45 dB or lower, unless otherwise stated) and exterior noise standards established by the Airport Land Use Compatibility Plan or Burlingame General Plan, whichever is more restrictive.

(Ord. 2000 § 2, (2021))

§ 25.24.040. Avigation Easement.

Any action that would either permit or result in the development or construction of a land use considered to be conditionally compatible with aircraft noise of CNEL 65 dB or greater (as mapped in the Airport Land Use Compatibility Plan) shall include the grant of an avigation easement to the City and County of San Francisco prior to issuance of a building permit(s) for any proposed buildings or structures, consistent with Airport Land Use Compatibility Plan Policy NP-3 Grant of Avigation Easement.

(Ord. 2000 § 2, (2021))

§ 25.24.050. Other Flight Hazards.

Within Airport Influence Area (AIA) B, certain land use characteristics are recognized as hazards to air navigation and, per SFO ALUCP Policy AP-4, need to be evaluated to ensure compatibility with FAA rules and regulations. These characteristics include the following:

- A. Sources of glare, such as highly reflective buildings, building features, or blight lights including search lights, or laser displays, which would interfere with the vision of pilots in command of an aircraft in flight.
- B. Distracting lights that could be mistaken for airport identification lightings, runway edge lighting, runway end identification lighting, or runway approach lighting.
- C. Sources of dust, smoke, water vapor, or steam that may impair the visibility of a pilot in command of an aircraft in flight.
- D. Sources of electrical/electronic interference with aircraft communications/navigation equipment.
- E. Any use that creates an increased attraction for wildlife, particularly large flocks of birds, that is inconsistent with FAA rules and regulations, including, but not limited to, FAA Order 5200.5A, Waste Disposal Site On or Near Airports and FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants On or Near Airports and any successor or replacement orders or advisory circulars.

(Ord. 2000 § 2, (2021))

SECTION FIVE. REPLACING ARTICLE 3 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE, EXCLUDING CHAPTERS 25.35, 25.36, 25.41, 25.42, 25.43, AND 25.44

Article 3 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following, excluding Chapters 25.35, 25.36, 25.41, 25.42, 25.43, and 25.44.

**Article 3
Regulations and Standards Applicable To All Zoning Districts**

**CHAPTER 25.30
RULES OF MEASUREMENT**

§ 25.30.010. Purpose.

This chapter provides general rules for measurement and calculation applicable to all zoning districts unless otherwise stated in this title.

§ 25.30.020. Fractions.

- A. **Parking Spaces.** If the number of on-site parking spaces for a use required by this title contains a fraction, that fraction shall be rounded to the nearest whole number. Any such fraction equal to or greater than 0.50 shall be rounded up to the nearest whole number, and any such fraction less than 0.50 shall be rounded down to the nearest whole number.
- B. **Dwelling Units.**
 - 1. **Residential Density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For projects eligible for a density bonus pursuant to Government Code Section 65915 or any successor statute and Section 25.33.010 (Density Bonus), any fractional number of permitted density bonus units shall be rounded up to the next whole number.
 - 2. **Other Calculations.** For calculations other than residential density, the fractional/decimal results of calculations of one-half (0.5) or greater shall be rounded up to the nearest whole number and fractions of less than one-half (0.5) shall be rounded down to the nearest whole number, except as otherwise provided.
 - 3. **Other Fractions.** Notwithstanding subsections B.1 and B.2 above, when a measurement is expressed in terms of maximum or minimum limits or requirements, any other fractional measurement shall not be rounded. For example, if a maximum height for a building is 35 feet and the proposed building measures 35 feet and six inches, then the height is not in compliance with the requirement.

§ 25.30.030. Measuring Distances.

- A. **Measurements Are Shortest Distance.** Where a required distance is indicated, such as the minimum distance between a structure and a lot line, the measurement shall be made at the closest or shortest distance between the two objects, unless otherwise specifically stated.
- B. **Distances Are Measured Horizontally.** When determining distances for setbacks, all

distances shall be measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. These distances shall not be measured by following the topography or slope of the land unless otherwise specifically stated.

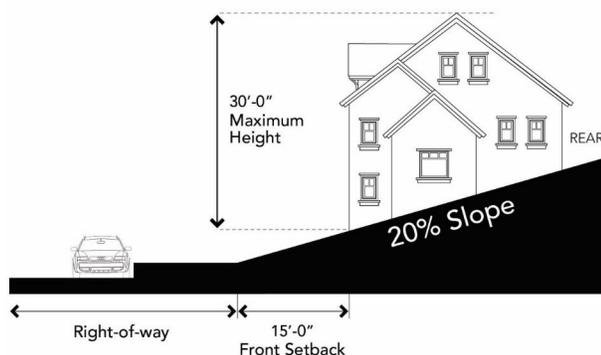
- C. **Measurements Involving a Structure.** Measurements involving a structure shall be made to the closest support element of the structure and to improvements that are more than 30 inches above adjacent grade, such as an uncovered deck. Structures or portions of structures that are underground shall not be included in measuring required distances unless otherwise specifically stated.
- D. **Measuring Distances to a Major Transit Stop:** Measurements to a major transit stop shall be taken as a straight line from the nearest parcel property line of the subject property to the nearest parcel property line of the closest major transit stop.

§ 25.30.040. Measuring Height.

A. **Buildings or Structures.**

- 1. **General.** On flat lots and lots with an average (cross-parcel) slope of less than 20 percent, building height shall be measured as the vertical distance between the average top of curb (taken from the corners of the lot extended) and the highest edge of a gable, hip, or shed roof or top of parapet. On corner lots the average top of curb is calculated using the corners of the lot considered to be the front.
- 2. **Downward Slope.** On lots that slope downward more than 20 percent toward the rear of the lot, the maximum height of the building shall not exceed 20 feet above the curb level, irrespective of the number of stories at the rear of the building.
- 3. **Upward Slope.** On lots that slope upward more than 20 percent toward the rear of the lot, the maximum height of the building shall not exceed 30 feet above average grade, as measured 15 feet from the front property line at the intersection of the side property line elevation points.

Figure 25.30-1: Measurement of Structure Height: Upward Slopes of 20 Percent or Greater



- 4. **Height Exceptions.**
 - a. See Chapter 25.78 (Special Permit).

5. Allowed Projections.

- a. Elevators and Stairwells. Elevator shafts and stairwells up to 14 feet in height, as measured from the roof surface, are allowed to exceed the maximum height limit. Any such structures shall be integrated into the overall architectural design.
 - b. Mechanical Equipment. Mechanical equipment is allowed to exceed the height limit and may be placed on rooftops only if the equipment is not visible from the public right-of-way or adjacent properties at grade, except for solar collectors that are compatible with the roof line and architecturally integrated with the structure. Building-mounted telecommunications facilities, antennas, and microwave equipment shall comply with the provisions of the City's wireless communications facilities regulations.
 - c. Roof Area. Elevators, stairwells, and mechanical equipment shall not cover more than 80 percent of the roof area and shall comply with subsections A.5.a. and A.5.b, above. If more than 25 percent of the roof area is covered by mechanical equipment, it shall be adequately screened by the building parapet or with screening with a design and materials matching those of the building.
- B. Fences, Walls, and Hedges. Except as provided in Section 25.31.070 (Fences, Walls, and Hedges), the height of a fence or hedge shall be measured from the highest adjacent grade.

§ 25.30.050. Measuring Lot Width and Depth.

- A. Lot Width. Lot width is the horizontal distance between the side lot lines measured at right angles to the lot depth line, measured from the front property line or at the required front setback line, whichever is greater.
- B. Lot Depth. Lot depth is the measured distance along an imaginary straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line or to the most distant point on any other lot line where there is no rear lot line.

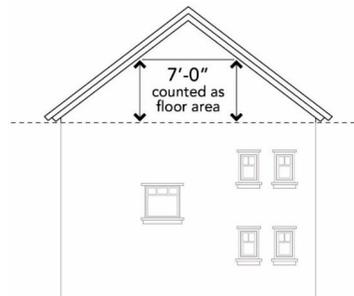
§ 25.30.060. Determining Floor Area.

- A. Generally. The floor area of a building shall be the sum of all floors of a building or buildings, as measured to the outside surfaces of the exterior walls of the structure or structures and including such areas as halls, stairways, covered porches and balconies, elevator shafts, service and mechanical equipment rooms and basements, cellars, and improved space in attic areas.
- B. Parking Excluded. Floor area shall exclude parking garages and parking structures for commercial, industrial, multi-unit and mixed-use buildings, either above ground or underground.
- C. Single-Unit Residential.
 1. Inclusions. Floor area shall include the residential floor area of any building(s) located on the lot, including the main dwelling, detached accessory structures, all garage area, covered patios, and basements with a ceiling height of seven feet or greater (as measured from the finished floor to the ceiling or bottom of the floor joists

of the floor above the basement), unless otherwise noted in subsection C.2. The floor area of enclosed stairways within the structure shall be counted on each floor. The floor area of open spaces within a structure with a ceiling height greater than 12 feet shall be counted on each floor.

2. Exclusions. The following shall be excluded for the purposes of calculating floor area:
 - a. Basements up to 600 square feet in area with a ceiling height of seven feet or greater if it meets both of the following standards:
 - i. The top of the finished floor above the basement is less than two feet above existing grade; and
 - ii. No part of the basement is intended or used for parking.
 - b. Covered porches or decks on the first floor totaling up to the first 200 square feet which face a street and are not located on the rear of the dwelling. An area under a balcony shall be considered a covered porch if the balcony is over an exterior exit from the building. If a covered porch is greater than 200 square feet, then only the square footage above 200 square feet shall count towards the overall floor area.
 - c. Lower floor or basement of 100 square feet or less solely used for mechanical equipment.
 - d. Crawl space between the surface of the ground or floor and the bottom of the first floor joists that measures less than seven feet in height.
 - e. Open spaces under decks that are open on at least two sides.
 - f. Uncovered front entrance stairs and stoops.
 - g. Covered walkways.
 - h. Non-habitable attic areas. In all other cases, attic areas that are made habitable and accessible and contain a ceiling height of seven feet or greater shall be counted as floor area.

Figure 25.30-2: Habitable Attic Areas



- i. Patio covers and trellises at the side or rear of the house that are open on at least two sides (up to a maximum of one detached and one attached) up to a maximum of 120 square feet. If the structure is greater than 120 square feet, then only the square footage above 120 square feet shall count towards the

overall floor area ratio.

- j. Decorative trellises with no ground supports, extending up to three feet from the exterior wall of the house.
- k. Cornices and eaves.
- l. Fireplace chimneys.
- m. Bay and greenhouse windows located on the first floor if all of the following conditions are met:
 - i. Footprint of each window shall not exceed 20 square feet; and
 - ii. Total cumulative bay/greenhouse window area shall not exceed 60 square feet.
- n. Uncovered balconies.
- o. Mechanical equipment.
- p. Accessory dwelling units which comply with the provisions of Section 25.48.030.

D. Nonresidential.

- 1. Floor Area Ratio Calculation. In calculating the floor area ratio for commercial development, the measurement shall apply to the gross floor area of the building and does not include basements or cellars.
- 2. Exemptions. Exempted from floor area ratio computation for commercial development are:
 - a. Chimneys, cupolas, and flag poles.
 - b. Canopies at entrances to buildings.
 - c. Balconies (uncovered or covered).
 - d. Covered walkways and arcades.
 - e. Ground level trellises.
 - f. Trash enclosures.
 - g. Water tanks, elevator penthouses, and other mechanical appurtenances.
 - h. Fire or hose towers.
 - i. Ground level service yards, if open to the sky, and which may otherwise be partially enclosed.

E. Mixed Use.

- 1. Mixed-Use Residential/Commercial. In a mixed-use building that includes residential and nonresidential uses, floor area ratio (FAR) maximums shall apply to only the nonresidential component of the development; the density standards shall apply only to any residential component of development on a site. The nonresidential (FAR) and residential (density) components are additive.

2. Multiple FARs. In some of the commercial zoning districts, a separate maximum floor area ratio is established for a particular use on a lot as well as a maximum overall floor area ratio for a lot.

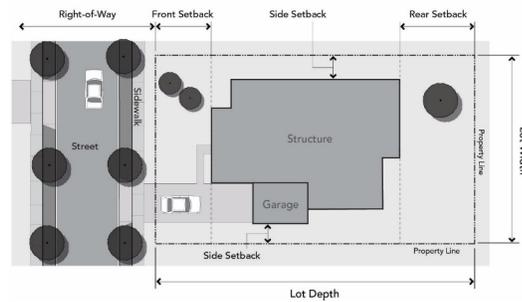
§ 25.30.070. Determining Lot Coverage.

- A. Generally. Structures included in lot coverage calculations shall include building or structures that are 30 inches in height or more above adjacent existing grade and shall be measured from exterior walls, exclusive of projecting, unenclosed architectural features.
 1. Excluded from Lot Coverage. The following features shall not count toward lot coverage. Covered porches or decks on the first floor totaling up to the first 200 square feet which face a street and are not located on the rear of the dwelling. An area under a balcony shall be considered a covered porch if the balcony is over an exterior exit from the building. If a covered porch is greater than 200 square feet, then only the square footage above 200 square feet shall count towards the overall lot coverage.
 2. Patio covers and trellises that are open on at least two sides (up to a maximum of one detached or attached) up to a maximum of 120 square feet. If the structure is greater than 120 square feet, then only the square footage above 120 square feet shall count towards the overall floor area ratio.
 3. Uncovered swimming pools and spas, sports courts, and other athletic and/or recreational surfaces that are not more than 30 inches above the adjacent finished grade, at any point, on which they are placed.
 4. Cornices and eaves.
 5. Front entrance stairs and stoops if uncovered and not more than four feet above grade.
 6. Fireplace chimneys.
 7. Outdoor kitchens and fire pits.
 8. Bay and greenhouse windows located on the first floor if all the following conditions are met:
 - a. Footprint of each window shall not exceed 20 square feet; and
 - b. Total cumulative bay/greenhouse window area shall not exceed 60 square feet.
 9. Uncovered balconies projecting up to four feet from the building.
 10. Basements.
 11. Mechanical equipment.
 12. Upper floor cantilevers projecting up to 30 inches from the building.
 13. Any attached or detached accessory dwelling unit which complies with the provisions of Section 25.48.030.

§ 25.30.080. Determining Setbacks.

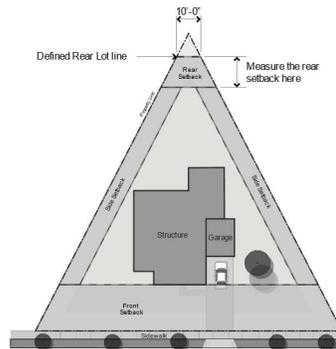
- A. Generally. All setback distances shall be measured at right angles from the designated property line to the building or structure, and the setback line shall be drawn parallel to and at the specified distance from the corresponding front, side, or rear property line.

Figure 25.30-3: Setbacks



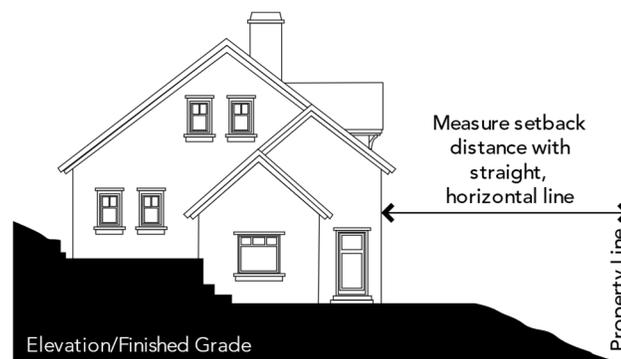
- B. Interior Side Setbacks. If front and rear lot lines are equal, the lot width for determining an interior side setback shall be measured from the front property line. If front and rear lot lines are unequal, the setback shall be based on the width of the lot as measured between the midpoints of the two side lot lines.
- C. Rear Property Line Exception. Where no rear property line is within 45 degrees of being parallel to the front lot line, a line 10 feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear setback.

Figure 25.30-4: Setbacks on Irregular Lots



- D. Sloped Lots. For sloped lots, the measurement shall be made as a straight, horizontal line from the property line to the edge of the structure, not up or down the hill slope.

Figure 25.30-5: Setback Measurement for Sloped Lots



- E. Flag Lots. For flag lots, the pole portion of the parcel shall not be used for defining setback lines.
- F. Other Irregularly Shaped Lots. For irregular shaped lots not covered herein, the Director will determine setbacks.

§ 25.30.090. Allowed Projections in Residential Zones.

- A. General. In residential zones, architectural and similar features may extend into required setback areas as identified in Table 25.30-1 (Allowable Projections into Required Setback in Residential Zones).

Table 25.30-1 Allowable Projections into Required Setback In Residential Zones

Type of Projection	Allowable Projection
Cornices, eaves	Must be located at least 2 feet from any property line
Stairs and stoops	6 feet into required front setback; must be uncovered and not extend more than 4 feet above grade
Covered porches	5 feet into required front setback
Bay windows on first floor	2 feet; maximum of 20 sq. ft. each; cumulative total of 60 sq. ft.; must be located at least 4 feet from side property line
Fireplace chimneys	2 feet; maximum of 6 feet in width; 2 ft from property line
Greenhouse windows	1 foot; 3 feet above finished floor; maximum 17 sq. ft.; 3 feet from any property line
Open balconies in multi-unit buildings	4 feet; maximum of 16 feet in width; 10-foot separation if multiple balconies but must be located at least 4 feet from property lines
Basements and underground parking garages	Front - Shall not extend past required front setback line. Side - Shall not extend past required side setback line, and in no case be closer than 4 ft to side property line. Rear - May extend into rear setback up to 10 ft from rear property line. See also Section 25.03.080.H.
Basement lightwells and stairs	6 feet; must be uncovered
Mechanical equipment	
Tankless water heaters	2 feet
Equipment for swimming pools, spas, water features	Allowed if located 10 feet from property line; may be located closer to property line if enclosed and determined to be adequately sound insulated by Building Official
Air conditioning equipment	As established in the Building Code and as regulated by City noise restrictions
Public utility structures	Allowed

- B. Basements and parking facilities constructed entirely below ground level shall be subject to the following limitations:

1. Plans for underground garages, together with methods of access and egress for the vehicles, must be prepared and submitted for approval by the Planning Commission prior to the issuance of a building permit.
2. Allowance shall be made on the surface of the structure lying within a required yard or setback area, where permitted, to provide for landscaping.
3. The uppermost portion of any structure or attachment thereto within any required yard or setback area, where permitted, shall not extend above natural grade.
4. On lots abutting or fronting El Camino Real, basements and underground garages may not be constructed within any portion of the required setback area on such frontage.

§ 25.30.100. Allowed Projections in Nonresidential Zones.

In commercial, industrial, and mixed-use zoning districts, architectural and similar features may extend into required setback areas as identified in Table 25.30-2.

Table 25.30-2: Allowed Projections into Required Setbacks in Commercial, Industrial and Mixed-Use Zoning Districts

Type of Projection	Allowable Projection
Architectural features	
Cornices, canopies, eaves, buttresses, chimneys, solar collectors, shading louvers, reflectors, water heater enclosures, and bay or other projecting windows	30 inches
Uncovered balconies, uncovered porches, decks, fire escapes, exit stairs	5 feet or setback required by Building and Fire Codes
Basements and underground garages	As set forth in 25.30.090.B (Allowed Projections in Residential Zones)
Mechanical equipment	
Tankless water heaters	2 feet
Equipment for swimming pools, spas, water features	Allowed if located a minimum of 3 feet from property line and are acoustically shielded or otherwise treated to ensure compliance with City noise control regulations
Public utility structures	
Fences, Walls, and Hedges	As permitted by Section 25.31.070
Signs	As permitted by Chapter 25.42
Trash enclosures	See Section 25.31.130

CHAPTER 25.31
SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS

§ 25.31.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to ensure that all development produces quality, desirable places and environments that complement the character of existing and future development, protect the use and enjoyment of neighboring properties, and are consistent with General Plan policy.

- B. Applicability. The standards of this chapter apply to all zoning districts. These standards shall be considered in combination with the standards for each zone in Article 2 (Zoning Districts, Allowable Uses, and Development Standards) and Article 4 (Regulations for Specific Land Uses and Activities). Where there may be a conflict, the standards specific to the zone or specific land use shall override these general standards. All structures, additions to structures, and uses shall conform to the standards of this chapter, as determined applicable by the Director.

§ 25.31.020. Accessory Structures.

- A. Purpose. Regulations applicable to accessory structures are established to ensure that the development and use of accessory structures do not adversely impact abutting properties with respect to drainage and life safety.
- B. Applicability.
1. Application. This section shall apply to:
 - a. New Structures. All new structures, as defined in the Building Code, located on the same site as the primary structure or use to which it is accessory, including, but not limited to, garages, carports, porte-cocheres, sheds, workshops, gazebos, greenhouses, cabanas, pool houses, trellises, play structures, aviaries, covered patios, etc.
 - b. Decks and Patios. Detached decks and patios that are more than 30 inches above the existing ground elevation, excluding above ground pools and hot tubs.
- C. Development Standards for the R-1 and R-2 Zoning Districts. The following standards shall apply to accessory structures in the R-1 and R-2 zoning districts. Any proposed accessory structure that does not meet these requirements may be eligible for a minor modification permit pursuant to Chapter 25.74 (Minor Modifications) or a variance pursuant to Chapter 25.84 (Variances).
1. Number. No more than two covered accessory structures, each measuring more than 120 square feet, shall be permitted per lot. If one of the accessory structures is a permitted accessory dwelling unit, it shall be counted as one of the structures.
 2. Size. The maximum size for each accessory structure other than an accessory dwelling unit is 600 square feet, in addition to a permitted accessory dwelling unit. If there is no permitted accessory dwelling unit, the maximum square footage of all accessory structures shall not exceed 800 square feet. If an accessory dwelling unit is proposed subsequent to the establishment of two accessory structures on a parcel, one of the accessory structures shall be removed prior to construction of the accessory dwelling unit.
 3. Small Structures Under 120 Square Feet. Small structures under 120 square feet not considered a structure pursuant to the Uniform Building Code are excluded from subsections C.1 and C.2. No more than two small structures shall be permitted per lot. Small structures shall not exceed 11 feet in height and may only be located in the side and rear yards.
 4. Location. Accessory structures shall not be located in front of the main building, except that a garage may be erected in front of the main building if the dwelling is

located in the rear 60 percent of the lot and was built prior to January 15, 1954. In no case shall the accessory structure be constructed between the front of the main building and the front property line.

5. **Setbacks.** If located within the rear 30 percent of the lot, detached accessory structures shall have a minimum side and rear setback of 18 inches. If located forward of the rear 30 percent of the lot, detached accessory structures shall comply with the side setback requirement of the applicable zoning district in which it is located.
 6. **Location From Other Structures.** Accessory structures shall be located at least four feet from another structure on the lot, as measured between the exterior walls of the structures, and at a minimum shall meet Fire Code separation requirements.
 7. **Coverage.** Accessory structures shall not cover more than 50 percent of the rear 30 percent of a lot. A permitted accessory dwelling unit shall not be included in this calculation.
 8. **Height.**
 - a. **Plate Line Height.** The plate line of the accessory structure shall not exceed nine feet six inches (9'-6") above grade at the closest point between the plate line and adjacent grade. An accessory structure shall not exceed one story in height.
 - b. **Roof Height.** The roof height of the accessory structure shall not exceed 10 feet above grade, as measured to the highest roof ridge or top of parapet. The height may be increased one foot for each foot of separation from an adjacent property line, up to a maximum height of 15 feet, provided that the roof is pitched from ridge to plate on at least two sides, and the ridge is no closer than five feet to a side property line.
 9. **Mechanical Equipment.** See Section 25.31.080 (Mechanical and Other Equipment).
- D. **Development Standards for All Other Zoning Districts.** Accessory structures are permitted in other zones provided they meet the development standards for that zoning district.

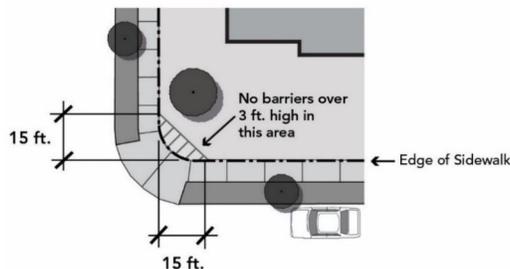
§ 25.31.030. Business Access.

Every business or every building containing one or more businesses shall have its primary entrance upon a City street. Access to such a City street shall not be across or through an alley, lane, or a public parking lot unless approved through a minor modification.

§ 25.31.040. Clear Sight Triangle.

That portion of a lot located within 15 feet of the external corner of the lot adjacent to a public or private street shall be kept free of any tree, hedge, brush or shrub, or fence, wall, or like structure over three feet in height.

Figure 25.31-1: Clear Sight Triangle



§ 25.31.050. (Reserved)

§ 25.31.060. (Reserved)

§ 25.31.070. Fences, Walls, and Hedges.

- A. Purpose and Applicability. The purpose of these regulations is to achieve a balance between concerns for privacy and public concerns for enhancement of the community appearance, visual image of the streetscape, and overall character of neighborhoods, and to ensure the provision of adequate light, air, and public safety. These regulations apply to any type of visible or tangible obstruction that has the effect of forming a physical or visual barrier between properties or between property lines and the public right-of-way, including, but not limited to, any type of artificially constructed barriers of wood, metal, or concrete posts connected by boards, rails, panels, wire, or mesh, and any type of natural growth such as hedges and screen plantings.
- B. Height of Fences in R Districts.
1. Front Setback. In any front setback, fences and hedges shall be limited to a maximum height of three feet if it is of a solid design or four feet if it is of an open design freely allowing light and air to pass through. These regulations shall apply to fences and hedges located on the same frontage as the front entry door, for 15 feet on either side of the front entry door, regardless of whether the front entry door is located in the front or side yard. No such fence shall extend into any required clear sight triangle, as described in Section 25.31.040 (Clear Sight Triangle).
 2. Arbor. One arbor with a maximum height of nine feet, width of eight feet, and depth of four feet is allowed within the front setback.
 3. Side and Rear Setbacks. In any side or rear setback, fences shall be limited to a maximum height of six feet, except that one additional foot up to seven feet is allowed if the last foot in height is of an open design freely allowing light and air to pass through. No such fence shall extend into any required clear sight triangle, as described in Section 25.31.040 (Clear Sight Triangle).
- C. Fence Height in All Other Districts. In all other districts, fences shall be limited to a maximum height of seven feet, provided the last foot in height is of an open design freely allowing light and air to pass through. In the Innovation/Industrial district, a maximum fence height of eight feet is allowed.
- D. Building Permit Required. Any fence exceeding six feet in height, whether alone or atop a wall exceeding six feet in total height, shall require a building permit. In addition, a building permit shall be required for any fence that exceeds three feet in height located

on any corner lot.

- E. Fences and Hedges on El Camino Real. No fence or hedge which exceeds three feet in height is permitted within 20 feet of any property line on El Camino Real when such property line is crossed by a driveway for regular vehicle ingress and egress.
- F. Fences in Right-of-Way. Fences shall not be allowed to extend beyond the property line into any right-of-way.
- G. Nonconforming Fences and Hedges. Any existing fence or hedge existing whose height exceeds that specified is nonconforming. The Council may order a nonconforming fence or hedge to be caused to conform upon the Council's conclusion that a public hazard or public inconvenience results from such nonconformance.
- H. Exception for Schools, Playgrounds, and Government Facilities. The regulations of this chapter shall not apply to the construction of fences for the protection of schools, playgrounds, and government facilities.
- I. Driveway Gates. Gates across driveways in all zoning districts shall be set back a minimum of 20 feet behind the property line to allow for adequate space to queue vehicles entering the property.
- J. Pilasters. Decorative pilasters, statuary, flowerpots, and similar ornamental elements attached to or incorporated into the design of conforming fences or walls may exceed the required height limit up to 18 inches, provided that the decorative element is not wider than 18 inches and that such elements are used to define a gateway or other entryway or are otherwise at least four feet apart.
- K. Exceptions. Exceptions to the regulations of this section shall be applied for and granted pursuant to the minor modification provisions of Chapter 25.74 (Minor Modifications) of this title.

§ 25.31.080. Mechanical and Other Equipment—Residential and Mixed-Use Development.

- A. For the purposes of this chapter, mechanical equipment shall include machines and devices, including HVAC units, fans, vents, generators, and elevator motors integral to the regular operation of climate control, electrical, and similar building systems. Mechanical equipment shall not include water heaters (both tank and tankless styles) and enclosures for such units.
- B. The following regulations apply to newly installed mechanical equipment for new and existing residential dwellings and mixed-use developments:
 - 1. Mechanical equipment may only be located in the rear 75 percent of the lot.
 - 2. Mechanical equipment shall not be located within the front yard between the building and the property line.
 - 3. Mechanical equipment shall be fully screened from view from any portion of adjacent streets by fences, hedges, or other screening material approved by the Director.
 - 4. Mechanical equipment shall not be mounted on sloping roofs. Mechanical equipment may be mounted on flat roofs with prior approval by the Director, provided the equipment is concealed with solid screening that is integrated into the overall architectural design.

5. Equipment shall not exceed a maximum outdoor noise level (measured in A-weighted decibels, or dBA) of 60 dBA between the hours of 7:00 a.m. and 10:00 p.m. or 50 dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured from the property line of the property on which the equipment is located.

§ 25.31.090. Public Safety Communications and Wireless Access Point Agreement for Tall Buildings.

As a condition of approval of any structure over 35 feet in height, the Director shall require a location to be agreed upon by the City and the property owner to locate public safety communications equipment and a wireless access point for City communications on the structure proposed. The property owner shall permit this equipment to be installed if the City determines that the structure interferes with critical City public safety communications. The applicant shall provide an electrical supply source for use by the equipment. The applicant shall permit authorized representatives of the City to gain access to the equipment location for purposes of installation, maintenance, adjustment, and repair upon reasonable notice to the property owner or owner's successor in interest. This access and location agreement shall be recorded in terms that convey the intent and meaning of this condition.

§ 25.31.100. Outdoor Lighting and Illumination.

- A. Glare. Exterior lighting on all properties shall be designed and located so that the cone of light and/or glare from the lighting element is kept entirely on the property or below the top of any fence, edge, or wall.
- B. Shielded Light Fixtures. On all residential properties, exterior lighting outlets and fixtures shall not be located more than nine feet above adjacent grade or required landing. Only shielded light fixtures which focus light downward shall be allowed, except for illuminated street numbers required by the Fire Department.

§ 25.31.110. (Reserved)

§ 25.31.120. (Reserved)

§ 25.31.130. Trash and Refuse Collection Areas.

- A. Purpose and Applicability. This section establishes standards for the location, development, and operations of trash enclosures to ensure that the storage of trash, green waste, and recyclable materials does not have significant adverse health consequences and does minimize adverse impacts on surrounding properties.
- B. When Required. All new and expanded commercial and industrial projects with a floor area exceeding 500 square feet, all intensifications of commercial and industrial uses, all new multi-unit residential projects located in any zoning district, and all new mixed-use projects shall be required to provide and maintain at least one trash enclosure. Trash enclosures may be located indoors or outdoors to meet the requirements of this section.
- C. Location.
 1. Residential. Outdoor trash enclosures required under this section for residential projects shall not be located within any required front or street side yard.
 2. General. No outdoor trash enclosures shall be located within any public right-of-way or in any location where it would obstruct pedestrian walkways, obstruct vehicular

ingress and egress, reduce motor vehicle sightline, or in any way create a hazard to health and safety, as determined by the Director.

- D. Maintenance. Outdoor trash enclosures required shall be maintained in the following manner:
1. Prompt removal shall be required of visible signs of overflow of garbage, smells emanating from enclosure, graffiti, pests, and vermin.
 2. Trash enclosure covers shall be closed when not in use.
 3. Trash enclosures shall be easily accessible for garbage and recyclables collection.
 4. Trash enclosures shall be regularly emptied of garbage.
- E. Design of Enclosure Area.
1. Each trash enclosure shall be of a material and colors that complement the architecture of the buildings they serve or shall have exterior landscape planting that screens the walls.
 2. The interior dimensions of the trash and recyclables enclosure shall provide convenient and secure access to the containers to prevent access by unauthorized persons and to minimize scavenging, while allowing authorized persons access for disposal and collection of materials.
 3. All outdoor trash enclosures shall have full roofs to reduce stormwater pollution and to screen unsightly views. The design of the roof and the materials used shall be compatible with the on-site architecture, with adequate height clearance to enable ready access to any containers.
 4. Designs, materials, or methods of installation not specifically prescribed by this section may be approved by Director, and subject to Director's action. In approving such a request, the Director shall find that the proposed design, material, or method provides approximate equivalence to the specific requirements of this section or is otherwise satisfactory and complies with the intent of these provisions.

CHAPTER 25.33 AFFORDABLE HOUSING

§ 25.33.010. Purpose and Applicability.

The specific purpose of this chapter is to ensure the adequate provision of housing for all income levels in the City, at rental and sales prices affordable for the appropriate income category.

§ 25.33.020. Density Bonus.

A. Purpose and Applicability.

1. It is the City Council's intent that the City comply with Government Code Sections 65915 through 65918, referred to herein as the "density bonus law," for the granting of residential density bonuses and the submission, review, and granting of incentives and concessions consistent with State law. All applicable provisions of

the density bonus law are hereby incorporated by reference and shall be the default law unless otherwise provided by this chapter.

2. This chapter shall not abrogate any other requirements set forth by Federal, State, or local law, including, but not limited to, California Environmental Quality Act requirements and the Burlingame Municipal Code.

B. Application and Review Process.

1. An application for a density bonus or incentive shall be made to the Community Development Department on forms provided by the City. The application shall include the following information:
 - a. A brief description of the proposed housing development, including the total number of dwelling units, affordable housing units, and density bonus units proposed.
 - b. The requested density bonus amount and requested incentives, if any.
 - c. Site plans showing the location of market-rate, density bonus, and affordable housing units.
 - d. Any other such information as is necessary to verify that the applicant and/or the housing development meets all requirements set forth by State and local law.
2. The application, or an incentive therein, may be wholly or partially denied for any of the following reasons:
 - a. The application is incomplete.
 - b. The application contains a material misrepresentation.
 - c. The incentive has an insufficient relationship to providing affordable housing.
 - d. The incentive has a specific, adverse impact as defined in Government Code Section 65589.5(d)(2).
 - e. The incentive is contrary to Federal or State law.
3. The applicant may file an appeal to the City Council within 10 calendar days of being notified of his or her application's final denial.

C. Standards for Development.

1. The required affordable dwelling units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the City and developer agree within the affordable housing agreement to an alternative schedule for development.
2. The exterior design and construction of the affordable dwelling units shall be consistent with the exterior design and construction of the total project development and shall be consistent with any affordable residential development standards that may be prepared by the City.
3. The affordable units shall have the same amenities as the market rate units, including the same access to and enjoyment of common open space, parking,

storage, and other facilities in the residential development, provided at an affordable rent or at affordable ownership cost specified by Section 50052.5 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, as they may be amended from time to time. Developers are strictly prohibited from discriminating against tenants or owners of affordable units in granting access to and full enjoyment of any community amenities available to other tenants or owners outside of their individual units.

4. A regulatory agreement, as described in subsection D., shall be made a condition of the discretionary permits for all developments pursuant to this chapter. The regulatory agreement shall be recorded as a restriction on the development.

D. Regulatory Agreement.

1. After approval of the application pursuant to the requirements of this title, the applicant shall enter into a regulatory agreement with the City. The terms of this agreement shall be approved as to form by the City Attorney's Office and reviewed and revised as appropriate by the reviewing City official. This agreement shall be on a form provided by the City, and shall include the following terms:
 - a. The affordability of very low-, lower-, and moderate-income housing shall be assured in a manner consistent with Government Code Section 65915(c)(1).
 - b. An equity sharing agreement pursuant to Government Code Section 65915(c)(2).
 - c. The location, dwelling unit sizes, rental cost, and number of bedrooms of the affordable units.
 - d. A description of any bonuses and incentives, if any, provided by the City.
 - e. Any other terms as required to ensure implementation and compliance with this section and the applicable sections of the density bonus law.
2. This agreement shall be binding on all future owners and successors in interest. The agreement required by this section shall be a condition of all development approvals and shall be fully executed and recorded prior to the issuance of any building or construction permit for the project in question.

25.33.030 Additional Local Incentives.

- A. Purpose. To encourage the construction of additional housing stock, the incentives below are available for eligible projects.
- B. Applicability. The following types of project are eligible for up to two incentives described in subsection C below. In no event shall a project be entitled to more than two incentives:
 1. Lot Consolidation: Projects consolidating parcel(s) smaller than 0.5 acre into a larger parcel may choose up to two incentives from the Incentives Menu.
 2. Larger Affordable Units: Projects constructing at least 25% of the affordable units included in the project as 2- and/or 3-bedroom units may choose up to two incentives from the Incentives Menu as long these affordable units are for households at an income level of 80% AMI or lower.

3. Duplexes or Townhomes: Projects including at least 25% of units as duplexes or townhomes affordable to households making up to 80% AMI may choose up to two incentives from this menu.

C. Incentives Menu.

1. Reduced Parking: The parking requirement shall be one parking space per unit.
2. Height Increases: An up to 10-foot height increase above the maximum allowable height.

§ 25.33.040. Affordable Housing.

A. Purpose and Applicability.

The purpose of this Chapter is to require replacement housing and protect occupants of existing protected units proposed for demolition to accommodate a development project, consistent with California Government Code Sections 66300.5 – 66300.6, as may be amended from time to time. All references to state codes include successor provisions, and all provisions are intended to be consistent with other provisions of the law.

B. Definitions.

As used in this chapter, the following terms shall have the following meanings:

1. "Comparable unit" shall have the same meaning as provided in California Government Code Section 66300.6(b)(4)(c)(i).
2. "Development project" means any housing development project or nonresidential development project.
3. "Equivalent size" shall have the same meaning as provided in California Government Code Section 66300.5.
4. "Nonresidential development project" means any development project except a housing development project, unless all of the following conditions apply: (1) the project is an industrial use; (2) the project site is entirely within a zone that does not allow residential uses; (3) the zoning applicable to the project site that does not allow residential uses was adopted prior to January 1, 2022; and (4) the protected units that are or were on the project are or were nonconforming uses.
5. "Prior to or concurrently" means that a certificate of occupancy for the replacement housing must be obtained no later than the issuance of a final certificate of occupancy for the nonresidential development project.
6. "Protected units" shall have the same meaning as provided in California Government Code Section 66300.5.
7. "Replace" shall have the same meaning as provided in California Government Code Section 66300.5.

C. Replacement Housing Required.

1. No-Net-Loss of Dwelling Units in Development Projects. A development project that

involves the demolition of one or more residential dwelling units must create at least as many residential dwelling units as will be demolished or include at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the project site within the five years preceding submittal of the development application, whichever is greater.

2. Replacement of Protected Units in All Development Projects. A development project that proposes to demolish existing vacant or occupied protected units, or that is proposed on a site where protected units were demolished in the five years preceding submittal of a development application, must meet all the following requirements, as applicable:
 - a. Required Replacement of Protected Units. The development project must replace all existing protected units, and all protected units demolished on or after January 1, 2020, with at least the same number of units of an equivalent size, pursuant to the replacement requirements of Government Code Section 65915(3)(c) incorporated herein.
 - i. Income Requirements. Replacement units must be made available at an affordable rent or affordable housing cost to income categories, as follows:
 - (a) Incomes Known. For projects for which incomes of the last occupants of protected units are known, and the protected units were either occupied on the date that the application is submitted or were vacated in the previous five years, occupants (persons and households) must be in the same or lower income category as the existing or last occupants, and rent or housing cost must be set at an affordable rate for the income category, pursuant to Government Code Section 65915(c)(3)(B)(i).
 - (b) Occupied; Incomes Unknown. For projects for which incomes of the occupants are not known, and protected units are occupied on the date that the application is submitted, the number of lower income households must be in the same proportion of lower income renter households to all renter households within the City, and rent or housing cost must be set at an affordable rate for the income category, as determined by the most recently available data from the Department of Housing and Urban Development's (HUD) Comprehensive Housing Affordability Strategy (CHAS) database.
 - (c) Vacant or Demolished; Incomes Unknown. For projects where protected units were demolished or vacated in the last five years and the incomes of the last households in occupancy are unknown, the number of very low- and low-income household occupants must be the same proportion to all renter households within the City, as determined by the most recently available data from HUD's CHAS database, and rent or housing cost must be set at an affordable rate for the income category.

- ii. **Equivalent Size.** Replacement units for protected units shall meet the definition of equivalent size, as defined in this chapter.
 - iii. **Relationship to Other Affordability Requirements.** Any protected units replaced pursuant to this paragraph shall be considered in determining whether a housing development project satisfies any state, local, or federal requirement that conditions the development of residential units on the provision of a certain percentage of residential units affordable to, and/or occupied by, households whose incomes do not exceed the limits for moderate-, lower-, very low-, extremely low-, or acutely low-income households.
 - b. **Protections for Existing Occupants.** The project must comply with all the requirements in Section 1.01.104 of this Chapter.
 - c. **Additional Requirements for Nonresidential Development Project.** Nonresidential development projects must meet the following requirements:
 - i. Prior to permit issuance, the project applicant must sign an agreement, in a form approved by the City Attorney, that commits the project applicant to construct required replacement housing prior to or concurrently with the nonresidential development project.
 - ii. The required replacement housing may be located on any site located within the City zoned for residential use.
 - iii. The project applicant may contract with another entity to develop the required replacement housing, provided that replacement housing units cannot fulfill the affordability requirements of any other development pursuant to another law.
 - iv. The project applicant seeking a commercial density bonus may propose providing restricted affordable housing units through an agreement with a housing developer for partnered housing, as defined by, and pursuant to, Government Code Section 65915.7, subject to City approval.
- D. **Protections for Existing Occupants of Demolished Housing.**
1. **Right to Remain.** Existing occupants of residential dwelling units that will be demolished may occupy their units until six months before the start of construction.
 2. **Required Notice.** The project proponent shall provide written notice of the planned demolition to existing occupants of the residential dwelling units that will be demolished at least six months prior to the date occupants must vacate. Written notice must include the date occupants must vacate and occupants' rights under this section.
 3. **Right to Return if Demolition Does Not Proceed.** Any existing occupants who are required to leave their units shall be allowed to return to the same rental unit or a comparable unit at their prior rental rate if the demolition does not proceed and the property is returned to the rental market. The unit provided shall be in the same condition, or better, as when it was last occupied by the tenant.

4. Right to Relocation Benefits. Prior to issuance of any demolition permit for the site, the project applicant must pay relocation benefits to any existing occupants of protected units who are lower income households. Relocation benefits must be in an amount equivalent to the relocation benefits to be paid by public entities pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the California Government Code and any implementing regulations.
5. Right to Return to Replacement Units. The project applicant must provide any existing occupants of protected units who are lower income households a right of first refusal for a comparable unit available in the new housing development, or in any required replacement units associated with a nonresidential development project, at their prior rental rate or at an affordable rent or affordable housing cost, whichever is lower.
 - a. Single Family Home Replacement. Notwithstanding Section 25.33.030.B.3. of this Title, where one or more single family homes with four or more bedrooms are being replaced by a development project that consists of two or more units, a comparable unit may have three bedrooms, and a comparable unit is not required to have the same or similar square footage or same number of total rooms.
 - b. Exemption. Notwithstanding Section 25.33.030.D.5.a. of this Title, the right to return shall not apply to any of the following:
 - i. A housing development project that consists of a single residential unit located on a site where a single protected unit is being demolished;
 - ii. Units in a housing development project in which 100 percent of the units, exclusive of the manager's unit(s), are reserved for lower-income households, except when protected units occupied by a person or household who qualifies for residence in the new housing development and for whom providing a comparable unit would not be precluded due to size limitations or other requirements of any funding source of the housing development project, as determined by the community development director; or
 - iii. A development project that meets the requirements of Government Code Section 66300.6(b)(1)(C).

E. Procedural Requirements.

1. Application Requirements. The following materials must be submitted with all applications for any development project that requires the demolition of one or more residential dwelling units, or that is proposed on a site where one or more residential dwelling units existed in the five years preceding submittal of the application:
 - a. Information Regarding Existing or Prior Occupants and Use of Ellis Act. Information regarding any existing occupants of, or occupants who vacated, the existing or demolished residential dwelling units on the project site in the five years preceding submittal of the application, including identification of the units occupied or vacated, the current or last monthly rents for those units, the names of every member of the household who is a signatory on a written lease or rental agreement for that unit, the household income (if known), and the number of household members included on the lease or rental agreement. Where there is no written

lease or rental agreement, the project proponent shall provide the name of every person the project proponent considers to be a lawful occupant under an oral lease or rental agreement. Information regarding any residential dwelling units located on the property withdrawn from rent or lease under the Ellis Act (commencing with Government Code Section 7600) in the last ten (10) years.

- b. Recorded Restriction or Equity Share Agreement. A written commitment to do the following, as applicable:
 - i. If the replacement units will be rental dwelling units, to record, prior to the issuance of the first building permit for the development project, a land use restriction or covenant for the required replacement units providing that the housing shall remain affordable for a period of at least fifty-five (55) years or longer pursuant to Government Code Section 65915(c)(1);
 - ii. If the replacement units will be for-sale dwelling units, to enter an equity sharing agreement that meets all the requirements of Government Code Section 65915(c)(2); or

The recorded restriction or equity sharing agreement shall also include the location, dwelling unit sizes, rental cost, and number of bedrooms of the affordable units, be binding on all future owners and successors in interest, and shall be fully executed and recorded prior to the issuance of any building or construction permit for the project in question.

2. Existing Occupant Notification Requirements.

- a. Notice of Rights Under Section 1.01.104. In addition to the notice required by Section 1.01.104(A)(1), the project applicant shall notify existing occupants in writing of their legal rights under Section 1.01.104 of this Chapter. Information regarding the occupant's eligibility for these rights, rent guidelines for a comparable unit in the new development, and any procedures the occupant will need to follow to exercise these rights shall be provided in writing to the occupant in accordance with all requirements and procedures of the City. The applicant shall maintain accurate contact information for these occupants for the purposes of communicating throughout the construction and leasing of the development project.
- b. Notice of Availability of Replacement Unit. The project applicant (or their successor-in-interest) shall inform any eligible occupant of their right to return pursuant to Section 1.01.104(D) and shall notify the eligible occupant household of the anticipated availability of the replacement unit within 60 days of the issuance of the certificate of occupancy for the replacement unit.
 - i. Occupant Notice of Intent to Reoccupy. Within 60 days of receipt of the notice from the proponent of the development project (or their successor-in-interest) of the anticipated availability of the replacement unit, the occupant household shall notify the proponent (or their successor-in-interest) if it wishes to reoccupy the replacement unit.
 - ii. Holding Period. The proponent (or their successor-in-interest) must hold the replacement unit vacant at no cost to the occupant household for 30

days from the date that the occupant household's written notice of its intent to return to the replacement unit is received.

CHAPTER 25.40 PARKING REGULATIONS

§ 25.40.010. Purpose and Applicability.

A. Purpose. The purposes of this chapter are to:

1. Ensure that adequate off-street parking is provided for new land uses and major alterations to existing uses, considering the demands likely to result from various uses, combinations of uses, and settings, and to avoid the negative impacts associated with spillover parking into adjacent neighborhoods and districts;
2. Minimize the negative environmental and urban design impacts that can result from parking lots, driveways, and drive aisles within parking lots;
3. Offer flexible means of minimizing the amount of area devoted to vehicle parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, project with transportation demand management programs (TDM), and other situations expected to have lower vehicle parking demand;
4. Where possible, consolidate parking and minimize the area devoted exclusively to parking and driveways when typical demands may be satisfied more efficiently by shared facilities, parking lifts/mechanical parking, valet parking, or other similar approaches;
5. Ensure that parking and loading areas are designed to operate efficiently and effectively and in a manner compatible with on-site and surrounding land uses;
6. Ensure that adequate off-street bicycle parking facilities are provided;
7. Promote parking lot designs that offer safe and attractive pedestrian routes;
8. Encourage bicycling, transit use, walking, carpooling, and other modes of transportation (other than by motor vehicle) that can move the City toward achieving modal split goals in the General Plan Mobility Element; and
9. Accommodate and encourage increased use of alternative fuel and zero-emissions vehicles.

B. Applicability. The minimum off-street parking spaces established in this chapter shall be provided for new construction or intensification of use, and for the enlargement or increased capacity and use of land.

§ 25.40.020. General Provisions.

A. Vehicle Parking Spaces to Be Provided.

1. Parking Required. At the time of erection of any building or structure, or at the time any building or structure is enlarged or increased in capacity, there shall be provided off-street parking spaces with adequate and proper provision for ingress and egress by standard size automobiles.

2. Reconstruction, Expansion and Change in Use of Existing Nonresidential Buildings. When a change in use, expansion of a use, or expansion of floor area creates an increase of 10 percent or more in the number of required on-site parking or loading spaces, on-site parking and loading shall be provided according to the provisions of this chapter. The existing parking shall be maintained, and additional parking shall be required only for such addition, enlargement, or change in use and not for the entire building or site. If the number of existing parking spaces is greater than the requirements for such use, the number of spaces in excess of the prescribed minimum may be counted toward meeting the parking requirements for the addition, enlargement, or change in use. A change in occupancy is not considered a change in use unless the new occupant is in a different use classification than the former occupant.
 3. Reconstruction, Expansion and Change of Use of Existing Residential Buildings. When any building is remodeled, reconstructed, or changed in use by the addition of dwelling units, such additional garage or parking facilities as may be required must be provided, except for accessory dwelling units approved per Section 25.48.030 (Accessory Dwelling Units).
 4. Minimum Requirements. The regulations in this chapter are the minimum requirements unless specific requirements are made for a particular use in a district. Additional spaces may be provided.
 5. Parking to Be Provided on Same Lot. Unless otherwise expressly permitted by this chapter, required parking shall be provided on the same lot as the use for which the parking is required. Parking may be provided on a project-wide basis for a master planned project where the parcels are either under common ownership or adequate assurances are provided, such as through reciprocal easement agreements, to the Director's satisfaction.
 6. Uses Not Listed. The Director shall determine the parking requirement for uses that are not listed in Table 25.40-10 (Parking Requirements by Use). The Director's determination shall be based on similarity to listed uses. That decision may be appealed to the Commission.
 7. Parking Calculations.
 - a. Floor Area. The parking requirement calculation shall be based on the gross floor area of the entire use, unless stated otherwise. Areas that are not leasable or generally not occupied, such as lobbies, hallways, stairways, break rooms, restrooms, and utility rooms, shall not be included in the parking requirement calculation.
 - b. Sites with Multiple Uses. If more than one use is located on a site (including a mix of uses or a mixed-use development), the number of required on-site parking spaces and loading spaces shall be equal to the sum of the requirements calculated separately for each use, unless a reduction is approved pursuant to Section 25.40.040 (Parking Reductions).
- B. Use of Required Parking Spaces. Required parking spaces and any portion of the area on a site encompassing the required parking and the required landscaping within the parking area on a site shall not be rented or leased to any party on or off the site or used for some purpose other than that permitted or allowed on the site. These spaces shall be made available and maintained in safe, useable condition for the tenants and their clients or customers, at no charge, except as may be authorized by a City-approved shared

parking program or where the City has authorized alternative parking arrangements, such as through a Transportation Demand Management program or unbundled parking approach.

- C. Parking Lifts and Other Mechanical Parking Approaches. The required number of parking spaces may be satisfied with the use of parking lifts and other mechanical parking devices pursuant to Section 25.40.070.H (Mechanical Parking Lifts).

§ 25.40.030. Required Parking Spaces.

- A. Minimum Number of Spaces Required. Each land use shall be provided at least the number of on-site parking spaces set forth in Table 25.40-1.

Table 25.40–1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
Commercial – Retail	
Eating and Drinking Establishments (Bars and Taverns; Night Clubs; Restaurants)	1 space per 200 sq. ft. See 25.40.030.E. for outdoor dining requirements.
Food and Beverage Sales (General Markets, Convenience Stores, Liquor Stores)	1 space per 400 sq. ft.
Nurseries and Garden Centers	1 per 600 sq. ft.; plus 1 per 2,000 sq. ft. of outdoor display area
Retail Sales Retail Sales - Large Format	1 space per 400 sq. ft. 1 space per 600 sq. ft.
Vehicle Fuel Sales and Accessory Service	2 parking spaces for employees plus parking for retail/convenience store
Vehicle Sales	1 space per 300 sq. ft. of office area, plus 1 space per 800 sq. ft. of parts sales and service area, plus 1 space per 2,000 sq. ft. of indoor and outdoor sales area
Commercial – Services and Recreation	
Animal Care Services Kennels Pet Hotels Grooming Veterinarian	1 space per 1,000 sq. ft. of indoor area 1 space per 1,000 sq. ft. of indoor area 1 space per 400 sq. ft. of indoor area 1 space per 250 sq. ft. of indoor area
Banks and Financial Institutions	1 space per 300 sq. ft.
Commercial Recreation (Large, Small)	1 space per 300 sq. ft for small; 1 space per 500 sq. ft. for large
Day Care Centers	1 space per 500 sq. ft. of indoor space
Food Preparation (catering)	1 space per 1,000 sq. ft with no on-site sales or service
Funeral Services and Cemeteries	1 space per four fixed seats or one space per 80 sq. ft. of assembly area, whichever is greater
Office - Medical or Dental	1 space per 400 sq.ft in BFC, NBMU, RRMU, and all Downtown zones 1 space per 250 sq. ft. for all other zones
Office - Professional	1 space per 400 sq.ft in BFC, NBMU, RRMU, and all Downtown zones 1 space per 300 sq. ft. in all other zones
Personal Services (General, Specialized)	1 space per 400 sq. ft.
Studios – Dance, Martial Arts, and the Like	1 space per 300 sq. ft.
Theaters (Live, Movie or Similar)	1 for each 6 permanent seats in main assembly area, or 1 for every 60 sq. ft. of assembly area where temporary or moveable seats are provided, whichever is greater

Table 25.40–1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
Educational Services	
Schools, Primary and Secondary (Private)	Elementary and Middle Schools: 1 per classroom, plus 1 per 300 sq. ft. of office area High Schools: 5 per classroom, plus 1 space per 300 sq. ft. of office area
Trade Schools	1 space per 200 sq. ft. In office buildings over 20,000 sq.ft., 1 space per 300 sq. ft.
Tutoring and Educational Services	1 space per 200 sq. ft. In office buildings over 20,000 sq.ft., 1 space per 300 sq. ft.
Industrial, Manufacturing, Processing, Warehousing, and Wholesaling Uses	
Breweries, Wineries, and Distilleries	1 space per 1,500 sq. ft. of production area; 1 space per 200 sq. ft. of tasting room area
Building Materials and Contractor Services	1 space per 1,000 sq. ft.
Food Processing and Production	1 space per 1,500 sq. ft.
Laboratories/Research and Development	1 space per 1,000 sq. ft.
Light Industrial	1 space per 1,500 sq. ft.
Personal Storage	1 space per 2,000 sq. ft. of combined storage space and business/sales office.
Recycling Facilities Light Processing Reverse Vending Machines (s) Small Collection	1 space per 2,000 sq. ft. of processing area None required, except as required for the primary use None required, except as required for the primary use
Vehicle Service and Repairs Major and Minor Repair Vehicle Rental Washing	1 space for each 800 sq. ft. 1 per 300 sq. ft. of office area in addition to spaces for all vehicles for rent 1 space plus sufficient waiting line(s) or 2 spaces plus washing area(s)
Warehousing/Logistics	1 space for each 1,000 sq. ft.
Wholesaling	1 space for each 1,000 sq. ft.
Lodging	
Bed and Breakfast	1 space per lodging room
Extended Stay Hotels	1 space per lodging room
Hostels	1 space per lodging room
Hotels and Motels	1 space per lodging room See Section 25.40.040.B. for parking reduction
Public and Quasi-Public Uses	
Assembly Facilities (Community Assembly, Religious Assembly)	1 space per six permanent seats or 1 space per 60 sq. ft. of assembly area if there are no fixed seats.
Community Open Space	None required
Emergency Shelters, Permanent	2 spaces for the facility plus 1 space for each 6 occupants at maximum allowed occupancy
Emergency Shelters, Temporary	No additional parking required beyond the primary use
Government Buildings and Facilities	As required for the type of use (e.g., professional office, warehouse)
Hospitals	1 space per 1.5 beds
Low Barrier Navigation Center	1 per 300 sq. ft.
Medical Clinics	1 space per 250 sq. ft.
Residential Uses	
Dwellings	
Accessory Dwelling Units	Per Section 25.48.030

Table 25.40–1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required	
Single-Unit Dwelling	See Section 25.40.030.B.	
Two-Unit and Multi-Unit Dwellings		
All zoning districts except Downtown Specific Plan, BRMU, RRMU, NBMU, and R-4	1 space for studio units 1.5 spaces for one-bedroom units 2 spaces for two- or more bedroom units 0.5 spaces per unit for housing occupied exclusively by persons aged 62 or older 0.75 spaces for micro units	Guest parking: One additional guest parking space shall be provided for every 4 units for projects greater than 10 units
Downtown Specific Plan zoning districts, BRMU, RRMU, NBMU, and R-4	1 space for studio or one-bedroom units 1.5 spaces for two-bedroom units 2 spaces for three or more-bedroom units 0.75 spaces for micro units 0.5 spaces per unit for housing occupied exclusively by persons aged 62 or older	No additional guest parking spaces are required
All	80 percent of the total required parking spaces shall be covered or within a garage or carport.	
Caretaker Quarters	1 space per dwelling	
Communal Housing	1 space per 1.5 occupants or 1.5 spaces per bedroom, whichever is greater	
Elderly and Long-Term Care	1 space per 3.5 beds	
Family Day Care Small Large	None in addition to what is required for the residential use Same as dwelling type, plus 1 space for every two employees providing day care services	
Live/Work	1 space for studio or one-bedroom units 1.5 spaces for two-bedroom units 2 spaces for three or more-bedroom units	
Residential Care Facilities Limited General, Senior	None in addition to what is required for the residential use. 2 spaces for the owner-manager plus 1 for every 5 beds and 1 for each nonresident employee	
Supportive and Transitional Housing	See Section 25.48.240	
Mixed Use		
Mixed Use Development	As required for each separate use in the mixed-use development See Section 25.40.040 for parking reductions.	
Transportation and Utilities		
Air Courier, Terminal, and Freight Services	1 space for each 1,000 sq. ft. of indoor space	

B. Requirements for Single-Unit Dwellings. The following are parking requirements for single-unit dwellings.

1. Parking Space Requirements. Each single-unit dwelling shall provide off-street parking spaces for at least two vehicles, one of which must be covered by a garage

or carport.

2. Parking Limitations.

- a. A vehicle shall not be parked between a structure and the front property line, except in a garage or on a driveway directly leading to a garage or carport. Parking may be provided on a paved pad between the driveway and a side property line with issuance of a Special Permit. Parking provided in conjunction with establishment of an accessory dwelling unit shall comply with the provisions of Section 25.48.030 (Accessory Dwelling Units).
- b. Inoperative vehicles, vehicle parts, boats, and campers (as defined by Section 243 of the Vehicle Code) shall not be stored or parked in driveways or between a structure and front or side property line.
- c. Required covered parking shall not be provided in tandem configuration, except as may be permitted for an accessory dwelling unit pursuant to which complies Section 25.48.030.
- d. Required uncovered spaces may be provided in tandem configuration and may extend:
 - i. In areas with sidewalks, to the inner edge of the sidewalk.
 - ii. In areas without sidewalks, to five feet from the inner edge of the curb.
 - iii. In areas without either sidewalks or curbs, to five feet from the edge of pavement.

C. Special Requirements for Burlingame Downtown Specific Plan. Notwithstanding any other provision of this Code, the following shall apply to vehicle parking requirements for certain properties within the boundaries ("parking sector") of the Burlingame Downtown Specific Plan, as shown on the Parking Sector Boundaries Map, Figure 3-3 of the Burlingame Downtown Specific Plan.

1. All uses located on the first floor or below the first floor within the parking sector shall be exempt from providing off-street parking. All uses above the first floor, shall provide off-street parking as required by this chapter.
2. Any new development, except reconstruction because of catastrophe or natural disaster, shall provide on-site parking, except that the first floor and floor below the first floor of such new development in the parking sector shall be exempt from parking requirements.
3. Buildings reconstructed after catastrophe or natural disaster shall be required to provide parking only for the square footage over and above the square footage existing at the time of the disaster. This parking shall be provided on site.

D. Broadway Mixed-Use Parking Requirements. Notwithstanding any other provision of this title, the following shall apply to vehicle parking requirements in the Broadway Mixed-Use (BRMU) zoning district:

1. Ground Floor Alterations of Use – Nonconforming Remedy. Upon change of use, if the prior use did not meet parking standards pursuant to this Chapter 25.40 (Parking Regulations), the new use shall not be required to provide additional parking beyond

that existing at the time of change of use.

2. Upper Floor Alterations of Use. All uses above the first floor shall provide off-street parking as required by this chapter.

E. Outdoor Dining.

1. Additional parking is not required when an outdoor dining area is less than 1,000 square feet.
2. If the outdoor dining area exceeds 1,000 square feet, parking shall be required for the area in excess of 1,000 square feet at a ratio of 50 percent of what is required for the use.
3. For centers with multiple tenants, each tenant may have up to 1,000 square feet of outdoor dining area.

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

§ 25.40.040. Parking Alternatives and Reductions.

A. Unbundled Parking Alternative. For new residential projects, parking may be “unbundled” from a residential project as follows:

1. For the purposes of this section, “unbundled parking” means that parking may be leased under a separate contract, and the cost of parking may not be included in the price of rent.
2. All off-street parking spaces may be leased or sold separately from the rental or purchase price for dwelling units for the life of the dwelling units, and potential renters or buyers may have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space(s).
3. In cases where there are fewer parking spaces than dwelling units, the parking spaces may be offered first to the potential buyers or renters of three-bedroom or more units, second to potential buyers or renters of two-bedroom units, and then to potential buyers and renters of other units.
4. Potential renters or buyers of on-site alternative affordable units shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units.
5. A tenant’s failure to pay an associated parking fee may not be used as the basis for proceedings regarding the tenant’s residential rights.

B. Parking Reductions Pursuant to a Minor Modification. The parking reductions set forth in this section are not additive, except that a project which qualifies for a Parking Adjacent to Transit or Transportation Demand Management reduction may also apply for a shared parking reduction.

1. Affordable Housing Developments. See Chapter 25.33 (Affordable Housing) for parking reductions applicable to affordable housing developments.
2. Shared Parking Reduction. Where a shared parking facility serving more than one use will be provided, such as a mixed-use development, the total number of required parking spaces may be reduced by up to 20 percent with Director approval.

- a. Criteria for Approval. The Director may only approve other parking reductions if the following findings are made:
 - i. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses or projects will be greater than the total supply of spaces;
 - ii. The proposed shared parking provided will be adequate to serve each use and/ or project; and
 - iii. In the case of a shared parking facility that serves more than one property, a parking agreement has been prepared and recorded with the Office of the County Recorder requiring the parking to be operated on a nonexclusive basis and to be open and available to the public for shared use, short-term parking during normal business hours.
- b. Parking Demand Study. A parking demand study shall be conducted and prepared under procedures set forth by the Director that substantiates the basis for allowing shared parking facilities.
- 3. Transportation Demand Management Parking Reductions. A 20 percent reduction may be applied to the off-street parking requirement for any project that is required to submit a Transportation Demand Management Plan pursuant to Chapter 25.43 (Transportation Demand Management).
- C. Parking Reductions Pursuant to a Special Permit. The Planning Commission may approve a parking reduction, which may include exceeding the amounts pursuant to subsection A., above, if the following findings are made:
 - 1. Parking Demand Study. The parking reduction is supported by a parking demand study that outlines the unique characteristics of the proposed use and substantial evidence that the increased reduction will not be detrimental to surrounding properties.
 - 2. Vehicle Trip Reduction Plan. Based on the parking study, the Commission may impose conditions deemed necessary to ensure that the appropriate parking demand is maintained as set forth in the parking demand study.
- D. Reductions and Common Parking. Where there has been a reduction in required parking, all resulting spaces must be available for common use and not exclusively assigned to any individual use. In residential and mixed-use projects, required residential parking may be reserved, but commercial parking must be made available for guests or overflow from residences.
- E. Development Projects Adjacent to Public Transit. Minimum parking requirements do not apply to development projects that meet the requirements of California Government Code Section 65863.2.

§ 25.40.050. Bicycle Parking.

- A. Minimum Bicycle Parking Required. Bicycle parking shall be provided for multifamily residential, public and civic facilities, schools, retail, commercial, office, and industrial uses in accordance with standards set forth in the CalGreen Building Code and/or successor code.
- B. Bicycle Parking Location. Bicycle parking shall be located on a paved surface, in

proximity to a building entrance, in a visibly secure and well-lit location, and adjacent to the building served.

- C. Bicycle Parking Minimum Dimensions. The minimum dimensions for outdoor bicycle parking spaces shall be two feet by six feet, plus a five-foot-wide maneuvering space behind the bicycle rack area.
- D. Long-term Bicycle Parking Standards. Secure, long-term bicycle parking facilities shall have direct access to the street and shall meet one of the following requirements:
 - 1. Covered, lockable enclosures with permanently anchored racks for bicycles;
 - 2. Lockable bicycle rooms with permanently anchored racks; or
 - 3. Lockable, permanently anchored bicycle lockers.

§ 25.40.060. Parking for Electric Vehicles.

- A. Parking spaces for electric vehicles shall be provided for all uses in accordance with the requirements of the CalGreen Building Standards Code and/or successor code and local City codes, such as the Burlingame Reach Code, whichever yields the greater number of spaces. These dedicated parking spaces shall count toward the minimum required parking spaces for the associated use.
- B. All electric vehicle spaces shall be equipped with electric vehicle charging equipment as set forth in the CalGreen Building Standards Code and/or successor code and local City codes, such as the Burlingame Reach Code, the use of which the property owner or operator may require payment at his or her discretion.
- C. Any charging or similar equipment shall not be placed within the required parking space dimensions and shall not obstruct any pedestrian path of travel.
- D. Electric vehicle charging equipment shall be provided for all new developments and whenever a substantial addition to an existing development is proposed.

§ 25.40.070. Parking Area Design and Development Standards.

- A. Location of Parking and Off-Site Parking. Required parking spaces serving any use shall be located on the same lot as the use they serve, except parking in an off-site parking facility may be provided upon request for a parking variance as follows:
 - 1. Location.
 - a. Residential Uses. Any off-site parking facility must be located within 100 feet of the outermost property line, along a pedestrian route, of the unit or use served.
 - b. Nonresidential Uses. Any off-site parking facility must be located within 300 feet of the outermost property line, along a pedestrian route, of the primary entrance containing the use(s) for which the parking is required.
 - 2. Parking Agreement. A written agreement between the landowner(s) and the City in a form satisfactory to the City Attorney shall be executed and recorded in the Office of the County Recorder. The agreement shall include:
 - a. A guarantee between the landowner(s) for access to and use of the parking facility; and

- b. A guarantee that the spaces to be provided will be maintained and reserved for the uses served for as long as such uses are in operation.

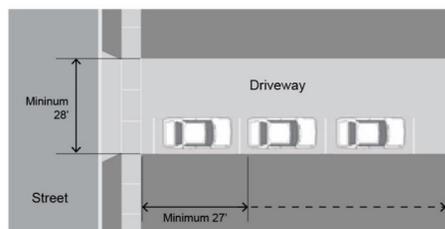
B. Parking Space and Drive Aisle Dimensions.

1. **Standard Parking Spaces and Drive Aisles.** The standards set forth in Table 25.40-2 are established as minimum parking space dimensions. Alternative dimensions may be provided if it can be shown, to the satisfaction of the City Engineer, that due to unique circumstances on a property, dimensions that are less than the minimum requirements will allow for the safe movement of vehicles into, within, and exiting a parking lot.

Parking Stall Angle	Stall Width	Stall Length	Aisle Width	
			One-Way	Two-Way
Standard Parallel	8.5 ft	22 ft	13 ft	18 ft
30-Degree	8.5 ft	17 ft	13 ft	18 ft
45-Degree	8.5 ft	17 ft	13 ft	18 ft
60-Degree	8.5 ft	17 ft	18 ft	18 ft
90-Degree	8.5 ft	17 ft	24 ft	24 ft

2. **Parking Parallel to Entrance Driveway.** Where parallel parking is provided alongside an entrance driveway, the minimum width of the driveway/drive aisle shall be increased to 28 feet, and the driveway/drive aisle shall be at least 27 feet in length for parallel parking to be allowed in this location.

Figure 25.40.08.B.2: Parking Parallel to Entrance Driveway



3. **Compact Spaces.** Compact car spaces, where allowed as shown in Table 25.40-3, shall have a clear interior measurement of eight feet in width and 17 feet in length.
4. **Single-Unit Dwellings.** Garages and carports for single-unit dwellings shall have a clear interior measurement of at least 10 feet in width and 18 feet in length for each required space. Open parking spaces for single-unit dwellings shall have a clear interior measurement of nine feet in width and 18 feet in length.
5. **Parking Spaces Abutting Wall or Fence.** Each parking space abutting a wall, fence, column, or other obstruction higher than six inches adjacent to that space shall have a minimum width of 10 feet to allow a vehicle door to open and to provide additional maneuvering space to drive into and out of the parking space. In the review of the parking plan, the Director, upon consulting with the City Engineer, may require

additional width.

6. Increase in Dimension. Any parking space dimension shall be increased to a size acceptable to the City Engineer to provide for safe movement into and out of a parking space.
7. Vertical Clearance for Interior Parking. All parking spaces and aisles shall have an unobstructed vertical clearance from floor to lowest projections on the ceiling within the parking area of seven feet.
8. Separate Egress. A separate means of egress shall be provided for all parking spaces at angles less than 90 degrees unless an area is provided on site which allows a motor vehicle exiting such spaces to do so within three movements. A turning radius of 28 feet for outside clearance and 14 feet for inside clearance shall be assumed.
9. Garage Doors. The minimum garage door widths are eight feet for a one-car garage and 16 feet for a two-car garage.
10. Motorcycle Parking. Extra space in parking lots can be used for motorcycle parking. The following guidelines apply where such spaces are provided:
 - a. Motorcycle parking should be located near a main entrance to encourage use and enhance visibility to minimize theft and vandalism.
 - b. Each motorcycle parking space shall have a minimum delineated area of four feet by eight feet.
 - c. Parking lots that include motorcycle parking spaces shall have signage indicating that motorcycle parking is available.

C. Driveways. Driveway standards shall be as follows:

1. The minimum driveway width for single-unit and two-unit residences shall be nine feet six inches. A driveway shall be no wider than the garage or parking area it serves. For a single-wide driveway, the maximum driveway width shall be 12 feet.
2. In all other cases than single-unit and two-unit residential, the minimum driveway width shall be 12 feet for parking areas with one to 30 vehicle spaces. Parking in areas with more than 30 vehicle spaces shall have either two 12-foot-wide driveways or one 18-foot-wide driveway.
3. Egress onto a public right-of-way from a driveway shall be in the forward direction, except that backing onto a public right-of-way shall be allowed for single-unit and two-unit residences.
4. Driveway slopes in excess of 15 percent shall require approval of the Department of Public Works.
5. A seven-foot minimum vertical clearance, measured at right angles to the slope, shall be maintained at all points on the driveway. However, a knockout bar with not less than six feet nine inches vertical clearance may be installed at each entry or exit point with permission of the Department of Public Works.
6. A six-inch rise above curb grade shall be installed at the property line for flood protection when required by the Department of Public Works.

- D. Landscaping in Parking Lots. The following landscaping standards apply to all surface parking lots, in addition to other required landscaping pursuant to Chapter 25.36 (Landscaping and Open Space).
1. Buffer. Where a surface parking lot abuts a public street, a minimum five-foot-deep landscape buffer shall be provided between the sidewalk and the first parking row.
 2. Minimum Amount. A minimum of 10 percent of the parking area shall be landscaped.
 3. Minimum Planter Dimension. No landscape planter that is to be counted toward the required landscape area shall be smaller than two feet in any horizontal dimension where no trees are provided and four feet where trees are provided, excluding curbing.
 4. Screening. Parking areas shall be screened from view from public streets and adjacent lots in a more restrictive district by a combination of planting or low-profile walls and fences to a height of three feet.
 5. Layout. Landscaped areas shall be well-distributed throughout the parking lot area. Parking lot landscaping may be provided in any combination of landscaped planting strips and islands between rows of parking stalls, between parking areas and adjacent building, at ends of rows of parking stalls, or at the parking lot perimeter.
- E. Heat Island Reduction. To reduce ambient surface temperatures in surface parking areas, at least one tree shall be planted for every three parking spaces. Trees shall be at least 24-gallon in size at installation, be of a variety that provides year-round shade, have a minimum 30 foot canopy, and be maintained in healthy condition. Trees shall be selected from a list maintained by the Parks Division. If a tree dies or is removed, it shall be replaced.
- F. Compact Parking. Compact car spaces shall be allowed only in industrial and commercial zoning districts in the following ratios. Each compact car space shall be clearly marked "COMPACT" The compact car spaces shall be distributed throughout the parking area.

Table 25.40-3: Compact Parking	
Required Parking Spaces	Allowable Compact Spaces
1-11	0
11-20	Up to 10 percent of spaces
Over 20	Up to 20 percent of spaces over 20

- G. Tandem Parking.
1. Residential Uses. For residential uses, when parking spaces are identified for the exclusive use of occupants of a designated dwelling, required spaces may be arranged in tandem (that is, one space behind the other) subject to a Minor Modification. Tandem parking is intended to allow for needed flexibility on constrained lots or where tandem parking is consistent with the existing neighborhood pattern. For single-unit dwellings, required parking may be provided in tandem configuration where safe and compatible with the surrounding neighborhood.
 2. Hotel and Restaurant Projects (New and Existing). Tandem parking may be used

for hotel and restaurant development where valet parking service is provided, subject to approval of a parking management plan and a minor modification or as part of a design review.

3. New Office Uses. Tandem parking may be considered for office development if all the following requirements are satisfied:
 - a. With review of the location and design as part of a design review, where adequate maneuverability and access arrangements are provided;
 - b. When the tandem spaces are set aside for the exclusive use of onsite employees;
 - c. Where the total number of tandem spaces does not exceed 30 percent of the total parking provided for projects that require 10 vehicle parking spaces or less, and 15 percent of the total parking provided for projects that require 11 or more vehicle parking spaces; and
 - d. With a parking management plan approved as part of a design review or other discretionary permit to ensure that proper management and oversight of the use of the proposed tandem spaces will occur.
4. Existing Office Uses. For existing office development where there is a desire to upgrade or modify the parking layout to increase efficiency or better meet standards, the new tandem parking spaces shall be subject to a minor modification, and the additional finding that adequate maneuverability and access arrangements are provided.

H. Mechanical Parking Lifts. In commercial and industrial zones and in mixed-use and multi-unit developments and subject to design review, mechanical parking lifts may be used to satisfy all or a portion of vehicle parking requirements. Up to 25 percent of the required minimum number of spaces may be required to be provided as non-mechanical parking for lift systems unable to accommodate a range of vehicles, including trucks, vans, SUVs, or large sedans. Application submittals shall include any information deemed necessary by the Director to determine parking can adequately and feasibly be provided and that the following performance standards can be met and the following findings for approval can be made:

1. The use of mechanical lift parking results in superior design and implementation of City goals and policies for infill development.
2. In existing developments and established neighborhoods, mechanical lift parking shall be screened and compatible with the character of surrounding development.
3. In new developments, mechanical lift parking shall comply with applicable design guidelines and be compatible and appropriately considered with overall building and site design.
4. Mechanical lift parking systems shall comply with all development standards including, but not limited to, lot coverage, height and setback requirements, and parking and driveway standards, except for minimum parking stall sizes, which are established by lift specifications, with a minimum typical width of seven feet six inches.
5. The owner of the property shall record a covenant applicable to the property and all subsequent owners that states that the mechanical parking systems will be safely

operated and maintained in continual operation, except for limited periods of maintenance.

6. There are no circumstances of the site or development or particular model or type of mechanical lift system that could result in significant impacts to those living or working on the site or in the vicinity.
7. Adequate queuing area is provided.
8. Operation of the mechanical lift system, whether located indoors or outside, complies with Burlingame Municipal Code Section 10.40.035 (General Noise Regulations) and any specific conditions that may have been imposed on the project.

I. Valet Parking.

1. Where Permitted and Approval Process. Valet parking may be permitted in commercial and mixed-use zoning districts subject to the approval of the Director, including to meet a portion of minimum parking requirements, based on the review criteria outlined in subsection I.2. of this section and in compliance with Burlingame Municipal Code Chapter 6.30 (Valet Parking).
2. Review Criteria.
 - a. Valet parking shall be subject to review of hours of operation, circulation, and other pertinent impacts. All proposals for valet parking shall be accompanied by a parking study, prepared by a registered traffic engineer, that addresses circulation impacts, operational characteristics of the use, parking space size and configuration, and other issues deemed necessary by the Director.
 - b. Valet parking shall be provided on the same site as the business for which the valet parking is being approved, except as otherwise provided in Section 25.40.020.A.5. In the event the location for the valet parking is off site from the business, the provisions in this section regulating off-site parking shall also apply.
3. Development Standards for Valet Parking Uses.
 - a. Because of the unique characteristics of valet parking facilities, parking space size shall be determined on a case-by-case basis and not necessarily subject to the standards listed in this chapter.
 - b. Valet parking facilities shall not be permitted to use parking that is specifically set aside or required for another use, unless a shared parking or off-site parking agreement, as applicable, is approved by the City.

CHAPTER 25.45
RESIDENTIAL IMPACT FEES

§ 25.45.010. Purpose.

The purpose of this chapter is to:

- A. Encourage the development and availability of housing affordable to a broad range of households with varying income levels within the City as mandated by State law,

including California Government Code Section 65580 and related provisions.

- B. Offset the demand for affordable housing that is created by new development and mitigate environmental and other impacts that accompany new residential development by protecting the economic diversity of the City's housing stock; reducing traffic, transit, and related air quality impacts; promoting jobs/housing balance; and reducing the demands placed on transportation infrastructure in the region.
- C. Promote the City's policy to provide an adequate number of affordable housing units to the City's housing stock in proportion to the existing or projected need in the community, as identified by the Housing Element.
- D. Support the Housing Element goal of providing housing opportunities for those who work in Burlingame.
- E. Support the Housing Element goal of achieving increased affordability of housing.
- F. Support the Housing Element policy of developing a variety of housing types that are affordable to lower-income households.
- G. Support the Housing Element goal of preserving residential character by encouraging maintenance, improvement, and rehabilitation of the City's neighborhoods and housing stock.

§ 25.45.020. Definitions.

As used in this chapter, the following terms shall have the following meanings:

"Administrator" means the Community Development Director of the City or other person designated by the City Manager.

"Affordable housing fund" means a separate fund or account designated by the City to maintain and account for all monies received pursuant to this chapter.

"Affordable ownership cost" means the sales price of a for-sale affordable unit resulting in projected average monthly housing payments, during the first calendar year of a household's occupancy, including interest, principal, mortgage insurance, property taxes, homeowners insurance, homeowners' association dues, if any, and a reasonable allowance for utilities, property maintenance, and repairs, not exceeding the sales prices specified by Section 50052.5 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, as they may be amended from time to time.

"Affordable rent" means the total monthly housing expenses for an affordable rental unit not exceeding the rents specified by Section 50053 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, as they may be amended from time to time. As used in this chapter, "affordable rent" shall include the total of monthly payments by the tenant for all of the following: (1) use and occupancy of the rental unit and land and all facilities associated with the rental unit, including, but not limited to, bicycle storage, storage lockers, and use of all common areas; (2) any additional separately charged fees or service charges assessed by the owner on all residents, other than security deposits; (3) an allowance for utilities paid by the tenant as established by the San Mateo County Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuel, but not telephone service or cable; and (4) any other interest, taxes, fees, or charges for use of the land or affordable unit or associated facilities and assessed by a public or private entity other than the owner and paid by the tenant.

"Affordable unit" means a dwelling unit which a builder proposes as an alternative to payment

of the residential impact fee, as defined in this chapter and which is required to be rented at a rate affordable to very low-, low-, or moderate-income households, or sold at an affordable ownership cost to very low-, low-, or moderate-income households.

"Builder" (may also be referred to as developer) means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City approvals for all or part of a residential development project.

"Building permit" includes full structural building permits as well as partial permits such as foundation-only permits.

"Decision-making body" means the City staff person or body authorized to approve or deny an application for a planning or building permit for a residential development project.

"First approval" means the first discretionary approval to occur with respect to a residential development project or, for residential development projects not requiring a discretionary approval, the issuance of a building permit.

"For-sale unit" means a residential dwelling unit that may be sold individually in conformance with the Subdivision Map Act. For-sale units also include units that are converted from rental units to for-sale units.

"Low-income households" means households with incomes no greater than the maximum income for low-income households, as published annually by the County of San Mateo for each household size, based on United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) income limits for San Mateo County, unless stated otherwise in this chapter.

"Market rate unit" means a new dwelling unit in a residential development project that is not an affordable unit.

"Median income" means the median income applicable to San Mateo County, as published annually by the County of San Mateo for each household size, based on median income data for San Mateo County published by the United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD), unless stated otherwise in this chapter.

"Moderate-income households" means households with incomes no greater than the maximum income for moderate-income households, as published annually by the County of San Mateo for each household size, based on United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) income limits for San Mateo County, unless stated otherwise in this chapter.

"Planning permit" means any discretionary approval of a development project, including, but not limited to, a comprehensive or specific plan adoption or amendment, rezoning, tentative map, parcel map, conditional use permit, variance, or architectural review.

"Rental unit" means a dwelling unit that is intended to be offered for rent or lease and that cannot be sold individually in conformance with the Subdivision Map Act.

"Residential development project" means an application for a planning permit or building permit at one location to create one or more additional dwelling units, convert nonresidential uses to dwelling units, subdivide a parcel to create one or more separately transferable parcels intended for residential development, or implement a condominium conversion, including development constructed at one time as well as in phases. "One location" includes all adjacent parcels of land under common ownership or control, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands

owned or controlled by the builder.

"Residential floor area" means all horizontal areas of the several floors of such buildings measured from the exterior faces or exterior walls or from the center line of party walls separating two buildings, minus the horizontal areas of such buildings used exclusively for covered porches, patios, or other outdoor space, amenities and common space, parking, elevators, stairwells or stairs between floors, hallways, and between-unit circulation.

"Very low-income households" means households with incomes no greater than the maximum income for very low-income households, as published annually by the County of San Mateo for each household size, based on United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) income limits for San Mateo County, unless stated otherwise in this chapter.

§ 25.45.030. Residential Impact Fees.

- A. Fees shall be based on the calculation of the residential floor area as defined in this chapter and shall include a credit for existing uses. The Council may amend these fees through the public hearing process for the City's Master Fee Schedule. Residential impact fees shall not exceed the cost of mitigating the impact of the residential development projects on the need for affordable housing in the City.
- B. Rental projects that convert to condominiums after completion of construction would be subject to the fee differential between rental and for sale units as a condition of conversion. The fee differential shall be based on the fee structure in place at the time of conversion to condominiums, minus the fees originally submitted at the time of construction.

§ 25.45.040. Fee Payment.

Any residential impact fee shall be paid in full prior to the issuance of the first building permit for the residential development project subject to the fee or at a time otherwise specified by Council resolution. The fee shall be calculated based on the fee schedule in effect at the time the building permit is issued.

§ 25.45.050. State Density Bonus.

For residential development projects that are granted a density bonus pursuant to California Government Code Section 65915 et seq. (the "State Density Bonus Law"), the residential impact fee shall apply to all market-rate units, including any additional market-rate units provided under the State Density Bonus Law. The residential impact fee shall not apply to affordable units provided under the State Density Bonus Law. The required residential impact fee shall be reduced to the extent that any affordable units mitigate the market rate units' impact on the need for affordable housing in the City. The Director may issue guidelines from time to time regarding the calculation of any fee reduction.

§ 25.45.060. Exemptions.

- A. The following residential development projects are exempt from the provisions of this chapter:
 - 1. Rental multifamily projects with a total of 10 units or fewer;
 - 2. For sale multifamily (condominiums) with a total of six units or fewer;

3. Projects that have established a vested right not to be subject to this chapter;
- B. The Council may elect to waive payment of the residential impact fee if it finds that: (1) the residential development project is dedicated to a public use owned and operated by other public agencies or a nonprofit public benefit corporation; and (2) the benefits to the community provided by such public use exceed those that would be provided by the payment of the residential impact fee. If the Council elects to waive residential impact fees pursuant to this provision, the public use of the site shall be guaranteed by a recorded document in a form acceptable to the City Attorney.
- C. The Council by resolution may adopt additional exemptions from time to time.

§ 25.45.070. Alternatives.

- A. Alternatives Available to Projects Requiring an Impact Fee. As an alternative to compliance with the impact fee requirements included in this chapter, developers of residential projects may propose to mitigate the affordable housing impacts of such development through the construction of affordable units on site or through an alternative mitigation program proposed by the developer, such as the provision of off-site affordable units, donation of land for the construction of affordable units, or purchase of existing units for conversion to affordable units.. The Review Authority may approve the provision of affordable units on site, consistent with the requirements set forth in subsection B., below, as part of its review of the project. For all other alternatives, the Director shall analyze the proposal and provide advice to the Council which, in its sole discretion, shall determine whether the proposed alternative is sufficient to meet the objectives of this chapter.
- B. The provision of on-site affordable units in lieu of payment of residential impact fees shall be allowed as of right, provided the project meets the following criteria:
 1. If a rental multi-unit project provides 10 percent of the units on site to be affordable to low-income households and 5 percent to very-low income households in perpetuity, the impacts of residential development on the need for affordable housing shall be deemed mitigated.
 2. If a for-sale multi-unit (townhome/condominium) project provides 15 percent of the units on site to be affordable to low-income households for a period of 55 years, the impacts of residential development on the need for affordable housing shall be deemed mitigated.
 3. Any affordable rental or for-sale units proposed as an alternative to the payment of the residential impact fee shall be subject to the requirements described in subsection A of this section.
- C. Approval of Off-Site Affordable Units and Alternatives. If a developer proposes off-site affordable units or any other alternative in the affordable housing plan required under Section 25.45.080 (Affordable Housing Plan and Agreement), the Council may, in its sole discretion, approve such a proposal if it finds the proposal meets the following conditions:
 1. Financing or a viable financing plan, which may include public funding sources, is in place for the proposed affordable housing units; and
 2. The proposed location is suitable for the proposed affordable housing, is consistent with the Housing Element, general plan, and zoning, and will not cause residential

segregation; and

3. The proposed units will be maintained as affordable in perpetuity.
- D. Approval of Off-Site Preservation Units. The developer may provide the Affordable Units off-site through the purchase and conversion of existing market-rate units to affordable units, either by the developer or by a non-profit entity. The total square footage must, at minimum, equal the square footage that would have been expected on-site, at affordability levels that meet or exceed the on-site requirements.
 - E. Dedication of Land. The developer may propose dedicating land within the city that is suitable for affordable housing development to the City or to the designee of the City. The value of the land shall be not less than the sum of the in-lieu fee that would be due under Section 25.45.030 of this Chapter. The valuation of any land offered in-lieu shall be determined by an appraisal made by an appraiser mutually agreed upon by the City and the developer. Costs associated with the appraisal shall be borne by the developer.
 - F. Other Alternatives. The Council may consider an alternative mitigation program to Section 25.45.090 (Standards for Development).
 - G. Agreement with City for Financing. If the City enters into a financing agreement with the applicant, the parties may agree to alter the requirements of Section 25.45.090 (Standards for Development).

§ 25.45.080. Affordable Housing Plan and Agreement.

- A. If the developer seeks an alternative to the payment of the residential impact fee pursuant to Section 25.45.070 (Alternatives), the application for the first approval of a residential development project for which the alternative is sought shall include an "affordable housing plan" that describes how the alternative will comply with the provisions of this chapter and the terms of the alternative. No affordable housing plan is required if the developer proposes only to pay the residential impact fee.
 1. Residential development projects requesting an alternative to payment of the residential impact fee require that an affordable housing plan be submitted in conformance with this chapter prior to the application being deemed complete.
 2. The affordable housing plan shall be processed concurrently with all other permits required for the residential development project. Before approving the affordable housing plan, the decision-making body shall find that the affordable housing plan conforms to this chapter. A condition shall be attached to the first approval of any residential development project to require an affordable housing agreement, as described in this subsection, prior to the approval of any final or parcel map or building permit for the residential development project.
 3. The approved affordable housing plan may be amended prior to issuance of any building permit for the residential development project. A request for a minor modification of an approved affordable housing plan may be granted by the Director if the modification is substantially in compliance with the original affordable housing plan and conditions of approval. Other modifications to the affordable housing plan shall be processed in the same manner as the original plan.
 4. If required to ensure compliance with the approved affordable housing plan, affordable housing agreements acceptable to the Director or designee shall be recorded against the residential development project prior to or concurrently with

and as a condition of approval of any final or parcel map, or issuance of any building permit, whichever occurs first. The affordable housing agreement shall specify the number, type, location, size, and phasing of all affordable units, provisions for income certification and screening of potential purchasers or renters of units, and resale control mechanisms, including the financing of ongoing administrative and monitoring costs, consistent with the approved affordable housing plan, as determined by the Director or designee.

- B. After approval of the application, the applicant shall enter into a regulatory agreement with the City. The terms of this agreement shall be approved as to form by the City Attorney's office and reviewed and revised as appropriate by the reviewing City official. This agreement shall be on a form provided by the City and shall include the following terms:
1. The affordability of extremely low-, very low-, low-, and moderate-income housing shall be assured in a manner consistent with this chapter.
 2. The location, dwelling unit sizes, rental cost, and number of bedrooms of the affordable units.
 3. A description of any bonuses and incentives, if any, provided by the City.
 4. Any other terms as required to ensure implementation and compliance with this section, any affordable housing guidelines established by the City, and as applicable sections of State Density Bonus Law.

§ 25.45.090. Standards for Development.

All affordable units provided pursuant to Section 25.45.070 shall meet the following standards:

- A. The required affordable dwelling units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the City and developer agree within the affordable housing agreement to an alternative schedule for development.
- B. The exterior design and construction of the affordable dwelling units shall be consistent with the exterior design and construction of the total project development and shall be consistent with any affordable residential development standards that may be prepared by the City.
- C. The square footage of the affordable units shall be equal to or greater than the market-rate units in the same residential development. The Director may approve smaller unit sizes as long as the overall total affordable square footage provided remains comparable, yielding additional units.
- D. The affordable units may have different interior finishes, fixtures, or appliances, than market-rate units in the same residential development, as long as the finishes and features are valued at least 60% of the value of the finishes and features of the market-rate units, as determined by the Director.
- E. The affordable units shall have the same amenities as the market rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential development, provided at an affordable rent as defined in Section 25.45.020 or at affordable ownership cost as defined in Section 25.45.020. Developers are strictly prohibited from discriminating against tenants or owners of affordable units in granting access to and full enjoyment of any community amenities

available to other tenants or owners outside of their individual units.

- F. A regulatory agreement, as described in Section 25.45.080 (Affordable Housing Plan and Agreement), shall be made a condition of the discretionary permits for all developments pursuant to this chapter. The regulatory agreement shall be recorded as a restriction on the development.

§ 25.45.100. Affordable Housing Fund.

- A. Special Revenue Fund. A fund for the deposit of fees established under this chapter shall be established and may also receive monies for housing from other sources.
- B. Purpose and Limitations. Monies deposited in the fund shall be used to increase, improve, and/or protect the supply of housing affordable to moderate-, low-, very low-, and extremely low-income households. Such purpose may include, but not be limited to, the construction of new affordable units, the preservation of existing income restricted affordable units, the purchase or purchase/rehabilitation of income restricted or naturally occurring affordable units, and support to workforce households experiencing unanticipated short-term income disruptions. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this chapter.
- C. Administration. The fund shall be administered by the Administrator, who may develop procedures to implement the purposes of the fund consistent with the requirements of this chapter and subject to any adopted budget of the City and generally applicable accounting and procurement processes.
- D. Expenditures. Fund monies shall be used in accordance with the City's Housing Element, or subsequent plans adopted by the Council to maintain or increase the quantity, quality, and variety of affordable housing units or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, land acquisition, debt service, parcel assemblage, gap financing, housing rehabilitation, grants, unit acquisition, new construction, and other pursuits associated with providing affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing.

§ 25.45.110. Administrative Relief/Appeal.

- A. The builder of a project subject to this chapter may request that the requirements of this chapter be waived or modified by the Council, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed.
- B. The application shall be made in writing and filed with the Director not later than:
 - 1. Twenty days prior to the public hearing before the Commission on the development project application under this title; or
 - 2. If no hearing before the Commission is required by this title, at the time of the filing of the application for a development permit.
 - 3. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment.
- C. The Council shall consider the application at a public hearing held within 60 days after the filing of the fee adjustment application. If a reduction, adjustment, or waiver is

granted, any change in use within the development project shall invalidate the waiver, adjustment, or reduction of the fee. The decision of the Council is final.

§ 25.45.120. Enforcement.

- A. Payment of the residential linkage fee is the obligation of the builder of a residential development project. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including, but not limited to, actions to revoke, deny, or suspend any permit or development approval.
- B. The City Attorney shall be authorized to enforce the provisions of this chapter and all below market rate housing agreements, regulatory agreements, and all other covenants or restrictions placed on affordable units, by civil action and any other proceeding or method permitted by law.
- C. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any builder or owner from the requirements of this chapter. No permit, license, map, or other approval or entitlement for a commercial development project shall be issued, including, without limitation, a final inspection or certificate of occupancy, until all applicable requirements of this chapter have been satisfied.
- D. The remedies provided for in this chapter shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

CHAPTER 25.46
PUBLIC FACILITIES IMPACT FEES

§ 25.46.010. Definitions.

Words, when used in this chapter and in resolutions adopted thereunder, shall have the following meanings:

"Development permit" means any building permit, electrical permit, plumbing permit, demolition permit, moving permit, or any other permit required by this code for issuance before construction, reconstruction, remodeling, moving structures or any similar activity can be lawfully undertaken on a parcel of property in the City.

"Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

"Fee" means a money exaction, other than a tax or special assessment, which is charged by the City to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

"Public facility" includes public improvements, public services, and community amenities.

§ 25.46.020. Collection of Public Facilities Impact Fees.

Except as otherwise provided in this chapter, public facilities impact fees shall be paid pursuant to this chapter before the issuance of any development permit.

§ 25.46.030. Conditions for Collection.

- A. The following public facilities impact fees are established and imposed on the issuance of development permits within the City as determined by resolution of the Council:
 - 1. General Facilities and Equipment. A development fee is established for general facilities and equipment.
 - 2. Libraries. A development fee is established for library facilities, equipment, and materials.
 - 3. Police. A development fee is established for police facilities and equipment.
 - 4. Parks and Recreation. A development fee is established for parks and recreation facilities and equipment.
 - 5. Streets and Traffic. A development fee is established for streets and traffic facilities and equipment.
 - 6. Fire. A development fee is established for fire facilities and equipment.
 - 7. Storm Drainage. A development fee is established for storm drainage facilities and equipment.
- B. In establishing and imposing the schedule and application of the public facilities impact fees by resolution, the Council will do the following:
 - 1. Identify the purpose of the fee;
 - 2. Identify the use to which the fee is to be put;
 - 3. Determine how there is a reasonable relationship between the fees used and the type of development on which the fee is imposed; and
 - 4. Determine that there is a reasonable relationship between the need for the public facility and the impacts caused by the type of development project on which the fee is imposed.

§ 25.46.040. Deposit of Fees.

- A. Upon receipt of a fee subject to this chapter, the City shall deposit, invest, account for and expend the fees pursuant to Government Code Section 66006. The City shall retain fee interest accrued and allocate it to the accounts for which the original fee was imposed.
- B. Each fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by each such fee. Moneys within each such fund may be expended only by appropriation by the Council for specific projects which are of the same category as that for which the money was collected. In this regard, the following special funds are created and established for the purposes indicated:
 - 1. A General Facilities and Equipment Fund Is Established. The general facilities and equipment fund is a fund for payment of the actual or estimated costs of constructing and improving the general municipal facilities within the City, including any required acquisition of land.
 - 2. A Library Facilities, Materials, and Equipment Fund Is Established. The library facilities, material, and equipment fund is a fund for payment of the actual or

estimated costs of library facilities, materials and equipment, including any required acquisition of land.

3. A Police Facilities and Equipment Fund Is Established. The police facilities and equipment fund is a fund for payment of the actual or estimated costs of police facilities and equipment, including any required acquisition of land.
 4. A Parks and Recreation Facilities and Equipment Fund Is Established. The parks and recreation facilities and equipment fund is a fund for the payment of the actual or estimated costs of parks and recreation facilities and equipment, including any required acquisition of land.
 5. A Streets and Traffic Facilities and Equipment Fund Is Established. The streets and traffic facilities and equipment fund is a fund for the payment of the actual or estimated costs of streets and traffic facilities and equipment, including any required acquisition of land.
 6. A Fire Facilities and Equipment Fund Is Established. The fire facilities and equipment fund is a fund for payment of the actual or estimated costs of fire facilities and equipment, including any required acquisition of land.
 7. A Storm Drainage Facilities and Equipment Fund Is Established. The storm drainage facilities and equipment fund is a fund for payment of the actual or estimated costs of constructing and improving the storm drain facilities and for associated equipment, including any required acquisition of land.
- C. The City Manager shall provide a report on these funds to the Council no less than once a year in accordance with Government Code Section 66006.

§ 25.46.050. Computation of Fee.

- A. The uses in the development project approved by the City shall be utilized in the computation of fees required to be paid with respect to any property. If a parcel contains more than one use, then the applicable fees shall be prorated by square footage or dwelling units, as appropriate, attributable to each use.
- B. The fees shall be based on the uses, the number of dwelling units, and the amount of square footage to be located on the property after completion of the development project. New development that, through demolition or conversion, will eliminate existing development is entitled to a fee credit offset if the existing development is a lawful use under this title, including a nonconforming use.
- C. New development that will replace development that was partially or totally destroyed by fire, flood, earthquake, mudslide, or other casualty or act of God, is entitled to a fee credit offset if the development that was partially or totally destroyed was a lawful use under this title, including a nonconforming use, at the time of the destruction.
- D. All fees due under this chapter shall be determined and calculated by the Director or designee.

§ 25.46.060. Natural Disaster Fee Exemption.

No fee adopted pursuant to this chapter shall be applied by the City to the reconstruction of any residential, commercial or industrial development project that is damaged or destroyed as

a result of a natural disaster as declared by the Governor of the State insofar as the reconstruction is substantially equivalent in size and use as defined under Government Code Section 66011.

§ 25.46.070. Exemption for Existing Buildings and Uses.

- A. The following shall be exempted from payment of applicable public facilities impact fees:
 - 1. Alterations, renovations or expansion of an existing residential building or structure where no additional dwelling units are created and the use is not changed.
 - 2. Alterations or renovations of an existing commercial or industrial building or structure where no expansion occurs and the use is not changed.
- B. For purposes of this section:
 - 1. "Expansion" shall be defined as any increase in the gross floor area of the existing building or structure.
 - 2. "Change of use" shall be defined as a change or intensification of the use of a portion or all of a building or structure in such a way that additional parking is required by this title.

§ 25.46.080. Fee Payment.

- A. Fees shall be paid at or before the time of issuance of the first required development permit for a development project. However, if the development project is a residential project as defined in Government Code Section 66007, then the time for payment of fees shall be governed by the provisions of Section 66007.
- B. The fee shall be determined by the fee schedule in effect on the date the vesting tentative map or vesting parcel map is approved, or the date a development permit is issued.
- C. When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, a new fee payment shall not be required, unless the fee schedule has been amended during the interim; in this event, the appropriate increase or decrease shall be applied to permit issuance.
- D. In the event that development has already lawfully occurred on a parcel for which public facilities impact fees were imposed, fees shall be required only for additional square footage of development that was not included in computing a prior fee.
- E. When a fee is paid for a development project and that project is subsequently reduced so that it would have been entitled to a lower fee, the City shall issue a prorated refund of the paid fee.
- F. When a fee is paid for a development project and the project is subsequently and irrevocably abandoned in writing without any further activity beyond the obtaining of a first development permit, the payer shall be entitled to a refund of the fee paid, minus the administrative portion of the fee. A written request for a refund of a fee paid in connection with an expired or abandoned development project must be made to the Director within 120 days of the expiration of the permit. Failure to submit the request within this time limit shall constitute a waiver of any right to any refund of the fee, and the fee shall be retained in and expended from the fund to which it was deposited.

§ 25.46.090. In-lieu Construction or Provision of Facilities or Equipment.

- A. In-lieu Credit.
1. A developer that has been required by the City to construct any facilities or improvements, or a portion thereof, referenced in a resolution adopted pursuant to this chapter as a condition of approval of a development permit may request an in-lieu credit of the specific public facilities impact fee for the same development. Upon request, an in-lieu credit of fees shall be granted for facilities or improvements that mitigate all or a portion of the need therefor that is attributable to and reasonably related to the given development.
 2. Only costs proportional to the amount of the improvement or facility that mitigates the need therefor attributable to and reasonably related to the given development shall be eligible for in-lieu credit, and then only against the specific, relevant fees involved to which the facility or improvement relates.
 3. Fees required under this chapter shall be reduced by the actual construction costs of the facilities or improvements that relate to the fee, as demonstrated by the applicant and reviewed and approved by the director of community development, and consistent with the provisions of subsections A.1. and A.2., above. Subject to the applicable provisions of subsection B., below, if the cost of the facilities or improvements is greater than required relevant fees, this chapter does not create an obligation on the City to pay the applicant the excess amount.
 4. An amount of in-lieu credit that is greater than the specific fee required under this chapter may be reserved and credited toward the fee of any subsequent phases of the same development, if determined appropriate by the Director. The Director may set a time limit for reservation of the credit.
- B. Developer Construction of Facilities Exceeding Needs Related to Development Project. Whenever an applicant is required, as a condition of approval of a development permit, to construct any facility or improvement (or a portion thereof) referenced in a resolution adopted which is determined by the City to exceed the need therefor attributable to and reasonably related to the given development project, a reimbursement agreement with the applicant and a credit against the specific relevant fee which would otherwise be charged pursuant to this chapter on the development project shall be offered. The credit shall be applied with respect to that portion of the improvement or facility which is attributable to and reasonably related to the need therefor caused by the development, and shall be determined, administered and processed in accordance with and subject to the provisions of Section 25.46.140. The amount to be reimbursed shall be that portion of the cost of the improvement or facility which exceeds the need therefor attributable to and reasonably related to the given development. The reimbursement agreement shall contain terms and conditions mutually agreeable to the developer and the City and shall be approved by the Council. Reimbursement shall be provided from fees which are deposited into the relevant fund or funds by other applicants for development projects.
- C. Site-Related Improvements. Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the project to serve it and which do not constitute facilities or improvements specified in the resolution referenced in Section 25.46.030 of this chapter.
- D. Determination of Credit. The developer seeking credit and/or reimbursement for construction of improvements or facilities, or dedication of land or rights-of-way, shall

submit such documentation, including, without limitation, engineering drawings, specifications, and construction cost estimates, and utilize such methods as may be appropriate and acceptable to the Director to support the request for credit or reimbursement. The Director shall determine credit for construction of improvements or facilities based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Director determines that such estimates submitted by the developer are either unreliable or inaccurate. The Director shall determine whether facilities or improvements are eligible for credit or reimbursement.

- E. Time for Making Claim for Credit. Any claim for credit must be made no later than the application for a building permit. Any claim not so made shall be deemed waived.
- F. Transferability of Credit – Council Approval. Credits shall not be transferable from one project or development to another.
- G. Appeal of Determinations of Director. Determinations made by the Director pursuant to this section may be appealed to the Planning Commission pursuant to Chapter 25.98 (Appeals and Calls for Review) within 10 days of the determination of the Director.

§ 25.46.100. Use of Funds.

- A. Funds collected from public facilities impact fees shall be used for the purpose of:
 - 1. Paying the actual or estimated costs of constructing or improving the public facilities within the City or purchasing materials or equipment for the public facilities within the City to which the specific fee or fees relate, including any required acquisition of land or rights-of-way therefor; or
 - 2. Reimbursing the City for the development project's share of those public facilities already constructed by the City or to reimburse the city for costs advanced, including, without limitation, administrative costs incurred with respect to a specific public facility project; or
 - 3. Reimbursing other developers who have constructed public facilities described in the resolution, where those facilities were beyond those needed to mitigate the impact of the earlier developer's project or projects.
- B. In the event that bonds or similar debt instruments are issued for advanced provision of public facilities for which public facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.

§ 25.46.110. Conditions for Reimbursement.

- A. The City Manager shall report to the Council once each fiscal year regarding any portion of a fee remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. The Council shall make findings at least once every fifth year thereafter with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.
- B. A refund of unexpended or uncommitted fees for which a need cannot be demonstrated along with accrued interest may be made to the current owner(s) of the development project(s) on a prorated basis. The City Manager may refund unexpended and

uncommitted fees that have been found by the City Council to be no longer needed, by direct payment or by offsetting other obligations owed to the City by the current owners of the development project.

- C. If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this section exceed the amount to be refunded, the Council, after a public hearing for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fees are collected subject to this chapter that serve the project on which the fee was originally imposed.

§ 25.46.120. Capital Improvement Plan.

- A. The City may adopt or incorporate a capital improvement plan which indicates the approximate location, size, time of availability, and estimates of costs for public facilities or improvements to be financed with public facility impact fees.
- B. The City Manager shall annually submit the capital improvement plan to the Council for adoption at a noticed public hearing.
- C. The public facility impact fee schedule adopted by the Council by resolution shall be annually reviewed by the Council for consistency with the capital improvement plan, and any necessary amendments shall be made by resolution of the Council.

§ 25.46.130. Procedure for Adoption of Fees.

The adoption of public facility impact fees is a legislative act and shall be enacted by resolution after a public hearing before the Council.

§ 25.46.140. Fee Adjustments or Waivers.

- A. A developer of any project subject to the fee described in this chapter may apply to the Director for reduction or adjustment to that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed.
- B. The application shall be made in writing and filed with the Director not later than:
 - 1. Twenty days prior to the public hearing before the Review Authority on the development project application under this title, or
 - 2. If no public hearing is required by this title, at the time of the filing of the application for a development permit.
 - 3. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment.
- C. The Review Authority shall consider the application at a public hearing after the filing of the fee adjustment application. If a reduction, adjustment, or waiver is granted, any change in use within the development project shall invalidate the waiver, adjustment, or reduction of the fee.

SECTION SIX. REPLACING ARTICLE 4 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE

Article 4 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following.

Article 4 Regulations For Specific Land Uses 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.

§ 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.

§ 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;
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.
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. 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. 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. If the JADU is not entirely physically removed but has been modified by virtue of having a necessary component of a JADU or primary residence added, the remaining structure and improvements must 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. and H. 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. 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. 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 more than 750 square feet of interior livable space, 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.

§ 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.

§ 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 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 to 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.

§ 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 district.

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 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 E 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 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.

§ 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.

§ 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.

§ 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 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. **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 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).

§ 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.

§ 25.48.120. Entertainment Businesses.

The provisions of Chapter 6.16 (Entertainment Businesses) of the Municipal Code shall apply.

§ 25.48.130. Fortunetelling and Psychic Service.

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

§ 25.48.140. 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).
- B. Location. Display and stored materials, including vehicles, shall not be located in front yard areas nor any required parking area.
- 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.
- 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.

§ 25.48.150. Live/Work Units.

- A. Purpose and Applicability. The requirements of 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 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.

§ 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 permanent security bars shall be installed. Only retractable or removable security features may be used.

§ 25.48.170. Low Barrier Navigation Center.

- A. Purpose and Applicability. The purpose of this Section 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 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 24 C.F.R. 578.3.

4. Housing First. Comply with Housing First pursuant to California Government Code Section 8255.
- 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.

§ 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 Temporary Use Permit pursuant to Chapter 25.82 (Temporary Use Permits), Operators 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 Minor Use 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 Temporary Use 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.

§ 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 in Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. **Temporary Sales of Christmas Trees and Other Agricultural Products.** Upon approval of a Temporary Use 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 Minor Use 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.

§ 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 in 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.

§ 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 Conditional Use Permit 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.

§ 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 in 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.

§ 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 Conditional Use Permit is approved by the Planning Commission to allow use outside those hours.

§ 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.

§ 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 as an accessory use to breweries, distilleries, and wineries in 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.

§ 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 as Construction Office.**
 1. A mobile structure may be used as a temporary office at a construction site for the duration of the construction activity upon written approval of the Chief Building Official and subject to any conditions imposed.
 2. A Temporary Use Permit is required to allow a mobile structure as a temporary construction office when the mobile structure is not located on the same property as the construction site and subject to any conditions imposed.
 - 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.

§ 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 in 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 Permits 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 Conditional Use Permit for a vehicle fuel sales and accessory service use has been granted is discontinued for a period of six consecutive months, such Conditional Use 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.

§ 25.48.280. (Reserved)

§ 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 in 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.

§ 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)), 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 to 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 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 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 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 unless otherwise specified or mandated by law.

This section 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 districts or 105 feet in height in nonresidential zoning districts, 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. 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-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 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, nonconforming wireless communication facilities shall be required to comply with the requirements of this section 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 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 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 applicable requirements in 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 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 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 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 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 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 Conditional Use Permit for wireless communications facilities shall be given pursuant to 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).

- 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 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 Conditional Use Permit or an Administrative Use 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 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, 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.

SECTION SEVEN. ARTICLE 5 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE

Article 5 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following.

Article 5 Nonconformities

CHAPTER 25.50 GENERAL NONCONFORMING PROVISIONS

§ 25.50.010. Purpose and Intent.

- A. Within the zoning districts established by this Title 25 or amendments that may later be adopted, there exists or will exist lots, structures, and uses of land and structures which were lawful before the adoption or amendment of this title but which no longer comply. The intent of this Article 5 (Nonconformities) is to permit those nonconformities to continue until they are removed or required to be terminated, but not to encourage their continuance. Such uses and structures are declared to be incompatible with permitted uses, structures, and standards in the zoning districts involved, and it is intended that they shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district, except as may be expressly permitted in this article.
- B. The eventual intent is that nonconformities, including certain classes of nonconforming uses, nonconforming structures of nominal value, and certain uses not meeting parking, performance, or screening standards, are to be altered to conform.
- C. It is also the City's intent to encourage and accommodate the renovation of designated historic structures that may be nonconforming with respect to development standards, and therefore to provide additional relief from the provisions of this article with regard to correcting nonconformities.

§ 25.50.020. Applicability.

- A. The provisions of this article shall apply to all legally established nonconforming lots, structures, and land uses. A mere change in ownership or tenancy without any change in use, occupancy, or development shall not affect any of the legal nonconforming rights, privileges, and responsibilities provided under this article.
- B. This article shall not apply to any use or structure established in violation of the previously adopted Zoning Ordinance for the City, unless the use or structure presently conforms to the provisions of this Zoning Code.

§ 25.50.030. Establishment of Legal Nonconforming Status.

- A. The provisions of this article shall regulate the continuation, termination, and modification of lots, structures, and uses which were lawfully established, but which no longer conform to the provisions of this title due to a change in zoning district boundaries or a change in the regulations for the zoning district in which it is located. A mere change in ownership or tenancy without any change in use, occupancy, or development shall not affect any of the legal nonconforming rights, privileges, and responsibilities provided under this article.
- B. Lots, structures, and uses not having previously acquired proper permits are illegal and

subject to immediate abatement.

- C. Any nonconforming use or structure that becomes specifically authorized under the terms of some approval pursuant to this title, other than approval of an extension, expansion, change, or early termination of nonconformity, shall henceforth be governed by the terms of such approval and shall no longer be considered to be a nonconformity unless and until such approval expires or is revoked.
- D. Whenever any lot or structure is rendered nonconforming within the meaning of this article solely by reason of: (1) dedication to, or customary purchase by, the City for any public purpose; or (2) eminent domain proceedings which result in the acquisition by the City of a portion of the subject property, the same shall not be deemed nonconforming within the meaning of this article.
- E. The effective date of the Zoning Ordinance codified in this title or previous Zoning Ordinance codified herein shall determine the time of beginning for all existing nonconformities.

§ 25.50.040. Proof of Legal Nonconformity.

- A. Burden of Proof. The property owner shall have the burden to prove the claim of legal nonconformity and the related protected status that comes with that claim. The property owner shall provide sufficient evidence to the satisfaction of the Director that the subject property or use is a legal nonconformity as specified in this article.
- B. City Not Responsible. The City is not responsible to prove the absence of a legal nonconformity.
- C. Director's Determination.
 - 1. To exert a claim of legal nonconformity, the property owner shall submit sufficient written evidence to the Director justifying that the nonconformity is legal and subject to the protected status specified in this article.
 - 2. The Director shall consider the evidence and other available facts and make a determination as to the legality of the nonconformity and the available protections provided by this article.
 - 3. The Director's determination of legal nonconformity shall be appealable to the Commission in compliance with Chapter 25.98 (Appeals and Calls for Review).

§ 25.50.050. Maintenance and Repairs.

Routine maintenance and repair of uses, structures, or lots, as defined by the Uniform Building Code, which do not increase or alter the nonconformity may be performed. Such maintenance and repairs may not extend the area of nonconformity, and structural alterations may be made only when required by law to assure the safety of occupants. Any maintenance activity or repairs to a structure for which the value of such maintenance or repairs exceeds 50 percent of the market value of the structure shall be considered substantial construction, as defined by this title, and shall affect the nonconforming status of the structure as set forth in this article.

§ 25.50.060. Revocation.

The Commission may revoke the right to continue a nonconforming use or structure if it deems, based on facts presented to the Commission, that the nonconforming use or structure

will have a negative impact on its surroundings. Revocation procedures, including notice and hearing, shall be in compliance with the provisions specified in Sections 25.88.040 (Modifications) and 25.88.050 (Revocations and Suspension).

CHAPTER 25.52 NONCONFORMING LOTS

§ 25.52.010. Use of Legal Nonconforming Lots.

Any lawfully created lot which becomes nonconforming with regard to lot area, street frontage, lot width, lot depth, or accessibility may continue indefinitely with the nonconformity and may be developed and used as if it were a conforming lot.

§ 25.52.020. Modification of Legal Nonconforming Lots.

Legal nonconforming lots may not be modified in any manner that increases the degree of nonconformity. Where feasible, lot modifications, such as through lot merger or lot line adjustment, are encouraged to eliminate or minimize the degree of nonconformity.

CHAPTER 25.54 NONCONFORMING STRUCTURES

§ 25.54.010. Continuation of Legal Nonconforming Structures.

- A. May Be Continued. Any legally established nonconforming structure that does not conform to the provisions of this title with regard to maximum permitted height, minimum required setback, lot coverage, and floor area ratio may be continued indefinitely.
- B. Alterations and Additions. Alterations and additions may be made to a nonconforming structure, provided that there shall be no increase in the discrepancy between existing conditions and the standards for the zoning district, and provided that the alteration and addition does not qualify as substantial construction, as defined in this title, with the following exceptions:
 1. Exceptions.
 - a. Single-Unit Dwelling Setbacks. A single-unit dwelling with an existing legal non-conforming setback(s) can reconstruct the exterior wall(s) in the same location and up to the same dimensions, as long as the legal non-conforming setback is not increased and provided that any new construction meets all other applicable development standards. The provisions of subsection B.2 a-d below shall not apply to this subsection.
 - b. Reallocation. Floor area of structures that exceed the maximum floor area ratio (FAR) and/or lot coverage for the zoning district in which the property is located may be reallocated within other areas of the property as long as the discrepancy between the existing nonconforming condition and applicable zoning district standards is not increased and further provided, that any new construction meets all other applicable development standards.
 - c. Exception for Residential Structures. Notwithstanding the provisions of subsection B.1.b. above, if the reallocated floor area encroaches into the maximum height limit or declining height envelope, a special permit, as set forth in Chapter 25.78 (Special Permits) of this title, may be requested to permit the

encroachment, and where the Commission can make the finding that approval of the special permit will provide for the architectural integrity of the structure to be maintained.

- d. Exception for Front Porches and Detached Garages. Nonconforming front porches and one-story detached garages may be rebuilt in the same location and footprint, including encroachment into any required setback. Reconstruction of an existing nonconforming detached garage shall be limited to a two-car garage or a maximum of 450 square feet.
2. Limitations on Construction. The following applies to any alteration of or addition to a nonconforming structure.
 - a. No more than 50 percent of the exterior first floor walls of the nonconforming structure shall be removed to allow for the alteration or addition to occur. Any alteration or addition inconsistent with this limit shall require that all nonconformities be brought into compliance with the development standards in place at the time of issuance of building permits for the alteration or addition.
 - b. For projects where not more than 50 percent of the existing walls are removed and/ or no portion of the nonconforming wall is removed, those nonconforming walls that remain in place shall be demonstrated to the satisfaction of the building official to be in sound structural condition, capable of supporting all proposed new construction, and pest free, and shall not be removed as part of the new construction.
 - c. For the purposes of this subsection, "removed" shall include the removal, reinforcement, or significant alteration of wall studs or any other integral structural support feature.
 - d. In the event that any deviation from these limitations and approved plans occurs through the building permit and construction processes, the applicant/developer shall lose all prior nonconforming rights, and all applicable zoning district standards shall apply.
 - e. Exceptions for Designated Historic Structures. The provisions of subsection B.2 above shall not apply to alterations of and additions to designated historic structures. Through the special permit process, as set forth in Chapter 25.78 (Special Permits), a property owner may be granted the ability to remove more than 50 percent of the exterior first floor walls, provided that the primary building façade and any other key contributing feature, as determined by the Planning Commission, are maintained.
 3. Limitation on Extent of Addition to Residential Structure. In the event of any addition to a nonconforming residential structure located in a nonresidential zoning district, the floor area of such structure may be increased by up to 50 percent of the floor area of the existing structure without a requirement to bring any nonconformity into compliance with the applicable zoning district standards.

§ 25.54.020. Utilities.

This chapter shall not be construed or applied to require the removal of a Federal or State regulated public utility's structures or structures which house or support operating electrical and mechanical equipment only used to provide service to the public, nor to prohibit structural alteration required to accommodate the equipment, provided that there is no change of use or enlargement of the lot area devoted to the use, and provided further that any existing nonconformity related to height limits and/or established setbacks in the applicable zoning

district are not increased.

§ 25.54.030. Damage to or Destruction of Legal Nonconforming Structures.

- A. Any nonconforming structure which is damaged or destroyed by any means to the extent of 50 percent or more of its current market value, as determined by a licensed appraiser, may be rebuilt or used thereafter only in compliance with the regulations of the zoning district in which it is located. Exceptions shall apply to multi-unit housing, as set forth in Section 25.54.040 (Residential Structures – Exceptions).
- B. Any nonconforming structure other than a multi-unit residential structure which is damaged or destroyed by any means to the extent of less than 50 percent its current market value, as determined by a licensed appraiser, may be rebuilt to its original condition and the same occupancy and use resumed.
- C. Any nonconforming structure in the Broadway Mixed-Use (BRMU) zoning district which is partially or totally destroyed by catastrophe or natural disaster may be rebuilt to its pre-existing size and dimensions if the same amount of parking is provided on site as existed before the loss.
- D. Unless a building permit is obtained within a period of one year of determination of market value by a licensed appraiser and rebuilding has been initiated within six months of the issuance of a building permit and pursued to completion, or longer time period as may be granted by the Commission pursuant to Section 25.88.030 (Time to Implement – Time Extensions), the nonconforming status of the structure shall expire.

§ 25.54.040. Residential Structures—Exceptions.

- A. Single-Unit Residential Structures. Notwithstanding the provisions of Section 25.54.030 (Damage to or Destruction of Legal Nonconforming Structures), a nonconforming primary single-unit residential structure which is partially or totally destroyed by catastrophe or natural disaster may be rebuilt to its pre-existing size and dimensions, provided that any nonconforming use in such structure may not be continued. In the event of disagreement regarding the size or dimensions of the pre-existing structure, the property owner shall have the burden of proof. If any increase in size or floor area is made to such structure as a part of reconstruction or remodel the structure shall be subject to the provisions of Section 25.54.010.B (Alterations and Additions).
- B. Multi-Unit Residential Structures. Notwithstanding the provisions of Section 25.54.030 (Damage to or Destruction of Legal Nonconforming Structures), an involuntarily damaged or destroyed multi-unit residential nonconforming structure located in any zoning district except the Innovation Industrial (I-I) zoning district may be reconstructed or replaced with a new structure with the same footprint (including preexisting nonconforming setbacks), height, and number of dwelling units in compliance with current Building and Fire Code requirements and pursuant to California Government Code Sections 65852.25 and 65863.4.

§ 25.54.050. Off-Site Relocation.

When a structure is relocated to another lot, the structure shall be made conforming in all respects with the provisions of this Title 25 and all other applicable laws and regulations, unless any conditions of approval applied to the relocation specifically identify alternative standards.

CHAPTER 25.56
NONCONFORMING USES

§ 25.56.010. Continuation of Legal Nonconforming Uses.

Any use of structure or land which was a lawfully existing use at the effective date of this Title 25 or amendments thereto which does not conform to the use regulations for the zoning district in which it is located may be continued for such time and in such manner as is set forth in this chapter.

§ 25.56.020. Restriction on Extension of Legal Nonconforming Uses.

- A. No Physical Expansion. No nonconforming use shall be extended within the structure where it exists beyond the confines of the structure which it occupies or the location upon which it is situated, except as specified below.
 - 1. The changes are, in and of themselves, in conformance with the provisions of this Title 25.
 - 2. The changes are limited to minor alterations, improvements, or repairs that do not increase the degree of nonconformity present and do not constitute or tend to produce an expansion or intensification of a nonconforming use.
 - 3. The changes are required by other laws.
- B. Change in Operating Conditions. A nonconforming use shall not be permitted to increase in intensity of operation. An increase in intensity shall include, but not be limited to, extended hours of operation, substantial remodeling, or an increase in the number of seats or service areas for bars and food establishments.

§ 25.56.030. Change of Use.

- A. The Director may authorize a change from a legally established nonconforming use to the same or similar nonconforming use upon making the finding that the use is similar in character to the existing nonconforming use and does not have the potential to result in adverse impacts on surrounding uses.
- B. Whenever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a use conforming to the use regulations of the zoning district, such premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed or constructed for the prior nonconforming use.

§ 25.56.040. Discontinuance of Legal Nonconforming Uses.

- A. Automatic Change Due to Abandonment of Use. If any legal nonconforming use is discontinued for a period of 180 consecutive days or more, subsequent use of the property shall be in conformance with the provisions of this Title 25. Maintenance of a valid business license shall of itself not be considered a continuation of the use. Remodeling or active marketing shall not constitute abandonment of a nonconforming use so long as such activity complies with the applicable City construction codes and is completed within 12 months of receiving a building permit.
- B. Change of Use Because of Dilapidation. When any building or land which has been used

other than in conformity with the zoning district in which it is located and which the Council, after due notice and hearing, has found that the use has become dangerous or injurious to the public health, safety, or welfare by reason of dilapidation, neglect, decay, or otherwise, such use shall cease, and any subsequent use shall comply with the use regulations of the applicable zoning district.

- C. Removal of Structure. If any structure which is occupied by a nonconforming use is removed, the subsequent use of the subject property shall be in conformance with the provisions of this Title 25.

§ 25.56.050. Destruction of a Structure Containing a Legal Nonconforming Use.

Any conforming structure containing a legal nonconforming use which is damaged or destroyed by any means to the extent of 50 percent or more of its current market value, as determined by a licensed appraiser, may be rebuilt thereafter only in compliance with the regulations of the zoning district in which it is located.

CHAPTER 25.58
OTHER NONCONFORMING PROVISIONS

§ 25.58.010. Nonconforming Parking.

- A. Generally. Any nonconformity with respect to parking spaces or improvements may continue indefinitely, except that with any change of use, or an expansion or intensification of use, the additional parking required for the change, expansion, or intensification shall be in full compliance with the parking provisions specified in Chapter 25.40 (Parking Regulations).
- B. Broadway Mixed Use – Exception. In the Broadway Mixed-Use (BRMU) zoning district, additional parking shall not be required if a structure is totally destroyed by catastrophe or natural disaster so long as the uses in the new structure are the same size as existed before the loss.

§ 25.58.020. Nonconformities Regarding Fences.

- A. Legally established fencing shall be allowed to continue. Where nonconforming fencing is to be replaced with new fencing, it will be subject to the requirements specified in Section 25.31.070 (Fences, Walls, and Hedges).
- B. Any fences and landscaped buffers that are required along property lines shall be provided at the time of any expansion or intensification of a nonresidential use, unless this requirement is modified or waived through the approval of a minor modification, granted in compliance with Chapter 25.74 (Minor Modifications).

§ 25.58.030. Nonconforming Landscaping.

Where a nonresidential property has nonconforming landscaping with regard to required landscaping coverage, type of landscaping, or other landscaping requirement, such nonconformity may continue and shall not be required to be brought into compliance with applicable standards. However, the property owner or agent, at the time of submittal of any discretionary land use application for the property, shall be required to submit a landscape plan to show how existing landscaped areas will be improved to comply with the provisions of Chapter 18.17 (Water Conservation in Landscape) of the Municipal Code and 23 CCR § 490-495 (California Code of Regulations).

SECTION EIGHT. ARTICLE 6, OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE, EXCLUDING CHAPTERS 25.76 AND 25.84

Article 6 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following, excluding Chapters 25.76 and 25.84.

**Article 6
Permit Processing Procedures**

**CHAPTER 25.60
GENERAL PROVISIONS**

§ 25.60.010. Purpose and Applicability.

This article establishes the overall structure for the application, review, and action on City-required permit applications and identifies and describes those discretionary permits and other approvals required by this Zoning Code in Table 6-1: (Review Authority). The provisions of this article shall apply to all properties in the City.

§ 25.60.020. Permits and Actions.

- A. Administrative Permits and Actions. Except when combined with legislative actions or other non-administrative actions defined in this article, the Director, also defined in this Zoning Code as the designee of the Director, is the designated Review Authority for the following quasi-judicial permits and actions. The Director, at the Director's sole discretion, may elevate the level of review to a higher Review Authority.
1. Administrative Use Permit. An administrative permit providing for the review of certain wireless communications facilities, as identified in Section 25.48.300 (Wireless Communications Facilities).
 2. Design Review — Minor. An administrative review process providing for review of projects specified in Section 25.68.020.D (Design Review — Minor) for compliance with the provisions of this Zoning Code and with any site plan or architectural design guidelines adopted by the City and as provided in Chapter 25.68 (Design Review).
 3. Hillside Area Construction Permits. An administrative permit providing for the review of certain development projects in the designated Hillside Area, as identified in Chapter 25.70 (Hillside Area Construction Permits).
 4. Home Occupation Permits. An administrative permit authorizing the operation of a specified home-based occupation in a particular location in compliance with the provisions specified in Chapter 25.72 (Home Occupation Permits).
 5. Minor Modifications. An administrative action, granted in compliance with Chapter 25.74 (Minor Modifications), to allow specified exceptions to specified development standards of this Zoning Code for the purpose of creating flexibility in implementing those standards to accommodate unique design approaches and to recognize unique physical conditions present on individual parcels.
 6. Minor Use Permits. An administrative permit authorizing the operation of a specific use of land or a structure in a particular location in compliance with the provisions of this Zoning Code and in compliance with procedures specified in Chapter 25.66

(Conditional Use Permits and Minor Use Permits).

7. Reasonable Accommodations. An administrative permit authorizing limited modifications to properties to accommodate a person with specified disabilities and physical limitations in compliance with specific criteria and performance standards and in compliance with procedures specified in Chapter 25.76 (Reasonable Accommodations).
 8. Sign Permits. An administrative permit authorizing a variety of signs, including individual signs for promotional advertising, in compliance with specific provisions and conditions of this Zoning Code and Chapter 25.42 (Signs). Temporary signs may also be approved in conjunction with a temporary use permit issued in compliance with Chapter 25.82 (Temporary Use Permits).
 9. Master Sign Programs. A process through which permissible on-site signage is reviewed by the Director to provide for a coordinated, complementary program of signage within a single development project or property. See Chapter 25.42 (Signs).
 10. Temporary Use Permits. An administrative permit authorizing specific limited-term uses in compliance with specified conditions and performance criteria specified in Chapter 25.82 (Temporary Use Permits).
 11. Zoning Ordinance Interpretations. An administrative interpretation of certain provisions of this Zoning Code to resolve ambiguity in the regulations and to ensure their consistent application in compliance with Chapter 25.04 (Interpretation of the Zoning Code).
- B. Quasi-Judicial Permits and Actions. Except when combined with legislative actions, the Commission is the designated Review Authority for the following quasi-judicial permits and actions. Additionally, the Director may refer review of administrative permits and actions to the Commission. A public hearing is required for the following quasi-judicial actions in compliance with Chapter 25.100 (Public Hearings and Notice).
1. Conditional Use Permits. A permit authorizing the operation of a specific use of land or a structure in a particular location in compliance with the provisions of this Zoning Code and the procedures specified in Chapter 25.66 (Conditional Use Permits and Minor Use Permits).
 2. Density Bonus for Affordable Housing. An action authorizing a residential density bonus in compliance with Chapter 25.33 (Affordable Housing and Density Bonus).
 3. Design Review – Major. A discretionary review process providing for review of projects specified in Section 25.68.020.C (Design Review – Major) for compliance with the provisions of this Zoning Code and with any site plan or architectural design guidelines adopted by the City and as provided in Chapter 25.68 (Design Review).
 4. Special Permits. A discretionary review process to allow for minor deviations from applicable development standards and design criteria in all zoning districts in response to the prevailing character of a neighborhood or district, as determined by the Director, provided the findings contained in Chapter 25.78 (Special Permit) can be made.
 5. Variances. An action granting exception to the development standards of this Zoning Code in cases where strict compliance would result in a unique hardship, in compliance with Chapter 25.84 (Variances).

- C. Legislative Actions. The designated Review Authority for all legislative actions is the Council, with recommendations from the Commission. A public hearing is required for the following legislative actions in compliance with Chapter 25.100 (Public Hearings and Notice).
1. General Plan Text/Map Amendments. An action authorizing either a text amendment to the General Plan or a map amendment changing the General Plan land use designation of a particular property in compliance with Chapter 25.96 (Amendments to the Zoning Code, Zoning Map, and General Plan).
 2. Specific Plans and Amendments. A regulatory document prepared in compliance with California Government Code Section 65450 et seq., for the systematic implementation of the General Plan for a particular area, as specified in Chapter 25.80 (Specific Plans).
 3. Zoning Code Text/Zoning Map Amendments. An action authorizing either a text amendment to this Zoning Code or a map amendment changing the zoning designation of a particular property in compliance with Chapter 25.96 (Amendments to the Zoning Code, Zoning Map, and General Plan).

Table 6-1: Review Authority				
Type of Action	Applicable Code Section	Role of Review Authority ⁽¹⁾		
		Director	Commission	Council
Legislative Actions				
General Plan Amendments	25.96	Review	Recommend ⁽²⁾	Decision
Specific Plans and Specific Plan Amendments	25.80	Review	Recommend ⁽²⁾	Decision
Zoning Map Amendments	25.96	Review	Recommend ⁽²⁾	Decision
Zoning Code Amendments	25.96	Review	Recommend ⁽²⁾	Decision
Planning Permits and Approvals				
Administrative Use Permit	25.48.300	Decision	Appeal	Appeal
Conditional Use Permits	25.66	Review	Decision	Appeal
Condominium and Condominium Conversion Permits	26.32.020	Review	Decision	Appeal
Design Review – Major	25.68	Review	Decision	Appeal
Design Review – Minor	25.68	Decision	Call for Review	Appeal

Table 6-1: Review Authority				
Type of Action	Applicable Code Section	Role of Review Authority (1)		
		Director	Commission	Council
Hillside Area Construction Permits	25.70	Decision	Call for Review	Appeal
Home Occupation Permits	25.72	Decision	Appeal	Appeal
Interpretations of Zoning Ordinance	25.04	Decision	Appeal	Appeal
Minor Modifications – 2 or fewer	25.74	Decision	Call for Review	Appeal
Minor Modifications – 3 or more and/or requested with another discretionary permit	25.74	Review	Decision	Appeal
Minor Use Permit	25.66	Decision	Call for Review	Appeal
Reasonable Accommodations	25.76	Decision	Appeal	Appeal
Sign Permits	25.42.050	Decision	—	—
Sign Program – Master	25.42.060	Decision	Appeal	Appeal
Special Permits	25.78	Review	Decision	Appeal
Temporary Use Permits	25.82	Decision	Appeal	Appeal
Variances	25.84	Review	Decision	Appeal

Notes:

- (1) "Review" means that the Director provides information regarding consistency with Zoning Ordinance requirements and the General Plan, but no recommendation is provided.
"Recommend" means that the Review Authority makes a recommendation to a higher decision-making body. "Decision" means that the Review Authority makes the final decision on the matter.
"Appeal" means that the Review Authority may consider and decide upon appeals to the decision of a prior decision-making body, in compliance with Chapter 25.98 (Appeals and Calls for Review).
"Call for Review" means that an interested party, upon receiving notice of planned Director action, requests that the item be scheduled for Planning Commission consideration.
- (2) See Section 25.96.040.A.4 (Recommendation for Denial) regarding Planning Commission denial.

§ 25.60.030. Additional Permits May Be Required.

A land use on property that complies with the permit requirement or exemption provisions of this Zoning Code shall also comply with the permit requirements of other Municipal Code provisions and any permit requirements of other agencies before construction or use of the property is commenced. All necessary permits shall be obtained before starting work or establishing a new use. Nothing in this Zoning Code shall eliminate the need to obtain any

permits required by any other Municipal Code provisions or any applicable county, regional, State, or Federal regulations.

§ 25.60.040. Unlawful to Use Property Until Authorization Granted.

It is unlawful for any person to use any land or building for any purpose requiring the granting of any required permit or authorization unless such permit or authorization has been issued.

CHAPTER 25.62
APPLICATION PROCESSING PROCEDURES

§ 25.62.010. Purpose.

- A. Procedures. This chapter provides procedures and requirements for the preparation, filing, initial processing, and review of applications for the land use entitlements required by this Zoning Code.
- B. Failure to Follow Requirements. Failure to follow the procedural requirements shall not invalidate City actions taken in the absence of a clear showing of intent not to comply with this Zoning Code.

§ 25.62.020. Multiple Permit Applications.

- A. Concurrent Filing. An applicant for a development project that requires the filing of more than one application pursuant to this Zoning Code shall file all related applications concurrently, together with all application fees required by Section 25.62.040 (Application Fees), unless these requirements are waived by the Director.
- B. Concurrent Processing. Multiple applications for the same project shall be processed concurrently and shall be reviewed—and approved or denied—by the highest Review Authority designated by this Zoning Code for any of the applications. For example, a project for which applications for zoning map amendment and a conditional use permit are filed shall have both applications decided by the Council, instead of the Commission being the final decision-making authority for the conditional use permit as otherwise required by Table 6-1 (Review Authority). In the example cited, the Commission would still hear all the applications (the zoning map amendment and the conditional use permit) and forward recommendations to the Council.

§ 25.62.030. Application Preparation and Filing.

- A. Application Contents. Applications for amendments, entitlements, and other matters pertaining to this Zoning Code shall be filed with the Community Development Department in the following manner:
 - 1. The application shall be made on forms furnished by the Department.
 - 2. The necessary fees shall be paid in compliance with the City's fee resolution.
 - 3. The application shall be accompanied by the information identified in the Department handout for the particular application. The requested information may include exhibits, maps, materials, plans, reports, and other information required by the Department that describe clearly and accurately the proposed work, its potential environmental impact, and its effect on the terrain, existing improvements, and the surrounding neighborhood.

- B. Status of Application. Acceptance of the application does not constitute an indication of approval by the City nor of the application being deemed complete. If an applicant fails to provide all of the information required in the application or any additional information required in support of the application, the application will not be deemed complete.
- C. Eligible Applicants. Applications shall be made by the owners of a property or their agents with the written consent of the owner.
- D. Pre-Application Conference.
 - 1. A prospective applicant may request a pre-application conference with the Director or designee before completing and filing a permit application required by this Zoning Code.
 - 2. The purpose of a pre-application conference is generally to:
 - a. Inform the applicant of City requirements as they apply to the proposed project;
 - b. Discuss the City's review process, possible project alternatives, or modifications; and
 - c. Identify information and materials the City will require with the application, including any necessary technical studies and information anticipated for the environmental review of the project.
 - 3. Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or denial of the application or project by the City's representative.
 - 4. Failure of the City's representative to identify all required studies or all applicable requirements at the time of pre-application review shall not constitute a waiver of those studies or requirements.
 - 5. An applicant is encouraged to perform an early-stage outreach with residents and property owners near proposed projects to address and, if possible, resolve any concerns that interested persons may have regarding potential impacts of proposed project on surrounding neighborhoods and properties.
 - 6. A pre-application conference does not establish the date for determining a preliminary application to be complete for the purposes of implementing the provisions of Government Code Section 65589.5(o).

§ 25.62.040. Application Fees and Cost Recovery.

- A. Filing Fees Required.
 - 1. The Council shall, by resolution, establish a schedule of fees for amendments, entitlements, and other matters pertaining to this Zoning Code to ensure that the City is reimbursed for its costs of providing services to applicants for development projects and to the extent advisable, provide uniformity with respect to such provisions. The schedule of fees may be changed or modified only by resolution of the Council.
 - 2. The City's processing fees shall be cumulative. For example, if an application for design review also involves a variance, both fees shall be charged.

3. Processing shall not commence on an application until required fees have been paid. Without the application fee, the application shall not be deemed complete or accepted for processing.
4. Fees shall include fees and deposits collected by the City to administer provisions of this Zoning Code. The City shall determine through Council adoption of a fee schedule the instances in which a fee covering all costs or a deposit from which City costs are deducted shall be collected.
5. Each applicant for or operator of a development project, as well as the owner of the subject property, if different, shall be liable for payment of all fees associated with the development project.
6. Costs shall include, but not be limited to, field investigations, preparation of necessary reports; preparation of site maps; preparation of environmental reviews; producing, posting and mailing notices or legal publications; legal review; review of applications; defense of administrative and/or judicial challenges to the project approval(s).

B. Refunds and Withdrawals.

1. Recognizing that filing fees are utilized to cover City costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, refunds due to a disapproval are not allowed.
2. In the case of a withdrawal, the Director may authorize a partial refund based upon the pro-rated costs to date and determination of the status of the application at the time of withdrawal. The Council may establish a refund schedule in the City's fee resolution.

§ 25.62.050. Eligible Applicants.

- A. An application may only be filed by the owner of the subject property or a lessee or authorized agent of the property owner with the written consent of the property owner. With the Director's approval, a lessee with the exclusive right to use the property for a specified use may file an application related to that use.
- B. The application shall be signed by the owner of record or may be signed by the lessee or by authorized agent of the property owner if written authorization from the owner of record is filed concurrently with the application.

§ 25.62.060. Initial Application Review.

A. Review for Completeness.

1. **Criteria for Review.** The Director shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. The Director's determination of completeness shall be based on the City's list of required application contents and related additional written instructions provided to the applicant in any pre-application conference and/or during the initial application review period. The provisions of California Government Code Section 65589.5(o) shall apply until the time such section is no longer law.
2. **Notification of Applicant.** As required by California Government Code Section 65943, within 30 calendar days of application filing, the applicant shall be informed,

in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided. This requirement shall not apply to any legislative actions.

3. Submittal of Additional Information.
 - a. When the Director determines that an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.
 - b. The additional specified information shall be submitted in writing or electronically, as required by the Director.
 - c. The Director's review of any information resubmitted by the applicant shall be accomplished in compliance with subsection A.1, above, along with another 30-day period of review for completeness for each resubmittal necessary.
 4. Environmental Information. Upon review of an initial application or after an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.
 5. Expiration of Application. If an applicant fails to provide the additional information specified in the Director's letter within 180 days following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City, unless an extension is approved by the Director for good cause shown. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.
- B. Referral of Application. At the discretion of the Director, or where otherwise required by this Zoning Code or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project.
- C. Multi-Unit Residential and Mixed-Use Developments. Where a multi-unit residential development or mixed-use development in which at least two-thirds of the square footage consists of residential use, and where such developments qualify for streamlined processing pursuant to California Government Code Section 65400 et seq., the provisions of California Government Code Sections 65400 et seq. shall apply.
- D. Wireless Communications Facilities. The provisions of subsections A and B above shall not apply to wireless communications facilities. The review for completeness and the processing of such applications shall comply with applicable Federal Communication Commission (F.C.C.) regulations.

§ 25.62.070. Environmental Review.

- A. CEQA Review. After acceptance of a complete application, the project shall be reviewed in compliance with CEQA to determine whether:
1. The proposed project is exempt from the requirements of CEQA;
 2. The proposed project is not a "project" as defined by CEQA;

3. A Negative Declaration may be issued;
 4. A Mitigated Negative Declaration may be issued; or
 5. An Environmental Impact Report (EIR) and related documents shall be required.
- B. Compliance with CEQA. These determinations and, where required, the preparation of appropriate environmental documents, shall comply with CEQA and the CEQA Guidelines.
- C. Special Studies Required. One or more special studies, paid for in advance by the applicant, may be required to complete the City's CEQA compliance review. These studies shall become public documents, and neither the applicant nor any consultant who prepared the studies shall assert any rights to prevent or limit the documents' availability to the public.

§ 25.62.080. Project Evaluation and Staff Reports.

- A. Application Evaluation. The Director or designee shall review all completed applications to determine whether they comply and are consistent with the provisions of this Zoning Code, other applicable provisions of the Municipal Code, the General Plan, any applicable Specific Plan, and CEQA.
- B. Staff Report Preparation. For those application approvals requiring a public hearing, a staff report shall be prepared describing the conclusions about the proposed land use and development as to its compliance and consistency with the provisions of the Zoning Code, other applicable provisions of the Municipal Code, and the actions, goals, objectives, and policies of the General Plan.

CHAPTER 25.66

CONDITIONAL USE PERMITS AND MINOR USE PERMITS

§ 25.66.010. Purpose and Applicability.

- A. The City recognizes that certain uses, due to the nature of use, intensity, or size, require special review to determine if the use proposed, or the location of that use, is compatible with surrounding uses, or through the imposition of development and use conditions, can be made compatible with surrounding uses. To ensure compatibility with zoning regulations and surrounding properties, conditional uses require special consideration. The conditional use permit and minor use permit are provided for this purpose.
- B. Approval of a conditional use permit or minor use permit is required to authorize proposed land uses specified by Article 2 (Zoning Districts, Allowable Uses, and Development Standards) as being allowable in the applicable zoning district when subject to the approval of a conditional use permit or minor use permit.

§ 25.66.020. Application Requirements.

An application for a conditional use permit or minor use permit shall be filed and processed in compliance with Section 25.68.050 (Application Filing). The application shall include the information and materials specified in the most up-to-date Department handout for conditional use permit and minor use permit applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by

Section 25.66.060 (Required Findings for Conditional Use Permits and Minor Use Permits), below.

§ 25.66.030. Action by Director for Minor Use Permits.

- A. Review. Upon making the determination that a Minor Use Permit application is complete, the Director or designee shall review the application for consistency with any applicable design guidelines and requirements and prepare written findings indicating how the application does or does not comply with applicable design guidelines and requirements. Prior to preparing the findings and any conditions of approval, the Director may give the applicant the opportunity to revise plans to achieve compliance.
- B. Public Notice. Once the application and all supporting information and documentation have been received and the application deemed complete, notice of the application shall be given according to the provision of Chapter 25.100.020(B) (Public Hearing and Notice). The notice shall state that, unless a written request for a public hearing is received by the Community Development Department within 10 days after the date of the notice, the Director shall take action on the application.
- C. Call for Review. If a written request for a public hearing is received pursuant to subsection B above, the Director shall schedule the application for a public hearing before the Planning Commission within 45 days of the filing of the call for review in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.
- D. Director or Commission Action. The Director or the Planning Commission may deny, deny without prejudice, approve, or approve with conditions any application under this section.

§ 25.66.040. Review Procedures for Conditional Use Permits.

- A. Investigation by Director. Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this chapter. A staff report shall be prepared pursuant to Section 25.62.080 (Project Evaluation and Staff Reports).
- B. Notice and Hearings.
 - 1. A public hearing before the Planning Commission shall be required for all conditional use permits.
 - 2. A public hearing shall be scheduled once the Director has determined the application complete.
 - 3. Noticing of the public hearing shall be given in compliance with Chapter 25.100 (Public Hearings and Notice).

§ 25.66.050. Conditions of Approval.

In approving a Conditional Use Permit or Minor Use Permit, the Review Authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with this chapter, State law, and with the findings required by Section 25.66.060 (Required Findings for Conditional Use Permits and Minor Use Permits). Such requirements and conditions may address, but not be limited to, location, construction, maintenance, operation, site planning, traffic control, and time limits for the permit. The Review Authority may require

tangible guarantees or evidence that such conditions are being, or will be, complied with.

§ 25.66.060. Required Findings for Conditional Use Permits and Minor Use Permits.

Before a Conditional Use Permit and Minor Use Permit may be granted, the Review Authority shall make the following findings:

- A. The proposed use is consistent with the General Plan and any applicable Specific Plan.
- B. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
- C. The design, location, size, and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity.
- D. The site is physically suitable in terms of:
 - 1. Its design, location, shape, size, and operating characteristics of the proposed use to accommodate the use, and all fences, landscaping, loading, parking, spaces, walls, yards, and other features required to adjust the use with the land and uses in the neighborhood;
 - 2. Streets and highways adequate in width and pavement type to accommodate public and emergency vehicle (e.g., fire and medical) access;
 - 3. Public protection services (e.g., fire protection, police protection, etc.); and
 - 4. The provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.).
- E. The measure of site suitability shall be required to ensure that the type, density, and intensity of use being proposed will not adversely affect the public convenience, health, interest, safety, or general welfare, constitute a nuisance, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

§ 25.66.070. Permit to Run with the Land.

- A. A Conditional Use Permit or Minor Use Permit approved in compliance with the provisions of this chapter shall continue to be valid upon a change of ownership of the business, parcel, service, structure, or use that was the subject of the permit application in the same area, configuration, and manner as it was originally approved in compliance with this chapter.
- B. In addition to securing a business license, any new applicant seeking to operate a previously approved use in substantial compliance with an existing Conditional Use Permit or Minor Use Permit shall submit a project description (e.g., narrative and/or a site and floor plan) to the Director ensuring that the new operation would be in compliance with the previous use and that the new applicant agrees to operate in full compliance with the previously issued conditions of approval. A fee may be imposed for the review of the project description and conditions of approval in compliance with the City's fee resolution.

CHAPTER 25.68
DESIGN REVIEW

§ 25.68.010. Purpose.

The purpose of this chapter is to provide processes for the appropriate review of development projects to ensure that all approved site and structural development:

- A. Is compatible with the physical and environmental characteristics of the site and surrounding properties, with the intent to minimize conflicts;
- B. Provides for safe and convenient access and circulation for pedestrians and vehicles;
- C. Exemplifies the best professional high-quality design practices;
- D. Allows for and encourages individual identity for specific uses and structures;
- E. Encourages the maintenance of a distinct neighborhood and/or community identity;
- F. Minimizes or eliminates negative or undesirable visual impacts;
- G. Provides for the adequate dedication of land for public purposes and the provision of public infrastructure associated with the subject development; and
- H. Implements General Plan policies, applicable design guidelines, and any other applicable City planning-related documents.

§ 25.68.020. Applicability and Types of Design Review.

- A. Design Review Required. No one shall construct any structure, or relocate, rebuild, or significantly enlarge or modify any existing structure or site until design review has been completed and approved in compliance with this chapter and a building permit has been issued.
- B. Two Levels of Design Review. Two levels of design review are hereby established, and the thresholds set forth below shall apply to design review.
- C. Design Review – Major. Major Design Review is a discretionary Planning Commission review process that includes public notice with a public hearing conducted as is required for all Commission actions. The following shall be subject to major design review.
 - 1. Single-unit, two-unit, and multi-unit dwellings in any zone consisting of any of the following:
 - a. Construction of a new dwelling unit, excluding ADUs.
 - b. Addition to or construction of a second story or higher.
 - c. Substantial construction as defined in the Zoning Code.
 - d. Changes to more than 50 percent of the front façade, including doors and windows, to multi-unit dwelling(s).
 - e. A single-unit or two-unit dwelling addition or modification having a plate height greater than nine feet six inches (9'-6") above existing finished floor. This subsection shall not apply to construction which includes lowering the existing finished floor height.

2. Construction of a new garage attached to a single-unit dwelling. Alteration or reconstruction of an existing attached garage to be continued use as a garage shall not be subject to design review.
 3. Any commercial, industrial, mixed use, educational, or institutional development in any zone consisting of any of the following:
 - a. Construction of a new building.
 - b. Addition to or construction of a second story or higher.
 - c. Substantial construction as defined in this title.
 - d. Change to more than 50 percent of the front façade, including doors and windows.
 - e. Change to more than 50 percent of any façade facing a public or private street or parking lot, including doors and windows.
 4. Burlingame Avenue Commercial (BAC) zoning district and parcels with frontage along California Drive and Highland Avenue between Burlingame Avenue and Howard Avenue for any development that involves any change to the front façade or any façade facing a public or private street or parking lot, including doors and windows, unless it qualifies for Minor Design Review under subsection D.
- D. Design Review – Minor. Minor Design Review is a Director-level review process that includes public notice as set forth in Section 25.68.070. The following shall be subject to Minor Design Review:
1. The BAC zoning district and parcels with frontage along California Drive and Highland Avenue between Burlingame Avenue and Howard Avenue. In these applicable areas, any façade improvement that meets any of the following criteria shall be subject to Minor Design Review:
 - a. Changes in material on the front façade that are determined by the Director to be equal to or higher quality than the existing material to be replaced.
 - b. Any other minor changes that are determined by the Director to comply with the Design Guidelines of the Burlingame Downtown Specific Plan.
 2. Any roof-top mounted mechanical equipment, except solar panels or other energy efficient installations which are pre-empted from such review by State or Federal law.

§ 25.68.030. Exceptions.

The following shall be exceptions to the requirement for design review.

- A. Single-Unit and Two-Unit Dwellings. Additions of second stories or higher to single-unit and two-unit dwellings shall be exempt from design review if they meet all of the following criteria and are not subject to design review under Section 25.68.020.C.1.c, d and e (Design Review – Major):
1. Project consisting of an addition or uncovered deck that totals 200 square feet or less;
 2. The roof pitch of the addition is compatible with or matches the existing roof pitch; and
 3. The height of the roof ridge of the addition complies with building height

requirements and is not higher than the highest roof ridge of the existing dwelling.

B. Commercial, Industrial, and Mixed-Use Zoning Districts.

1. Any façade with 25 feet or less of a parking lot or public or private street frontage.
2. New or replacement awnings when the façade or building is not subject to design review.

§ 25.68.040. Application Filing.

An application for design review shall be filed and processed in compliance with Section 25.68.050 (Application Filing). The application shall include the information and materials specified in the most up-to-date Division handout for design review applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 25.70.040 (Findings), below. The schematic design plans submitted with the application shall demonstrate the architectural details of the proposal, and in the case of an addition, of the existing structure and the addition.

§ 25.68.050. Major Design Review Application Review and Processing.

- A. Study Session. An application and design plans may be referred to the Planning Commission by the Director for a study session prior to final action. The study session shall be noticed in accordance with the provisions for Planning Commission notice in this title.
- B. Single-Unit and Two-Unit Dwellings. A Major Design Review application for any single-unit or two-unit dwelling in any zoning district shall be reviewed by the Commission for the following considerations:
1. Consistency with any applicable design guidelines;
 2. Compatibility of the architectural style with that of the existing character of the neighborhood;
 3. Respect for the parking and garage patterns in the neighborhood;
 4. Architectural style and consistency and mass and bulk of structures, including accessory structures;
 5. Interface of the proposed structure with the structures on adjacent properties;
 6. Landscaping and its proportion to mass and bulk of structural components;
 7. In the case of an addition, compatibility with the architectural style and character of the existing structure as remodeled; and
 8. For two-unit dwellings, compliance with the objective design standards adopted by ordinance or resolution.
- C. Multi-Unit Dwellings. A major design review application for multi-unit dwellings in any zoning district shall be reviewed by the Commission for the following considerations:
1. Consistency with any applicable design standards and guidelines;
 2. Respect for the mass and fine scale of adjacent buildings even when using differing architectural styles;

3. Maintaining the City's tradition of architectural diversity;
 4. Privacy of residents both on the property and on adjacent properties with regard to window placement and location of outdoor private and common open space areas;
 5. Incorporating materials that are of high quality and weather well;
 6. Accommodating convenient and safe pedestrian access to primary entrances from the streets immediately serving the development;
 7. Landscaping and its proportion to mass and bulk of structural components; and
 8. Compliance with the objective design standards adopted by ordinance or resolution.
- D. Commercial, Industrial, and Mixed-Use Zoning Districts. A Major Design Review application for a property in commercial, industrial, and mixed-use zoning districts shall be reviewed by the Commission for the following considerations:
1. For mixed-use developments having two-thirds or more of the total gross floor area dedicated to residential use, compliance with the objective design standards adopted by ordinance or resolution;
 2. Support of the pattern of diverse architectural styles in the area in which the project is located;
 3. Respect and promotion of pedestrian activity in commercial and mixed-use zoning districts by placement of buildings to maximize commercial use of the street frontage and by locating off-street parking areas so that they do not dominate street frontages;
 4. For commercial and industrial developments on visually prominent and gateway sites, whether the design fits the site and is compatible with the surrounding development;
 5. Compatibility of the architecture with the mass, bulk, scale, and existing materials of surrounding development and appropriate transitions to adjacent lower-intensity development and uses;
 6. Architectural design consistency by using a single architectural style on the site that is consistent among primary elements of the structure and restores or retains existing or significant original architectural features; and
 7. Provision of site features such as fencing, landscaping, and pedestrian circulation that complement on-site development and enhance the aesthetic character of the zoning district in which the development is located.
- E. Burden of Proof. The applicant shall bear the burden of demonstrating to the satisfaction of the Commission that the applicant's design and project comply with the design criteria set forth in subsection B, C, or D above, as applicable.
- F. Commission Action. The Commission may deny, deny without prejudice, approve, or approve with conditions any application under this section.
- G. Required Findings. Any decision to approve a Major Design Review application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:

1. The project is consistent with the General Plan and is in compliance with all applicable provisions of this title, all applicable design guidelines, all other City ordinances and regulations, and most specifically, the standards established in subparagraphs B, C, or D above, as applicable.
2. The project will be constructed on a parcel that is adequate in shape, size, topography, and other circumstances to accommodate the proposed development; and
3. The project is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring property.

§ 25.68.060. Minor Design Review Application Review and Processing.

- A. Review. Upon making the determination that a Minor Design Review application is complete, the Director or designee shall review the application for consistency with any applicable design guidelines and requirements and prepare written findings indicating how the application does or does not comply with applicable design guidelines and requirements. Prior to preparing the findings and any conditions of approval, the Director may give the applicant the opportunity to revise plans to achieve compliance.
- B. Public Notice. Once the application and all supporting information and documentation have been received and the application deemed complete, notice of the application shall be given according to the provision of Chapter 25.100.020(B) (Public Hearing and Notice). The notice shall state that, unless a written request for a public hearing is received by the Community Development Department within 10 days after the date of the notice, the Director shall take action on the application.
- C. Call for Review. If a written request for a public hearing is received pursuant to subsection B above, the Director shall schedule the application for a public hearing before the Planning Commission within 45 days of the filing of the call for review in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.
- D. Director or Commission Action. The Director or the Planning Commission may deny, deny without prejudice, approve, or approve with conditions any application under this section.
- E. Required Findings. Any decision to approve a Minor Design Review application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
 1. The changes to the exterior of the structure are minor in nature, and the change in materials are equivalent to or higher quality than the material being replaced;
 2. The blend of mass, scale and dominant characteristics of the exterior changes are consistent with the existing structure's design and with the existing structures on the block; and
 3. The changes to the exterior of the structure are found to be compatible with the applicable design guidelines and requirements.

§ 25.68.070. Post-Decision Procedures.

The procedures and requirements in Chapter 25.88 (Permit Implementation, Extensions, Modifications, and Revocations), and those related to appeals and revocation in Article 7 (Zoning Code Administration) shall apply following the decision on a major design review and minor design review application.

CHAPTER 25.70
HILLSIDE AREA CONSTRUCTION PERMITS

§ 25.70.010. Purpose.

The purpose of this chapter is to provide processes for the review of certain hillside development proposals to ensure compliance with the provisions of Section 25.20.040 (Hillside Overlay (H)) and review all construction that changes the building envelope of a structure in the hillside area that could affect existing distant views from inside structures on nearby properties.

§ 25.70.020. Applicability.

- A. The provisions of this chapter shall apply to all areas in the City located within the Hillside Overlay (H) Zone, as shown on the Zoning Map.
- B. The requirements of Chapter 25.68 (Design Review) shall apply to Hillside Area Construction Permits for such projects that trigger design review pursuant to Section 25.68.020 (Applicability and Types of Design Review).
- C. A Hillside Area Construction Permit shall be required for all new dwelling units; new accessory structures; or additions to any existing dwelling unit or accessory structure including changes in roof elevations except for the following exclusions:
 - 1. Fences that meet code requirements;
 - 2. Interior remodels;
 - 3. Accessory Dwelling Units;
 - 4. Structures that are 120 square feet or less that do not require a building permit; and
 - 5. Filling in of interior courtyard spaces that do not result in expansions to the exterior perimeter of the building or result in an increase to the overall building height.

§ 25.70.030. Application Filing.

- A. Hillside Area Construction Permit. A Hillside Area Construction Permit application shall be filed and processed in compliance with Section 25.68.050 (Application Filing). The application shall include the information and materials specified in the most up- to-date Department handout for Hillside Area Construction Permit applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 25.70.040 (Findings), below.

§ 25.70.030. Application Review and Processing.

- A. Review. Upon making the determination that a Hillside Area Construction Permit application is complete, the Director or designee shall review the application for

consistency with any applicable design guidelines and requirements and prepare written findings indicating how the application does or does not comply with applicable design guidelines and requirements. Prior to preparing the findings and any conditions of approval, the Director may give the applicant the opportunity to revise plans to achieve compliance.

- B. Public Notice. Once the application and all supporting information and documentation have been received and the application deemed complete, notice of the application shall be given according to the provision of Chapter 25.100.020(B) (Public Hearing and Notice). The notice shall state that, unless a written request for a public hearing is received by the Community Development Department within 10 days after the date of the notice, the Director shall take action on the application.
- C. Call for Review. If a written request for a public hearing is received pursuant to subsection B above, the Director shall schedule the application for a public hearing before the Planning Commission within 45 days of the filing of the call for review in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.
- D. Director or Commission Action. The Director or the Planning Commission may deny, deny without prejudice, approve, or approve with conditions any application under this section.
- E. Story Poles. In review of the application, story poles may be required to help visualize the proposed addition or new structure and assess potential view impacts on neighboring properties. Story poles shall be installed as specified in the most up-to-date Department handout for Story Pole Installation Requirements.

§ 25.70.040. Findings.

- A. The following findings shall be made for any permit in the Hillside Overlay Zone:
 - 1. The project is consistent with the purpose of the Hillside Overlay Zone found in Section 25.20.040.A.
 - 2. The project complies with the development standards found in Section 25.20.040.B through I.
 - 3. The placement of the proposed construction does not have a substantial impact on adjacent properties or on the character of the immediate neighborhood.

CHAPTER 25.72
HOME OCCUPATION PERMITS

§ 25.72.010. Purpose and Applicability.

- A. Purpose. It is the purpose of this chapter to:
 - 1. Allow for the conduct of home occupations that are deemed incidental to, and compatible with, surrounding residential uses;
 - 2. Recognize that a residential property owner or resident has a limited right to conduct a small business from a legal residence, and that a neighbor, under normal circumstances, would not be aware of its existence;

3. Maintain the residential character of residential neighborhoods; and
 4. Prevent the use of home occupations from transforming a residential neighborhood into a commercial area.
- B. **Applicability.** No person shall commence or carry on any home occupation within the City without first having procured a permit from the Director. The Director shall issue a permit when the applicant shows that the home occupation meets all requirements of this chapter. Every home occupation shall fully comply with all City, County, and State codes, ordinances, rules, and regulations.
- C. **Permit Not Transferable.** No Home Occupation Permit shall be transferred or assigned, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.

§ 25.72.020. Business License Required.

Every home occupation permittee shall obtain and maintain a valid business license.

§ 25.72.030. Excluded Operations.

The following occupations and those considered to be of similar character by the Director shall be specifically prohibited as home occupations:

- A. Contractor's office where employees report or assemble as a part of the job for other than administrative or bookkeeping purposes; office only is permitted.
- B. Barbershop or beauty salon.
- C. Carpentry, cabinet making, and welding/metal work.
- D. Massage studio.
- E. Automobile repairing or painting.
- F. Medical clinic.
- G. Hospital.
- H. Kennel or other boarding of pets.
- I. Medical or dental offices.
- J. Any other activity or use, as determined by the Director to not be compatible with residential activities and/or to have the possibility of affecting the health or safety of residents, because of the potential for the use to create dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes.

§ 25.72.040. Application Filing, Processing, and Review.

Applications for Home Occupation Permits shall be filed, in writing, with the Director by the person who intends commencing or carrying on a home occupation. The application shall be upon forms furnished by and in the same manner prescribed by the Director. Where the applicant is not the owner of the lot on which the home occupation is proposed to be conducted, the application shall be accompanied by the written consent of the owner or his/her agent.

§ 25.72.050. Findings and Decision.

- A. Within 10 working days after the filing of an application for a Home Occupation Permit, the Director shall either issue or deny the permit and shall serve notice to the applicant. The Director's decision shall be final unless an appeal is filed pursuant to Chapter 25.98 (Appeals and Calls for Review).
- B. The Director (or the Commission on a referral or appeal) may approve a Home Occupation Permit application, with or without conditions, only if it first makes all of the following findings. Failure of the Review Authority to make all of the following findings shall result in denial of the Home Occupation Permit application.
 - 1. The proposed home occupation will be consistent with the General Plan, any applicable specific plan, and the development and design standards of the subject residential zoning district;
 - 2. The proposed home occupation shall meet all of the requirements of this section and will be located and conducted in full compliance with all of the standards specified in Chapter 25.72 (Home Occupation Permits) and all conditions imposed on the home occupation permit;
 - 3. The proposed home occupation will not be detrimental to the public convenience, health, interest, safety, or welfare, or materially injurious to the properties or improvements in the immediate vicinity; and
 - 4. The proposed home occupation will not interfere with the use or enjoyment of neighboring existing or future residential development and will not create traffic or pedestrian hazards.

§ 25.72.060. Compliance with Standards and Conditions.

- A. Compliance Required. Home occupations shall comply with the applicable locational, developmental, and operational standards identified in this section as well as any conditions imposed by the Director on the home occupation permit.
- B. Required Standards. Each home occupation shall comply with all of the following standards.
 - 1. Located Indoors. Except for such outdoor uses as teaching swimming or tennis, activities shall be confined within the primary dwelling unit or a permitted accessory structure and shall not occupy required parking, open space, or yard.
 - 2. Merchandise. Any merchandise produced on the premises or directly related to and incidental to the service offered shall not be sold directly from the premises, either at wholesale or retail, except by mail or other similar parcel shipping method.
 - 3. Storage. Equipment or materials associated with the business shall be displayed, stored, and maintained indoors and not in any required parking areas.
 - 4. Building Appearance. The exterior appearance of the building shall not be altered to accommodate the business, and the occupation shall be conducted in a manner which does not cause the premises to differ from its residential character in colors, materials, construction or lighting, or by the emission of sounds, noises, smoke, odors, vibrations, liquid or solid waste, television or radio interference, or create other nuisance.

5. Residency. All persons engaged in the conduct of a home occupation must be a resident, except that one nonresident is permitted.
6. Parking. On-site parking shall meet the standards required for the residential use.
7. Mechanical and Electrical Equipment. Only mechanical or electrical equipment incidental to a dwelling shall be maintained or installed.
8. Customer Visits. Customer visits shall be limited to daily visits typically associated with a residential use of property. In the case of instruction, such as music lessons, coaching, or tutoring, no more than six students shall be permitted at any one time unless the Director determines that additional students would not affect the use and enjoyment of surrounding properties.

§ 25.72.070. Cottage Food Operation Requirements.

- A. General. A use qualifies as a cottage food operation by meeting all the following requirements:
 1. The use is consistent with the definitions set forth in California Health and Safety Code Section 113758, as it may be amended from time to time;
 2. The owner of the cottage food operation has registered with the County of San Mateo Environmental Health Services Division;
 3. The owner of the cottage food operation has obtained a permit from the Director by meeting all requirements set forth in this section;
 4. The owner of the cottage food operation complies with subsection B, below; and
 5. The use complies with all other sections of this code, except where otherwise indicated.
- B. Cottage Food Operation Standards. A cottage food operation shall:
 1. Maintain a valid and current registration from the County of San Mateo for as long as operations continue;
 2. Produce and sell only foods on the approved food products list as promulgated by the State Public Health Officer pursuant to California Health and Safety Code Section 114365.5;
 3. Submit to inspections by local enforcement agency representatives after receipt of a consumer complaint giving rise to a suspicion that unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this section; and
 4. Operate in compliance with all applicable Federal, State, and local laws, including, but not limited to, California Health and Safety Code Sections 113758, 113789, 114021, 114023, 114088, 114365, 114390, 114405, and 114409, as they may be amended from time to time.

§ 25.72.080. Permit Expiration.

Home Occupation Permits shall immediately expire upon discontinuance of the home occupation.

§ 25.72.090. Inspections.

The Director shall have the right at any time during normal City Hall business hours, upon request, to enter and inspect the premises subject to a Home Occupation Permit in order to verify compliance with permit conditions of approval.

§ 25.72.100. Acknowledgement by Applicant.

A Home Occupation Permit shall not be valid until signed by the applicant, with the signature acknowledging the applicant's full understanding and agreement with all of the conditions, and agreement to waive any right to later challenge any conditions imposed as unfair, unnecessary, or unreasonable.

§ 25.72.110. Changes in Home Occupation.

A change in the type of home occupation activity (e.g., a change from one allowed activity to another allowed activity) conducted by the original resident/permittee shall also require a new Home Occupation Permit and business license before conducting an allowed home occupation.

CHAPTER 25.74
MINOR MODIFICATIONS

§ 25.74.010. Purpose.

The purpose of the Minor Modification process is to provide a procedure that allows for minor deviations from the development standards applicable to a property in order to promote integrated design approach and quality; respond to conditions on adjacent properties and within a neighborhood or district; and/or respond to unique conditions on a property due to topography, parcel configuration, the presence of protected trees, and natural features warranting protection.

§ 25.74.020. Applicability.

A Minor Modification application may be submitted only for the following deviations from development standards. If more than two minor deviations are requested for a subject property, the Director shall refer the application to the Planning Commission for review, with a fully noticed public hearing required.

A. R-1 and R-2 Zoning Districts.

1. A maximum increase in residential lot coverage up to 41 percent.
2. A maximum decrease in a required side or rear setback by up to 20 percent.
3. A maximum of 20 percent increase in height limit in fence and hedge requirements, except in the required front setback area, where no increase shall be permitted.
4. A maximum of 10 percent reduction in any dimension of aisles, driveways, or parking spaces.
5. Encroachment of a structure up to one foot into the required side yard setback of seven feet six inches on corner lots if the encroachment does not exceed 10 percent of the frontage and does not affect sight lines for motor vehicles, pedestrians, or cyclists, as determined by the City Engineer.

6. Encroachment by the primary structure into the required 15-foot rear setback of a one- story single-unit dwelling for up to 25 percent of the structure, provided no portion of the structure extends closer than 12 feet to the rear property line.
 7. Detached garages of 650 square feet or less and which comply with Section 25.31.020.C (Accessory Structures).
 8. A detached garage or other accessory structure, other than an accessory dwelling unit, exempt from setback restrictions, when located within the rear 40 percent of the lot;
 9. Extending an existing first floor wall which encroaches into the side setback no closer than three feet to the property line.
- B. Commercial, Mixed-Use, and Downtown Zoning Districts.
1. Increase in compact parking stalls up to 30 percent for commercial uses.

§ 25.74.030. Application Review and Processing.

- A. Review. Upon making the determination that a Minor Modification application is complete, the Director or designee shall review the application for consistency with any applicable design guidelines and requirements and prepare written findings indicating how the application does or does not comply with applicable design guidelines and requirements. Prior to preparing the findings and any conditions of approval, the Director may give the applicant the opportunity to revise plans to achieve compliance.
- B. Public Notice. Once the application and all supporting information and documentation have been received and the application deemed complete, notice of the application shall be given according to the provision of Chapter 25.100.020(B) (Public Hearing and Notice). The notice shall state that, unless a written request for a public hearing is received by the Community Development Department within 10 days after the date of the notice, the Director shall take action on the application.
- C. Call for Review. If a written request for a public hearing is received pursuant to subsection B above, the Director shall schedule the application for a public hearing before the Planning Commission within 45 days of the filing of the call for review in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.
- D. Director or Commission Action. The Director or the Planning Commission may deny, deny without prejudice, approve, or approve with conditions any application under this section.

§ 25.74.040. Findings.

In acting to approve or approve with conditions a Minor Modification application, the Director or appeal body shall be required to make the following findings, supported by written evidence.

The following findings shall be made for any Minor Modification:

- A. Is consistent with the General Plan.
- B. Will not adversely affect neighboring properties.

- C. Will not be detrimental to the health, safety, or general welfare of the persons residing or working on the site or in the vicinity.
- D. Is justified by specified environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.

CHAPTER 25.78
SPECIAL PERMIT

§ 25.78.010. Purpose and Applicability.

- A. Purpose. The Special Permit is established for the purpose of allowing the structures and development approaches specified in this chapter that are not permitted as a matter of right but which may be considered compatible and appropriate if such uses or features are designed or arranged on a site or in a structure in a particular manner and in accordance with conditions imposed by the Planning Commission.
- B. Applicability. In its review of a Special Permit application, the Commission may impose such requirements and conditions with respect to location, construction, architectural features, architectural consistency within the structure, site planning, and time limits for the special permit as it deems necessary for the protection of adjacent properties, the streetscape, the neighborhood, and the public interest. Such deviations may apply to, but not be limited to, building height, variety of roofline on a structure, daylight plane angle, façade articulation, and exterior finish materials.

§ 25.78.020. Structures and Development Approaches in the R-1 Zoning District Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the R-1 zoning district with a Special Permit:
 - 1. Attached garages for single-unit dwellings, except for replacement of an existing attached garage or for existing attached garages that are extended no more than 10 feet in length. In all cases the attached garage shall comply with the minimum required front setback requirements in Section 25.10.050 (Special Front Setback Requirements).
 - 2. Construction exceeding the limits of the declining height envelope.
 - 3. Building height exceeding 30 feet, but not to exceed 36 feet.
 - 4. A detached garage or other accessory structure, other than an accessory dwelling unit, that is in the rear of the lot and that is more than 28 feet in width or depth.
 - 5. Plate height exceeding maximum indicated in Table 25.10-2 (Residential Zoning Districts Development Standards).
 - 6. Any second-floor deck or balcony up to a maximum of 75 square feet and/or to exceed the minimum required side setback for a second-floor deck or balcony. Second-floor decks and balconies shall not be designed as viewing platforms and shall be designed to consider surrounding context, including window location of adjacent properties.
- B. Required Findings. Any decision to approve a Special Permit application in the R-1

zoning district pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:

1. The blend of mass, scale, and dominant structural characteristics of the new construction or addition are consistent with the existing structure's design and with the well-defined character of the street and neighborhood;
2. The variety of roof line, façade, exterior finish materials, and elevations of the proposed new structure or addition are consistent with the existing structure, street, and neighborhood;
3. The proposed project is consistent with the residential design guidelines adopted by the City; and
4. Removal of any trees located within the footprint of any new structure or addition is necessary and is consistent with the City's reforestation requirements, and that the mitigation for the removal that is proposed is consistent with established City policies and practices.

§ 25.78.030. Structures and Development Approaches in the R-2 Zoning District Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the R-2 zoning district with a Special Permit:
 1. Building height exceeding 30 feet, but not to exceed 36 feet.
 2. Construction exceeding the limits of the declining height envelope.
- B. Required Findings. Any decision to approve a Special Permit application in the R-2 zoning district pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
 1. The blend of mass, scale, and dominant structural characteristics of the new construction or addition are consistent with the existing structure's design and with the well-defined character of the street and neighborhood;
 2. The variety of roof line, façade, exterior finish materials, and elevations of the proposed new structure or addition are consistent with the existing structure, street, and neighborhood;
 3. The proposed project is consistent with the residential design guidelines adopted by the City; and
 4. Removal of any trees located within the footprint of any new structure or addition is necessary and is consistent with the City's reforestation requirements, and that the mitigation for the removal that is proposed is consistent with established City policies and practices.

§ 25.78.040. Structures and Development Approaches in the R-3 and R-4 Zoning Districts Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the

R-3 and R-4 zoning districts with a Special Permit:

1. Any proposal utilizing Tier 2 development standards to exceed the maximum building height. Additional building height provided in Tier 2 may only be allowed with the applicant's provision of community benefits approved by the Review Authority.
 2. Buildings exceeding maximum height limits in the R-3 zoning district within the Anita Road Overlay (Section 25.20.010) and within the Rollins Road Residential Overlay (Section 25.20.070), and in the R-4 zoning district within the R-4 Incentive Overlay (Section 25.20.060).
 3. If a circular drive is provided, a reduction of the required front setback landscaping to 45 percent of the lot area within the required front setback.
- B. Required Findings. Any decision to approve a Special Permit application in the R-3 and R-4 zoning districts pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. The proposed modification to standards respects and preserves the character of the neighborhood in which the project is located;
 2. The proposed modification to standards results in a project that is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties;
 3. The additional development capacity is consistent with General Plan goals and policies; and
 4. The project conditions of approval, a development agreement, or some other form of binding agreement will be in place to ensure provision of the required community benefits (if applicable).

§ 25.78.050. Structures and Development Approaches in the BAC, HMU, MMU, BMU, DAC, CAC, CAR, CMU and BRMU Zoning Districts Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the BAC, HMU, MMU, BMU, DAC, CAC, CAR, CMU and BRMU zoning districts with a Special Permit:
1. Buildings exceeding maximum height limits, with the exception of the HMU zoning district.
 2. Architectural features in excess of the maximum building height which do not extend more than 10 feet above the maximum height and do not occupy more than 10 percent of the roof area. The architectural features shall be reviewed as a part of the design review process outlined in Chapter 25.68 (Design Review).
- B. Required Findings. Any decision to approve a Special Permit application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. Building Height.
 - a. The proposed modification to standards respects and preserves the character

of the neighborhood in which the project is located;

- b. The proposed modification to standards results in a project that is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties; and
 - c. The additional development capacity is consistent with General Plan goals and policies.
2. Architectural Features.
- a. The architectural features enhance the overall design of the development; and
 - b. The architectural features are designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties.

§ 25.78.060. Structures and Development Approaches in the BFC, I-I, RRMU, and NBMU Zoning Districts Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the BFC, I-I, RRMU, and NBMU zoning districts with a Special Permit:
1. Any proposal in the RRMU and NBMU zoning districts utilizing Tier 2 or Tier 3 development standards to exceed the maximum building height. Additional building height provided in Tier 2 or Tier 3 may only be allowed with the applicant's provision of community benefits approved by the Review Authority.
 2. Buildings exceeding maximum height limits in the BFC and I-I zoning districts.
- B. Required Findings. Any decision to approve a Special Permit application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. The proposed modification to standards respects and preserves the character of the neighborhood in which the project is located;
 2. The proposed modification to standards results in a project that is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties; and
 3. The additional development capacity is consistent with General Plan goals and policies.

§ 25.78.070. Community Benefits in the BFC, I-I, RRMU, and NBMU Zoning Districts Requiring a Special Permit.

- A. Applicability. In the BFC, I-I, RRMU, and NBMU zoning districts, a Special Permit application is required for any proposal utilizing Tier 2 or Tier 3 development standards as provided in the respective chapter. Additional development capacity provided in Tiers 2 and 3 may only be allowed with the applicant's provision of community benefits approved by the Review Authority. The value of the benefit shall be proportional to the value of the additional development capacity provided in Tiers 2 and 3, as determined by the Review Authority.

- B. Required Findings. Any decision to approve a Special Permit application for additional development capacity as provided in Tiers 2 and 3 shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. The value of the community benefits provided is proportional to the value derived from the additional development capacity provided in Tiers 2 and 3;
 2. The additional development capacity will not pose adverse impacts on the public health, safety, and general welfare, nor on neighboring properties in particular;
 3. The additional development capacity is consistent with General Plan goals and policies; and
 4. The project conditions of approval, a development agreement, or some other form of binding agreement will be in place to ensure provision of the required community benefits.

§ 25.78.080. Review Procedures for Special Permits.

- A. Investigation by Director. Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this chapter. A staff report shall be prepared pursuant to Section 25.62.080 (Project Evaluation and Staff Reports).
- B. Notice and Hearings. A public hearing before the Planning Commission shall be required for all Special Permits in compliance with Chapter 25.100 (Public Hearings and Notice).

§ 25.78.090. Conditions of Approval.

In approving a Special Permit, the Commission, or City Council on appeal, may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with this chapter, State law, and with the findings required by this chapter. The Commission may require tangible guarantees or evidence that those conditions are being, or will be, complied with.

**CHAPTER 25.80
SPECIFIC PLANS**

§ 25.80.010. Purpose and Applicability.

- A. Purpose. This chapter provides a method for preparing, processing, reviewing, and adopting Specific Plans in compliance with California Government Code Section 65450 et seq., or as that section may be amended or replaced from time to time. In addition, this chapter provides a method for amending Specific Plans to ensure their continued effectiveness and responsiveness to market demands over time. A Specific Plan is intended to provide for flexibility in the establishment of land use regulations by allowing for innovative use of land resources and development; a variety of building, development, and housing types; land use mixes; site design; development concepts; and effective and safe pedestrian and vehicular circulation.
- B. Applicability. A Specific Plan may be prepared for any property or group of properties in the City for the purpose of implementing the General Plan. As a matter of City policy, the

Council may establish a minimum project area requirement for the preparation of a Specific Plan.

§ 25.80.020. Initiation of Specific Plans.

A Specific Plan or its amendment may be initiated in the following manner:

- A. City Council. By the majority consensus of the City Council; or
- B. Property Owner(s). By an application being filed by the owner(s) of one or more parcels, or the owner's authorized agent, that would be the subject of the Specific Plan. If the property for which a Specific Plan or Specific Plan amendment is proposed is held in multiple ownerships, all the owners or their authorized agents shall join in filing the application. If initiated by a property owner(s), a pre-application conference as specified in subsection C, below is required.
- C. Pre-Application Conference. A pre-application conference with the Director may be required before the filing of a specific plan application. The City may establish fees for the pre-application conference.
 - 1. The purpose of the pre-application conference is to allow the property owner(s) or property owner's agent to obtain information before entering into commitments requiring that the applicant incur substantial expense in the preparation of plans, surveys, and other data.
 - 2. The preliminary consultations shall include, but are not limited to, the following:
 - a. Proposed land uses to be developed within the project area;
 - b. Development concepts to be employed;
 - c. Schematic plans, illustrative material, and narrative sufficient to describe the general relationships between land uses, and the intended design character and scale of principal features; and
 - d. A preliminary time schedule for development, including quantitative data (e.g., population, building units, land use acreage, and other data) sufficient to illustrate phasing of development and potential impact on public service requirements.
 - 3. Pre-application review shall not constitute any representation on the part of the City that a Specific Plan will be prepared or approved for the property or that any other application pending or otherwise will be approved.

§ 25.80.030. Specific Plan Contents.

A Specific Plan shall contain all information required by Government Code Section 65450 et seq., as well as any additional information that may be stated on the City's application for a Specific Plan.

§ 25.80.040. Application Filing and Processing.

- A. Filing. An application for a Specific Plan or an amendment shall be filed and processed in compliance with Chapter 25.62 (Application Processing Procedures). The application shall include the information and materials specified by the most up-to-date Department handout for Specific Plan applications, together with any required fee.

- B. Investigation by Director. Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this chapter. A staff report shall be prepared pursuant to Section 25.62.080 (Project Evaluation and Staff Reports).
- C. Notice and Hearings.
 - 1. A public hearing before the Planning Commission shall be required for all Specific Plans. Noticing of the public hearing shall be given in compliance with Chapter 25.100 (Public Hearings and Notice).
 - 2. At the conclusion of the public hearing, the Commission shall indicate by resolution whether the Specific Plan or Specific Plan amendment is recommended to the Council for approval, approval in modified form, or denial.
 - 3. The Council, after receipt of the report and recommendations of the Commission, shall hold a public hearing in compliance with Chapter 25.100 (Public Hearings and Notice) to consider the Specific Plan or the Specific Plan amendment. The Council may approve, approve with modifications, or deny a proposed Specific Plan or Specific Plan amendment. Approval of the Specific Plan or Specific Plan amendment shall be by ordinance.

§ 25.80.050. Findings and Decision.

The Commission may recommend approval and the Council may approve a Specific Plan or Specific Plan amendment only if it first makes all of the following findings:

- A. The proposed Specific Plan or Specific Plan amendment is consistent with the General Plan, including its goals, policies, and implementation programs.
- B. The proposed Specific Plan or Specific Plan amendment is a desirable planning tool to implement the provisions of the General Plan.
- C. The proposed Specific Plan or Specific Plan amendment will not adversely affect the public health, safety and general welfare or result in an illogical land use pattern.
- D. In the case of a Specific Plan amendment, that the amendment will not create internal inconsistencies within the Specific Plan and is consistent with the purpose and intent of the Specific Plan it is amending.

CHAPTER 25.82
TEMPORARY USE PERMITS

§ 25.82.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to allow for short-term activities that would be compatible with adjacent and surrounding uses when conducted in compliance with this chapter.
- B. Temporary Use Defined. For purposes of this chapter, a temporary land use activity is defined as a land use that is interim, non-permanent, and/or seasonal in nature, and lasting from one to 30 days, and generally not more than 30 consecutive days in duration. Temporary uses shall consist of the following categories.

1. Exempt Temporary Uses. Exempt temporary uses, as identified in Section 25.82.020 (Exempt Temporary Uses), that do not require issuance of a temporary use permit.
2. Allowed Temporary Uses. Non-exempt temporary uses, including special events, as identified in Section 25.82.030 (Allowed Temporary Uses), that require a temporary use permit.

§ 25.82.020. Exempt Temporary Uses.

The following minor and limited duration temporary uses are exempt from the requirement for a temporary use permit. Uses that do not fall within the categories defined below shall comply with Section 25.82.030 (Allowed Temporary Uses).

- A. Construction Sites – On-site.
 1. On-site contractors' construction/storage uses in conjunction with an approved construction project on the same parcel.
 2. Security personnel may be present during non-construction hours.
 3. The construction and/or storage use shall be removed immediately upon completion of the construction project, or the expiration of the companion building permit authorizing the construction project, whichever occurs first.
- B. Emergency Facilities. Emergency public health and safety needs/land use activities, as determined by the Director.
- C. Garage and Yard Sales. Garage and yard sales (i.e., personal property sales) conducted as required by Chapter 6.22 (Merchandise Sales from Residences).
- D. Publicly Owned Property. Events that are to be conducted on publicly owned property by the government entity owning the subject property.

§ 25.82.030. Allowed Temporary Uses.

The following temporary uses shall be allowed subject to the issuance of a temporary use permit.

- A. Contractor Construction Sites – Off-site. The temporary use of a site for an off-site contractor construction, staging, or storage area(s). The permit may be effective for the duration of the construction activity or as specified in the conditions of approval.
- B. Farmers' Markets. Farmers' markets may occur under the terms established by a temporary use permit specific to that operation.
- C. Special Events.
 1. Amusement rides, arts and crafts exhibits, auctions, carnivals, circuses, concerts, fairs, festivals, flea markets, food markets/events, outdoor entertainment/sporting events, rummage sales (not garage or yard sales), and swap meets limited to 14 consecutive days or fewer, or six two-day weekends, within a 12-month period. When an annual plan is submitted to and approved by the Director, the frequency and duration of these special events may be extended.
 2. Outdoor display and sale events conducted by a retail business, including auto

dealerships, holding a valid business license issued in compliance with Municipal Code Title 6 (Business Licenses and Regulations) may be allowed a maximum of six outdoor sale events in a calendar year (excluding City-sponsored activities). Any single outdoor sale event shall be no longer than seven consecutive days in duration. When an annual plan is submitted to and approved by the Director, the frequency and duration of these special events may be extended.

3. Outdoor meetings and group activities/assemblies for seven consecutive days or fewer within a calendar year.
 4. Seasonal sales (e.g., Halloween pumpkin sales and Christmas tree sales lots), provided that the activity shall be associated with a recognized holiday and shall be held for no more than 45 consecutive days during the time period of the associated holiday.
 5. Athletic events, parades, and public assemblies occurring on or within the public rights-of-way or other publicly owned property.
 6. Car washes, limited to one event each month for each site, not exceeding two days in length, and prohibited on any property developed with a residential use. Sponsorship shall be limited to charitable, educational, fraternal, religious, schools, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.
- C. Temporary Residential Real Estate Sales Offices. One temporary real estate office, provided that:
1. The office shall be used only for the sale of residential property located on the property on which the office is located.
 2. The temporary real estate office shall be removed at the end of one year following the date of issuance of the last occupancy permit for the property on which the office is located.
 3. If any housing units on the property have not been sold at the end of the original one-year period, the Director may approve extensions for the continuation of the real estate office on a month-to-month basis.
- D. Temporary Structures. A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum period of 12 months, as an accessory use or as the first phase of a development project, on sites located within the commercial, industrial, mixed-use, and research and development zones of the City.
- E. Temporary Work Trailers.
1. A trailer or mobile home may be used as a temporary work site for employees of a business during construction or remodeling of a permanent commercial, industrial, mixed-use, or research and development structure when a valid building permit is in force, or upon demonstration by the applicant, to the satisfaction of the Director, that the temporary work site is a short-term necessity while a permanent work site is being obtained.
 2. A permit for temporary work trailer(s) may be approved for up to 12 months.

- F. Other Similar Temporary Uses. Similar temporary uses that, in the opinion of the Director, are compatible with the subject zone and surrounding land uses.

§ 25.82.040. Application Filing.

An application for a Temporary Use Permit shall be filed no less than two weeks prior to the date on which the temporary use is planned to commence. The Director may waive this time period requirement based on circumstances which prevent a timely filing.

§ 25.82.050. Action by the Director.

The Director may approve a Temporary Use Permit for a temporary use that would be operated in compliance with Section 25.82.070 (Conditions of Approval), or the Director may deny the application or defer action and refer the application to the Planning Commission for review and final decision.

§ 25.82.060. Findings and Decision.

- A. Director's Review. The Director shall review the application and shall record the decision in writing with the findings on which the decision is based.
- B. Required Findings. The Director (or the Planning Commission on a referral or appeal) may approve a Temporary Use Permit application, with or without conditions, only after first making all of the following findings:
 - 1. The operation of the requested temporary use at the location proposed and within the time period specified will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, safety, or general welfare;
 - 2. The operation of the requested temporary use will not be detrimental to adjoining properties through the creation of excessive dust, light, noise, odor, or other objectionable characteristics;
 - 3. The proposed parcel is adequate in size and shape to accommodate the temporary use without detriment to the enjoyment of other properties located adjacent to and in the vicinity of the subject parcel;
 - 4. The proposed parcel is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate;
 - 5. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director; and
 - 6. The applicant agrees in writing to comply with any and all of the conditions imposed in the approval of the temporary use permit.

§ 25.82.070. Conditions of Approval.

- A. May Impose Conditions. In approving a temporary use permit application, the Director (or the Planning Commission on a referral or appeal) may impose conditions that are deemed reasonable and necessary to ensure that the permit would be in full compliance with the findings required by Section 25.82.060 (Findings and Decision).
- B. Appropriate Conditions. The conditions may address any pertinent factors affecting the

operation of the temporary event or use, and may include, but are not limited to, the following:

1. Fixed period of time;
2. Operating hours and days;
3. Temporary pedestrian and vehicular circulation;
4. Regulation of nuisance factors;
5. Regulation of temporary structures;
6. Litter, sanitary, and medical facilities;
7. Waste collection, recycling, and/or disposal;
8. Police/security and safety measures;
9. Signs;
10. Performance bond or other security;
11. Limitations on alcoholic beverage sales; and
12. Compliance with other Municipal Code applicable provisions.

§ 25.82.080. Condition of Site Following Temporary Use.

Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use and shall continue to be used in compliance with this title.

CHAPTER 25.88

PERMIT IMPLEMENTATION, EXTENSIONS, AMENDMENTS, AND REVOCATIONS

§ 25.88.010. Purpose.

This chapter provides requirements for the implementation, or "exercising," of the permits or approvals required by this title, including time limits and procedures for approving extensions of time, modifying approved permits, and revoking permits.

§ 25.88.020. Effective Dates of Permits.

A. Discretionary Permits.

1. Design Review - Minor approval, Hillside Area Construction Permit, Home Occupation Permit, Minor Modification approval, Minor Use Permit, Reasonable Accommodation approval, or Temporary Use Permit shall become effective immediately upon expiration of any appeal or call for review period. If an appeal or call for review is filed, such permit or approval shall become effective immediately upon the final appeal or call for review decision.
2. A Conditional Use Permit, Design Review - Major approval, Special Permit, or

Variance shall become effective 10 days following the actual date the decision was rendered by the applicable Review Authority, unless an appeal is filed in compliance with Chapter 25.98 (Appeals) prior to the effective date. If an appeal is filed, such permit or approval shall become effective immediately upon rendering of the final appeal decision.

3. Denial of a request for approval, permit, or variance becomes effective the date of determination.

B. Agreements, Plans, and Zoning.

1. Council actions to adopt or amend a Development Agreement, a Specific Plan, the Zoning Code, or the Zoning Map following receipt of a recommendation from the Commission shall become effective on the 30th day following the date the ordinance is actually adopted by the Council.
2. Council actions to adopt or amend the General Plan shall become effective upon the adoption of the resolution by the Council.

§ 25.88.030. Time to Implement—Time Extensions.

- A. Time Period. To ensure continued compliance with the provisions of this title, a building permit shall be issued within 24 months following the effective date of the permit or approval, or the permit or approval shall be deemed void, unless an extension is approved in compliance with Section 25.88.030.C (Time Extensions).
- B. Reasonable Limits. Any time limit set by the applicable Review Authority shall be reasonable, based upon the size and the nature of the proposed project.
- C. Time Extensions.
 1. The Director shall have the authority to extend the period specified in subsection A, above, for up to 12 months.
 2. The applicant's written request for an extension of time shall be on file with the Department at least 30 days before expiration of the permit or approval, together with any filing fee.
 3. No public hearing shall be required. However, the Director may require a public hearing in compliance with Chapter 25.100 (Public Hearings and Notice) if deemed appropriate by the Director.
 4. In the event the Director denies the request for extension, the applicant may, within 10 days of the decision, appeal the decision in compliance with Chapter 25.98 (Appeals and Calls for Review).
 5. Findings Required. An extension of the permit or approval may be granted only if the Director first makes all of the following findings:
 - a. There have been no changes in circumstances or law that would preclude the Director from making the findings upon which the original approval was based; and
 - b. Appropriate evidence has been provided by the applicant to document that the extension is required due to a hardship that was not the result of personal action(s) undertaken by the applicant.

- D. Further Extensions Deemed New Application. An application for an extension of the permit or approval in excess of 36 months following the original date of approval (original 24 months plus up to an additional 12 months) shall be treated as a new application, unless approved through a Development Agreement or similar mechanism.
- E. Effect of Expiration. Where the permit or approval has expired and/or has been deemed void:
 - 1. No further action is required by the City;
 - 2. No further reliance may be placed on the previously approved permit or approval;
 - 3. The applicant shall have no rights previously granted under the permit or approval;
 - 4. The applicant shall file a new application(s) and obtain all required approvals before construction can commence or an allowable use may be implemented; and
 - 5. The new application(s) shall be subject to the regulations in effect at time of submittal.

§ 25.88.040. Amendments to Approvals.

- A. Permit Amendments. A permit required by this Zoning Code and approved by the Review Authority identified in Chapter 25.60 and Table 6-1: (Review Authority) may be modified or amended after approval and issuance in compliance with this section.
 - 1. An applicant shall request any desired changes to a permit or approval to the Director in writing and shall also furnish appropriate supporting materials and an explanation of the reason(s) for request.
 - 2. Requested changes to one or more conditions imposed by the Review Authority or changes to the operation, use, or physical characteristics of the project (e.g., hours of operation, expansion of a use, design etc.) as originally approved by the Review Authority may be requested.
 - 3. Changes shall not be implemented until first approved by the applicable Review Authority in compliance with this section and may be requested either before or after construction or establishment and operation of the approved use.
- B. Review Authority of Permit Amendments.
 - 1. Director Review. Except when combined with legislative actions or other non-administrative actions, the Director, or designee, is the designated Review Authority for amendments to permits identified in Section 25.60.020.A - (Administrative Permits and Actions). The Director, at the Director's sole discretion, may elevate the level of review to a higher Review Authority.
 - 2. Planning Commission Review. Except when combined with legislative actions, the Planning Commission is the designated Review Authority for amendments to permits identified in Section 25.60.020.B – (Quasi-Judicial Permits and Actions), even if the City Council was the approval body for the original permit because it was combined with a legislative action, or had an accompanying environmental document or other entitlement requiring City Council approval, or was appealed to City Council.
 - i. The Director may authorize minor amendments to permits originally approved by the Planning Commission only if the changes:
 - 1. Are consistent with the applicable provisions of this title and the spirit and

intent of the original approval; and

2. Do not involve a feature of the project that was a basis for findings in the environmental document or a specific consideration of the Planning Commission in granting the permit or approval; and
 3. Do not involve any expansion or intensification of the use or structure.
- ii. The Director may authorize minor amendments to the exterior design of a project originally approved by the Planning Commission that meet the following parameters:
1. Roof.
 - a. Changes to the roof pitch are less than one foot in height.
 - b. Changes to the roofing material that are consistent with the overall design of the project and of equal or greater quality to the original approval.
 2. Windows.
 - a. Changes in window size, shape, grid pattern, trim, material, location, and amount that are consistent with the overall design of the project and of equal or greater quality to the original approval.
 3. Exterior Materials.
 - a. Changes to exterior materials, trim, and doors that are consistent with the overall design of the project and of equal or greater quality to the original approval.
 4. Skylights. The addition or modification to skylights.
3. City Council Review. The designated Review Authority for all legislative actions is the City Council, as identified in Section 25.60.020.C – (Legislative Actions).
- C. Public Hearing and Notice. A Public Hearing is required for Permit Amendments being acted on by the Planning Commission or City Council in accordance with Chapter 25.100 – (Public Hearings). Permit Amendments shall be noticed in accordance with the requirements established in Chapter 25.100 – (Public Hearings and Notice) for the permit type being amended.
- D. Findings. The Permit Amendment is subject to and shall make the findings required for the permit type being amended as defined in this Zoning Code.

§ 25.88.050. Revocations and Suspensions.

- A. Grounds. Any permit or approval previously granted or issued under this title may be revoked or suspended on any one or more of the following grounds:
1. That the approval was obtained by fraud or misrepresentation;
 2. That the use for which such approval was granted is not being exercised;
 3. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;

4. That the conditional use permit or variance is being, or has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or other regulation; and
 5. That the use for which approval was granted was so exercised as to be detrimental to the public health, safety, or welfare or so as to constitute a nuisance.
- B. Notice. Written notice to revoke or modify a permit or approval shall be served on the permittee and property owner, as shown on the last equalized assessment roll, either personally or by form providing proof of delivery, and shall state:
1. The reasons for the proposed revocation, suspension, or modification; and
 2. That the proposed action will be taken by the Director unless a hearing before the Planning Commission is requested within 15 days after the date of the notice. If no response is received, the Director shall forthwith revoke, suspend or modify the variance or permit as set forth in the notice.
- C. Hearing. If a hearing is requested, at least 10 days' notice shall be given to the requested party. At any such hearing, the permittee or property owner shall be given the opportunity to be heard, and he or she may call witnesses and present evidence in his or her behalf. Upon conclusion of such hearing, the Planning Commission shall determine whether or not the permit or approval shall be suspended or revoked. Such determination may be appealed to the Council.

§ 25.88.060. Findings to Revoke or Suspend.

In acting to revoke or suspend a permit or approval, the Review Authority shall make the following findings:

- A. Circumstances under which the permit or approval was granted have been changed by the applicant to a degree that one or more of the findings required to grant the original permit or approval can no longer be made;
- B. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony;
- C. One or more conditions of approval have been violated, or have not been complied with or fulfilled;
- D. Failure or refusal to allow inspections for compliance; or
- E. Improvements authorized by the permit or approval are in violation of any code, law, ordinance, regulation, or statute, or the use or structure is being operated or maintained in a manner which constitutes a nuisance.

SECTION NINE. ARTICLE 7 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE, EXCLUDING CHAPTERS 25.102 AND 25.103

Article 7 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following, excluding Chapters 25.102 and 25.103.

**Article 7
Zoning Code Administration**

**CHAPTER 25.94
ADMINISTRATIVE RESPONSIBILITY**

§ 25.94.010. Purpose.

This chapter describes the authority and responsibilities of the City Council, Planning Commission, Director of Community Development, and Community Development Department Planning Division staff in the administration of this Title 25.

§ 25.94.020. Planning Agency Defined.

The Planning Commission, the Director of Community Development, and the Community Development Department Planning Division staff shall function as the Planning Agency and as the Advisory Agency, when so required or authorized, in compliance with California Government Code Section 65100.

§ 25.94.030. City Council.

The City Council, referred to in this Title 25 as the Council, in matters related to the City's planning process shall perform the duties and functions prescribed in this title, which include the following:

- A. Review Authority on Specified Legislative Planning Matters. Final legislative decisions on development agreements and amendments, Zoning Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, related California Environmental Quality Act (CEQA) environmental documents, and other applicable policy or Zoning Code matters related to the City's planning processes.
- B. Appeals. The review of appeals filed from Commission decisions.
- C. Compliance. The functions listed above shall be performed in compliance with Table 6-1 (Review Authority) and CEQA.
- D. Imposition of Conditions. In making decisions on applications, the Council may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, and the Municipal Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

§ 25.94.040. Planning Commission.

The Planning Commission, referred to in this Title 25 as Commission, shall be established and have the powers and duties set forth in Chapter 3.40 (Planning Commission) of the Municipal Code.

§ 25.94.050. Clerk to Keep Record of Recommendations and Orders.

The City Clerk shall keep and maintain a record of all recommendations of the Commission and of all orders made by the Commission and Council.

§ 25.94.060. Director.

- A. Appointment. The Community Development Director, referred to in this Title 25 as the Director, shall be appointed by the City Manager.
- B. Duties and Authority. The Director shall:
 - 1. Have the responsibility to perform all of the functions designated by State law;
 - 2. Perform the duties and functions prescribed in this Title 25, including Table 6-1 (Review Authority), California Government Code Section 65901 et seq., and CEQA;
 - 3. Have the authority to defer action on an application and refer the request to the Commission for consideration and final action;
 - 4. Perform other responsibilities assigned by the Council, Commission, or City Manager; and
 - 5. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- C. Imposition of Conditions. In making decisions on applications, the Director may impose conditions the Director deems reasonable and necessary to implement the General Plan, any applicable specific plans, and the Municipal Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

CHAPTER 25.96

AMENDMENTS TO THE ZONING CODE, ZONING MAP, AND GENERAL PLAN

§ 25.96.010. Purpose.

This chapter provides procedures for the amendment of this Zoning Code, the Official Zoning Map, and the General Plan whenever the Council determines public necessity and general welfare require an amendment.

§ 25.96.020. Initiation of Amendment.

- A. Who May Initiate. Upon application of any property owner, or on the initiative of a majority of the Commission or the Council, land within the City may be classified within a zoning district, or reclassified from one zoning district to another, in the manner provided in this chapter.
- B. No Obligation to Consider Formally. An application for a General Plan or Zoning Map amendment shall be construed as a suggestion only. The City shall not be required to hold any public hearings merely because an application has been filed. The Council shall have the authority to indicate whether an application for an amendment may be accepted.

§ 25.96.030. Processing, Notice, and Hearings.

- A. Application Filing and Processing.
 - 1. If initiated by the filing of an amendment application in compliance with Section 25.96.020 (Initiation of Amendment), the application shall be processed in compliance with Chapter 25.62 (Application Processing Procedures).
 - 2. The application shall include the information and materials specified in the Department handout for amendment applications, together with the required fee in compliance with the Council's fee schedule.
 - 3. It shall be the responsibility of the applicant to provide evidence in support of the findings required by Section 25.96.060 (Findings and Decision).
- B. Timing of General Plan Amendments. The mandatory elements of the General Plan may be amended up to four times in a single calendar year, as authorized by and subject to the provisions of California Government Code Section 65358.
- C. Public Hearings Required. The Commission and Council shall each conduct one or more public hearings regarding the amendment.
- D. Notice and Hearing. Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice) and as specified in Government Code Sections 65353, 65355, 65854, and 65856.

§ 25.96.040. Commission's Action on Amendment.

- A. Recommendation to Council.
 - 1. All Amendments. After a public hearing, the Commission shall forward a written recommendation, and reasons for the recommendation, to the Council whether to approve, approve in modified form, or deny the proposed amendment, based on the findings identified in Section 25.96.060 (Findings and Decision), below.
 - 2. Recommendation for Approval of Zoning Code or Zoning Map Amendments. A recommendation for approval or approval in modified form of a Zoning Code or Zoning Map amendment shall require only a majority vote of the Commission.
 - 3. Recommendation for Approval of General Plan Amendments. A recommendation for approval or approval in modified form of a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members of the Commission in compliance with Government Code Section 65354.
 - 4. Recommendation for Denial. A recommendation against the proposed amendment shall require only a majority vote.

§ 25.96.050. Council's Action on Amendment.

- A. Approval.
 - 1. All Amendments. Upon receipt of the Commission's recommendation to approve or approve in modified form a proposed amendment, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment based on the findings identified in Section 25.96.060 (Findings and Decision), below.

2. Approval of Zoning Code or Zoning Map amendments. The action by the Council to approve the Commission's recommendation regarding a Zoning Code or Zoning Map amendment shall be by a majority vote of the members present, adopted by ordinance, and shall be final and conclusive.
3. Approval of General Plan Amendments. The action by the Council to approve the Commission's recommendation regarding a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members in compliance with Government Code Section 65356, adopted by resolution, and shall be final and conclusive.

B. Referral to Commission.

1. If the Council proposes to adopt a substantial modification(s) to the amendment not previously considered by the Commission, the proposed modification shall be first referred to the Commission for its recommendation in compliance with Government Code Sections 65356 and 65857.
2. Failure of the Commission to report back to the Council within the time limits identified in Government Code Sections 65356 and 65857 following the referral shall be deemed approval by the Commission of the proposed modification(s).

§ 25.96.060. Findings and Decision.

An amendment to this Zoning Code, the Official Zoning Map or the General Plan may be approved only if all the following findings are first made, as applicable to the type of amendment.

A. Findings for General Plan Amendments.

1. The amendment is internally consistent with all other provisions of the General Plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
3. The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography; is suitable in terms of the provision of public and emergency vehicle access and public services and utilities; and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate to ensure that the proposed use(s) and/ or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

B. Findings for Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable specific plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code; and
4. Specific to Zoning Map amendments, the affected site is physically suitable in terms

of design, location, operating characteristics, shape, size, topography; is suitable in terms of the provision of public and emergency vehicle access and public services and utilities; and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

§ 25.96.070. Prezoning Annexations.

- A. Prezoning Required. Before the annexation to the City of any property, the sponsor of any annexation shall file an application for prezoning of the subject property to be annexed, and the City shall establish the zoning district(s) which will be in effect on the effective date of the annexation.
- B. Same as Zoning Map Amendments. The process for prezoning property to be annexed to the City shall be the same as is specified in this chapter for Zoning Map amendments.
- C. Compliance with Plans. The zoning shall be in compliance with the General Plan and any applicable specific plan.
- D. Prezoning.
 - 1. Any property lying outside the corporate limits of the City but adjacent to and within its sphere of influence may be prezoned with a City zoning district in compliance with Government Code Section 65859 and this chapter.
 - 2. If any property has been prezoned in this manner, the assigned zoning district shall become effective at the same time the annexation of the property becomes effective.

§ 25.96.080. Effective Dates.

- A. General Plan. A General Plan amendment shall become effective immediately upon the adoption of a resolution by the Council.
- B. Zoning Code and Zoning Map. A Zoning Code or Zoning Map amendment shall become effective on the 31st day following the adoption of an ordinance by the Council.

CHAPTER 25.98
APPEALS AND CALLS FOR REVIEW

§ 25.98.010. Purpose.

This chapter establishes procedures for the appeal of determinations and decisions rendered by the Commission and Director, and for calls for review.

§ 25.98.020. Appeal and Calls for Review Subjects and Jurisdiction.

- A. Administrative Permits and Actions. Administrative permits and actions, as defined in Section 25.60.020.A (Administrative Permits and Actions), may be appealed or called for review to the Commission pursuant to Chapter 25.60 (General Provisions).

- B. Quasi-Judicial Permits and Actions. Quasi-judicial permits and actions, as defined in Section 25.60.020.B (Quasi-Judicial Permits and Actions), may be appealed to the Council.
- C. Legislative Actions. When the Commission recommends denial of an application to amend the Zoning Code, Zoning Map, or General Plan, such action is automatically forwarded to the Council for action; no appeal is required.
- D. Enforcement Actions. Appeal of enforcement actions relating to violations of this Title 25 shall follow the procedures found in Title 1 of the Burlingame Municipal Code.

§ 25.98.030. Filing and Processing of Appeals and Calls for Review.

- A. Eligibility.
 - 1. Who May Appeal. An appeal or call for review in compliance with this chapter may be filed by any aggrieved person, except that in the case of a decision on a quasi-judicial permit or action, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of his/her concerns before the hearing.
 - 2. Call for Review on Administrative Permits.
 - a. Any person may request a call for review by the Planning Commission for any administrative permit application pursuant to Article 6. Such call for review shall be provided in writing and shall be accompanied by payment of any required fee.
 - b. The following permits are subject to a call for review:
 - i. Design Review - Minor;
 - ii. Hillside Area Construction Permit;
 - iii. Minor Modifications - two or fewer;
 - iv. Minor Use Permit;
 - v. Administrative Use Permit.
 - 3. Appeal by Commissioners and Councilmembers.
 - a. Any Commissioner may initiate an appeal of a Director's determination or decision by filing a written request with the Department before the effective date of the action.
 - b. Any Council member may initiate an appeal of a Commission's or Director's determination or decision by filing a written request with the City Clerk before the effective date of the action.
 - c. No fees are required.
 - d. When an item is appealed by a Councilmember or Commissioner, the Councilmember or Commissioner who filed the written request shall act as the

appellant in the appeal hearing and shall not render a decision on the item under review or count toward the quorum for purposes of the appeal.

4. Limitations on Denial by the Commission. If an application has been denied by the Commission, or if an application or a portion thereof is approved, an appeal may be made by the applicant or any interested person.

B. Timing and Form of Appeal or Call for Review.

1. Contents of Appeal. An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal. The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous Review Authority in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.
2. Contents of Call for Review. A Call for Review shall be submitted in writing to the Community Development Department requesting a public hearing.
3. Appeal to Be Filed Within 10 Days. An appeal shall be filed with the Department or City Clerk, as applicable, within 10 calendar days following the actual date the decision was rendered. If the 10th day is a holiday, the appeal period shall be extended to the next business day.
 - a. Appeals addressed to the Commission shall be filed with the Department.
 - b. Appeals addressed to the Council shall be filed with the City Clerk.
4. Call for Review to Be Filed Within 10 Days. A call for review of a proposed Director action shall be filed with the Department within 10 calendar days of the date stated on the notice. If the 10th day is a holiday, the appeal period shall be extended to the next business day.
5. Filing Fee. The appeal or call for review shall be accompanied by the filing fee identified in the planning fee schedule, except for appeals filed by a member of the Commission or Council. The filing fee shall not be refundable following the end of the time period in which an appeal may be filed.
6. Suspension of Action. Once an appeal or call for review is filed, any action on the associated project is suspended until the appeal or call for review is processed and a final decision is rendered by the applicable Review Authority.
7. Withdrawal of an Appeal or Call for Review. Any person who has filed an appeal or call for review may withdraw such appeal or call for review prior to the posting of the meeting agenda. If the item has been scheduled for public hearing, the Commission or Council must place the item on the agenda for consideration.

C. Scheduling of Hearing.

1. When an appeal or call for review has been filed, the Director shall schedule the matter for a public hearing by the appropriate Review Authority identified in Table 6-1 (Review Authority) within 45 days of the filing of the appeal or call for review.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice).

3. Any interested party may appear and be heard regarding the appeal or call for review.

D. Decision.

1. The appeal hearing shall be de novo, and the issues that may be raised and considered by the Review Authority are not limited to those raised by the appellant, and may include any aspect of the proposed project, whether or not originally considered as part of the decision being appealed.
2. The Review Authority may:
 - a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with this title; or
 - b. Adopt additional conditions of approval which may address issues or concerns related to and/or other than the subject of the appeal.
3. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission, as applicable, for further consideration.
4. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.
5. Provision of Notice of Decision.
 - a. Following the final decision on an application for a permit or other approval required by this title, the City shall provide notice of its final decision to the appellant, applicant, property owner/owner's representative, and to any person who specifically requested notice of the City's final action.
 - b. The notice of the final decision shall contain applicable findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

E. Effect of Decision.

1. The determination and order of the Commission or, if an appeal is heard under the foregoing provisions, the determination and order of the Council, is final and conclusive upon the applicant.
2. No same or similar application with reference to the same premises shall be filed for a period of one year from the date of the order.
3. Final action by the applicable Review Authority shall be effective in compliance with the provisions of Section 25.88.020 (Effective Dates of Permits) if no additional appeals are filed in compliance with this chapter.

CHAPTER 25.100
PUBLIC HEARINGS AND NOTICE

§ 25.100.010. Purpose.

This chapter provides procedures for public hearings required by this title. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this chapter.

§ 25.100.020. Notice of Hearing.

When this title requires a noticed public hearing before a decision on a permit or for another matter, the public shall be provided notice of the hearing in compliance with California Government Code Sections 65090, 65091, 65094 and 66451.3, and California Public Resources Code 21000 et seq., and as required by this chapter.

- A. Content of Notice. Notice of a public hearing shall include all of the following information, as applicable.
 - 1. Hearing Information. The date, time, and place of the hearing and the name of the Review Authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number, street address, and email address of the Department where an interested person could call or visit to obtain additional information.
 - 2. Project Information. A general explanation of the matter to be considered and a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.
 - 3. Statement on Environmental Document. If a proposed Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, the hearing notice shall include a statement that the Review Authority will also consider approval of the proposed Negative Declaration or Mitigated Negative Declaration, or certification of the final Environmental Impact Report, as applicable.
- B. Method of Notice Distribution. Notice of a public hearing or any noticing requirement required by Article 6 for a planning approval shall be given as follows, as required by Government Code Sections 65090, 65091, and 65854.
 - 1. Mailing. Notice shall be mailed or delivered to the following at least 10 days before the scheduled hearing, or for other noticing requirements:
 - a. Project Site Owner(s) and the Applicant. The owner(s) of the property being considered in the application or the owner's authorized agent, and the applicant.
 - b. Local Agencies. Each local agency expected to provide roads, schools, sewage, streets, water, or other essential facilities or services to the property which is the subject of the application, whose ability to provide those facilities and services may be significantly affected.
 - c. Affected Owners. All owners of real property, as shown on the latest adopted tax roll of the County, located within a radius as defined below of the exterior

boundaries of the parcel that is the subject of the hearing or noticing requirement pursuant to Article 6 (Permit Processing Procedures).

- i. 500-Foot Radius Required.
 - (A) All legislative actions pursuant to Table 6-1 (Review Authority);
 - (B) Any commercial, industrial, or institutional development exceeding 10,000 square feet of construction, whether new construction or addition to existing development;
 - (C) Any attached residential development consisting of five or more units; and
 - (D) Any combination of (B) and (C) above.
- ii. 300-Foot Radius Required. All planning permits and approvals and all administrative and ministerial actions pursuant to Table 6-1, except for those specified in subsections B.1.c.i and iii, and any permits pursuant to subsection B.1.c.iii that are called for review or appealed to the Commission.
- iii. 100-Foot Radius Required.
 - (A) Administrative Use Permits;
 - (B) Design Review- Minor;
 - (C) Minor Modifications - two or fewer;
 - (D) Hillside Area Construction Permits;
 - (E) Master Sign Programs;
 - (F) Minor Use Permits.
- iv. No Radius Notification Required. Appeals of interpretations of the Zoning Code, home occupation permits, reasonable accommodation approvals, sign permits, and temporary use permits do not require noticing of affected owners.
- d. Persons Requesting Notice. Any person who has filed a written request for notice with the Director and has paid the required fee for the notice.
- e. Other Person(s). Any other person(s), whose property might, in the judgment of the Director, be affected by the proposed project.

§ 25.100.030. Scheduling of Hearing.

After the completion of any environmental document required by CEQA and a Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda (Director, Commission, or Council, as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

§ 25.100.040. Hearing Procedure.

- A. Time and Place of Hearing. A hearing shall be held at the date, time, and place for which notice was given.
- B. Continued Hearing. Any hearing may be continued from time to time without further notice, provided the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- C. Deferral of Final Decision. The Review Authority may announce a tentative decision and defer action on a final decision until appropriate findings and/or conditions have been prepared.

§ 25.100.050. Recommendation by Commission.

After a public hearing on a proposed Specific Plan or amendment, or an amendment to this Zoning Code, the General Plan, or the Zoning Map, the recommendation and findings of the Commission and the minutes of the Commission meeting shall be forwarded to the Council.

§ 25.100.060. Decision and Notice.

- A. Decision.
 - 1. The Review Authority may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing or defer action and continue the matter to a later meeting agenda in compliance with Section 25.100.040 (Hearing Procedure), above.
 - 2. The decision of the Council on any matter shall be final and conclusive.
- B. Notice of Decision.
 - 1. Provision of Notice. Following the final decision on an application for a permit or other approval required by this title, the City shall provide notice of its final action to the applicant, property owner/owner's representative, and to any person who specifically requested notice of the City's final action.
 - 2. Contents of Notice. The notice of the final decision shall contain applicable findings, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City, and the procedure for appeal.

§ 25.100.070. Effective Date of Decision.

Final action by the applicable Review Authority shall be effective in compliance with the provisions of Section 25.88.020 (Effective Dates of Permits), if no additional appeals are filed in compliance with Chapter 25.98 (Appeals).

CHAPTER 25.104
DEVELOPMENT AGREEMENTS

§ 25.104.010. Citation and Authority.

This chapter is adopted in accordance with California Government Code Section 65867.

§ 25.104.020. Purpose.

- A. The purpose of this chapter is to strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development by providing an option to both the City and developers to enter into development agreements.
- B. In defining the provisions of any development agreement executed in compliance with this section, each provision shall be consistent with the language of this section, State law and the agreement itself. Should any discrepancies between the meaning of these documents arise, reference shall be made to the following documents, and in the following order of precedence:
 - 1. The provisions of Federal or State law;
 - 2. The plain terms of the development agreement itself; and
 - 3. The provisions of this section.

§ 25.104.030. Applicability.

The procedures and requirements set forth in this chapter shall apply to all development agreements proposed by developers and entered into by the City Council.

§ 25.104.040. Forms, Information and Fees.

- A. A person having a legal or equitable interest in real property may apply for a development agreement. The Community Development Director shall prescribe the application form for development agreements.
- B. The City may require an applicant to submit such information and supporting data as the Community Development Director considers necessary to process the application.
- C. Each application shall be accompanied by the key terms of the development agreement proposed by the applicant.
- D. The applicant shall reimburse the City for all its reasonable and actual costs, fees, and expenses, including legal counsel and special counsel fees, for preparation and review of an application for a development agreement. This reimbursement includes the applicant reimbursing the City for all its reasonable and actual costs, fees and expenses, including legal counsel and special counsel fees, incurred in the negotiation of the development agreement. The City Council may by resolution fix the schedule of fees and charges imposed for the filing and processing of each development agreement application and negotiation, and for the annual review.

§ 25.104.050. Review of Application.

- A. The Community Development Director shall review the application and determine any additional information necessary to process the application. After the required information is received, a staff report and recommendation shall be prepared and shall state whether or not the agreement, as proposed or in an amended form, would be consistent with the General Plan and any applicable specific plan and shall describe the public benefits provided by the proposed agreement.
- B. Dependent upon policy implications, unique or unusual circumstances, the size of the project, or other factors determined by the Community Development Director to be significant enough to warrant additional review and engagement, the Community Development Director shall have the discretion to require a Planning Commission study session, public workshop and/or another public vetting opportunity prior to the public hearings on the development application.

§ 25.104.060. Notice of Public Hearing.

- A. The timing and manner of giving notice of public hearings on the development agreement shall be as prescribed in California Government Code Section 65867.
- B. The notice to consider adoption of the development agreement shall contain:
 - 1. The time and place of the hearing;
 - 2. A general explanation of the matter to be considered, including a general description of the area to be affected; and
 - 3. Other information required by law or which the Community Development Director considers necessary or desirable.

§ 25.104.070. Review by Planning Commission.

- A. The Planning Commission shall hold a public hearing on the development agreement and shall make a written recommendation to the City Council.
- B. The Planning Commission's recommendation shall include a determination whether or not the proposed development agreement:
 - 1. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan; and
 - 2. Is consistent with the zoning and other land use regulations applicable to the property.

§ 25.104.080. Decision by City Council.

- A. The City Council shall hold a public hearing, after which it may accept, modify or disapprove the recommendation of the Planning Commission.
- B. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and any applicable specific plan and are consistent with the zoning and other land use regulations applicable to the property.

§ 25.104.090. Approval of Development Agreement.

If the City Council approves the development agreement, it shall do so by the adoption of an ordinance. The agreement takes effect upon the effective date of the ordinance, unless the ordinance specifies a later date.

§ 25.104.100. Amendment or Cancellation.

- A. The parties may mutually agree to amend or cancel in whole or in part the development agreement previously entered into.
- B. The procedure for proposing and adopting an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement.

§ 25.104.110. Recordation.

- A. Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the county recorder.
- B. If the parties to the agreement amend or cancel the agreement as provided in Section 25.104.110 or modify or terminate the agreement as prescribed in Section 25.104.140 for failure of the applicant or its successor in interest to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

§ 25.104.120. Periodic Review.

- A. The City shall review the development agreement annually. It is the applicant's or the applicant's successor in interest's responsibility to apply in a timely fashion for the annual review and pay any applicable review fees. The applicant or its successor in interest is responsible for submitting substantial evidence of good faith compliance with the development agreement with the application for annual review. The date for the annual review may be modified either by agreement between the parties or at the City's initiation, upon recommendation of the Community Development Director, and by an affirmative vote of a majority of the City Council.
- B. The Community Development Director shall give notice to the applicant or its successor in interest that the City intends to undertake the review of the development agreement. Notice shall be given at least 10 days in advance of the time at which the matter will be considered by the City Council.
- C. The City Council shall conduct a public hearing to determine whether the applicant or its successor in interest is in good faith compliance with the terms of the agreement. The burden of proof, by substantial evidence, of good faith compliance shall be upon the applicant or its successor in interest.
- D. The City Council shall determine, based on substantial evidence, whether or not the applicant or its successor in interest has, for the period under review, complied in good faith with the terms and conditions of the agreement.
- E. If the City Council determines, based on substantial evidence, that the applicant or its successor in interest has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

- F. If the City Council determines, based on substantial evidence, that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may terminate or modify the agreement as provided in Section 25.104.140.

§ 25.104.130. Modification or Termination.

- A. If the City Council determines, based upon substantial evidence, that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may terminate or modify the agreement as provided in this section.
1. Before modifying or terminating the agreement, the City shall give notice to the applicant or its successor in interest containing:
 - a. The time and place of the hearing;
 - b. A statement as to whether the City proposes to terminate or to modify the development agreement; and
 - c. Other information which the City considers necessary to inform the applicant or its successor in interest of the nature of the proceedings.
 2. At the time and place set for the hearing on modification or termination, the applicant or its successor in interest shall be given an opportunity to be heard.
 3. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation.
 4. The City Council may impose those conditions to the action it takes as it considers necessary to protect the public health, safety, or welfare. The decision of the City Council is final.

SECTION TEN. ARTICLE 8 OF TITLE 25 OF THE BURLINGAME MUNICIPAL CODE

Article 8 of Title 25 of the Burlingame Municipal Code is replaced in its entirety with the following.

Article 8 Definitions

CHAPTER 25.105

PURPOSE

§ 25.105.010. Purpose and Applicability.

This article provides definitions of the technical and other terms and phrases used in Title 25 (Zoning) as a means of providing consistency in its interpretation. Where any definition in this article may conflict with definitions in other titles of the Municipal Code, these definitions shall prevail for the purposes of this Zoning Code, except as may otherwise be specified. If a word is not defined in this chapter or in other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

§ 25.105.020. Organization.

This article is subdivided into the following chapters:

- A. Chapter 25.106 (Land Use Definitions) applies to land uses and activities identified in Tables 25.10-1 (Residential Zoning Districts Use Regulations), 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations), 25.14-1 (Mixed-Use Zoning Districts Use Regulations), 25.16-1 (Downtown Zoning Districts Use Regulations), and 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations).
- B. Chapter 25.108 (General Definitions) applies to all other terms used in Title 25.

CHAPTER 25.106

LAND USE DEFINITIONS

§ 25.106.010. Purpose and Applicability.

The definitions in this chapter apply to land uses and activities identified in Tables 25.10-1 (Residential Zoning Districts Use Regulations), 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations), 25.14-1 (Mixed-Use Zoning Districts Use Regulations), 25.16-1 (Downtown Zoning Districts Use Regulations), and 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations).

§ 25.106.020. "A" Definitions.

Accessory Dwelling Unit (ADU). As defined in Section 25.48.030 (Accessory Dwelling Units) of this title.

Accessory Use. See "Use, Accessory."

Adult Entertainment Uses. Any establishment which as a regular or substantial course of conduct performs or operates as an adult bookstore, merchandise, or video store, adult theater, adult motion picture theater, adult cabaret, adult model studio, adult hotel/motel, or any other business establishment which as a regular and substantial course of conduct offers

to its patrons products, merchandise, services or entertainment characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts. "Adult-oriented business" does not include those uses or activities, the regulation of which is preempted by State law. "Adult-oriented business" shall also include any establishment which, as a regular or substantial course of conduct, provides or allows performers, models, actors, actresses or employees to appear in any place in lingerie or similar attire which does not opaquely cover specified anatomical parts.

Air Courier, Terminal, and Freight, Services. Transportation facilities for handling freight, with or without storage and maintenance facilities. This classification does not include local messenger and local delivery services.

Animal Care Services

- A. Kennel. The commercial provision of shelter/kenneling for dogs, cats, other household animals, and horses (where allowed), including activities associated with such shelter (e.g., feeding, exercising, grooming, and incidental medical care).
- B. Grooming. The commercial provision of bathing and trimming services for dogs, cats, and other household animals permitted by the Municipal Code. Overnight boarding is not included with this use (see "Kennel").
- C. Pet Hotel. A business that primarily provides supervised care for overnight and extended indoor boarding facilities that mimic a home or hotel setting for dogs, cats, and other domestic animals. Ancillary services include training, spa and grooming treatments, and day care in supervised group indoor and/or outdoor play areas. Facilities include operational means and/or sound attenuation measures to diminish perceived odors and sound.
- D. Veterinarian. Establishments where household animals receive medical and surgical treatment and may be temporarily boarded (more than one-night stay) in association with such medical or surgical treatment. Short-term animal boarding may be provided as an accessory use.

Assembly Facilities

- A. Community Assembly Facility. A facility for public or private meetings, including community centers, banquet centers, religious assembly facilities, civic and private auditoriums, union halls, meeting halls for clubs, and other membership organizations. This classification includes functionally related facilities for the use of members and attendees such as kitchens, multi-purpose rooms, classrooms and storage. It does not include gymnasiums or other sports facilities that represent more than 20 percent of overall square footage, convention centers, or facilities, such as day care centers and schools that are separately classified and regulated.
- B. Religious Assembly Facilities. Any facility specifically designed and used to accommodate the gathering of persons for the purposes of fellowship, worship, or similar conduct of religious practices and activities. This definition includes functionally related internal facilities (i.e., kitchens, multi-purpose rooms, storage, etc.) and residences for clergy. Other establishments maintained by religious organizations, including full-time educational institutions, hospitals and other related operations, are classified according to their respective activities.

Auto Repair. See "Vehicle Services and Repair."

Auto Sales. See "Vehicle Sales."

Auto Rentals. See "Vehicle Services and Repair, Vehicle Rentals."

§ 25.106.030. "B" Definitions.

Banks and Financial Institutions. A bank, savings and loan, credit union, or other financial institution that provides retail banking services to individuals and businesses. These uses include only those institutions engaged in the on-site circulation of cash money. This classification does not include "Check Cashing and Pay Day Loan Establishments."

Bars, Taverns. See "Eating and Drinking Establishments, Bars and Taverns."

Bed and Breakfast. A building or group of buildings providing 15 or fewer bedrooms or suites that are rented for overnight lodging for payment for periods of fewer than 30 consecutive calendar days, with a common eating area for guests and where meals may be provided. This use classification does not include hotels and motels (see "Hotels and Motels") or hostels (see "Hostels").

Boarding House. See "Communal Housing."

Breweries, Distilleries, Wineries. An establishment which produces ales, beers, meads, hard ciders, wine, liquor and/or similar beverages on-site. Also includes incidental sale of beverages for on-site and off-site consumption in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). Establishments may provide food service that is subordinate to the production and sale of alcoholic beverages.

Building Materials and Contractor Services. Establishments providing goods and services to contractors and individuals and carrying a full line of building materials, appurtenances and decorator items (including hardware, plumbing, electrical, heating, air-conditioning, or building supplies, tools and equipment, plants and garden products, patio furniture, swimming pools, spas, and hot tubs, lighting fixtures and cabinets, paint, carpeting, floor coverings or wallpaper) to facilitate the improvement, rehabilitation and maintenance of individual dwellings. All merchandise other than plants is kept within an enclosed building or fully screened enclosure and fertilizer, soil, soil amendments are stored and sold in package form only. Tools may be available for rent.

Business Services. Establishments providing goods and services to other businesses and individuals on a fee or contract basis, including printing and copying, advertising and mailing, equipment rental and leasing, office security, custodial services, photo finishing, including associated delivery services with two or fewer fleet vehicles on site.

§ 25.106.040. "C" Definitions.

Caretaker Quarters. A permanent residence that is secondary or accessory to the primary use of the property, and used for housing a caretaker employed on the site of any nonresidential use where needed for security purposes or to provide 24-hour care or monitoring of people, animals, equipment, or other conditions on the site.

Check Cashing and Pay Day Loan Establishments. A commercial land use that generally includes some or all of a variety of financial services, including cashing of checks, warrants, drafts, money orders, or other commercial paper serving the same purpose; deferred deposit of personal checks whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement; money transfers; payday advances; issuance of money orders; making consumer or auto-title loans; and similar uses. This category does not include State or Federally chartered banks, savings associations, credit unions, or industrial loan companies. It also does not include retail sellers that are primarily engaged in the business of selling consumer goods, such as consumables to retail buyers, and that cashes checks or issues money orders as a service to its customers (for a fee not exceeding two dollars) incidental to their main purpose or business.

Commercial Recreation, Large Scale. A facility or establishment with a gross floor area of more than 5,000 square feet that provides indoor or outdoor recreational activities or entertainment for the general public or members, operated for profit or nonprofit. Examples may include, but are not limited to, amusement and theme parks, swimming pools, fitness studios, dance studios, arcades, escape rooms, climbing gyms, or similar uses. This classification may include snack bars and other incidental food and beverage services to patrons.

Commercial Recreation, Small Scale. A facility or establishment with a gross floor area of 5,000 square feet or less that provides indoor or outdoor recreational activities or entertainment for the general public or members, operated for profit or nonprofit. Examples may include, but are not limited to, fitness studios, martial arts, yoga, pilates, dance studios, arcades, escape rooms, climbing gyms, or similar uses.

Communal Housing. Shared living quarters without separate kitchen facilities for each room or unit, where five or more rooms or beds are rented individually to tenants under separate rental agreements, with or without meal service included. This classification includes convents and monasteries, rooming and boarding houses, dormitories and other types of organizational housing intended for long-term occupancy (more than 30 consecutive calendar days) but excludes "Lodging and Similar Uses," and "Residential Care Facilities," "Supportive Housing," and "Transitional Housing."

Community Assembly Facility. See "Assembly, Community Assembly Facility."

Community Open Space. Usable open space areas including plazas and parks that may be privately or publicly owned but which are open and available for public use.

Convenience Store. See "Food and Beverage Sales, Convenience Store." Corner Store Retail. See "Retail Stores, Limited Corner Store."

Cottage Food Operation. A use located within a dwelling where certain low-risk food products that do not require refrigeration are made and sold, and as defined in Section 113758 of the California Health and Safety Code.

§ 25.106.050. "D" Definitions.

Day Care Center. Establishments providing non-medical care for persons on a less than 24-hour basis other than "Family Day Care, Small" or "Family Day Care, Large." This classification includes nursery schools, preschools, and day care facilities for children or adults, and any other day care facility licensed by the State of California. Such use must comply with all applicable State regulations, and specifically those set forth in the California Health and Safety Code commencing with Section 1596.70, to be considered a general day care facility.

Donation Box, Outdoor. A bin, storage shed, or similar facility established as an outdoor, accessory use to a primary use for the purpose of providing a collection location for donated clothes, shoes, and small household items. Such facilities generally are established by a charitable or nonprofit organization.

Drive-Through or Drive-Up Facilities. An establishment that sells products or provides services to occupants in vehicles, including drive-in or drive-up windows and drive-through services. Examples include banks and pharmacies. Does not include "click and collect" facilities in which an online order is picked up in a stationary retail business without use of a drive-in service (see "Retail Stores, General"). Does not include drive-through fast food (see "Restaurant, Drive- Through" within "Eating and Drinking Establishments"). Does not include drive-in theaters or gas stations (see "Vehicle Fuel Sales and Accessory Service").

Dwellings. See "Single-Unit Dwelling," "Two-Unit Dwellings," "Multi-Unit Dwellings," or "Accessory Dwelling Unit."

§ 25.106.060. "E" Definitions.

Eating and Drinking Establishments

- A. Bars and Taverns. Any establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premises license from the State Department of Alcoholic Beverages and in which persons under 21 years of age are restricted from the premises. References to the establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the licensee. This use includes stand-alone tasting rooms where alcoholic beverages are sold and consumed on-site and any food service is subordinate to the sale of alcoholic beverages. This use does not include adult entertainment businesses.
- B. Night Clubs. Any establishment in which all of the following features are made available: (1) Alcoholic beverages served or consumed on the premises; (2) Floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity, provided that floor space utilized for patrons to view television or similar media shall not be construed to constitute floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity; and (3) Music or other sound that is amplified through speakers for the purpose of entertaining patrons, except for sound associated with television or similar media being viewed by patrons and music provided exclusively as background entertainment for dining patrons. In any case where the above features are only incidental to a private event not open to the general public such as a wedding reception, banquet, non-profit event or similar function, such features shall not be construed to constitute a nightclub. Does not include adult entertainment businesses.
- C. Outdoor Dining. A dining area with seats and/or tables located outdoors of a sit-down restaurant, fast food, or other food service establishment. Outdoor dining is located on-site entirely outside the walls of the contiguous structure or enclosed on one or two sides by the walls of the structure with or without a solid roof cover.
- D. Restaurants, Drive-Through. Restaurants providing food and beverage services to occupants in vehicles, including drive-in or drive-up windows and drive-through services. Does not include "click and collect" facilities in which an online order is picked up in a stationary retail business without use of a drive-in service.
- E. Restaurants. Restaurants providing food and beverage services, which may include the sales of alcoholic beverages for consumption on the premises. Takeout or delivery service may be provided. This use includes microbreweries where the sale and consumption of alcoholic beverages are subordinate to on-site food service. This classification also includes catering businesses or bakeries that have a storefront retail component.
- F. Tasting Room. An establishment that offers wine, beer, or liquor for consumption on the premises, and those products are manufactured or rectified on the premises or at an off-site location associated with the premises. Tasting rooms may include food sales. See Section 25.48.250 (Tasting Rooms as an Accessory Use).

Elderly and Long-Term Care. Establishments that provide 24-hour medical, convalescent, or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State,

including, but not limited to, rest homes and convalescent hospitals. Does not include "Residential Care Facilities" or "Hospitals and Clinics."

Emergency Shelter

- A. Emergency Shelter, Permanent. A facility or use, which provides temporary housing (six months or less) for homeless individuals or families, as defined in Section 50801 of the California Health and Safety Code. Supplemental services may include, but are not limited to, meals, day care, medical assistance, and counseling.
- B. Emergency Shelter, Temporary. A facility or use, which provides temporary housing (six months or less) for homeless individuals or families, as defined in Section 50801 of the California Health and Safety Code and is established in association with an on-site church or nonprofit institution and the use does not occur continuously at any one location for more than six months of any 12-month period. Supplemental services may include, but are not limited to, meals, day care, medical assistance, and counseling.
- C. Low Barrier Navigation Center. A Housing First, low barrier, temporary, service-enriched shelter focused on helping homeless individuals and families to quickly obtain permanent housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy. See Government Code Section 65660.
- D. For the purposes this paragraph, "emergency shelter" shall also include other interim interventions, including but not limited to, bridge housing, and respite or recuperative care

Extended-Stay Hotels. A building or group of buildings containing lodging accommodations of one or more rooms typically let for periods of a week or more and that contain standard kitchens and appliances and other facilities to support such extended occupancy. To constitute an extended stay hotel, each hotel room must contain kitchen facilities to include a range cooktop, microwave or conventional oven, refrigerator, and sink, and must allow stays longer than 30 days.

§ 25.106.070. "F" Definitions.

Family Day Care. A day-care facility licensed by the State that is located in a single-unit residence or other dwelling unit where a resident of the dwelling provides care and supervision for children under the age of 18 for periods of fewer than 24 hours a day.

Family Day Care, Small. A facility that provides care for eight or fewer children (or capacity limits for small family day cares as set forth by the State, see California Health and Safety Code Section 1596.78), including children who reside at the home and are under the age of 10. See California Health and Safety Code Section 1596.78.

Family Day Care, Large. A facility that provides care for nine to 14 children (or capacity limits for large family day cares as set forth by the State, see California Health and Safety Code Section 1596.78), including children who reside at the home and are under the age of 10. See California Health and Safety Code Section 1596.78.

Family. One or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption.

- A. Alcohol Sales Store. A retail establishment engaged in the sale of alcoholic beverages as a primary use, including beer, wine, distilled spirits, hard liquor, and/or any other

alcoholic beverages and regulated by the Department of Alcoholic Beverage Control. Does not include grocery stores, convenience stores, warehouse stores, or other alcohol sales authorized as part of an off-site wine tasting room or food and beverage product manufacturing.

- B. **General Market.** Retail food markets of food and grocery items for off-site preparation and consumption. Typical uses include supermarkets (less than 75,000 square feet - see "Retail Stores, Large Format"), neighborhood grocery stores, and specialty food stores, such as retail bakeries with less than 20 percent of floor space dedicated to customer seating; candy, nuts, and confectionary stores; meat or produce markets; vitamin and health food stores; cheese stores; and delicatessens. This classification may include small-scale specialty food production such as pasta shops with retail sales. May include secondary uses within the store for visitor convenience, such as banking services, retail sales of non-food items, and a pharmacy.
- C. **Convenience Store.** A retail establishment with not more than 3,000 square feet of gross floor area, offering retail sales of food, beverage, and small convenience items primarily for off-premises consumption. Sale of alcoholic beverages is limited to beer and wine only in conjunction with an ABC License Type 20. This classification excludes tobacco stores, liquor stores, delicatessens, confectioneries, and specialty food markets, or grocery stores having a sizeable assortment of fresh fruits and vegetables, and fresh-cut meat, fish, or poultry. Also see "Alcohol Sales" and "General Market."

Food Preparation (Catering). Businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Typical uses include catering kitchens, bakeries with onsite retail sales, and small-scale specialty food production. Food Preparation may also be considered accessory to allowed restaurant uses.

Food Processing and Production. Facilities that manufacture, package, label, or store food for consumption off site and do not provide products directly to a consumer. Uses do not include any retail components.

Funeral Services and Cemeteries. An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of human remains and conducting memorial services. Typical uses may include crematories, columbaria, mausoleums, mortuaries, funeral chapels, and funeral homes. May include areas for living quarters for funeral home/mortuary manager.

Food Trucks. Any vehicle from which food or drink is sold or offered for sale, not including delivery vehicles used to transport food or drink from a store or distributor having a valid food permit to a customer's home, or a vehicle transporting food or drink from a wholesale establishment to a retail outlet.

§ 25.106.080. "G" Definitions.

Gas Station. See "Vehicle Fuel Sales and Accessory Service."

Government Buildings and Facilities. A building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public; in some circumstances, government buildings and facilities may not be open to the public.

Grocery Store. See "Food and Beverage Sales, General Market."

§ 25.106.090. "H" Definitions.

Heavy Equipment Sales (and Rental). Sales, servicing, rental, fueling, and washing of large trucks, trailers, tractors, and other heavy equipment used for construction, moving, agricultural, or landscape gardening activities, as well as boats, mobile homes, and recreational vehicle/campers. Examples include cranes, earth moving equipment, tractors, combines, heavy trucks, etc. Includes large vehicle operation training facilities. Sales of new or used automobiles are excluded from this classification (see "Vehicle Sales, Auto and Light Truck").

Home Occupations. The conduct of a business within a dwelling unit or residential site with the business activity being subordinate to the residential use of the property.

Hospitals and Clinics. State-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons. This classification includes facilities for inpatient or outpatient treatment, including substance-abuse programs as well as training, research, and administrative services for patients and employees. This classification excludes veterinaries and animal hospitals (see "Animal Care, Sales, and Services").

- A. Hospital. A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
- B. Medical Clinic. A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, administration, and related services to patients who are not lodged overnight. Services may be available without a prior appointment. This classification includes licensed facilities such as blood banks and plasma centers, and emergency medical services offered exclusively on an outpatient basis such as urgent care centers. This classification does not include private medical and dental offices that typically require appointments and are usually smaller scale; see "Medical and Dental Offices."

Hostels. An establishment with guest rooms or suites that may be private or common which are rented to the public for overnight lodging for periods of fewer than 30 consecutive calendar days to transient patrons. Hostels cater primarily, but not exclusively, to travelers who arrive by bicycle, train, or other nonautomotive vehicles, and are generally an inexpensive form of lodging. This use classification does not include bed and breakfasts (see "Bed and Breakfast"), hotels and motels (see "Hotels and Motels"), or home sharing or short-term rentals.

Hotels and Motels. An establishment with guest rooms or suites, with or without kitchen facilities, rented to the public for overnight lodging for periods of fewer than 30 consecutive calendar days to transient patrons, but not providing room rentals on an hourly basis. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, personal services, shuttle services, retail services, or recreational facilities available to guests or to the public. A hotel or motel may include ancillary facilities such as common meeting rooms, dining facilities, and guest amenities. This use classification does not include bed and breakfasts (see "Bed and Breakfast") or hostels (see "Hostels").

§ 25.106.100. "I" Definitions.

Industrial. Establishments engaged in the manufacturing of finished parts or products, either from raw materials or previously prepared materials, within an enclosed structure. Includes processing, fabrication, assembly, treatment, testing (e.g., laboratories), packaging, incidental office storage, sales, and distribution of the parts or products; and large-scale/bulk laundry

and dry-cleaning plants. Excludes vehicle/equipment rentals (see " Heavy Equipment Sales and Rental").

Light Industrial. The manufacture and/or processing of consumer-oriented goods in a manner that does not produce noticeable odors, air emissions, or other environmental effects, and that has limited associated trucking activity. Light industries generally require limited amounts of raw materials to produce goods. Examples of light industries include, but are not limited to, the manufacture of electronic instruments, equipment, and appliances; brewery and alcohol production, pharmaceutical manufacturing; and production apparel manufacturing.

Heavy Industrial. The manufacture and/or processing of materials and goods utilizing large quantities of raw materials, and generally requiring high capitalization and production of large quantities of output. Heavy industry often sells output to other business users rather than consumers. Characteristics of heavy industry include, but are not limited to, heavy trucking activity, noise, emissions requiring federal or state environmental permits, use of large quantities of hazardous materials as defined the U.S. Environmental Protection Agency, and requirement for specialized permits from Federal and State occupational health and safety agencies. This classification does not include recycling (see "Recycling Facilities") or the processing of animals.

§ 25.106.110. "J" Definitions.

Junior Accessory Dwelling Unit (JADU). As defined in Section 25.48.030 (Accessory Dwelling Units) of this title.

§ 25.106.120. "K" Definitions.

Reserved.

§ 25.106.130. "L" Definitions.

Laboratories/Research and Development. A facility for scientific research, and the design, development and testing of electrical, electronic, magnetic, optical, computer, and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off site, where the manufacturing activity is secondary to the research and development activities. Examples of this use include, but are not limited to, pharmaceutical, chemical and biotechnology research and development, medical labs, therapeutic discovery, genomic research, molecular diagnostics, soils and materials testing labs, vivarium, and forensic labs and other similar or related uses. This type of facility is distinguished from office- based research and development (see "Offices, Research and Development") in its orientation more toward testing and analysis than product development or prototyping; an industrial research and development facility may typically include this type of lab. The "medical lab" subset of this land use type is oriented more toward specimen analysis and processing than direct blood drawing and specimen collection from patients (see "Hospitals and Clinics") but may also include incidental specimen collection.

Light Industrial. See "Industrial, Light Industrial."

Limited Corner Store Retail. See "Retail Stores, Limited Corner Store." Liquor Store. See "Food and Beverage Sales, Alcohol Sales Store."

Live/Work Unit. A unit that combines a workspace and incidental residential occupancy occupied and used by a single household. Live/work units have been constructed for such use or converted from commercial or industrial use and structurally modified to accommodate residential occupancy and work activity in compliance with the California Building Code.

Live/work units shall include a dedicated working space that is reserved for and regularly used by one or more occupants of the unit. Live/work space includes, but is not limited to, a dedicated work space with an incidental sleeping area, a food preparation area, and a full bathroom including bathing and sanitary facilities which satisfy the provisions of applicable codes. Live/work units can include renter-occupant and/or owner-occupant.

Low Barrier Navigation Center. See "Emergency Shelter, Low Barrier Navigation Center."

§ 25.106.140. "M" Definitions.

Market, General. "See Food and Beverage Sales, General Market." Medical Clinics. See "Hospitals and Clinics."

Medical Office. "See Offices, Medical or Dental."

Micro unit. A form of multifamily housing; a small, self-contained, single-occupancy apartment that includes space for sleeping (provided as part of the primary living area or as no more than one bedroom), sitting, a kitchenette, and a bathroom, ranging in size up to 450 square feet; this definition is independent of an accessory dwelling unit and junior accessory dwelling unit.

Mixed-Use Developments. An approach to land use development that involves integrating two or more different types of uses on the same property as part of a unified development. Generally, mixed-use development consists of commercial and residential uses integrated either vertically in the same structure or group of structures, or horizontally on the same development site where parking, open spaces, and other development features are shared. In a mixed-use development, both uses are considered primary uses of the land. Light industrial and commercial uses may also co-exist on the same site as a mix of uses but are not referred to as mixed-use developments.

Multi-Unit Dwellings. Three or more attached or detached residential units on a single lot. Types of multi-unit dwellings include rowhouses, townhouses, garden apartments, senior housing developments, and multi-story apartment buildings. Multi-unit dwellings may also be combined with nonresidential uses as part of a mixed-use development.

§ 25.106.150. "N" Definitions.

Night Club. See "Eating and Drinking Establishments, Night Clubs."

Nurseries and Garden Centers. Establishments primarily engaged in retailing nursery and garden products—such as trees, shrubs, plants, seeds, bulbs, and sod—that are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves. Fertilizer and soil products are stored and sold in package form only. This classification includes wholesale and retail nurseries offering plants for sale. This classification also includes farm supply and feed stores.

§ 25.106.160. "O" Definitions.

Offices

- A. Co-Working. A facilitated environment that may contain desks or other workspaces and facilities and is used by a recognized membership who share the site in order to interact and collaborate with each other as part of a community. Rules for membership and participation in the co-workspace are available to the public. Fabrication tools are limited to those that do not generate noise or pollutants in excess of what is customary within a typical office environment.
- B. Medical or Dental. Office use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists,

chiropractors, acupuncturists, optometrists, and similar medical professionals, medical and dental laboratories within medical office buildings but excluding clinics or independent research laboratory facilities and hospitals (see "Hospitals and Clinics"), and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California. Incidental medical and/ or dental research within the office is considered part of the office use, where it supports the on-site patient services.

- C. Professional. Offices of firms or organizations providing professional, executive, management, or administrative services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment advisors and brokers, insurance offices, legal offices, real estate and mortgage offices and services, and tax preparation offices, but excluding banks and savings and loan associations (see "Banks and Financial Institutions").
- D. Research and Development. Offices of firms or organizations engaged in study, testing, design, analysis and experimental development and testing of products, processes or services, including incidental prototype manufacturing of products or provisions of services to others among other similar related services, but does not include the general or mass production of the product. Includes electronic research firms or pharmaceutical research laboratories, and similar or related business types. Excludes medical testing and analysis and manufacturing, except of prototypes.

Open Space and Conservation Uses. Any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

- A. Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, banks of rivers and streams, and watershed lands.
- B. Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basin; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.
- C. Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to beaches and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- D. Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

Outdoor Dining. See "Eating and Drinking Establishments."

Outdoor Storage. The storage of various materials outside of a structure other than fencing, either as an accessory or primary use.

Outdoor Temporary and/or Seasonal Sales. The temporary outdoor use of property for retail sales for a specified duration of time.

§ 25.106.170. "P" Definitions.

Parking Facilities

- A. Parking Facility, Primary Use. A public or private space dedicated to accommodating vehicle parking stalls, backup area, driveways, and aisles and in which vehicle parking is the primary use of the site. Includes surface parking lots and parking structures/garages.
- B. Parking Facility, Accessory Use. Surface lots and structures for use of occupants, employees, or patrons on the subject site or offering parking to the public for a fee when such use is not incidental to another on-site activity.

Park and Fly, Accessory. Surface lots and structures for vehicle parking associated with airport travel. As an accessory use to hotels, Accessory park and fly is intended to service hotel patrons. As an accessory use to office developments, accessory park and fly may function as a separate paid-to-park program not affiliated with patrons of the office development.

Park and Fly, Primary Use. Surface lots and structures for vehicle parking associated with airport use where vehicle parking is the primary use of the site. Primary use park and fly is not permitted in any zoning district.

Park and Recreation Facilities, Public. Parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification also includes noncommercial playing fields, courts, gymnasiums, public swimming pools, picnic facilities, tennis courts, and public golf courses, botanical gardens, as well as related food concessions or community centers within the facilities.

Personal Services, General. Provision of recurrently needed services of a personal nature. This classification includes barber shops and beauty salons, seamstresses, tailors, day spas, medical spas (includes non-surgical and minimally invasive treatments such as injectable fillers, photorejuvenation, facials and skin peels, microneedling, laser skin resurfacing and hair removal and other similar treatments related to beauty and wellness are permitted as ancillary to the personal service use), massage services (where massage practitioners are certified pursuant to the Business and Professions Code Section 4612), dry cleaning agents (excluding large-scale bulk dry cleaning plants), shoe repair shops, tattoo and body piercing services, and travel agencies mainly serving the general public.

Personal Services, Specialized. Personal services that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include check cashing stores, fortune tellers, palm and card readers, and psychics.

Pet Hotel. See "Animal Care Services, Pet Hotel."

Public Assembly. See "Assembly Facilities, Community Assembly Facility."

§ 25.106.180. "Q" Definitions.

Reserved.

§ 25.106.190. "R" Definitions.

Recycling Facilities. A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. This use classification does not include facilities that deal with animal matter, nor does it include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations, which are classified as utilities.

- A. **Light Processing.** A facility used to sort, store and/or process recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.
- B. **Reverse Vending Machine(s).** Facilities with an automated mechanical device that accepts, sorts, and processes recyclable materials and issues a cash refund or a redeemable credit slip. Processing and sorting is not conducted on site.
- C. **Small Collection.** A facility available for the general public for the recycling of California Redemption Value (CRV) products such as glass, aluminum cans, and plastic beverage containers as defined by the State's Department of Resources Recycling and Recovery. Small collection facilities occupy an area of not more than 500 square feet, and may include a mobile unit, reverse vending machines or a grouping of reverse vending machines, kiosk-type units which may include permanent structures, or unattended containers placed for the donation of recyclable materials.

Research and Development. "See "Laboratories/Research and Development."

Residential Care Facilities. Facilities that are licensed by the State to provide permanent living accommodations and 24-hour primarily non-medical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug addictions. This use classification excludes "Transitional Housing," "Supportive Housing," and "Elderly and Long-Term Care," which are defined separately.

- A. **Residential Care, General.** A facility that requires a State license or is licensed by the State to provide 24-hour primarily non-medical care and supervision for more than six persons. May include residential living quarters for more than six terminally ill persons.
- B. **Residential Care, Limited.** A facility that requires a State license or is State licensed and provides 24-hour nonmedical care and supervision for six or fewer persons. May include residential living quarters for more than six or fewer terminally ill persons.
- C. **Residential Care, Senior.** A housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator, or other responsible person, where residents are 60 years of age or older and where varying levels of care and supervision are provided as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal. This classification includes continuing care retirement communities and

life care communities licensed for residential care by the State of California. Facilities with six or fewer persons are excluded from this definition (see "Residential Care, Limited").

- D. Group Home: A residential facility that provides 24-hour care and supervision to children, delivered at least in part by staff employed by the licensee in a structured environment. The care and supervision provided by a group home shall be nonmedical, except as otherwise permitted by law

Restaurants. See "Eating and Drinking Establishments." Retail Stores

- A. General. The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, furniture stores, pet supply stores, hardware stores, and businesses retailing goods such as: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs. Retail sales include spaces to make your own art (e.g., pottery, paintings, etc. that serve walk-in customers and appointment slots for groups).
- B. Limited Corner Store. A retail establishment intended to serve a residential area, with no more than 2,000 square feet of gross floor area, which sells primarily food products, household items, hardware, newspapers, and magazines. Limited corner store retail may be located on a corner lot or mid-block.
- C. Large Format. Any singular retail use, whether stand alone or within a multi-building development, wherein said single-use building occupies at least 75,000 square feet of gross leasable area, typically requires high parking to building area ratios, and has a regional sales market, including membership warehouse clubs. May include secondary uses within the store for visitor convenience, such as grocery and prepared food and drink sales, banking services, and a pharmacy.
- D. Retail Sales, Specialized. Retail uses that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include adult stores, tobacco/smoke/vape shops, and pawn shops.

§ 25.106.200. "S" Definitions.

Schools, Primary and Secondary. Facilities for primary or secondary education, including public schools, charter schools, private schools, and parochial schools having curricula comparable to that required in the public schools of the State. This use classification excludes "Tutoring and Educational Centers."

Short-Term Rental. The use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

Single-Unit Dwelling. A dwelling unit designed for occupancy by one household which is not attached to or located on a lot with commercial uses or other dwelling units, other than an accessory dwelling unit. This definition also includes individual manufactured housing units

installed on a foundation system pursuant to California Health and Safety Code Section 18551.

Storage, Personal ("Self-Storage"). Facilities offering enclosed storage with individual access for personal effects and household goods including mini-warehouses and mini-storage. This use excludes workshops, hobby shops, manufacturing, or commercial activity.

Studios, Arts. Small-scale instructional facilities or a small practice space for the individual artist, musician, or any individual practitioner of the activities defined here, typically accommodating one group of students at a time, in no more than one instructional space. Examples include individual and group instruction and training, production rehearsal, photography and the processing of photographs produced only by users of the studio facilities. Also includes production studios for individual filmmakers, musicians, painters, sculptors, photographers, and other artists. These uses may also include accessory retail sales of products related to the services provided.

Supportive Housing. The term Supportive Housing (per California Government Code Section 65582, as may be amended) shall mean a dwelling unit occupied by a target population, with no limit on length of stay, that is linked to on-site or off-site services that assist the supportive housing resident(s) in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. A target population means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (California Welfare and Institutions Code Section 4500) and may include—among other populations—adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. Supportive housing may be designed as a residential group living facility or as a regular residential use and includes both facilities that provide on-site and off-site services.

§ 25.106.210. "T" Definitions.

Temporary Uses. A use of land that is designed, operated, and occupies a site for a limited specified period of time.

Theaters, Live. A theater, concert hall, auditorium, or similar establishment which, for any fee, regularly features live performances. This use may include incidental food and beverage services to patrons. Does not include adult entertainment businesses.

Theaters, Movie or Similar. Facilities for indoor display of films, motion pictures, or closed-circuit television pictures before an individual or assemblage of persons, whether such assemblage be of a public, restricted or private nature, except a home or private dwelling. This classification may include incidental food and beverage services to patrons. Does not include adult entertainment businesses.

Trade Schools. Public or private post-secondary schools providing occupational or job skills training for specific occupations, including business and computer schools, trade schools and apprenticeship programs, management training, and technical training schools. Excludes personal instructional services such as music lessons and tutoring.

Transit Facility. A facility or location with the primary purpose of transfer, loading, and unloading of passengers and baggage. May include facilities for the provision of passenger services such as ticketing, restrooms, lockers, waiting areas, passenger vehicle parking and bus bays, for layover parking, and interior bus cleaning and incidental repair. Includes rail and bus terminals but does not include terminals serving airports or heliports.

Transitional Housing. Transitional housing (per California Government Code Section 65582, as may be amended) shall mean buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of assistance. Transitional housing may be designed as a residential group living facility or as a regular residential use and includes both facilities that provide on-site and off-site services.

Tutoring and Educational Centers. A business where supplemental educational instruction in specific subjects and skills is provided to school-age children, as well as teenagers and adults for college and exam preparation.

Two-Unit Dwellings. No more than two residential units located on a single lot, not including an accessory dwelling unit. The residential units may be located in a single building that contains two residential units (also known as a duplex) or in two detached buildings.

§ 25.106.220. "U" Definitions.

Urban Agriculture. Cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for personal use or for on- or off-site sale.

Use. The purpose for which land or the premises of a building, structure, or facility thereon is designed, arranged, or intended, or for which it is or may be occupied or maintained.

- A. Use, Accessory. A use that is customarily associated with, and is incidental and subordinate to, the primary use and located on the same parcel as the primary use.
- B. Use, Primary. A primary, principal, or dominant use established, or proposed to be established, on a parcel.

Utility Structures and Service Facilities, Small. Facilities necessary to support established uses involving only minor structures, such as electrical distribution lines, electric substations; and underground water and sewer lines.

Utility Structures and Service Facilities, Large. Generating plants; solid waste collection, including transfer stations and materials recovery facilities; solid waste treatment and disposal; water or wastewater treatment plants; and similar facilities of public agencies or public utilities, including corporation and maintenance yards.

§ 25.106.230. "V" Definitions.

Vehicle Fuel Sales and Accessory Service. An establishment engaged in the retail sale of vehicle fuels or the retail sale of these fuels in combination with activities, such as providing minor vehicle repair services; selling automotive oils, replacement parts, and accessories; and/or ancillary retail and grocery sales and automated vehicle washing. Does not include body and fender work or "heavy" repair of trucks or other motor vehicles (see "Vehicle Sales" and "Vehicle Services and Repair").

- A. Vehicle Sales. Auto and Light Truck. A retail establishment selling new or used automobiles, trucks and vans, motorcycles, personal watercraft and all-terrain vehicles, and similar vehicles. May also include the sale, installation, and servicing of related equipment and parts, incidental to vehicle dealerships. Does not include mobile home, recreational vehicle, or watercraft sales (see "Heavy Equipment Sales and Rental"); tire recapping establishments (see "Vehicle Services and Repair"); businesses dealing exclusively in used parts; or "Vehicle Fuel Sales and Accessory Service," which are separately defined.

Vehicle Services and Repair. The service and repair of motor vehicles in an enclosed building, including the repair or replacement of engines and transmissions, body and fender repair, and the installation of non-factory installed products.

- A. Car Wash. Washing, waxing, detailing, or cleaning of automobiles or similar light vehicles, including self-serve washing facilities.
- B. Major (Major Repair/Body Work). Major repair of automobiles, motorcycles, recreational vehicles, or trucks including light-duty trucks (i.e., gross vehicle weights of less than 10,000 pounds) and heavy-duty trucks (i.e., gross vehicle weights of more than 10,000 pounds). Examples of uses include full-service motor vehicle repair garages; body and fender shops; brake shops; machine shops, painting shops; towing services, and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping.
- C. Minor (Minor Repair/Maintenance). Minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans or similar size vehicles (i.e., vehicles that have gross vehicle weights less than 10,000 pounds) including installation of electronic equipment (e.g., alarms, audio equipment, etc.); servicing of cooling and air conditioning, electrical, fuel and exhaust systems; brake adjustments, relining and repairs; oil and air filter replacement; wheel alignment and balancing; tire sales, service, and installation shops; shock absorber replacement; chassis lubrication; smog checks; engine tune-ups; and installation of window film, and similar accessory equipment.
- D. Vehicle Rental. Rental of automobiles, motorcycles, mopeds, motorized scooters, recreational vehicles, trucks, and similar vehicles and equipment powered by a motor, including on-site storage and incidental maintenance that does not require pneumatic lifts.

Vehicle Storage. The storage of operative or inoperative vehicles. These uses include storage of towed vehicles, impound yards, and storage lots for buses and recreational vehicles, but does not include vehicle dismantling or off-site airport parking.

Veterinary Services. See "Animal Care Services."

§ 25.106.240. "W" Definitions.

Warehousing/Logistics. Facilities for storage and distribution without sales to the public on site or direct public access. In a warehousing use, the owner and operator of the warehouse is the owner of the goods or is the entity that offers the goods for sale or resale. This use normally operates from a warehouse or office having little or no display of merchandise and are not designed to solicit walk-in traffic. This classification excludes the storage of hazardous chemical, mineral, and explosive materials. Does not include personal storage (mini storage) facilities offered for rent or lease to the public (see "Storage, Personal"); or warehouse facilities in which the primary purpose of storage is for wholesaling (see "Wholesaling"); or building materials sales and services (see "Building Materials and Contractor Services").

Wholesaling. Indoor storage and sale of goods to other firms for resale, storage of goods for transfer to retail outlets of the same firm, or storage and sale of materials and supplies used in production or operation. Wholesalers are primarily engaged in business-to-business sales but may sell to individual consumers through mail or internet orders. They normally operate from a warehouse or office having little or no display of merchandise and are not designed to solicit walk-in traffic. Does not include building materials sales and services (see "Building Materials and Contractor Services").

Wireless Communication Facilities. Wireless telecommunication facilities consist of commercial wireless communication systems, including, but not limited to, cellular, PCS, paging, broadband, data transfer, and any other type of technology that fosters wireless communication through the use of portable electronic devices. A facility includes all supporting structures and associated equipment. Use also included facilities where the antennae are mounted on the roof or top of a building or structure, or the side of a building or structure, other than on a standalone facility. See Section 25.48.300 (Wireless Communications Facilities) for specific definitions.

§ 25.106.250. "X" Definitions.

Reserved.

§ 25.106.260. "Y" Definitions.

Reserved.

§ 25.106.270. "Z" Definitions.

Reserved.

CHAPTER 25.108
GENERAL DEFINITIONS

§ 25.108.010. General.

For the purpose of this title, the plural includes the singular, the masculine includes the feminine and neuter, and vice versa, except as otherwise provided. Other terms used in this title shall be defined as set forth in this chapter.

§ 25.108.020. "A" Definitions.

Abutting/Adjoining. Contiguous to; having district boundaries or lot lines in common (i.e., not separated by an alley, public or private right-of-way, or street). See also "Adjacent."

Access. A way of approaching or entering a property, including ingress (the right to enter) and egress (the right to leave).

Acreage, Gross. The total land area in acres within a defined boundary, including any area for rights-of-way, public streets, and dedications of land for public use.

Acreage, Net. That portion of gross acreage exclusive of public streets, rights-of-way, and dedications of land for public uses.

Addition. Construction which extends or increases the building envelope.

Adjacent. The condition of being near to or close to but not necessarily having a common dividing line. Two properties that are separated by an alley, public or private right-of-way, street (other than a principal arterial), public access easement, or creek, river, stream, or other natural or artificial waterway shall be considered as adjoining one another. See also "Abutting/Adjoining."

Affordable Housing. "Affordable housing" and "affordable units" shall collectively mean units qualifying as "very low," "lower," and "moderate" income units as used in this title and in State Density Bonus Law.

Affordable Housing Cost. "Affordable housing cost" has the same meaning as defined in California Health and Safety Code Section 50052.5.

Affordable Rent. "Affordable rent" has the same meaning as defined in California Health and Safety Code Section 50053.

Alley. A public or private way providing a secondary means of access to public or private property.

Allow. A directive to give permission or to grant a right.

Alter, Alterations. Any change, addition or modification in construction or occupancy.

Applicant. Any person, firm, partnership, association, joint venture, corporation, entity, or any combination thereof, who seeks the grant of an entitlement or other approval required by this title.

Arbor. A free-standing structure that is substantially open to the passage of light and air on the roof and all sides, and serves to roof a gate, driveway, or walkway. "Substantially open" as used in this definition means that the sides and roof of the arbor are at least 60 percent open around any given point across each side and the roof.

Attic. The area located between the top plate of the uppermost habitable floor and the roof or ridge of a building, as further defined in the Building Code as adopted by the City of Burlingame.

Average Maximum Unit Size. The maximum value allowed when averaging the square footage of gross floor areas of all residential units in a project.

Alcoholic Beverage. Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which require a State Department of Alcoholic Beverage Control license.

§ 25.108.030. "B" Definitions.

Balcony. A platform, enclosed by a parapet or railing, projecting from an exterior wall of a building and open to the sky. A balcony may be either cantilevered or supported from below.

Basement. The portion of a building between floor and ceiling that is wholly or partially underground. Where more than two feet of any portion of the basement's height is above the existing grade next to the basement, a basement shall be counted as a story.

Bay Window. A window or group of windows that extends outward from a wall of a building forming a projection from a building. "Bow," oriel, and similar projecting windows shall be included in this definition. Some bay windows may have window seats.

Bedroom. Any space in a dwelling unit which contains a minimum of 70 square feet of floor area with no dimension less than seven feet and contains one or more windows and a door, unless it is one of the rooms listed below or common spaces. A room having the potential of being a bedroom shall be considered a bedroom for parking calculation purposes, unless the doorway access to the room with potential for being a bedroom is only through another bedroom.

Hallway	Den
Bathroom	Mezzanine
Living room, family room, dining room	Laundry room
Kitchen/breakfast nook	Garages
Attics	Other non-habitable spaces

Block. Property so designated on an official map of the City or part of the City or bounded by streets or street and railroad right-of-way or by streets or street and unsubdivided acreage.

Builder. Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City approvals for all or part of a commercial development project.

Building. Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any structure by space or by walls in which there are no communicating doors, windows or openings; and which is designed or intended for the shelter, housing or protection of persons, animals or chattels.

- A. **Building, Main.** A building in which the primary use of the lot is conducted on which it is situated.
- B. **Building, Accessory.** See "Structure, Accessory."

Building Official. City of Burlingame Building Official, or someone designated by him or her to act on his or her behalf.

Building Permit. Includes full structural building permits as well as partial permits such as foundation-only permits.

§ 25.108.040. "C" Definitions.

Carport. A roofed motor vehicle shelter open on one or more sides. City. The City of Burlingame.

City Engineer. The City Engineer of the City of Burlingame Public Works Department, or someone designated by him or her to act on his or her behalf.

Commercial Development Project. An application for a planning permit or building permit that includes the new construction of gross square feet of commercial space or the conversion of a residential use to a commercial use.

Commercial Linkage Fee. The fee paid by builders of commercial development projects to mitigate the impacts that such developments have on the demand for affordable housing in the City.

Commission. The Planning Commission of the City of Burlingame.

Community Development Department or Department. The Community Development Department of the City of Burlingame.

Conditionally Permitted. Allowed subject to approval of a conditional use permit or minor use permit.

Council. The City Council of the City of Burlingame. County. The County of San Mateo.

Courtyard. An open space, unobstructed from the ground to the sky, that is bounded on two or more sides by the walls of a building that is on the same lot.

Curb Level. The level of the established curb in front of a building measured at the center of such front. Where no curb level has been established, the City Engineer shall establish such curb level or its equivalent for the purpose of this section.

§ 25.108.050. "D" Definitions.

Deck. A platform, either freestanding or attached to a building, that is supported by pillars or posts. See also "Balcony."

Declining Height Envelope. An inclined plane beginning at a stated height above grade at a side property line and extending toward the center of the site at a stated upward angle. (See Section 25.10.055)

Demolition. The act of reconstructing, removing, taking down or destroying all or portions of an existing building or structure.

Den. A room which is open on at least one side; does not contain a wardrobe, closet, or similar facility; and which is not designed for sleeping.

Density. The number of dwelling units per unit of land. The Burlingame Zoning Code refers to density in terms of dwelling units per acre (du/ac).

Density Bonus. Density increase over the otherwise maximum allowable residential density for a residential project as provided by Government Code Sections 65915-65918. The following terms shall have the following meanings when used in Section 25.33.020 (Density Bonus). All other terms shall be interpreted consistent with the meaning set forth in the State Density Bonus Law (Government Code Sections 65915 through 65918).

- A. Affordable Units. Collectively means units qualifying as "very low," "lower," and "moderate" income units.
- B. Applicant. Any person, firm, partnership, association, joint venture, corporation, entity, or any combination thereof, who seeks a density bonus and/or concessions.
- C. Child Care Facility. A child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.
- D. Concessions. Interchangeable with "incentives," unless otherwise indicated. The meaning shall be consistent with Government Code Section 65915(k).
- E. Density Bonus. A density increase over the otherwise maximum allowable residential density as of the date of the application.
- F. Housing Development. The meaning set forth in Government Code Section 65915(i).
- G. Incentives. Interchangeable with "concessions," unless otherwise indicated. The meaning shall be consistent with Government Code Section 65915(k).
- H. Lower Income. The same definition set forth in Health and Safety Code Section 50079.5.
- I. Moderate Income. The same definition set forth in Health and Safety Code Section 50093.
- J. Specific Adverse Impact. The same definition as set forth in Government Code Section 65589.5(d)(2).
- K. Very Low Income. The same definition as set forth in Health and Safety Code Section 50105.

Deny without Prejudice. Meaning that in the denial of an application authorized by this title, none of the rights or privileges of the individual or entity involved are considered to be lost or waived.

Department. The Community Development Department of the City of Burlingame. Detached Accessory Dwelling Unit. See "accessory dwelling unit."

Development. The physical extension and/or construction of urban land uses. Development activities include but are not limited to subdivision of land; construction or alteration of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetation cover (with the exception of agricultural activities). Routine repair and maintenance activities are not considered as "development."

Director. The Community Development Director of the City of Burlingame, or his or her designee.

District. A portion of the City within which certain uses of land and buildings are permitted or prohibited and in which other buildings or land restrictions may be specified as set forth herein.

Driveway. Roadway providing the most direct access for vehicles from a right-of-way to a garage, dwelling, other structure or parking space.

§ 25.108.060. "E" Definitions.

Easement. A recorded right or interest in the land that belongs to someone else and which entitles the holder to some use, privilege, or benefit out of or over said land.

Electric Vehicle Charging Equipment. Any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle. Also referred to as charging station or charging equipment.

§ 25.108.070. "F" Definitions.

Façade. Façade means:

1. The exterior walls of a building or structure exposed to public view; or
2. The walls viewed by a person not inside the building; or
3. For a tenant space within a larger building, the portion of the exterior walls that corresponds to the interior space occupied by the tenant or business establishment; or
4. Any awnings on or attached to the exterior walls that meet the definition of façade.

Fee. A fee, charge, deposit or exaction collected by the City.

Fence. A structure of wood, masonry, metal, or other solid material built on or close to a property line for the purpose of physically separating properties.

First Approval. With regard to a commercial linkage fee, means the first discretionary approval to occur with respect to commercial development projects or, for commercial development projects not requiring a discretionary approval, the issuance of a building permit.

Floor Area, Gross. The total area enclosed within a building, including closets, stairways, and utility and mechanical rooms, measured from the outside face of the walls.

Floor Area, Net. The gross floor area less areas stipulated by Section 25.30.060 (Determining Floor Area).

Floor Area Ratio (FAR). The floor area of the building or buildings on a site or lot divided by the area of the site or lot.

Foot-Candle. A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot or the intensity of light from a standardized candle burning at one foot from a given surface.

Footprint. The gross floor area to the outside of the exterior walls plus roof overhangs, eaves, balconies, and decks and trellises over outdoor areas. Footprint applies to first floor area and floor areas of the floors above the first which extend beyond first floors.

Frontage. All property fronting on one side of the street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or City boundary measured along the street line.

§ 25.108.080. "G" Definitions.

Garage. A building, or portion thereof, containing accessible and usable enclosed space designed, constructed, and maintained for the parking or storage of one or more motor vehicles.

General Plan. A legal document which takes the form of a map and accompanying text adopted by the local legislative body. The plan is a compendium of policies regarding the long-term development of a jurisdiction. The State requires the preparation of seven elements or divisions as part of the plan: land use, housing, circulation, conservation, open space, noise, safety, and environmental justice. Additional elements pertaining to the unique needs of an agency are permitted.

Government Code. The Government Code of the State of California.

Grade. The average of the existing ground level at the center of all walls of a building. In case walls are parallel to, and within five feet of, a sidewalk, the ground level shall be measured at the sidewalk.

- A. Grade, Adjacent. The level of the soil immediately next to a structure or proposed structure.
- B. Grade, Curb. The curblineline grade at the lot lines established by the city engineer.
- C. Grade, Existing. The grade on a site prior to any grading or movement of soil for additional construction.
- D. Grade, Natural. The elevation of the ground surface in its natural state or as determined by the City Engineer who may refer to original subdivision and subdivision grading plans if available.

Greenhouse Window. A three-sided window with a shelf or shelves. It is set into a wall and projects from the face of the structure. It is not meant to be used for sitting, enclosed storage, or as a walking area.

Ground Floor. The first floor of a building other than a cellar or basement that is closest to finished grade.

§ 25.108.090. "H" Definitions.

Habitable Area. Any area within a structure defined as habitable area by the Uniform Building Code.

Hedge. A compact planting of any type of plant or shrub which acts or is intended to act as a fence.

Height, Building. See Chapter 25.30 (Rules of Measurement).

Height, Ceiling. The distance between the floor and the lowest ceiling joist, pipe, or similar construction above the floor.

High Quality Transportation Corridor. See "Transportation Corridor, High Quality."

Historic Resources. The following terms used in Chapter 25.35 (Historic Resources) of this title shall have the following meanings:

- A. Adaptive Reuse. Repurposing a designated historic resource for different uses or functions than those for which it was originally designed while retaining the original historic features of the resource.
- B. Alteration. Any change or modification, through public or private action, to the character- defining or significant exterior physical features of properties affected by this title. Such changes may be changes to or modification of structure, architectural details, or visual characteristics, grading, surface paving, the addition of new structures, and the placement or removal of any significant objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings, and landscape accessories affecting the significant visual and/or historical qualities of the property.
- C. Demolition. Any act or process that destroys in part or in whole a historic resource.
- D. Designated Historic Resource. A parcel or part thereof on which a historic resource is situated and any abutting parcel or part thereof constituting part of the premises on which the historic resource is situated, and which has been designated a historic resource in the Burlingame Historic Register, California Register of Historic Places, and/or National Register of Historic Places.
- E. Historic Resource. Improvements, buildings, structures, signs, or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the owner, citizens of the City and the State of California, the Bay Area region, or the nation which may be eligible for local designation for historic preservation by the City pursuant to the provisions of this title. A historic resource is either included in the Register or may be added in accordance with Section 25.35.060 (Historic Resource Designation Procedures).
- F. Improvement. Any building, structure, fence, gate, landscaping, tree, wall, parking facility, work of art, or other object constituting a physical feature of real property, or any part of such feature.
- G. Inventory. The October 6, 2008 Inventory of Historic Resources – Burlingame Downtown Specific Plan, which identifies resources in the City which may be considered historical.
- H. Ordinary Maintenance and Repair. Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.
- I. Preservation. The identification, study, protection, restoration, or acquisition of historic resources.
- J. Register. The Burlingame Historic Register, which is a document containing a listing of properties in the City that: (1) contain an officially designated historic resource, whereby such designation has been applied by a formal process by a federal, State,

or local government agency; and (2) have been identified as having a resource with characteristics that qualify it for receiving an official historic resource designation. Secretary of the Interior Standards for Rehabilitation. The standards promulgated by the National Park Service that provide guidance for the preservation, rehabilitation, restoration, and reconstruction of historic properties.

- K. Significant Feature. The natural or human-made elements embodying style or type of historic resource, design, or general arrangement and components of an improvement, including, but not limited to, the kind, color, and texture of the building materials, and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvement.

Household. One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments, food costs and utilities; and who maintain a single mortgage, lease, or rental agreement for all members of the household.

Housing Development Project. "Housing development project" shall have the same meaning as defined in California Government Code Section 65950.5(b)(3).

§ 25.108.100. "I" Definitions.

Improved Space. Any area within a structure for which a building permit was issued for the interior finish of the area. Improved space may or may not be habitable under current California Building Code requirements.

Impervious Surface. A surface that is incapable of being penetrated by water, including buildings and paved surfaces such as parking, sidewalks, and roads.

§ 25.108.110. "J" Definitions.

Reserved.

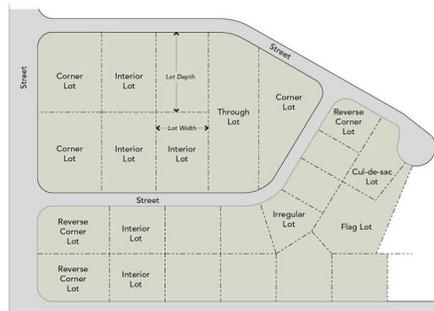
§ 25.108.120. "K" Definitions.

Reserved.

§ 25.108.130. "L" Definitions.

Loft. See "Mezzanine" when referring to an interior floor space of an occupiable or habitable structure.

Lot. A single parcel of land, usually fronting on a street, into which an urban block is usually divided for the construction of a building or for a use, as such lot is shown and delineated on the latest official map thereof on file with the County Recorder or, if subsequently resubdivided, as described in the deed of the owner.



Lot Area. The total horizontal area within the boundary lines of a lot. Lot, Corner. A lot on a corner fronting on two intersecting streets.

Lot, Coverage. The proportion of the area of the footprint of a building in relation to the area of the lot on which it stands.

Lot, Depth of. See Section 25.30.050 (Measuring Lot Width and Depth).

Lot, Interior. A lot other than a corner lot.

Lot Line, or Property Line. The established division line between parcels of land, public or private.

Lot, Standard and Substandard. Any lot with at least 50 feet of street frontage and lot area at least equal to the minimum lot size designated for the area of the City by the map attached to Ordinance 712 and any amendments thereto. "Substandard lot" means any other lot.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets. Lot, Width of. See Section 25.30.050 (Measuring Lot Width and Depth).

Lower Income Household. "Lower income household" has the same meaning as defined in California Health and Safety Code Section 50079.5.

§ 25.108.140. "M" Definitions.

Major Transit Stop. See "Transit Stop, Major."

Market Value. The highest price a willing buyer would pay and a willing seller would accept, both being fully informed and in an open market, as determined by an appraiser, the City Building Official, or other qualified professional.

Mezzanine. A partial or intermediate level of a building interior containing floor area without enclosing interior walls or partitions and not separated or partitioned from the floor level below or access way (stairs and/or landing) leading to the mezzanine from the floor below by a wall or any other partitions. Spaces designated as lofts or mezzanines that do not fully conform to this definition shall be deemed a "bedroom."

Municipal Code. The City of Burlingame Municipal Code.

§ 25.108.150. "N" Definitions.

Nonconforming Structure. A structure that does not conform to the yard coverage, height, setback, or other physical dimensional requirements.

Nonconforming Use. A use that does not conform to the permitted or conditional use, including parking that does not conform to the permitted or conditional use regulations in the zone in which it is situated.

§ 25.108.160. "O" Definitions.

Onsite. Located on the lot that is the subject of discussion.

Open Space.

- A. Open Space, Common. Open space that is accessible to all dwelling units on the site in the form of outdoor courtyards, landscaping, pedestrian paths, and outdoor recreational facilities.

- B. Open Space, Private. Open space that is accessible directly from the living area of a dwelling unit in the form of a fenced yard or patio, a deck, or balcony.
- C. Open Space, Usable. Indoor or outdoor area designed and intended to support residents' passive or active use and located on the same parcel as the dwelling units for which it is required. Usable open space shall not include any portion of parking areas, streets, driveways, sidewalks, or turnaround areas.

§ 25.108.170. "P" Definitions.

Parcel. The basic unit of land entitlement. A designated area of land established by plat, subdivision, or otherwise legally defined and permitted to be used or built upon. See also "Lot."

Parking Area. An area of a lot, structure, or any other area, including driveways, which is designed for and the primary purpose of which is to provide for the temporary storage of operable motor vehicles.

Parking Space, Automobile. Space within a parking area of a building exclusive of driveways, ramps, columns, office and work areas, for the temporary parking or storage of one automobile.

Parking, Bicycle. A covered or uncovered area equipped with a rack or racks designed and usable for the secure, temporary storage of bicycles.

Parking, Tandem. The parking of one vehicle behind another; except for parking for an accessory dwelling unit where tandem parking is defined as two or more vehicles that are parked on a driveway or in any other location on a lot, lined up behind one another.

Persons and Families of Low or Moderate Income. "Persons and families of low or moderate income" has the same meaning as defined in California Health and Safety Code Section 50093.

Planning Commission or Commission. The Planning Commission of the City of Burlingame.

Planning Division. The Planning Division of the Community Development Department of the City of Burlingame.

Planning Permit. With regard to commercial linkage fee, means any discretionary approval of a commercial project, including, but not limited to, a comprehensive or specific plan adoption or amendment, rezoning, tentative map, parcel map, conditional use permit, variances, or architectural review.

Plate Height. The vertical measurement from the top of the finished floor to the top of the plates.

Plate Line. A member on top of a stud wall such as a top plate on which joists or rafters rest to support an additional floor or roof or to form a ceiling.

Porch. A structure attached to a building, usually roofed and open-sided, and often at the entrance. It may be supported from the roof, screened, or glass enclosed.

Premises. Land and/or buildings or other improvements thereon.

Prezone. Pursuant to Government Code 65859, a legislative act of the City to apply a zoning designation or designations to a property or properties within the City's designated sphere of influence to specify the zoning that will apply to that property or properties upon annexation to the City.

Project. Any proposal for a new or changed use or for new construction, alteration, or enlargement of any structure that is subject to the provisions of this title. This term includes, but is not limited to, any action that qualifies as a "project" as defined by the California Environmental Quality Act.

Public Resources Code. The Public Resources Code of the State of California.

Public Works Department. City of Burlingame Public Works Department.

Public Works Director. The City of Burlingame Public Works Director, or someone designated by him or her to act on his or her behalf.

§ 25.108.180. "Q" Definitions.

Reserved.

§ 25.108.190. "R" Definitions.

Real Property. Land and improvements, if any, including anything permanently affixed to the land, such as buildings, walls, fences, and paved areas.

Recreational Vehicle. Any trailer, camper, motor home, boat, or other vehicle designed and intended for traveling and recreational purposes.

Review Authority. The body responsible for making decisions on zoning and related applications.

§ 25.108.200. "S" Definitions.

Setback. The area between a lot line or property line and the setback line.

- A. Setback, Front. The minimum distance required between a structure and the front property line.
- B. Setback, Interior Side. The area between the side lot line and the structure when there is an adjacent parcel on the side of a lot.
- C. Setback, Line. The line which is the required minimum distance from the lot or any other lot line that establishes the area within which any structure may be erected or placed.
Setback, Rear. The minimum distance required between a structure and the rear property line.
- D. Setback, Street Side. The area between the side lot line and the structure on the street side of a corner lot.

Shoreline Infrastructure. Modifications along the shoreline to meet the required elevation for protection against future flood and sea level rise conditions, as well as environmental enhancements and trails. This infrastructure can be natural or nature-based, hardened, or a hybrid system that combines both.

Sidewalk. A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Signs. The following definitions shall apply to signs and sign-related regulations.

- A. A-Board or A-Frame Sign. See "Portable (A-Board) Sign."
- B. Abandoned Sign. Any lawfully erected sign, sign structure, advertising structure, or display that is not operated or maintained for a period of one year or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (1) the sign displays advertising for a product of service that is no longer available; (2) the sign displays advertising for a business that is no longer licensed; (3) the sign advertises a business that is no longer doing business on the parcel where the sign is located; (4) the sign has a purpose for which the purpose has lapsed; or (5) the sign is blank.
- C. Above-Roof Sign. A sign which extends above a roof or parapet of a building, including a mansard roof, and which is wholly or partly supported by such buildings.
- D. Alter; Alteration. Any change in the depth, height, area, materials, location, or type of display

of an existing sign but shall not be construed to prevent normal or periodic maintenance, upkeep, or repair of a sign or change of copy (e.g., rewiring, repainting).

- E. Animated. The movement or the optical illusion of movement of any part of the sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity, or the automatic changing of all or any part of the facing of a sign.
- F. Awning Sign. Any sign that is painted or applied to the face, valance, or side panel of a projecting structure consisting of a frame and a material covering, attached to and wholly supported by a building wall and installed over and partially in front of doors, windows, or other openings in a building.
- G. Banner Sign or Banner. A temporary sign composed of cloth, canvas, plastic, fabric, or similar lightweight, nonrigid material that can be mounted to a structure with screws, cord, rope, cable, or a similar method. This sign type does not include flags (see "Flags").
- H. Billboard. See "Off-Premises Advertising (General Advertising) Sign."
- I. Bunting. A lightweight fabric in single or multiple colors used for decoration.
- J. Cabinet, Cabinet Sign. A type of sign that contains all the text and/or logo symbols within a single enclosed frame with flat or shaped panels that is mounted to a wall or other surface (cabinet). Such sign structures typically use slide-in panels to display the message to the public.
- K. Canopy. A permanent roof-like structure of rigid materials extending from the main entrance of a structure and is typically supported by posts at the corners farthest from where the canopy attaches to the structure.
- L. Canopy, Fueling Station. A roof-like structure, typically consisting of supporting columns, at a fueling station that covers the fueling islands and surrounding fueling area.
- M. Canopy Sign. A sign that meets any one or more of these criteria: (1) a sign mounted on a permanent canopy; (2) a traditional industry term for the variable message portion of a canopy sign; and/or (3) an integral sign and permanent canopy.
- N. Change of Copy. Changing of the face or letters on a sign.
- O. Changeable Copy. Sign copy designed to be used with removable graphics which will allow changing of copy.
- P. Commercial Message. Message concerning primarily a proposed economic transaction or the economic interests of the sign sponsor or audience.
- Q. Conforming Sign. A sign that is legally installed in accordance with Federal, State, and local permit requirements and laws.
- R. Content-Neutrality; Time, Place, and Manner Regulations. Consistently applicable, nondiscriminatory sign regulations that specify—without reference to the content of the message—when, how, and where a sign can be displayed, with physical standards such as, but not limited to, height, size, and location, that allow the sign to be readable.
- S. Copy. The message or content of a sign, which may include letters, numbers, figures, and/or images.
- T. Digital Sign. A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs generally include displays using LEDs (light emitting diodes), CCDs (charge coupled devices), plasma, or

functionally equivalent technologies to display a series of still images or full motion, usually remotely programmable and changeable, and are sometimes referred to as "digital signs" and "LED signs."

- U. Directional Sign. A sign located adjacent to a pedestrian or vehicle travel way that is internal to a site or complex, intended to provide orientation and safety assistance.
- V. Double-Faced Sign. A sign constructed to display its message on two parallel opposing (back-to-back) faces.
- W. Externally Illuminated Sign. A sign that is illuminated by a light source that is located on the exterior of the sign or nearby and directed toward and shines on the face of a sign.
- X. Façade. The side of a building below the eaves or parapet wall.
- Y. Face. The surface area on a sign where advertising copy is displayed.
- Z. Feather Sign. A temporary sign constructed of cloth, canvas, plastic fabric, or similar lightweight, non-rigid material, typically taller than it is longer, and supported by a single vertical pole mounted into the ground or on a portable structure. This sign type does not include flags (see "Flags").
- AA. A fabric, cloth, plastic, vinyl, canvas, leather, or other similar material sheet of square, rectangular, or triangular shape that is attached to a staff cord and mounted on a pole. This sign type includes official flags of national, State, or local governments. This sign type does not include feather signs (see "Feather Sign"), banners (see "Banner"), or pennants (see "Pennant").
- AB. Flashing Sign. A sign that contains an intermittent or sequential flashing light source. Generally, the sign's message is constantly repeated, and the sign is most often used as a primary attention-getting device.
- AC. Freestanding Sign. A sign that is supported by one or more uprights, braces, poles, or other similar structural components that are not attached to a building or buildings.
- AD. Frontage, Building. The distance measured along the wall or walls of the building abutting on a public or private way, including public and private parking lots, from which public access is provided to the premises. The building frontage does not include alleys, porte-cochères, and other drive-through structures.
- AE. Frontage, Parcel. The distance along the parcel line or lines abutting upon a street, easement, or public or private parking lots, giving access to the property.
- AF. Frontage, Tenant. The width of a building occupied by a business tenant that fronts on a public street or faces a plaza, courtyard, pedestrian corridor or walkway, or parking lot, where customer access to the building is available. Width is measured as the widest point on an architectural elevation.
- AG. Frontage, Street. The portion of the building or property which faces or abuts a street(s).
- AH. Illegal Sign. A sign that meets any one or more of these criteria: (1) a sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use; (2) a sign which is a danger to the public or is unsafe; (3) a sign which is a traffic hazard not created by relocation of streets or highways or

by acts of the City or County; and/or (4) a sign that is a public nuisance as defined under Chapter 1.16 (Abatement of Nuisances) in the Burlingame Municipal Code.

AI. Illuminated. Signs or individual letters in which an artificial source of light is used to make the message readable and includes both internally and externally lit signs.

AJ. Internally Illuminated Sign. A sign that is illuminated by a light source contained inside the sign.

AK. LED. Light Emitting Diode.

AL. Logo. An established identifying symbol or mark associated with a business or business entity.

AM. Maintenance. Cleaning, painting, changing copy, general servicing, and repairing as a routine procedure to preserve and keep in working order. Maintenance may include the replacement of parts with like kind parts as such parts fail.

AN. Marquee. A permanent roofed structure attached to and supported by the building and projecting from the building face and generally used to post or otherwise display copy associated with the on-site business. See also "Canopy."

AO. Marquee Sign. A sign attached to a marquee.

AP. Menu Board. A permanently installed sign with changeable copy (electronic message or manual) for the purpose of providing product and/or service information for drive-through service, where allowed, at a business where customers remain seated in a vehicle occupying a drive-through service lane.

AQ. Message. See "Copy."

AR. Monument Sign. A freestanding ground sign with low overall height and the appearance of having a solid base. A monument sign includes any decorative base, cap, and trim.

AS. Multi-Faced Sign. A sign constructed to display its message on three or more connected faces.

AT. Neon Sign. A sign illuminated by or utilizing neon tubing, and/or related inert gases, or products that produce the same or similar effect as neon, such as flexible light-emitting diode (LED) neon-like tubing which is visible to the viewer.

AU. Noncommercial Message. Debate or commentary on topics of public concern; for example, politics, religion, philosophy, science, or art.

AV. Noncommercial Sign. Any sign that is not commercial. Noncommercial signs include: (1) advertising displays erected by nonprofit organizations for fundraising and related purposes; and (2) signs containing political, civic, public service, or religious messages.

AW. Nonconforming Sign. Any permanent sign or temporary sign, including its physical structure and supporting elements, which was lawfully erected and maintained in compliance with all applicable laws in effect at the time of original installation, but which

does not now comply with the provisions of Chapter 25.42 (Signs).

- AX. Off-Premises Advertising (General Advertising) Sign. A permanent sign in a fixed position that meets any one or more of these criteria: (1) the sign is routinely used for general advertising for hire; (2) the sign is used to display commercial advertising for a business not located on the same premises as the sign; (3) the sign is a separate economic unit, not an accessory or auxiliary use serving the principal use on the land; and/or (4) the message display area is made available to message sponsors other than the owner. Off-premises advertising sign may also be referred to as "billboard" or "outdoor advertising sign" in other sections of the Municipal Code.
- AY. On-Premises Sign. A sign whose message and design relates to a business, event, goods, profession, or service being conducted, sold, or offered at the location where the sign is erected.
- AZ. Painted Sign. A sign erected by means of painting the copy and all related material directly upon any portion of a building or other structure. This definition includes commercial murals.
- BA. Parcel. See definition in Section 25.108.170 ("P" Definitions).
- BB. Pennant. A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands intended to flap in the wind. This sign type does not include flags (see "Flag").
- BC. Permanent Sign. A sign constructed of durable materials and attached to a building, structure, or the ground in a manner that will resist environmental loads such as wind, and precludes ready removal or movement of the sign, and intended to exist for the duration of time that the use or occupant is located on the premises.
- BD. Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.
- BE. Placed. Erected, constructed, posted, painted, printed, tacked, glued, carved, or otherwise fastened, affixed, or made visible in any manner.
- BF. Pole Sign. An elevated freestanding sign that is supported by one or more exposed poles that are permanently attached directly into or upon the ground.
- BG. Portable (A-Board) Sign. A sign that is not permanently affixed to a structure or the ground. Portable (A-Board) signs generally include A-frame structures or similar low-profile signs, and are usually hinged at the top, or attached in a similar manner, and widened at the bottom to form a shape similar to the letter "A." Portable (A-Board) signs may also be referred to as a sandwich board sign. Other variations of such signs may also be in the shape of the letter "T" (inverted) or the letter "H." This definition does not include feather signs.
- BH. Porte-Cochère. A permanent roof-like structure of rigid materials attached to a drive-through establishment and typically supported by posts or pillars at the corners farthest from where the porte-cochère attaches to a drive-through establishment. Porte-cochères are large enough for vehicles to pass through and/or underneath.
- BI. Porte-Cochère Sign. Any sign placed on a porte-cochère façade.

- BJ. Premises. See definition in Section 25.108.170 ("P" Definitions).
- BK. Projecting Sign. A building-mounted sign with faces projecting from and perpendicular to the building fascia.
- BL. Pylon Sign. A freestanding sign that is supported and in direct contact with the ground or one or more solid, monumental structures or pylons that are architecturally treated as part of the overall sign design and which typically has a sign face with a vertical dimension that is greater than its horizontal dimension. A pylon sign includes any decorative base, cap, and trim.
- BM. Repair. To reconstruct, rebuild or undertake restoration after a substantial degree of neglect and deterioration has occurred.
- BN. Roof Sign. A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof, and which is wholly or partly supported by such buildings.
- BO. Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated indoors, which is designed, constructed, intended, or used to advertise, provide information in the nature of advertising, provide historical, cultural, archaeological, or social information, or direct or attract attention to an object, person, institution, business, product, service, event, policy, or location by any means, including words, letters, logos, figures, designs, symbols, fixtures, colors, illumination, or projected images. The following do not fall within the definition of a sign for the purposes of this title.
1. Architectural or decorative features of buildings (not including lettering, trademarks, or moving parts).
 2. Graphic images that are visible only from above, such as those visible only from airplanes or helicopters, but only if not visible from the street surface or public right-of-way.
 3. Holiday and cultural observance decorations that are on display for not more than 60 calendar days per year (per parcel or use) and which do not include commercial advertising messages.
 4. Manufacturers' marks on tangible products that identify the maker, seller, provider, or product and which customarily remain attached to the product even after sale.
 5. Murals, painted or otherwise attached or adhered, with images or representation on the exterior of a structure that are visible from a public right-of-way or neighboring property; do not contain commercial advertisement (is noncommercial in nature); and are designed in a manner so as to serve as public art, enhance public space, and provide inspiration.
 6. Colored or illuminated elements that contain no lettering, numbers, trademarks, or logos, and are located on a wall or canopy.
 7. News racks and newsstands.
 8. Merchandise on display and available for immediate purchase.

9. Shopping carts.
10. Symbols embedded in architecture such as symbols of noncommercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a building; the definition also includes foundation stones and cornerstones.
11. Vehicle and vessel insignia as shown on street-legal vehicles and properly licensed watercraft including, but not limited to, license plates, license plate frames, registration insignia, noncommercial messages, messages relating to the business of which the vehicle or vessel is an instrument or tool (not including general advertising for hire), and messages relating to the proposed sale, lease, or exchange of the vehicle or vessel.
12. Vending machines that do not display off-site commercial messages or general advertising messages.

BP. Sign Area. See Section 25.42.070 (Calculation of Sign Height and Area) for specific rules for measuring the area of different sign types.

BQ. Sign Copy. All portions of a sign displaying a message, including text, symbols, emblems, logos, or representations, but not including the supporting structures, decorative features, or base of a sign.

BR. Sign Copy, Channel. Sign copy with three-dimensional individual letters, symbols, emblems, logos, or representations, with an open back or front, illuminated or not illuminated, that are affixed to a building or to a freestanding sign structure with translucent faces, reverse lit channel letters, or push-through acrylic panels.

BS. Sign Copy, Illuminated Channel. Channel sign copy with either an internal light source with an opaque face or an internal light source with a translucent face. The background illumination portion of illuminated channel sign copy is commonly referred to as halo lighting.

BT. Sign Copy, Push-Through. Sign copy routed out of aluminum or other sign material and then pushed through the routed area to provide depth.

BU. Sign Face. The area of a sign on which copy is intended to be placed.

BV. Sign Structure, Supporting Structure. The structural portion of a sign securing the sign to the ground, a building, or to another structure including, but not limited to, columns, crossbeams, and braces.

BW. Single Face Sign. A sign with only one face plane.

BX. Shopping Center. A commercial development under unified control consisting of four or more separate commercial establishments sharing a common building, or which are in separate buildings that share a common entranceway or parking area.

BY. Sky Sign. Any sign attached to, painted on or suspended from a balloon, kite, or similar object secured to real or personal property within the City.

BZ. Temporary Sign. A sign that is intended to be displayed for a definite and limited period of time and which is not permanently installed, affixed, or maintained on a building or

structure.

- CA. Three-Dimensional Sign. Any sign which is a three-dimensional, sculptured, or molded representation of an animate or inanimate object that identifies, advertises, or otherwise directs attention to a product or business.
- CB. Trademark. A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.
- CC. Vehicle Sign. Any sign or device placed on, mounted on, or affixed to a motor vehicle, freight, flatbed or storage trailer, or other conveyance. Vehicle signs shall not include signs wrapped on a vehicle actively being used to load, transport, or unload persons, goods, or services in the normal course of business.
- CD. Visibility. The quality of a letter, number, graphic, or symbol which enables the observe to distinguish it from its surrounds or background.
- CE. Wall Sign. Any sign attached to, or erected against the wall, parapet, with the exposed face of the sign in a line approximately parallel to the plane of the building or structure wall. This definition includes painted signs, including commercial murals, individual letters or logos, primary wall signs, and secondary wall signs.
- CF. Width. The measurement of a sign, base of a sign, building, or façade at its full extent from side to side.
- CG. Window Area. The area within the perimeter window frames and glass doors located on business frontage or street frontage.
- CH. Window Sign. Any sign that is applied or attached to a window or located within two feet of a window in such a manner that it can be seen from the exterior of the structure.
- CI. Yard Sign. Any temporary sign placed in the ground or attached to a supporting structure, posts, or poles, that is not attached to any building, not including banners.



Site. A lot, or group of contiguous lots, that is proposed for development in accordance with the provisions of this title and is in a single ownership or under unified control.

State. The State of California.

Story. That portion of any building included between the surface of any floor and the surface of the next floor above it, and if there is no floor above it, then the space between such floor and the ceiling next above it. See also the definition of "attic."

Street. The land dedicated to, or condemned for, or established by, use as a public thoroughfare, or a public or private thoroughfare which affords principal means of access to abutting property.

Street Line. The property line or boundary between a street right-of-way and abutting property.

Structure. Anything constructed or erected that requires location on the ground or attachment to something having location on the ground, including swimming pools, but excluding driveways, sidewalks, patios, or parking spaces.

- A. Structure, Accessory. Any building or structure measuring over 30 inches in height, the use of which is incidental to the main building on the same lot.
- B. Structure, Main. See "Building, Main."
- C. Structure, Temporary. A structure without any foundation or footings and which is intended to be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Substantial Construction.

- A. Construction of a wholly new building; or
- B. Modification of 50 percent or more of the first floor exterior walls of a building. Modification means removing walls, removing foundation, cutting or sistering a stud, enlarging or reducing the size of a window or door, or relocating a window or door. Change to accessory structures and like for like replacement of windows, doors, roofing, and siding material is not modification pursuant to this section.

§ 25.108.210. "T" Definitions.

Temporary or Intermittent Use. A use allowed for a limited duration consisting of activities that represent a variation from the normal business operations. Examples include, but are not limited to, parking lot sales, benefits, and special events. See Section 25.48.260 (Temporary Uses).

Trailer. A vehicle designed for carrying property or persons on its own structure and for being drawn by a motor vehicle.

Transit Stop, Major. Per California Public Resources Code Section 21064.3 major transit stop means a site containing any of the following: an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Transportation Corridor, High Quality. An existing or planned fixed-route bus corridor with headway of 15 minutes or better during both the morning and evening peak commute periods.

Trellis. A structure with a roof made of repetitive members open to the sky and supported by posts, open on all sides. See also "Arbor."

§ 25.108.220. "U" Definitions.

Use Permit. A discretionary permit, such as a minor use permit or conditional use permit, which may be granted by the appropriate City of Burlingame authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval by the permit granting authority.

§ 25.108.230. "V" Definitions.

Vehicle. A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved by human power.

Vending Machine. An automated mechanical device that ejects consumer products, including, but not limited to, snack food items, non-alcoholic beverages, electronic devices, and movies, and that accepts cash, debit, and/or credit.

§ 25.108.240. "W" Definitions.

Window. An opening in an exterior wall, normally glazed, to admit light and/or air. Window, Bay. See "Bay Window."

Window, Greenhouse. See "Greenhouse Window."

§ 25.108.250. "X" Definitions.

Reserved.

§ 25.108.260. "Y" Definitions.

Yard. An open space that lies between any structure and the nearest lot line and is on the same property as the structure.

Yard, Front. A yard extending across the front of the lot between the inner side lines and measured between the front line of the lot and the front line of the building.

Yard, Rear. A yard extending across the width of the lot, and measured between the rear line of the lot and the rear line of the main building.

Yard, Side. A yard between the building and the side line of the lot and extending from the street line of the lot to the rear yard.

§ 25.108.270. "Z" Definitions.

Zoning District (or "Zone" or "Zone District"). An area of the City delineated on the official zoning map, designated by name or abbreviation as provided in the regulations codified in this title.

SECTION ELEVEN. CEQA DETERMINATION

The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt from the definition of a Project in Section 15378(b)(2) in that it concerns general policy and procedure making.

SECTION TWELVE. EFFECTIVE DATE

This Ordinance shall become effective on the 31st day following its adoption.

SECTION THIRTEEN. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION FOURTEEN. PUBLIC NOTICE

This Ordinance shall be published in a newspaper of general circulation in accordance with California Government Code Section 36933, published, and circulated in the City of Burlingame, and shall be in full force and effect on April 2, 2026.

SECTION FIFTEEN. GOVERNMENTAL AGENCY REVIEW

This Ordinance shall be provided to the California Department of Housing and Community Development for consistency review with California State Law related to Accessory Dwelling Units and the City of Burlingame Sixth Cycle Housing Element. This Ordinance shall also be provided to the San Mateo County Airport Land Use Commission for consistency review with the San Francisco International Airport (SFO) Airport Land Use Compatibility Plan (ALUCP). The City Council authorizes the City Manager to make any additional amendments to Title 25 (Zoning) that are required by these governmental agencies to fulfil California State law and determine consistency with the SFO ALUCP.

SECTION SIXTEEN. CODIFICATION

Sections Three through Ten of this Ordinance shall be codified in the Burlingame Municipal Code with any required changes from Section Fifteen incorporated. Sections One, Two, Eleven, Twelve, Thirteen, Fourteen, and Sixteen shall not be so codified.

I, Meaghan Hassel-Shearer, City Clerk of the City of Burlingame, certify that the foregoing ordinance was introduced at a public hearing at a regular meeting of the City Council held on the 17th of February, 2026, and adopted thereafter at a regular meeting of the City Council held on the _____ day of _____ 2026, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

Meaghan Hassel-Shearer, City Clerk