City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda

City Council

THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR AGENCY

Monday, November 28, 2016 | **6:00 PM** | **Town Hall, 363 N. Main Street**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

2A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

MANNER OF ADDRESSING THE CITY COUNCIL: Any member of the public desiring to address the City Council may submit a Speaker Card to the City Clerk and proceed to the podium after being recognized by the Presiding Officer. Speakers will be called up in the order the Speaker Cards are received. Those who have not filled out a Speaker Card will be given an opportunity to speak after all those who have filled out Speaker Cards have spoken. All remarks and questions shall be addressed to the City Council and no discussion or action shall be taken on any requests, in accordance with Brown Act Requirements. No person shall speak without being recognized by the Mayor or acting Mayor.

TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: A maximum of thirty (30) minutes shall be allotted to receiving public comments at the initial public comment period. If necessary, an additional 30 minutes shall be allotted to public comments after Conduct of Business, but only if the first 30-minute Public Comment period was not sufficient to allow all those who wished to speak to do so. Any citizen, after being recognized by the Mayor or acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or acting Mayor may determine is appropriate under the circumstances of the particular meeting, including but not limited to, the number of persons wishing to speak on a particular topic or at a particular meeting, or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: Pursuant to the Brown Act, the Council cannot discuss issues or take action on any requests during this comment period.

3. STAFF COMMENTS

4. MATTERS FROM COUNCILMEMBERS

5. CONSENT CALENDAR

All items under the Consent Calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under Conduct of Business.

5A. 16-436 Adopt City Council Resolution Approving First Amendment to Office Space Lease Agreement with County of Mendocino and Authorizing City Manager to Execute Same

Attachments: RESO County Supervisor Office Space Lease Amendment
430 N Franklin Lease Amendment
Original Lease 430 N Franklin

5B. 16-446 Adopt City Council Resolution Approving Lease Agreement with Noyo Center for Marine Science for Rental of the Noyo Center for Marine Science Visitor Center (aka The Crow's Nest aka The Chalet) and Authorizing City Manager to Execute Same

Attachments: RESO Noyo Center Lease Agreement
Noyo Center Chalet Lease Agreement

5C. 16-471 Adopt City Council Resolution Amending the FY 2016-17 Budget to Appropriate $93,323 Received from the Noyo Harbor District to Fund Additonal Restoration and Mitagation Work on the Coastal Restoration & Trail Project (Budget Amendment No. 2017-15; Amount not to Exceed $93,323; Account No. 407-5028-0731)

Attachments: RESO Dredge Sands Tipping Fee Budget Amendment

5D. 16-479 Accept Final Bainbridge Park Master Plan

Attachments: Bainbridge Park Master Plan Final

5E. 16-473 Receive and File Minutes of September 8, 2016 Special Finance and Administration Committee Meeting

Attachments: FACM2016-09-08_Special

5F. 16-475 Receive and File Minutes of September 28, 2016 Public Works & Facilities Committee Meeting

Attachments: PWM2016-09-28

5G. 16-464 Approve Minutes of November 14, 2016

Attachments: CCM2016-11-14

6. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

6A. 16-476 Receive Report, Conduct Public Hearing, and Consider Adoption of: (1) City Council Resolution Adopting Updated Fees for Various Planning and Building Services; (2) Joint City Council/Improvement District Resolution Adopting Updated Fees for Miscellaneous City/District Services; and (3) Resolution Extending Temporary Waiver of In-Lieu Parking Fees

Attachments: 11282016 Fee Schedule Update Report

Attachment 1 - RESO Parking In Lieu Fee Extension of Temp Waiver

Attachment 2 - RESO Fee Schedule Update for Planning & Develop Fees

Attachment 3 - RESO Fee Schedule Update for Miscellaneous Fees

Attachment 4 - 11282016 Revised Fee Schedule PH Notice

7. CONDUCT OF BUSINESS

7A. 16-462 Receive Report and Accept Updates to the 2008 Zoning Map

Attachments: 11282016 Revise Zoning Map Staff Report

Attachment 1 - Subdivision Permits 2008-2016

Attachment 2 - Zoning Discrepancies on 2008 Map

Attachment 3 - 2008 Zoning Map

Attachment 4 - New 2016 Zoning Map

7B. 16-470 Receive Report and Provide Direction to Staff Regarding Proposed Amendments to Article 3, Article 4 and Article 7 of the Fort Bragg Municipal Code Title 18, the Inland Land Use and Development Code (ILUDC)

Attachments: 11282016 ILUDC Code Update - Articles 3, 4 & 7 Report

Attachment 1 - ILUDC Article 3 2016

Attachment 2 - ILUDC Article 4 2016

Attachment 3 - ILUDC Article 7 2016

7C. 16-474 Receive Oral Report from Sanctuary City Ad Hoc Committee

Attachments: 11282016 Sanctuary City Ad Hoc Committee Oral Report

7D. 16-469 Receive Recommendation from Finance & Administration Committee and Consider Adoption of Joint City Council/ Improvement District Resolution Approving Implementation of Corrective Action Plan to Address Prior Year Cost Allocation Errors

Attachments: 11282016 Corrective Action Plan for Prior Year Cost Allocation Errors Report

Attachment 1 - RESO Approving Implementation of Corrective Action Plan

Attachment 2 - Fort Bragg AUP Report

Attachment 3 - Schedule of Fixed Assets to be transferred

Attachment 4 - Proposed Interfund Loan Agreement and Amortization Schedule

7E. 16-468 Receive Recommendation from Finance & Administration Committee and Consider Adoption of Joint City Council/Improvement District Resolution to Amend the FY 2016/17 Budget to Reallocate Funding for the Facilities Maintenance and Repair Internal Service Fund

Attachments: 11282018 Facilities Maintenance & Repair ISF Allocations Report

Attachment 1 - RESO for Budget Amendment

Attachment 2 - Summary of Recalculated Facilities ISF Allocation

7F. 16-466 Receive Report and Provide Direction to Staff Regarding Submittal of Planning Activity for Inclusion in Mendocino Council of Governments' (MCOG) 2017-18 Overall Work Program

Attachments: 11282016 MCOG Overall Work Program Report

7G. 16-472 Receive Presentation on Roundabouts as a Traffic Control Device

Attachments: 11282016 Roundabouts Oral Report

Roundabout PowerPoint

2B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

The second 30-minute Public Comment period shall only be held if the first 30-minute Public Comment Period was not sufficient to allow all those wishing to speak to do so. Please see 2A above.

8. CLOSED SESSION

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

NEXT REGULAR CITY COUNCIL MEETING:
6:00 P.M., MONDAY, DECEMBER 12, 2016

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on November 23, 2016.

_____

Brenda Jourdain, Administrative Assistant

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection in the lobby of City Hall at 416 N. Franklin Street during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at http://city.fortbragg.com subject to staff's ability to post the documents before the meeting.*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

The Council Chamber is equipped with a Wireless Stereo Headphone unit for use by the hearing impaired. The unit operates in conjunction with the Chamber's sound system. You may request the Wireless Stereo Headphone unit from the City Clerk for personal use during the Council meetings.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).

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City of Fort Bragg

416 N Franklin Street
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Phone: (707) 961-2823
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Text File

File Number: 16-436

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Resolution

Agenda Number: 5A.

Adopt City Council Resolution Approving First Amendment to Office Space Lease Agreement with County of Mendocino and Authorizing City Manager to Execute Same

On April 10, 2012, the City of Fort Bragg and the County of Mendocino entered into an Office Space Lease Agreement whereby the City leased to the County 336 square feet of office space at 430 North Franklin Street for use as an office by the Fourth District Supervisor. The term of the lease is set to expire on December 31, 2016.

On August 31, 2016, the City received a letter from the County's Deputy Chief Executive Officer, Christopher Shaver, notifying the City of the County's intent to request a four-year extension of the lease pursuant to provision 1.7 of Article 1, "Option(s) to Extend Term." This resolution authorizes an amendment to the Lease Agreement to rent the premises to the County for an additional four years. All other terms of the original Master Lease remain the same.

It should be noted that on October 9, 2015, the County sublet a portion of the premises to the Mendocino Coast Children's Fund for a term "not to exceed the term of the Original Master Lease as amended or extended..." By authorizing this First Amendment to the Lease Agreement, the City will also be consenting to the extension of the term of the Mendocino Coast Children's Fund's sublease agreement with the County.

RESOLUTION NO. ____*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING FIRST AMENDMENT TO THE OFFICE SPACE LEASE AGREEMENT WITH MENDOCINO COUNTY AND AUTHORIZING CITY MANAGER TO EXECUTE SAME UPON EXECUTION BY COUNTY

WHEREAS, on April 10, 2012, the City of Fort Bragg ("City") and County of Mendocino ("County") entered into an Office Lease Agreement for a portion of the Fort Building at 430 N. Franklin Street; and

WHEREAS, the term of the original Lease Agreement is scheduled to expire on December 31, 2016; and

WHEREAS, the parties desire to extend the term of the lease for an additional four years; and

WHEREAS, all other terms of the original lease shall remain in effect;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the First Amendment to Office Space Lease Agreement with the County of Mendocino and authorizes City Manager to execute same upon execution by the County.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

_____
DAVE TURNER
Mayor

ATTEST:

_____
June Lemos
City Clerk

LS # 17-2 A1

FIRST AMENDMENT TO OFFICE SPACE LEASE AGREEMENT

THIS FIRST AMENDMENT to Office Space Lease Agreement ("**Lease**") is made and entered into as of this 14th day of November, 2016, by and between the City of Fort Bragg, a municipal corporation ("**Landlord**") and the County of Mendocino ("**Tenant**"). Landlord and Tenant are hereafter collectively referred to as the "**Parties**."

WHEREAS, on April 10, 2012, the Parties entered into an Office Space Lease Agreement whereby Tenant leased from Landlord office space at 430 North Franklin Street, Fort Bragg; and

WHEREAS, the Term of the Lease expires on December 31, 2016; and

WHEREAS, the Parties wish to extend the Lease for four years, pursuant to Article III, Section 3.2 of the Lease;

NOW THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, Landlord and Tenant hereby agree that the Office Space Lease Agreement dated April 10, 2012 is hereby amended as follows:

1. **ARTICLE 1. BASIC LEASE PROVISIONS**
   1.5 **Term**: Through December 31, 2020.

2. Except as expressly amended herein, the Office Space Lease Agreement between the City of Fort Bragg and the County of Mendocino dated April 10, 2012 is hereby reaffirmed.

IN WITNESS WHEREOF, the Parties have executed this First Amendment the day and year first above written.

LANDLORD:
CITY OF FORT BRAGG

BY: _____
Linda Ruffing
City Manager

ATTEST:

By: _____
June Lemos
City Clerk

TENANT:
COUNTY OF MENDOCINO
RECOMMENDED BY:

By: _____
Department Head

APPROVED AS TO FORM:

By: _____
Katharine L. Elliott
County Counsel

APPROVED AS TO FORM:

By:_____
Samantha W. Zutler
City Attorney

FACILITY APPROVED AS TO CONDITION:

By: _____
Facility and Fleet Division Manager

FACILITY INSPECTED AND APPROVED BY RISK:

By:_____
Alan D. Flora
Assistant CEO/Risk Manager

FISCAL REVIEW:

By: _____
Deputy CEO/Fiscal

EXECUTIVE OFFICE:

By:_____
Carmel J. Angelo
Chief Executive Officer

PURCHASING AGENT:

By:_____
Carmel J. Angelo
Chief Executive Officer

APPROVED AS TO FORM:

By: _____
Samantha W. Zutler
City Attorney

FACILITY APPROVED AS TO CONDITION:

By: _____
Facility and Fleet Division Manager

FACILITY INSPECTED AND APPROVED BY RISK:

By: _____
Alan D. Flora
Assistant CEO/Risk Manager

FISCAL REVIEW:

By: _____
Deputy CEO/Fiscal

EXECUTIVE OFFICE:

By: _____
Carmel J. Angelo
Chief Executive Officer

PURCHASING AGENT:

By: _____
Carmel J. Angelo
Chief Executive Officer

OFFICE SPACE LEASE AGREEMENT

This Office Space Lease (this "**Lease**") is made and entered into as of this 10th day of April, 2012, by and between the City of Fort Bragg, a municipal corporation ("**Landlord**") and the County of Mendocino ("**Tenant**"). Landlord and Tenant are hereafter collectively referred to as the "**Parties**."

RECITALS

A. The Landlord is the owner of real property located at 430 N. Franklin Street, Fort Bragg, CA., (the "**Property**").

B. The Property includes rentable office space (the "**Premises**"), as depicted in Exhibit A attached hereto and incorporated herein by this reference.

C. The Tenant desires to lease the Premises from the Landlord, and the Landlord desires to lease the Premises to the Tenant conditioned upon the terms therein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and the Tenant hereby agree as follows:

ARTICLE 1.

BASIC LEASE PROVISIONS

1.1 **Landlord's contact information:** Linda Ruffing, City Manager, City of Fort Bragg, 416 North Franklin Street, Fort Bragg, CA 95437

1.2 **Tenant's contact information**: General Services Agency Director, Kristin McMenomey, County of Mendocino, 841 Low Gap Road, Ukiah, CA 95482

1.3 **Rented Area:** More particularly described as the area shown in Exhibit A, attached.

1.4 **Commencement Date:** April 24, 2012.

1.5 **Term:** Through December 31, 2016.

1.6 **Expiration Date:** The last day of the month in which the Term ends.

1.7 **Option(s) to Extend Term:** Either party may request a Lease Extension upon a written 30 day notice to the other party. Landlord retains the right to deny or approve any extension request.

1.8 **Rent:** $1 per year.

1.9 **Security Deposit:** N/A
Cleaning/Repair Deposit: N/A

1.10 **Permitted Uses:** Office space for Fourth District Supervisor.

1.11 **Parking:** No reserved parking. Parking is "On-Street" or in the parking lot on a "first come, first served" basis.

1.12 **Utilities:** Tenant shall pay for all utilities. Landlord will bill for electricity on a quarterly basis based on usage. Tenant shall be responsible for installing and paying for telephone service.

ARTICLE II.

DEFINITIONS

Definitions. As used in this Lease, the following terms shall have the definitions set forth below. Additional terms are defined in the remainder of this Lease.

2.1 **Additional Rent** means any amount of rent beyond the "Rent" as described in section 1.8 that Tenant is required to pay Landlord (e.g., late fees, or administrative charges), pursuant to this Lease.

2.2 **Alterations** means any decorations, modifications, additions or improvements made in, on, about, under or contiguous to the Premises by or for the benefit of Tenant including but not limited to, telecommunications and/or data cabling, lighting, HVAC and electrical fixtures, pipes and conduits, partitions, cabinetwork and carpeting.

2.3 **Commencement Date** is the date set forth in Section 1.4, and means the date upon which (i) Tenant shall be permitted to occupy the Premises for the conduct of Tenant's operations, and (ii) the date upon which Tenant's obligation to pay Rent shall commence.

2.4 **Premises** means the rented premises shown on Exhibit A.

2.5 **Property** means real property located at 430 N. Franklin Street, Fort Bragg, CA.

2.6 **Rent** means the annual amount (in dollars) to be paid by Tenant to Landlord, pursuant to section 1.8

2.7 **Term** means the term of this Lease as set forth in Section 1.5 as such may be modified pursuant to the terms hereof.

ARTICLE III

PREMISES AND TERM

3.1 Leased Premises. Subject to and upon the terms and conditions set forth herein, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. The Premises consist of office space as depicted in the diagram attached hereto as Exhibit A. Tenant acknowledges that Landlord has made no representation or warranty regarding the condition of the Premises or the Property except as specifically stated in this Lease. The Parties agree that based upon their own inspection and estimates, the estimated square footage of the Premises is 336 square feet. Tenant and Landlord hereby stipulate and agree that the square footage of the Premises is as stated herein, notwithstanding any minor

variations in measurement or other minor variations that may have occurred in the calculation thereof.

3.2 Term and Commencement. The Term of this Lease shall commence on the Commencement Date, and unless sooner terminated as provided herein, the Term shall be for the period set forth in Section 1.5 as the same may be extended by an amendment to this Lease duly signed by both parties.

3.3 No Representations. Tenant acknowledges that neither Landlord nor any of Landlord's agents has made any representation or warranty as to the suitability or fitness of the Premises for the conduct of Tenant's business, or as to compliance with applicable codes, statutes or regulations governing public buildings or facilities and that neither Landlord nor any agent of Landlord has agreed to undertake any alterations or additions or to construct any tenant improvements to the Premises except as expressly provided in this Lease.

ARTICLE IV

RENT, OPERATING EXPENSES, AND DEPOSITS

4.1 Annual Rent. From and after the Commencement Date, Tenant shall pay to Landlord for each calendar year of the Term, the annual Rent set forth in Section 1.8. Each annual installment of Rent shall be due and payable to Landlord in advance, on the first (1st) day of each calendar year during the Term, without abatement, deduction, claim or offset except as otherwise expressly provided herein, and without prior notice, invoice or demand, at Landlord's address or such other place as Landlord may designate from time to time.

ARTICLE V

USE OF PREMISES

5.1 Permitted Use. The Premises shall be used solely for the purposes set forth in Section 1.10 ("Permitted Use") and for no other purpose without written consent of Landlord, which may be granted or withheld in Landlord's sole discretion. Tenant shall not do or permit anything to be done in or about the Premises or the Property, nor bring or keep anything therein that would in any way subject Landlord to liability, increase the premium rate of or affect any fire, casualty, rent or other insurance relating to the Property or any of the contents of the Premises, or cause a cancellation of, or give rise to any defense by an insurer to any claim under, or conflict with, any policies for such insurance. If any act or omission of Tenant results in an increase in premiums, Tenant shall pay to Landlord upon demand the amount of such increase.

5.2 Signage. Tenant shall obtain the prior approval of the Landlord, which approval may be withheld in Landlord's reasonable discretion before placing any sign or symbol on doors or windows or elsewhere in or about the Premises so as to be visible from the public areas or exterior of the Property, or upon any other part of the Property, including building directories. Any signs or symbols which have been placed without Landlord's approval may be removed by Landlord. Upon expiration or termination of this Lease, all signs installed by Tenant shall be removed and any damage resulting therefrom shall be promptly repaired by Tenant, or such removal and repair may be done by Landlord and the cost charged to Tenant as Additional Rent.

5.3 Repairs and Replacements. Tenant shall repair and maintain the Premises, including tenant improvements, fixtures and furnishings in good order and repair, and Tenant shall, at Tenant's sole expense make all repairs, replacements, alterations, or improvements to the extent triggered by or relate to (i) Tenant's particular use of the Premises, and/or (ii) any improvements or alterations made by or on behalf of Tenant to the Premises. If Tenant fails to maintain or keep the Premises in good repair, at Landlord's option, Landlord may, after providing Tenant no less than thirty (30) days' prior written notice, perform any such required maintenance and repairs and Tenant shall pay Landlord's costs incurred in connection with such repairs, plus a percentage of such costs sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs and expenses in connection therewith.

5.4 Parking. Tenant parking is "on-street" and is a "first-come, first served" basis.

ARTICLE VI

ALTERATIONS AND ADDITIONS

6.1 Alterations and Improvements. Tenant may not make any Alterations to the Property or Premises without the prior written approval of Landlord. Any Landlord-approved alterations shall be done at Tenant's expense, in a good and workmanlike manner, in conformity with plans and specifications reviewed and approved by Landlord, and in compliance with all applicable laws. Tenant shall obtain all necessary governmental approvals and permits for such alterations. Tenant shall give Landlord not less than ten (10) business days' notice prior to the commencement of construction so that Landlord may post a notice of nonresponsibility on the Premises. In no event shall any alteration, without the prior written consent of Landlord:

(i) affect the exterior of the Property,
(ii) affect any structural portion of the Property, including without limitation, the roof,
(iii) require any change to the basic floor plan of the Premises or any change to the structural or mechanical components of the Premises,
(iv) diminish the value of the Premises,
(v) result in an increase in demand for building services or utilities,
(vi) cause an increase in the premiums for hazard or liability insurance carried by Landlord, or
(vii) overload the floor load capacity or unduly burden the plumbing, heating, ventilation, air conditioning, electrical or other basic systems that serve the Property.

6.2 Liens. Tenant shall not permit any mechanics', materialmen's or other liens, to be filed against the Property or against Tenant's leasehold interest in the Premises. Landlord has the right at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens. If Tenant fails to cause the release of record of any lien(s) filed against the Premises or Tenant's leasehold estate therein, by payment or posting of a proper bond within ten (10) days from the date of the lien filing(s), then Landlord may, at Tenant's expense, cause such lien(s) to be released by any means Landlord deems proper, including but not limited to payment of or defense against the claim giving rise to the lien(s). All sums reasonably disbursed, deposited or incurred by Landlord in connection with the release of the lien(s), including but not limited to all costs, expenses and attorney's fees, shall be due and payable by Tenant to Landlord as Additional Rent on demand by Landlord.

ARTICLE VII

INSURANCE AND INDEMNITY

7.1 Indemnity. To the fullest extent permitted by law, Tenant shall defend (with counsel reasonably acceptable to Landlord), indemnify and hold Landlord and its officers, officials, employees and agents ("Indemnitees") harmless from and against any and all claims arising out of or relating directly or indirectly to this Lease or the Premises ("Claims"), including without limitation, the condition of the Premises, or Claims for or relating to loss of or damage to property, injury or death of any person, and economic losses and consequential or resulting damage of any kind, including any Claim arising from or in connection with or in any way attributable to: (i) the use or occupancy, or manner of use or occupancy of the Premises or the Property by Tenant or any invitee, guest or licensee of Tenant, (ii) any act, error, omission or negligence of Tenant or Tenant Parties or any invitee, guest or licensee of Tenant in, on or about the Property including without limitation Claims which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, any act or omission of Tenant, (iii) any activity, work, or thing done, omitted, permitted, allowed or suffered by Tenant or Tenant Parties in, at, or about the Premises or the Property, or (iv) any breach or default in performance of any obligation on Tenant's part in the performance of any covenant or agreement to be performed under this Lease, except to the extent caused by the sole gross negligence or willful misconduct of the Indemnitees. The provisions of this section shall not be construed or interpreted as restricting, limiting or modifying Tenant's insurance obligations under this Lease and are independent of such obligations. Tenant's compliance with insurance requirements set forth in this Lease shall not restrict, limit or modify Tenant's indemnification obligations hereunder. The provisions of this section shall survive the expiration or earlier termination of this Lease.

7.2 Tenant's Insurance. Tenant shall, at its sole expense, procure and maintain throughout the Term (plus any later periods where Tenant may be in occupancy of the Premises) all of the insurance coverages, of the type and amounts as described in Exhibit B, attached.

ARTICLE VIII

ASSIGNMENT AND SUBLETTING

8.1 Landlord's Consent Required. Tenant shall not directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, assign, mortgage, pledge, encumber or otherwise transfer this Lease, or permit all or any part of the Premises to be subleased or used or occupied for any purpose by anyone other than Tenant without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Any assignment or sublease without Landlord's prior written consent shall, at Landlord's option, be void and shall constitute an event of default entitling Landlord to terminate this Lease and to exercise all other remedies available to Landlord under this Lease and at law.

8.2 No Release of Obligations. The consent by Landlord to an assignment or subletting hereunder shall not relieve Tenant or any assignee or subtenant from the requirement of obtaining Landlord's express prior written consent to any other or further assignment or subletting. No subtenant may assign its sublease, or further sublet its subleased premises, without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion. Neither an assignment or subletting nor the collection of rent by Landlord from any person other than Tenant shall be deemed a waiver of any of the provisions of this Article or

release Tenant from its obligations to comply with this Lease, and Tenant shall remain fully and primarily liable for all of Tenant's obligations under this Lease.

ARTICLE IX

DAMAGE AND DESTRUCTION

9.1 Repair and Restoration; Termination Rights. If all or part of the Premises is damaged by fire or other casualty, such that access to or use and occupancy of the Premises is materially impaired, within forty-five (45) days of the date of the damage, Landlord shall notify Tenant of the estimated time, in Landlord's reasonable judgment, required for repair or restoration ("**Repair Period**"). If the estimated Repair Period is one hundred eighty (180) days or less, Landlord shall proceed promptly and diligently to repair or restore the Premises or the portion of the Premises necessary for Tenant's occupancy, and this Lease shall remain in effect, except that for the time unusable, Tenant shall receive a Rent abatement for that part of the Premises rendered unusable in the conduct of Tenant's business. If the estimated Repair Period is in excess of one hundred eighty (180) days from the date of the casualty, Landlord, at its option, shall either (a) commence to repair the damage, in which case this Lease shall continue in full force and effect, or (b) terminate this Lease as of the date specified by Landlord in a notice of termination, and this Lease shall terminate on the date specified in the notice.

9.2 Damage Near End of Term. Notwithstanding anything to the contrary set forth in this Article, if the Premises are damaged during the last three (3) months of the Term, Landlord and Tenant shall each have the option to terminate this Lease by giving written notice to the other of the exercise of that option within thirty (30) days after the damage or destruction, and this Lease shall terminate as of the date specified in such notice which shall be not before the date of such notice nor more than 30 days after the date of such notice.

9.3 Reserved. [Section removed]

9.4 Waiver of Statutory Provisions. The provisions of this Lease, including those in this Article IX, constitute an express agreement between Landlord and Tenant that applies in the event of any damage to the Premises or Property. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code §§ 1932(2) and 1933(4), relating to any rights or obligations concerning any such casualty.

ARTICLE X

SURRENDER OF PREMISES; HOLDING OVER

10.1 Surrender of Premises. On expiration of this Lease, Tenant shall surrender the Premises in the same condition as when the Term commenced, ordinary wear and tear excepted. Except for furniture, equipment and trade fixtures (other than those which are affixed to the Premises so that they cannot be removed without material damage to the Premises) all alterations, additions or improvements made in or upon the Premises, either by Landlord or Tenant, may, at Landlord's election, become Landlord's property without compensation to Tenant; provided that, upon reasonable written request of Landlord, Tenant shall, at its expense and without delay, remove any alterations, additions or improvements (including, without limitation, all telecommunications equipment and cabling, and all alterations and improvements made by Tenant after the Commencement Date) made to the Premises by Tenant and designated by Landlord to be removed, and shall repair any damage to the Premises caused by such removal.

If Tenant fails to complete such removal or to repair the Premises, Landlord may complete such removal and repair, and Tenant shall reimburse Landlord therefor. If Tenant fails to remove such property as required under this Lease, Landlord may dispose of such property in its sole discretion without any liability to Tenant, and further may charge the cost of any such disposition to Tenant.

10.2 Hold Over Tenancy. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease, Tenant shall be deemed, at Landlord's option, to occupy the Premises as a tenant from month-to-month. During such tenancy (and prior to any termination by Landlord), Tenant agrees to pay Landlord, monthly in advance, an amount equal to the greater of (i) the then fair market rental (as reasonably determined by Landlord) for the Premises, or (ii) one hundred thirty percent (130%) of the Rent which would become due the last month of the Term, together with all other amounts payable by Tenant to Landlord under this Lease. Except as provided in the preceding sentence, such month-to-month tenancy shall be on the same terms and conditions of this Lease except that any rights or options pertaining to additional space shall be deemed to be terminated and shall be inapplicable thereto. Landlord's acceptance of Rent after such holding over with Landlord's written consent shall not result in any other tenancy or in a renewal of the initial term of this Lease. If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease without Landlord's written consent, Tenant's continued possession shall be on the basis of a tenancy at sufferance and Tenant shall pay Rent during the holdover period in an amount equal to the greater of (i) one hundred fifty percent (150%) of the then fair market rental (as reasonably determined by Landlord) for the Premises, or (ii) two hundred percent (200%) of the Rent which would become due the last month of the Term, together with all other amounts payable by Tenant to Landlord.

ARTICLE XI

LANDLORD'S RESERVED RIGHTS.

11.1 Rights Reserved to Landlord. Without notice and without liability to Tenant, and without effecting an eviction or disturbance of Tenant's use or possession, Landlord shall have the right to (i) make changes in the legal status of the Premises or the Property as Landlord shall deem appropriate in its sole discretion, provided such changes do not substantially interfere with Tenant's use of the Premises for the Permitted Use; (ii) enter the Premises at reasonable times and with reasonable advance notice (and at any time in the event of an emergency), to inspect or repair the Premises and to perform any acts related to safety, protection, or improvement of the Premises; (iii) install and maintain signs on and in the Premises and the Property; and (iv) make such rules and regulations as, in the reasonable judgment of Landlord, may be needed from time to time for the safety of the tenants, the care and cleanliness of the Premises and the Property and the preservation of good order therein. Landlord shall at all times retain a key with which to unlock all of the doors in the Premises, except Tenant's vaults and safes. If an emergency necessitates immediate access to the Premises, Landlord may use whatever force is necessary to enter the Premises and any such entry to the Premises shall not constitute a forcible or unlawful entry into the Premises, a detainer of the Premises or an eviction of Tenant from the Premises or any portion thereof.

ARTICLE XII

DEFAULT AND REMEDIES

12.1 Tenant's Default. It shall be an "**Event of Default**" hereunder if Tenant shall:

(a) fail to pay when due any annual installment of Rent, or fail to pay any other amount owed by Tenant to Landlord under this Lease as and when due and such failure continues for five (5) days following written notice thereof to Tenant by Landlord;

(b) fail to provide any certificate, instrument or assurance as required by this Lease if the failure continues for ten (10) days after written notice of the failure to Tenant;

(c) make a general assignment for the benefit of its creditors or file a petition for bankruptcy or other reorganization, liquidation, dissolution or similar relief or have a proceeding filed against Tenant seeking any relief mentioned in this subsection (c) which is not discharged within sixty (60) days thereafter;

(d) abandon or vacate the Premises for more than three (3) consecutive months;

(e) assign this Lease or sublease any portion of the Premises in violation of Article XIII; or

(f) fail to comply with any other provision of this Lease in the manner required hereunder and such failure continues for thirty (30) days after written notice thereof to Tenant by Landlord (or if the noncompliance cannot by its nature be cured within the 30-day period, if Tenant fails to commence to cure such noncompliance within the 30-day period and thereafter diligently prosecute such cure to completion).

12.2 Remedies on Default. Upon the occurrence of an Event of Default, Landlord shall have the right to pursue any one or more of the following remedies in addition to any other remedies now or later available to Landlord at law or in equity. These remedies are not exclusive but instead are cumulative.

(a) Continue Lease. Landlord may continue this Lease in full force and effect. In such case, so long as Landlord does not terminate Tenant's right to possession, this Lease will continue in effect and Landlord shall have the right to collect Rent when due, and may undertake efforts to relet the Premises, or any part of them, to third parties for Tenant's account. Tenant shall be liable to Landlord for all reasonable costs Landlord incurs in reletting the Premises including without limitation, expenses of remodeling the Premises required by the reletting. Tenant shall pay to Landlord the Rent due under this Lease on the date the Rent is due, less the Rent Landlord receives from any reletting. No act by Landlord allowed by this Section shall terminate this Lease unless Landlord terminates Tenant's right to possession. After an Event of Default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, if Tenant obtains Landlord's consent, Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability.

(b) Terminate Lease. Landlord may terminate this Lease and Tenant's right to possession of the Premises at any time following an Event of Default. No act by Landlord other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance or efforts to relet the Premises shall not constitute a termination of Tenant's right to possession. On termination, Landlord shall have the right to recover from Tenant all of the following:

(i) The amount of any unpaid Rent that had been earned at the time of termination of this Lease;

(ii) The amount of unpaid Rent that would have been earned after the date of termination of this Lease less any amount of the unpaid Rent that Tenant proves could have been reasonably avoided;

(iii) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform obligations under this Lease, including, without limitation, expenses of remodeling the Premises for a new tenant, and any special concessions made to obtain a new tenant; and

(iv) Any other amounts, in addition to or in lieu of those listed above that may be permitted by law.

12.3 Landlord's Default. Landlord's failure to perform any of its obligations under this Lease shall constitute a Landlord Event of Default hereunder if the failure continues for thirty (30) days after written notice of the failure from Tenant to Landlord. If the required performance cannot be completed within thirty (30) days, Landlord's failure to perform shall not constitute a Landlord Event of Default if Landlord undertakes to cure the failure within such thirty (30) day period and diligently and continuously attempts to complete the cure as soon as reasonably possible. Tenant waives any right to terminate this Lease and to vacate the Premises upon Landlord's default under this Lease. Tenant's sole remedy on Landlord's default is an action for damages or injunctive or declaratory relief.

ARTICLE XIII

MISCELLANEOUS

13.1 No Waiver. No receipt and retention by Landlord of any payment tendered by Tenant in connection with this Lease shall constitute an accord and satisfaction, or a compromise or other settlement, notwithstanding any accompanying statement, instruction or other assertion to the contrary unless Landlord expressly agrees to an accord and satisfaction, or a compromise or other settlement, in a separate writing duly executed by Landlord. Landlord will be entitled to treat any such payments as being received on account of any item or items of Rent, interest, expense or damage due in connection herewith, in such amounts and in such order as Landlord may determine at its sole option. Any waiver of any condition or provision set forth in this Lease shall not be deemed a waiver of any subsequent breach of such condition or provision or of any other condition or provision, nor shall any such waiver be deemed a continuing waiver.

13.2 Severability. The Parties intend this Lease to be legally valid and enforceable in accordance with all of its terms to the fullest extent permitted by law. If an arbitrator or a court of competent jurisdiction holds any provision hereof to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless an essential purpose of this Lease would be defeated by loss of the invalid or unenforceable provision.

13.3 Governing Law; Venue; Construction. This Lease shall be construed according to the laws of the State of California without regard to principles of conflict of laws. Any action or proceeding that relates to, or arises from, this Lease shall be brought in a state court of competent jurisdiction located in Mendocino County. The captions used for the Sections and

Articles of this Lease have been inserted for convenience only and shall not be used to alter or interpret the content of this Lease.

13.4 Binding Effect; Survival. The covenants, conditions, warranties and agreements contained in this Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. The representations and warranties of Landlord and Tenant and the indemnification obligations of Landlord and Tenant set forth herein shall survive the expiration or termination of this Lease as shall all other provisions hereof which are intended to survive such expiration or termination.

13.5 Time. Time is of the essence of each provision of this Lease.

13.6 Entire Agreement; Amendments. This Lease and Exhibits A and B, attached hereto and incorporated herein by this reference, constitutes the final, complete, and exclusive statement of the terms of the agreement between Landlord and Tenant pertaining to the lease of the Premises and supersedes all prior and contemporaneous understandings or agreements of the parties. This Lease may not be amended or modified except in a writing signed by both Parties.

13.7 Notices. All notices delivered pursuant to this Lease shall be in writing and delivered to Landlord or Tenant at the applicable address designated in Section 1.1 or to such other address as may hereafter be designated by either party by written notice delivered to the other party in accordance with this Section. Such notices shall be effective on the earlier to occur of actual receipt or: (i) if mailed, three (3) days after posting at a United States post office, (ii) upon receipt if mailed by certified mail with return receipt requested, and (iii) upon delivery if delivered by overnight delivery service and delivery is confirmed by the delivery service.

13.8 Force Majeure. Except as otherwise provided in this Lease, the time for performance of an obligation other than payment of money under this Lease shall be extended for the period during which a party is prevented from performing due to Unavoidable Delay. "**Unavoidable delay**" shall mean any and all delay beyond the applicable party's reasonable control, including without limitation, delays caused by the other party; governmental restrictions, regulations, controls, preemptions or delays; orders of civil, military or naval authorities; strikes, labor disputes, lock-outs, shortages of labor or materials or reasonable substitutes therefore; Acts of God; fire, earthquake, floods, explosions or other casualties; extreme weather conditions or other actions of the elements; enemy action, civil commotion, riot or insurrection.

13.9 Attorneys' Fees. If any judicial remedy or arbitration is undertaken to enforce or interpret any provision of this Lease, the prevailing party shall be entitled to reasonable attorneys' fees, costs, expert witnesses fees, post judgment collection costs, and other expenses, in addition to any other relief to which such party may be entitled.

13.10 Authority. Each party warrants and represents that it has full authority to enter into this Lease, that this Lease constitutes a binding obligation of such party, and that the individual(s) signing on behalf of such party are duly authorized to bind such party hereto.

13.11 Landlord Approvals. Whenever the consent or approval of Landlord is required hereunder, such consent or approval may be granted or withheld by the City Manager or his or her designee, unless the City Manager determines in his or her discretion that such matter shall be referred to Landlord's governing body for consideration.

13.12 Counterparts. This Lease may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by any other party. This Lease shall take effect when signed by all Parties.

NOW THEREFORE, Landlord and Tenant executed this Lease as of the date first written above.

LANDLORD:
CITY OF FORT BRAGG,
a municipal corporation

Linda Ruffing, City Manager

ATTEST:

Cynthia M. VanWormer, CMC
City Clerk

Federal Tax ID 94-6000335

Make rent payments payable to and mail to:
416 North Franklin Street
Fort Bragg, CA 95437

APPROVED AS TO FORM:

Michael Gogna, City Attorney

TENANT:
COUNTY OF MENDOCINO

Kristin McMenomey,
General Services Agency Director

RECOMMENDED BY:

Department Head

FACILITY INSPECTED AND APPROVED BY RISK:

Kristin McMenomey, Risk Manager

FACILITY APPROVED AS TO CONDITION:

Facility and Fleet Manager

APPROVED AS TO FORM:

By
Jeanine B. Nadel, County Counsel

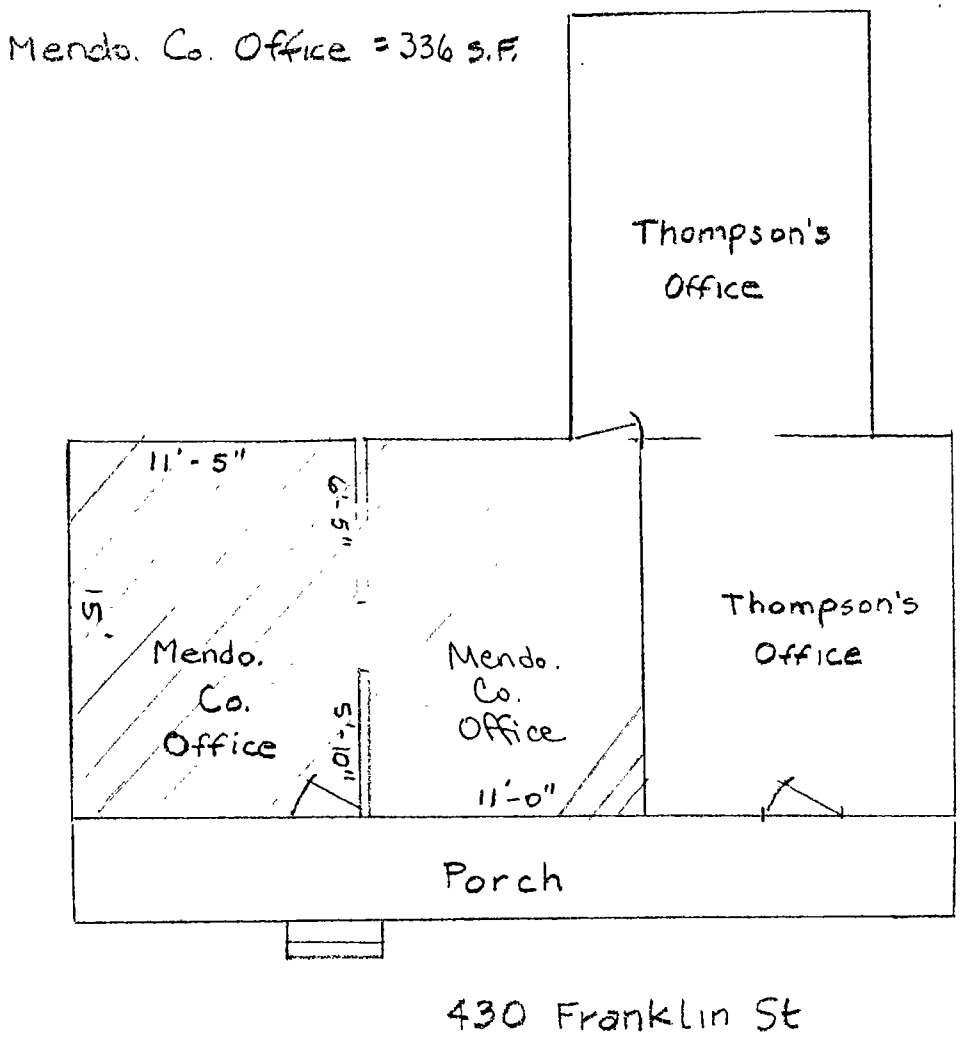
List of Exhibits

Exhibit A: Premises Being Leased (including common area)

Exhibit B: Insurance Requirements

EXHIBIT A: PREMISES

3/27/12 Fort Building Plan



Area leased

EXHIBIT B: INSURANCE COVERAGES

(1) **Commercial general liability insurance** including contractual liability coverage, written on an "occurrence" policy form, covering bodily injury, property damage and personal injury arising out of or relating (directly or indirectly) to Tenant's operations, assumed liabilities, or use or occupancy of the Premises or the Property naming the Landlord as an additional insured, with minimum coverage in the amount of One Million Dollars ($1,000,000) per occurrence combined single limit for bodily injury and property damage and Two Million Dollars ($2,000,000) in the aggregate;

(2) **Property insurance** protecting Tenant against loss or damage by fire and such other risks as are insurable under then available standard forms of "all risk" insurance policies, covering Tenant's personal property and trade fixtures in or about the Premises or the Property, and any improvements or Alterations in the Premises, in an amount of one hundred percent (100%) of actual replacement cost or highest insurable value;

The foregoing policies shall protect Tenant as named insured, and Landlord and the other Indemnitees as additional insureds. Landlord reserves the right to increase the foregoing amount of required liability coverage from time to time (but not more than once each calendar year) and to require that Tenant cause any Tenant Parties conducting activities in or about or occupying the Premises to obtain and maintain similar types and amounts of insurance.

Each insurance policy must include an endorsement to provide that the policy and the coverage provided shall be primary, that Landlord, although an additional insured, shall nevertheless be entitled to recovery under such policy for any damage to Landlord by reason of acts or omission of Tenant, and that any coverage carried by Landlord shall be noncontributory with respect to policies carried by Tenant. Each such insurance policy or a certificate thereof, including appropriate endorsements, shall be delivered to Landlord by Tenant on or before the Commencement Date, and thereafter renewal policies, certificates, and appropriate endorsements at least thirty (30) days prior to the expiration dates of expiring policies

Tenant shall cause its insurance companies issuing property (first party) insurance to waive any subrogation rights that those companies may have against Landlord, as long as the insurance is not invalidated by the waiver.

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City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-446

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Resolution

Agenda Number: 5B.

Adopt City Council Resolution Approving Lease Agreement with Noyo Center for Marine Science for Rental of the Noyo Center for Marine Science Visitor Center (aka The Crow's Nest aka The Chalet) and Authorizing City Manager to Execute Same

On December 14, 2015, the City Council approved a Memorandum of Agreement ("MOA") between the City of Fort Bragg, the Fort Bragg Municipal Improvement District No. 1, and the Noyo Center for Marine Science following the Noyo Center's attainment of nonprofit organization status. Section 8 of the MOA provides as follows:

> **8. Visitor Center Building ("Chalet").** The City has acquired the former Georgia-Pacific Visitor Center building (also known as the "Chalet") for use as a visitor facility for the Coastal Trail and/or Noyo Center. The Chalet has been moved to a location on the City's Noyo Headlands Park property adjacent to the Noyo Center site. It is the Parties' intent that the Chalet will be used by the Noyo Center as a visitor center and for educational and administrative purposes. Separate from this Agreement, the Parties intend to negotiate a Lease Agreement to address the occupancy and use of the Chalet by Noyo Center, including payment for utilities and any improvements Noyo Center makes to the Chalet.

This Resolution authorizes the City Manager to enter into a lease agreement with the Noyo Center for Marine Science for rental of the visitor center pursuant to the MOA.

RESOLUTION NO. ____*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING A LEASE AGREEMENT WITH THE NOYO CENTER FOR MARINE SCIENCE FOR RENTAL OF THE NOYO CENTER FOR MARINE SCIENCE VISITOR CENTER (AKA THE CROW'S NEST AKA THE CHALET) AND AUTHORIZING CITY MANAGER TO EXECUTE SAME

WHEREAS, the Noyo Center for Marine Science is a private, non-profit 501(c)(3) organization formed to establish a marine science and education facility on the former Georgia-Pacific mill site now owned by the City of Fort Bragg known as Noyo Headlands Park; and

WHEREAS, the City of Fort Bragg owns the premises located in Noyo Headlands Park consisting of an A-frame building formerly used by Georgia-Pacific as a visitor center known as the "Chalet" (the "premises"); and

WHEREAS, the City of Fort Bragg, Fort Bragg Municipal Improvement District No. 1, and the Noyo Center for Marine Science entered into a Memorandum of Agreement ("MOA") on December 14, 2015 intended to articulate various agreements and understandings between the parties; and

WHEREAS, the MOA provides that the parties intend to negotiate a Lease Agreement to address the occupancy and use of the premises; and

WHEREAS, the City Council would like to continue to support the Noyo Center for Marine Science by providing facilities to the Noyo Center for its visitor center; and

WHEREAS, the Noyo Center has been utilizing the premises since May 2016; and

WHEREAS, the City desires to lease the premises to the Noyo Center, which, in turn, desires to lease the premises from the City, upon the terms and conditions set forth in the Lease Agreement; and

WHEREAS, based upon the fact that the premises are to be used to support the implementation of the Noyo Center for Marine Science project, it will support the implementation of one of the key strategies of the City's Economic Development Strategy.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the Lease Agreement with the Noyo Center for Marine Science for rental of the Noyo Center for Marine Science Visitor Center (aka the Crow's Nest aka the Chalet) and authorizes City Manager to execute same.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
DAVE TURNER,
Mayor

ATTEST:

_____
June Lemos
City Clerk

LEASE AGREEMENT

This Lease Agreement ("**Lease**") is made and entered into as of this 1st day of December 2016, by and between the City of Fort Bragg, a municipal corporation ("**Landlord**") and the Noyo Center for Marine Science, a California non-profit organization ("**Tenant**"). Landlord and Tenant are hereafter collectively referred to as the "**Parties**."

RECITALS

A. Landlord is the owner of real property located in the Noyo Headlands Park in Fort Bragg, California known as Assessor Parcel Number 018-430-15-00 (the "**Property**").

B. The Property includes rentable space located in the Noyo Headlands Park immediately south of the Wastewater Treatment Plant commonly known as the "Chalet" aka the "Crow's Nest" aka the "Noyo Center for Marine Science Visitor Center" (the "**Premises**").

C. Tenant desires to lease the Premises from Landlord, and Landlord desires to lease the Premises to Tenant conditioned upon the terms therein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

ARTICLE I

BASIC LEASE PROVISIONS

1.1 **Landlord's contact information:** City Manager, City of Fort Bragg, 416 North Franklin Street, Fort Bragg, CA 95437.

1.2 **Tenant's contact information**: Executive Director, Noyo Center for Marine Science, P.O. Box 1321, Fort Bragg, CA 95437.

1.3 **Rented Area:** Noyo Center for Marine Science Visitor Center aka The Crow's Nest aka The Chalet.

1.4 **Commencement Date:** December 1, 2016.

1.5 **Term:** Three (3) years, expiring the last day in the month in which the term ends.

1.6 **Expiration Date:** November 30, 2019.

1.7 **Option(s) to Extend Term:** Either party may request a Lease Extension upon a written 60-day notice to the other party. Landlord retains the right to deny or approve any extension request.

1.8 **Rent:** One dollar ($1.00) per year, to be paid yearly on December 1 of each year.

1.9 **Security Deposit:** N/A.
Cleaning/Repair Deposit: N/A.

1.10 **Permitted Uses:** Visitor Center; visitor facility for the Coastal Trail and/or Noyo Center for Marine Science, for educational and administrative purposes, for fundraising and special events for Noyo Center for Marine Science.

1.11 **Parking**. Tenant parking is in one of the nearby public parking lots and is provided on a “first-come, first served” basis.

1.12 **Utilities**. Tenant shall pay for all utilities. Landlord will bill for electricity and water, if available, on a quarterly basis based on estimated usage.

ARTICLE II

DEFINITIONS

Definitions. As used in this Lease, the following terms shall have the definitions set forth below. Additional terms are defined in the remainder of this Lease.

2.1 **Additional Rent** means any amount of rent beyond the "Rent" as described in Section 1.8 that Tenant is required to pay Landlord (e.g., late fees, or administrative charges), pursuant to this Lease.

2.2 **Alterations** means any decorations, modifications, additions or improvements made in, on, about, under or contiguous to the Premises by or for the benefit of Tenant including but not limited to, telecommunications and/or data cabling, lighting, HVAC and electrical fixtures, pipes and conduits, partitions, cabinetwork and carpeting.

2.3 **Commencement Date** is the date set forth in Section 1.4, and means the date upon which (i) Tenant shall be permitted to occupy the Premises for the conduct of Tenant’s operations, and (ii) the date upon which Tenant’s obligation to pay Rent shall commence.

2.4 **Premises** means the rented premises described in Section B of Recitals above.

2.5 **Property** means real property described in Section A of Recitals above.

2.6 **Rent** means the amount (in dollars) to be paid by Tenant to Landlord, pursuant to Section 1.8.

2.7 **Term** means the term of this Lease as set forth in Section 1.5 as such may be modified pursuant to the terms hereof.

ARTICLE III

PREMISES AND TERM

3.1 Leased Premises. Subject to and upon the terms and conditions set forth herein, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. The Premises consist of an A-frame building formerly used by Georgia-Pacific as a visitor center. Tenant acknowledges that Landlord has made no representation or warranty regarding the condition of the Premises or the Property except as specifically stated in this Lease. The Parties agree that based upon their own inspection and estimates, the estimated square footage of the Premises is 430 square feet. Tenant and Landlord hereby stipulate and agree that the

square footage of the Premises is as stated herein, notwithstanding any minor variations in measurement or other minor variations that may have occurred in the calculation thereof.

3.2 Term and Commencement. The Term of this Lease shall commence on the Commencement Date, and unless sooner terminated as provided herein, the Term shall be for the period set forth in Section 1.5 as the same may be extended by an amendment to this Lease duly signed by both parties.

3.3 No Representations. Tenant acknowledges that neither Landlord nor any of Landlord's agents has made any representation or warranty as to the suitability or fitness of the Premises for the conduct of Tenant's business, and that neither Landlord nor any agent of Landlord has agreed to undertake any alterations or additions or to construct any tenant improvements to the Premises except as expressly provided in this Lease.

ARTICLE IV

RENT, OPERATING EXPENSES, AND DEPOSITS

4.1 Yearly Rent. From and after the Commencement Date, Tenant shall pay to Landlord for each year of the Term, the yearly Rent set forth in Section 1.8. Each yearly installment of Rent shall be due and payable to Landlord in advance, on the first (1st) day of December of each calendar year during the Term, without abatement, deduction, claim or offset except as otherwise expressly provided herein, and without prior notice, invoice or demand, at Landlord's address or such other place as Landlord may designate from time to time.

ARTICLE V

USE OF PREMISES

5.1 Permitted Use. The Premises shall be used solely for the purposes set forth in Section 1.10 ("Permitted Use") and for no other purpose without written consent of Landlord, which may be granted or withheld in Landlord's sole discretion. Tenant shall not do or permit anything to be done in or about the Premises or the Property, nor bring or keep anything therein that would in any way subject Landlord to liability, increase the premium rate of or affect any fire, casualty, rent or other insurance relating to the Property or any of the contents of the Premises, or cause a cancellation of, or give rise to any defense by an insurer to any claim under, or conflict with, any policies for such insurance. If any act or omission of Tenant results in an increase in premiums, Tenant shall pay to Landlord upon demand the amount of such increase.

5.2 Signage. Tenant shall obtain the prior approval of the Landlord, which approval may be withheld in Landlord's reasonable discretion before placing any sign or symbol on the exterior of the Property, or upon any other part of the Property, including building directories. Any signs or symbols which have been placed without Landlord's approval may be removed by Landlord. Upon expiration or termination of this Lease, all signs installed by Tenant shall be removed and any damage resulting therefrom shall be promptly repaired by Tenant, or such removal and repair may be done by Landlord and the cost charged to Tenant as Additional Rent.

5.3 Repairs and Replacements. Tenant shall repair and maintain the Premises, including tenant improvements, fixtures and furnishings in good order and repair, and Tenant shall, at Tenant's sole expense make all repairs, replacements, alterations, or improvements to the extent triggered by or relate to (i) Tenant's particular use of the Premises, and/or (ii) any improvements

or alterations made by or on behalf of Tenant to the Premises. If Tenant fails to maintain or keep the Premises in good repair, at Landlord's option, Landlord may, after providing Tenant no less than thirty (30) days' prior written notice, perform any such required maintenance and repairs and Tenant shall pay Landlord's costs incurred in connection with such repairs, plus a percentage of such costs sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs and expenses in connection therewith.

ARTICLE VI

ALTERATIONS AND ADDITIONS

6.1 Alterations and Improvements. Tenant may not make any Alterations to the Property or Premises without the prior written approval of Landlord. Any Landlord-approved alterations shall be done at Tenant's expense, in a good and workmanlike manner, in conformity with plans and specifications reviewed and approved by Landlord, and in compliance with all applicable laws. Tenant shall obtain all necessary governmental approvals and permits for such alterations. Tenant shall give Landlord not less than ten (10) business days' notice prior to the commencement of construction so that Landlord may post a notice of non-responsibility on the Premises. In no event shall any alteration, without the prior written consent of Landlord:

a) affect the exterior of the Property,
b) affect any structural portion of the Property, including without limitation, the roof,
c) require any change to the basic floor plan of the Premises or any change to the structural or mechanical components of the Premises,
d) diminish the value of the Premises,
e) result in an increase in demand for building services or utilities,
f) cause an increase in the premiums for hazard or liability insurance carried by Landlord, or
g) overload the floor load capacity or unduly burden the plumbing, heating, ventilation, air conditioning, electrical or other basic systems that serve the Property.

6.2 Liens. Tenant shall not permit any mechanics', materialmen's or other liens, to be filed against the Property or against Tenant's leasehold interest in the Premises. Landlord has the right at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens. If Tenant fails to cause the release of record of any lien(s) filed against the Premises or Tenant's leasehold estate therein, by payment or posting of a proper bond within ten (10) days from the date of the lien filing(s), then Landlord may, at Tenant's expense, cause such lien(s) to be released by any means Landlord deems proper, including but not limited to payment of or defense against the claim giving rise to the lien(s). All sums reasonably disbursed, deposited or incurred by Landlord in connection with the release of the lien(s), including but not limited to all costs, expenses and attorney's fees, shall be due and payable by Tenant to Landlord as Additional Rent on demand by Landlord.

ARTICLE VII

INSURANCE AND INDEMNITY

7.1 Indemnity. To the fullest extent permitted by law, Tenant shall defend (with counsel reasonably acceptable to Landlord), indemnify and hold Landlord and its officers, officials, employees and agents ("Indemnitees") harmless from and against any and all claims arising out of or relating directly or indirectly to this Lease or the Premises ("Claims"), including without limitation, Claims for or relating to loss of or damage to property, injury or death of any person, and economic losses and consequential or resulting damage of any kind, including any Claim arising from or in

connection with or in any way attributable to: (i) the use or occupancy, or manner of use or occupancy of the Premises or the Property by Tenant or any invitee, guest or licensee of Tenant, (ii) any act, error, omission or negligence of Tenant or Tenant Parties or any invitee, guest or licensee of Tenant in, on or about the Property including without limitation Claims which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, any act or omission of Tenant, (iii) any activity, work, or thing done, omitted, permitted, allowed or suffered by Tenant or Tenant Parties in, at, or about the Premises or the Property, or (iv) any breach or default in performance of any obligation on Tenant's part in the performance of any covenant or agreement to be performed under this Lease, except to the extent caused by the sole gross negligence or willful misconduct of the Indemnitees. The provisions of this section shall not be construed or interpreted as restricting, limiting or modifying Tenant's insurance obligations under this Lease and are independent of such obligations. Tenant's compliance with insurance requirements set forth in this Lease shall not restrict, limit or modify Tenant's indemnification obligations hereunder. The provisions of this section shall survive the expiration or earlier termination of this Lease.

7.2 Tenant's Insurance. Tenant shall, at its sole expense, procure and maintain throughout the Term (plus any later periods where Tenant may be in occupancy of the Premises) all of the insurance coverages, of the type and amounts as described in Exhibit A, attached.

ARTICLE VIII

ASSIGNMENT AND SUBLETTING

8.1 Landlord's Consent Required. Tenant shall not directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, assign, mortgage, pledge, encumber or otherwise transfer this Lease, or permit all or any part of the Premises to be subleased or used or occupied for any purpose by anyone other than Tenant without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Any assignment or sublease without Landlord's prior written consent shall, at Landlord's option, be void and shall constitute an event of default entitling Landlord to terminate this Lease and to exercise all other remedies available to Landlord under this Lease and at law.

8.2 No Release of Obligations. The consent by Landlord to an assignment or subletting hereunder shall not relieve Tenant or any assignee or subtenant from the requirement of obtaining Landlord's express prior written consent to any other or further assignment or subletting. No subtenant may assign its sublease, or further sublet its subleased premises, without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion. Neither an assignment or subletting nor the collection of rent by Landlord from any person other than Tenant shall be deemed a waiver of any of the provisions of this Article or release Tenant from its obligations to comply with this Lease, and Tenant shall remain fully and primarily liable for all of Tenant's obligations under this Lease.

ARTICLE IX

DAMAGE AND DESTRUCTION

9.1 Repair and Restoration; Termination Rights. If all or part of the Premises is damaged by fire or other casualty, such that access to or use and occupancy of the Premises is materially impaired, within forty-five (45) days of the date of the damage, Landlord shall notify Tenant of the estimated time, in Landlord's reasonable judgment, required for repair or restoration

("**Repair Period**"). If the estimated Repair Period is one hundred eighty (180) days or less, Landlord shall proceed promptly and diligently to repair or restore the Premises or the portion of the Premises necessary for Tenant's occupancy, and this Lease shall remain in effect, except that for the time unusable, Tenant shall receive a Rent abatement for that part of the Premises rendered unusable in the conduct of Tenant's business. If the estimated Repair Period is in excess of one hundred eighty (180) days from the date of the casualty, Landlord, at its option, shall either (a) commence to repair the damage, in which case this Lease shall continue in full force and effect, or (b) terminate this Lease as of the date specified by Landlord in a notice of termination, and this Lease shall terminate on the date specified in the notice.

9.2 Damage Near End of Term. Notwithstanding anything to the contrary set forth in this Article, if the Premises are damaged during the last three (3) months of the Term, Landlord and Tenant shall each have the option to terminate this Lease by giving written notice to the other of the exercise of that option within thirty (30) days after the damage or destruction, and this Lease shall terminate as of the date specified in such notice which shall be not before the date of such notice nor more than 30 days after the date of such notice.

9.3 Rent Apportionment. If Landlord or Tenant elects to terminate this Lease under this Article IX, Tenant shall pay Rent, prorated on a per diem basis and paid up to the date of the casualty. If the Premises are wholly untenantable and this Lease is not terminated, Rent shall abate on a per diem basis from the date of the casualty until Premises are ready for occupancy by Tenant or the default is cured. If part of the Premises is untenantable, Rent shall be prorated on a per diem basis and abated in proportion to the portion of the Premises which is unusable until the damaged part is ready for Tenant's occupancy. Notwithstanding the foregoing, if any damage was caused by the gross negligence or willful misconduct of Tenant, its employees or agents, then, in such event, Tenant agrees that Rent shall not abate or be diminished.

9.4 Waiver of Statutory Provisions. The provisions of this Lease, including those in this Article IX, constitute an express agreement between Landlord and Tenant that applies in the event of any damage to the Premises or Property. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code §§ 1932(2) and 1933(4), relating to any rights or obligations concerning any such casualty.

ARTICLE X

SURRENDER OF PREMISES; HOLDING OVER

10.1 Surrender of Premises. On expiration of this Lease, Tenant shall surrender the Premises in the same condition as when the Term commenced, ordinary wear and tear excepted. Except for furniture, equipment and trade fixtures (other than those which are affixed to the Premises so that they cannot be removed without material damage to the Premises) all alterations, additions or improvements made in or upon the Premises, either by Landlord or Tenant, may, at Landlord's election, become Landlord's property without compensation to Tenant; provided that, upon reasonable written request of Landlord, Tenant shall, at its expense and without delay, remove any alterations, additions or improvements (including, without limitation, all telecommunications equipment and cabling, and all alterations and improvements made by Tenant after the Commencement Date) made to the Premises by Tenant and designated by Landlord to be removed, and shall repair any damage to the Premises caused by such removal. If Tenant fails to complete such removal or to repair the Premises, Landlord may complete such removal and repair, and Tenant shall reimburse Landlord therefor. If Tenant fails to remove such property as required under this Lease, Landlord may dispose of such property in its sole

discretion without any liability to Tenant, and further may charge the cost of any such disposition to Tenant.

10.2 Hold Over Tenancy. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease, Tenant shall be deemed, at Landlord's option, to occupy the Premises as a tenant from month-to-month. During such tenancy (and prior to any termination by Landlord), Tenant agrees to pay Landlord, monthly in advance, an amount equal to the greater of (i) the then fair market rental (as reasonably determined by Landlord) for the Premises, or (ii) one hundred thirty percent (130%) of the Rent which would become due the last month of the Term, together with all other amounts payable by Tenant to Landlord under this Lease. Except as provided in the preceding sentence, such month-to-month tenancy shall be on the same terms and conditions of this Lease except that any rights or options pertaining to additional space shall be deemed to be terminated and shall be inapplicable thereto. Landlord's acceptance of Rent after such holding over with Landlord's written consent shall not result in any other tenancy or in a renewal of the initial term of this Lease. If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease without Landlord's written consent, Tenant's continued possession shall be on the basis of a tenancy at sufferance and Tenant shall pay Rent during the holdover period in an amount equal to the greater of (i) one hundred fifty percent (150%) of the then fair market rental (as reasonably determined by Landlord) for the Premises, or (ii) two hundred percent (200%) of the Rent which would become due the last month of the Term, together with all other amounts payable by Tenant to Landlord.

ARTICLE XI

LANDLORD'S RESERVED RIGHTS

11.1 Rights Reserved to Landlord. Without notice and without liability to Tenant, and without effecting an eviction or disturbance of Tenant's use or possession, Landlord shall have the right to (i) make changes in the legal status of the Premises or the Property as Landlord shall deem appropriate in its sole discretion, provided such changes do not substantially interfere with Tenant's use of the Premises for the Permitted Use; (ii) enter the Premises at reasonable times and with reasonable advance notice (and at any time in the event of an emergency), to inspect or repair the Premises and to perform any acts related to safety, protection, or improvement of the Premises; (iii) install and maintain signs on and in the Premises and the Property; and (iv) make such rules and regulations as, in the reasonable judgment of Landlord, may be needed from time to time for the safety of the tenants, the care and cleanliness of the Premises and the Property and the preservation of good order therein. Landlord shall at all times retain a key with which to unlock all of the doors in the Premises, except Tenant's vaults and safes. If an emergency necessitates immediate access to the Premises, Landlord may use whatever force is necessary to enter the Premises and any such entry to the Premises shall not constitute a forcible or unlawful entry into the Premises, a detainer of the Premises or an eviction of Tenant from the Premises or any portion thereof.

ARTICLE XII

DEFAULT AND REMEDIES

12.1 Tenant's Default. It shall be an "**Event of Default**" hereunder if Tenant shall:

a) fail to pay when due any installment of Rent, or fail to pay any other amount owed by Tenant to Landlord under this Lease as and when due and such failure continues for five (5) days following written notice thereof to Tenant by Landlord;

b) fail to provide any certificate, instrument or assurance as required by this Lease if the failure continues for ten (10) days after written notice of the failure to Tenant;

c) make a general assignment for the benefit of its creditors or file a petition for bankruptcy or other reorganization, liquidation, dissolution or similar relief or have a proceeding filed against Tenant seeking any relief mentioned in this subsection (c) which is not discharged within sixty (60) days thereafter;

d) abandon or vacate the Premises for more than three (3) consecutive months;

e) assign this Lease or sublease any portion of the Premises in violation of Article XIII; or

f) fail to comply with any other provision of this Lease in the manner required hereunder and such failure continues for thirty (30) days after written notice thereof to Tenant by Landlord (or if the noncompliance cannot by its nature be cured within the 30-day period, if Tenant fails to commence to cure such noncompliance within the 30-day period and thereafter diligently prosecute such cure to completion).

12.2 Remedies on Default. Upon the occurrence of an Event of Default, Landlord shall have the right to pursue any one or more of the following remedies in addition to any other remedies now or later available to Landlord at law or in equity. These remedies are not exclusive but instead are cumulative.

a. Continue Lease. Landlord may continue this Lease in full force and effect. In such case, so long as Landlord does not terminate Tenant's right to possession, this Lease will continue in effect and Landlord shall have the right to collect Rent when due, and may undertake efforts to relet the Premises, or any part of them, to third parties for Tenant's account. Tenant shall be liable to Landlord for all reasonable costs Landlord incurs in reletting the Premises including without limitation, expenses of remodeling the Premises required by the reletting. Tenant shall pay to Landlord the Rent due under this Lease on the date the Rent is due, less the Rent Landlord receives from any reletting. No act by Landlord allowed by this Section shall terminate this Lease unless Landlord terminates Tenant’s right to possession. After an Event of Default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, if Tenant obtains Landlord's consent, Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability.

b. Terminate Lease. Landlord may terminate this Lease and Tenant's right to possession of the Premises at any time following an Event of Default. No act by Landlord other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance or efforts to relet the Premises shall not constitute a termination of Tenant's right to possession. On termination, Landlord shall have the right to recover from Tenant all of the following:

(i) The amount of any unpaid Rent that had been earned at the time of termination of this Lease;

(ii) The amount of unpaid Rent that would have been earned after the date of termination of this Lease less any amount of the unpaid Rent that Tenant proves could have been reasonably avoided;

(iii) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform obligations under this Lease, including, without limitation, expenses of remodeling the Premises for a new tenant, and any special concessions made to obtain a new tenant; and

(iv) Any other amounts, in addition to or in lieu of those listed above that may be permitted by law.

12.3 Landlord's Default. Landlord's failure to perform any of its obligations under this Lease shall constitute a Landlord Event of Default hereunder if the failure continues for thirty (30) days after written notice of the failure from Tenant to Landlord. If the required performance cannot be completed within thirty (30) days, Landlord's failure to perform shall not constitute a Landlord Event of Default if Landlord undertakes to cure the failure within such thirty (30) day period and diligently and continuously attempts to complete the cure as soon as reasonably possible. Tenant waives any right to terminate this Lease and to vacate the Premises upon Landlord's default under this Lease. Tenant's sole remedy on Landlord's default is an action for damages or injunctive or declaratory relief.

ARTICLE XIII

MISCELLANEOUS

13.1 No Waiver. No receipt and retention by Landlord of any payment tendered by Tenant in connection with this Lease shall constitute an accord and satisfaction, or a compromise or other settlement, notwithstanding any accompanying statement, instruction or other assertion to the contrary unless Landlord expressly agrees to an accord and satisfaction, or a compromise or other settlement, in a separate writing duly executed by Landlord. Landlord will be entitled to treat any such payments as being received on account of any item or items of Rent, interest, expense or damage due in connection herewith, in such amounts and in such order as Landlord may determine at its sole option. Any waiver of any condition or provision set forth in this Lease shall not be deemed a waiver of any subsequent breach of such condition or provision or of any other condition or provision, nor shall any such waiver be deemed a continuing waiver.

13.2 Severability. The Parties intend this Lease to be legally valid and enforceable in accordance with all of its terms to the fullest extent permitted by law. If an arbitrator or a court of competent jurisdiction holds any provision hereof to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless an essential purpose of this Lease would be defeated by loss of the invalid or unenforceable provision.

13.3 Governing Law; Venue; Construction. This Lease shall be construed according to the laws of the State of California without regard to principles of conflict of laws. Any action or proceeding that relates to, or arises from, this Lease shall be brought in a state court of competent jurisdiction located in Mendocino County. The captions used for the Sections and Articles of this Lease have been inserted for convenience only and shall not be used to alter or interpret the content of this Lease.

13.4 Binding Effect; Survival. The covenants, conditions, warranties and agreements contained in this Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. The representations and warranties of Landlord and Tenant and the indemnification obligations of Landlord and Tenant set forth herein shall survive the expiration or termination of this Lease as shall all other provisions hereof which are intended to survive such expiration or termination.

13.5 Time. Time is of the essence of each provision of this Lease.

13.6 Entire Agreement; Amendments. This Lease and Exhibit A attached hereto and incorporated herein by this reference, constitutes the final, complete, and exclusive statement of the terms of the agreement between Landlord and Tenant pertaining to the lease of the Premises and supersedes all prior and contemporaneous understandings or agreements of the parties. This Lease may not be amended or modified except in a writing signed by both Parties.

13.7 Notices. All notices delivered pursuant to this Lease shall be in writing and delivered to Landlord or Tenant at the applicable address designated in Section 1.1 or to such other address as may hereafter be designated by either party by written notice delivered to the other party in accordance with this Section. Such notices shall be effective on the earlier to occur of actual receipt or: (i) if mailed, three (3) days after posting at a United States post office, (ii) upon receipt if mailed by certified mail with return receipt requested, and (iii) upon delivery if delivered by overnight delivery service and delivery is confirmed by the delivery service.

13.8 Force Majeure. Except as otherwise provided in this Lease, the time for performance of an obligation other than payment of money under this Lease shall be extended for the period during which a party is prevented from performing due to Unavoidable Delay. "**Unavoidable delay**" shall mean any and all delay beyond the applicable party's reasonable control, including without limitation, delays caused by the other party; governmental restrictions, regulations, controls, preemptions or delays; orders of civil, military or naval authorities; strikes, labor disputes, lock-outs, shortages of labor or materials or reasonable substitutes therefore; Acts of God; fire, earthquake, floods, explosions or other casualties; extreme weather conditions or other actions of the elements; enemy action, civil commotion, riot or insurrection.

13.9 Attorneys' Fees. If any judicial remedy or arbitration is undertaken to enforce or interpret any provision of this Lease, the prevailing party shall be entitled to reasonable attorneys' fees, costs, expert witness fees, post judgment collection costs, and other expenses, in addition to any other relief to which such party may be entitled.

13.10 Authority. Each party warrants and represents that it has full authority to enter into this Lease, that this Lease constitutes a binding obligation of such party, and that the individual(s) signing on behalf of such party are duly authorized to bind such party hereto.

13.11 Landlord Approvals. Whenever the consent or approval of Landlord is required hereunder, such consent or approval may be granted or withheld by the City Manager or his or her designee, unless the City Manager determines in his or her discretion that such matter shall be referred to Landlord's governing body for consideration.

13.12 Counterparts. This Lease may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical

thereto except having additional signature pages executed by any other party. This Lease shall take effect when signed by all Parties.

NOW THEREFORE, Landlord and Tenant executed this Lease as of the date first written above.

TENANT

NOYO CENTER FOR MARINE SCIENCE,
a California non-profit organization

By: _____
Sheila Semans, Executive Director

LANDLORD

CITY OF FORT BRAGG,
a municipal corporation

By: _____
Linda Ruffing, City Manager

APPROVED AS TO FORM:

_____
Samantha Zutler, City Attorney

ATTEST:

_____
June Lemos, City Clerk

thereto except having additional signature pages executed by any other party. This Lease shall take effect when signed by all Parties.

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TENANT	**LANDLORD**
NOYO CENTER FOR MARINE SCIENCE, a California non-profit organization	CITY OF FORT BRAGG, a municipal corporation
By: _____ Sheila Semans, Executive Director	By: _____ Linda Ruffing, City Manager
APPROVED AS TO FORM: _____ Samantha Zutler, City Attorney	ATTEST: _____ June Lemos, City Clerk

EXHIBIT A

Insurance Requirements for Lessees

(Not For Daily or Short Term Rentals)

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than **$1,000,000** per accident for bodily injury or disease (for lessees with employees).
3. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the Lessee maintains broader coverage and/or higher limits than the minimums shown above, the City of Fort Bragg requires and shall be entitled to the broader coverage and/or higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Fort Bragg.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Fort Bragg, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Lessee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance (at least as broad as ISO Form CG 20 10).

Primacy Coverage

For any claims related to this contract, the Lessee's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City of Fort Bragg, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Fort

Bragg, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Fort Bragg.

Waiver of Subrogation

Lessee hereby grants to City of Fort Bragg a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City of Fort Bragg by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Fort Bragg has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City of Fort Bragg.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City of Fort Bragg. At the option of the City of Fort Bragg, either: the Lessee shall obtain coverage to reduce or eliminate such self-insured retentions as respects the City of Fort Bragg, its officers, officials, employees, and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the City of Fort Bragg guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the City of Fort Bragg.

Verification of Coverage

Lessee shall furnish the City of Fort Bragg with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by the City of Fort Bragg before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. The City of Fort Bragg reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time. We strongly recommend obtaining a copy of the policy declarations and endorsement page (make this a requirement in your Contract) to facilitate verification of coverages and spot any undesirable policy limitations or exclusions.

Waiver of Subrogation

Lessee hereby grants to the City of Fort Bragg a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City of Fort Bragg by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the City of Fort Bragg has received a waiver of subrogation endorsement from the insurer.

Special Risks or Circumstances

The City of Fort Bragg reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-471

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Resolution

Agenda Number: 5C.

Adopt City Council Resolution Amending the FY 2016-17 Budget to Appropriate $93,323 Received from the Noyo Harbor District to Fund Additonal Restoration and Mitagation Work on the Coastal Restoration & Trail Project (Budget Amendment No. 2017-15; Amount not to Exceed $93,323; Account No. 407-5028-0731)

The City Council approved an agreement with the Noyo Harbor District in July 2016 allowing the transfer of up to 16,000 cubic yards of dredge materials for use on the South Coastal Trail. Only 9,323 cubic yards of material were delivered due to timing and permitting issues with the Water Board. The City received payment for the deposition of these materials in the amount of $93,323 or $10/cubic yard. Council authorization is sought for expenditure of $16,000 of these funds for the grading of the materials and $5,000 for re-seeding and completing restoration activities. These costs are directly related to the acceptance of the dredge material for restoration purposes and will be charged to account 407-5028-0731. A number of additional mitigation and monitoring activities required by the EIR for the Coastal Trail project are currently unfunded and include: ongoing restoration, invasive plant control, rare plant protection, and cultural resource protection projects and activities. These activities are required by the EIR and must continue over the next four years. Staff recommends that the remaining funds in account 407-5028-0731 be reserved for completion of required mitigation and monitoring activities and to ensure a fully restored site that is protective of rare and endangered species and cultural resources.

RESOLUTION NO._____ -2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AMENDING THE FY 2016-17 BUDGET TO APPROPRIATE $93,323 RECEIVED FROM THE NOYO HARBOR DISTRICT TO FUND ADDITIONAL RESTORATION AND MITIGATION WORK ON THE COASTAL RESTORATION & TRAIL PROJECT (BUDGET AMENDMENT NO. 2017-15; AMOUNT NOT TO EXCEED $93,323; ACCOUNT NO. 407-5028-0731)

WHEREAS, the City of Fort Bragg and the Noyo Harbor District ("District") entered into a Memorandum of Understanding in July 2016 authorizing the transfer of up to 16,000 cubic yards of dredge sands necessary for the Coastal Restoration and Trail Project in exchange for a tipping fee of $10.00 per cubic yard; and

WHEREAS, the City of Fort Bragg received payment in full from the District for the transfer of 9,323 cubic yards of dredge sands; and

WHEREAS, the Coastal Restoration and Trail Project requires additional restoration and mitigation work for which grant funding is not available; and

WHEREAS, the City Council finds that the appropriation of an additional $93,323 will benefit the Coastal Restoration and Trail project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a Budget Adjustment amending the FY 2016-17 Budget to designate the $93,323 tipping fee for restricted use to cover costs associated with the Coastal Trail restoration and Environmental Impact Report mitigation activities.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of November 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

_____
DAVE TURNER,
Mayor

ATTEST:

_____
June Lemos
City Clerk

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-479

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Consent Calendar

Agenda Number: 5D.

Accept Final Bainbridge Park Master Plan

The Bainbridge Park Master Plan was prepared following a well-attended and fruitful Community Workshop on November 17, 2015, a Special City Council Meeting on December 16, 2015, and a City Council meeting on February 22, 2016. The final plan incorporates the direction provided by City Council regarding priorities for revitalization of Bainbridge Park and provides realistic cost estimates for completing the proposed improvements. Phase I of the improvements includes installation of perimeter fencing, an entrance sign and landscaping. Phase II includes construction of a pavilion and corner art. Phase III includes construction of petanque courts and a storywalk. Finally Phase IV includes expansion of the basketball court, tree replacement and resurfacing the playground. Phase I is expected to be completed in 2017 using program income from CDBG. The remaining phases will be constructed as funding is identified and becomes available.

BAINBRIDGE PARK MASTER PLAN

CITY OF FORT BRAGG | 2016

Bainbridge Park Master Plan

2016

CITY OF FORT BRAGG, CA | *city.fortbragg.com*

Development of the Bainbridge Park Master Plan is a Supplemental Activity funded by Program Income through a 2014 Community Development Block Grant.

This project is informed by the insight and generosity of numerous members of the Fort Bragg community. The following individuals participated and contributed to the Bainbridge Park Master Plan:

- Fort Bragg City Council
  - Dave Turner, Mayor
  - Lindy Peters, Vice-Mayor
  - Michael Cimolino
  - Scott Dietz
  - Doug Hammerstrom
- Fort Bragg City Staff
  - Marie Jones, Community Development Director
  - Tom Varga, Public Works Director
  - John Smith, Operations Manager
  - Allen Palacios, Maintenance Worker
  - Sgt. Drew Kendl, Fort Bragg Police Department
  - Lynda Bengtsson-Davis, Information Technology
- Kathy Silva
- Peter Gealey, Noyo Yoyos
- Lolli Jacobsen, Noyo Yoyos

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Introduction

Purpose

The Bainbridge Park Master Plan examines both existing and compatible new uses to create a balanced park that serves the nearby community while addressing the City's recreation needs. The Plan provides direction and implementation strategies to guide the development and operation of Bainbridge Park.

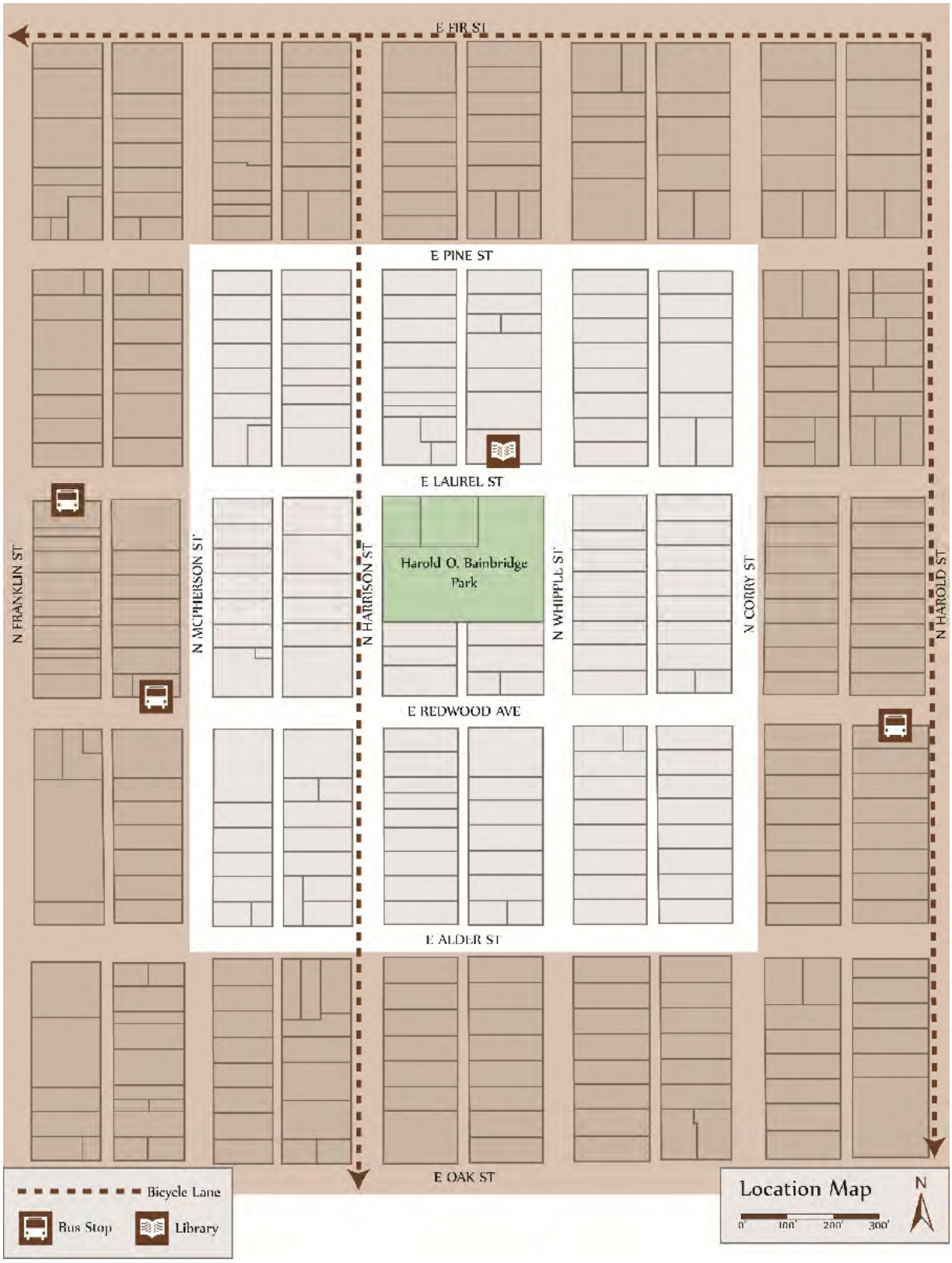
Guiding Principles

The Bainbridge Park Master Plan relies on the following documents for guidance:

City of Fort Bragg Inland General Plan
The Inland General Plan specifically addresses open space and parks, and provides the goals, policies and programs to guide future development of City parks so that they meet the community's recreational needs. The following policies of the General Plan are applicable to the Bainbridge Park Master Plan.

- Policy OS-9.3: Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.
- Program OS-9.3.1: Consider teen recreation needs when planning new or redesigned parks.
- Policy OS-9.4: Playground Facilities: Add or upgrade playground facilities at existing neighborhood parks.
- Program OS-9.4.1: Provide additional playground facilities and basketball courts at appropriate locations within neighborhoods.
- Goal OS-10: Develop park and recreation facilities with the coordination of other agencies and the public.
- Policy OS-10.4 Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites.

City of Fort Bragg Inland Land Use and Development Code
The Inland Land Use and Development Code (ILUDC) maps Bainbridge Park in the Parks and Recreation zoning district, and limits allowable uses to recreational uses, the structures needed to support those uses, and facility and site maintenance. All of the uses and improvements proposed in the Bainbridge Park Master Plan are permitted uses consistent with the zoning district. Development of new structures will require Design Review to ensure consistency with the Citywide Design Guidelines.


E FIR ST
E PINE ST
E LAUREL ST
Harold O. Bainbridge Park
E REDWOOD AVE
E ALDER ST
E OAK ST
N FRANKLIN ST
N MCPHERSON ST
N HARRISON ST
N WHIPPLE ST
N CORRY ST
N HAROLD ST
Bicycle Lane
Bus Stop
Library
Location Map
N
0'
100'
200'
300'

Bainbridge Park Today

Site Description

The partially developed two-acre Harold O. Bainbridge Park is located in the north half of town, surrounded by a residential neighborhood with medium to very-high density residential development. The west half of the park is a large, undeveloped grassy lawn. Trees border the lawn along the west and north boundaries of the park. This half of the park is the least used and has the most potential for improvements and new facilities. See the **Existing Facilities Map** on the following page for more detail.

The eastern half of Bainbridge Park contains the Wiggly Giggly Playground, two tennis courts and a reduced size full-court basketball court. Public restrooms sit in the center of these uses, and are accessible from the east through the playground and from the west by the basketball court. A maintenance shed, which houses maintenance equipment and provides access to the utilities that serve the park, sits near the southern border of the park, west of the basketball court.

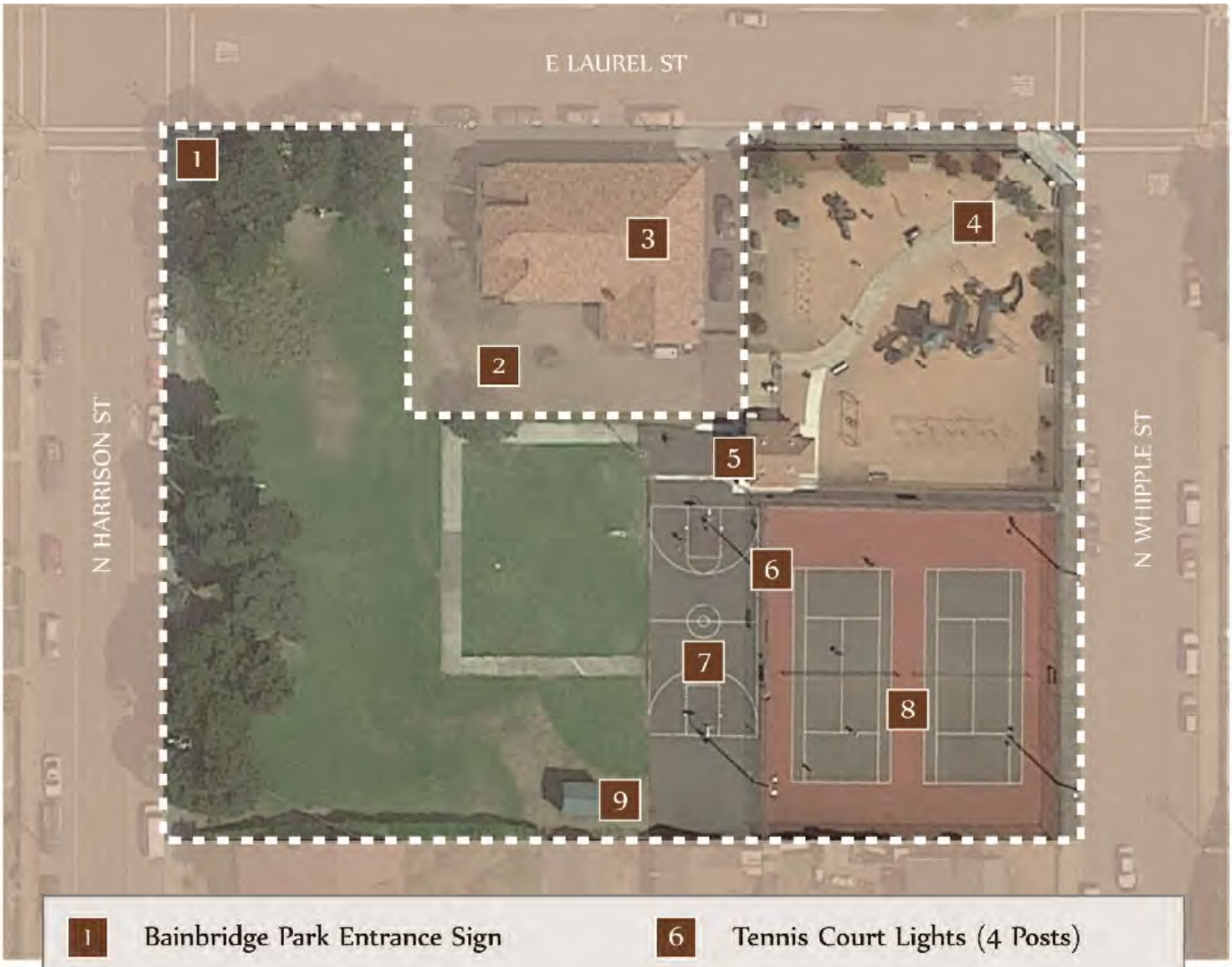
Veteran's Memorial Hall sits on the north end of the park, west of the playground. The building and surrounding area is Mendocino County property, and is not a subject of this Master Plan.

History

The Bainbridge Park property formerly housed the City Grammar School, constructed in 1889. The City Grammar School included four classrooms and a library, and was used as a school until 1923 when it became the location for City Hall.[1]

Bainbridge Park is named for Harold O. Bainbridge, former mayor and city councilman for the City of Fort Bragg spanning twenty years. Mr. Bainbridge was born in Usal and the son of a millwright. Prominent in City politics, Mr. Bainbridge promoted the inclusion of Highway 1 and Highway 20 into the State Highway System. Mr. Bainbridge operated the Fort Bragg Market, then located at 362 North Franklin Street until 1953.[2]

[1] "City Grammar School," Fort Bragg – Mendocino Coast Historical Society, http://www.fortbragghistory.org /index_files/PhotoCityGrammar.htm.
[2] Holmer, "Glance at the Past," *Fort Bragg Advocate*, October 18, 2012.



1 Bainbridge Park Entrance Sign

2 Mendocino County Property Boundary

3 Veterans Hall (Historic Building)

4 Wiggly Giggly Playground

5 Public Restrooms

6 Tennis Court Lights (4 Posts)

7 Basketball Court

8 Tennis Courts

9 Utility and Maintenance Shed

Existing Facilities Map

0' 20' 40' 60'

N

Collaboration

Community Development Department (CDD) staff sought initial input from various City staff regarding maintenance and security issues at Bainbridge Park.

Public Works

CDD staff met with Public Works staff to discuss funded and pending maintenance projects scheduled for the park. In the summer of 2016, Public Works made the following improvements to the park:

1. Reduced the wattage and height of the existing lights above the tennis courts to limit the amount of light pollution.
2. Installed more lights on existing poles west of the tennis courts to light the basketball court.
3. Replaced the picnic tables that were removed from the park due to deterioration and vandalism. The new picnic tables were placed on concrete slabs to reduce wear and protect against soggy ground underneath. The location of these new picnic tables was determined by preliminary drafts of this the Bainbridge Park Master Plan.

In terms of maintenance, the adult restroom facilities are the biggest ongoing maintenance challenge in the park, as the doors are regularly vandalized and the interiors are subject to a variety abuses. New facilities could help alleviate some of these challenges by contributing to the active use of the park.

Fort Bragg Police Department

CDD staff worked with Fort Bragg Police Sergeant Kendl to examine existing and ongoing policing issues at Bainbridge Park, such as transients and use of the park for illegal purposes. The Bainbridge Park Master Plan addresses policing issues for each proposed park improvement. Sergeant Kendl's primary recommendation is to install fencing with two gated entrances for the western and northern boundaries of the park to limit the options for quick ingress and egress, thereby making the park a less desirable destination for troublemakers.

Information Technology

The Information Technology Department identified ways to improve the security system:

1. The cameras cannot visualize the area directly in front of Veteran's Memorial Hall or the area behind the maintenance shed.
2. The security cameras previously recorded to a system within Veteran's Memorial Hall, which could only be reviewed after a problem occurs to identify troublemakers after the fact. In summer of 2016, Information Technology installed a wireless system to transmit security video footage from the park to City Hall and the Police Department. This should make the footage more easily accessible and help the Police Department when dealing with crime in the park

Community Participation

The park planning processes invited citizen input and included well-attended public meetings and a community workshop held at Veteran's Memorial Hall in Bainbridge Park. The planning process brought together City residents, neighbors, park goers, and City of Fort Bragg staff to develop and create consensus with regard to physical improvements, management issues and park improvement and rehabilitation priorities for Bainbridge Park.

The City invited the public to the following opportunities to provide input for the Bainbridge Park Master Plan:

1. Community Development Committee (October 27, 2015)
2. Bainbridge Park Community Workshop (November 17, 2015)
3. Special City Council Meeting (December 16, 2015)
4. City Council Meeting (February 22, 2016)

Community Development Committee (October 27, 2015)
During the Community Development Committee (CDC) meeting, staff provided a summary of the project and the plans for a Community Workshop to the Committee. The CDC, staff and the attending public discussed past and ongoing maintenance issues at Bainbridge Park, including the previous removal of vegetation and picnic tables, and the planned alteration to the tennis court lights.

Community Workshop (November 17, 2015)
The community workshop gave the public an opportunity to inform the planning process and prioritize and locate potential improvements.

1. The workshop began with a brief walking tour of Bainbridge Park.
2. The walking tour was followed by a presentation of poster boards illustrating the existing facilities, and participants provided additional comments and input about existing facilities.
3. Staff then presented colorful poster boards that illustrated a number of potential improvements for the park. Workshop participants discussed pros and cons of the various potential improvements.
4. After this general discussion, the seated format of the workshop broke up and each participant was given six green dots and six red dots to prioritize their favorite and least favorite potential park improvements by placing them on the poster boards.
5. Staff tallied the dots to determine the highest priority improvements and conveyed this information to the participants.
6. Workshop participants then worked in five small groups of three to seven people to create park layouts using the most popular improvements and scaled cut-out representations of each improvement.
7. The workshop concluded with a presentation by each small group of their layout and the rational for the layout that they created.

Over thirty citizens attended the public workshop, in addition to City staff and Councilmembers. Included among the participants was a strong turnout by the petanque- and tennis-playing communities.

The workshop provided opportunity for participants to develop a vision for Bainbridge Park and potential improvements. There was clear consensus among the workshop participants that park improvements should include new petanque courts and a covered structure (or pavilion) at the park. Other very popular ideas include improving the tennis and basketball courts and adding public art. Workshop participants were strongly opposed to developing a community garden or a public plaza. The table below shows the tally for the improvement ideas (from highest to lowest priority) from the workshop.

Bainbridge Park Community Workshop Preference Results

	Potential Amenity	Votes in Favor	Votes Opposed
Most Favorable	Petanque Courts	20	0
	Covered Structure (Pavilion)	26	5
	Public Art	26	12
	Improve Tennis Courts	32	2
Favorable	Landscaping	17	9
	Grills	11	0
	Improve Basketball Court	10	0
Not Favorable	Batting Cage	1	8
	Golf or Putt-Putt	0	11
Least Favorable	Community Garden	0	32
	Plaza or Square	3	19
	Allow Soccer on Tennis Courts	0	32
Most Debated	Fencing	22	17

Although not listed in the table above, workshop participants were in favor of adding benches and picnic tables. These improvements received limited votes because it was understood that these improvements were already ordered and would be available prior to the completion of the Master Plan.

Two general themes emerged from the five plans created at the community workshop. **Workshop Theme 1** placed the pavilion at the northwest corner of Bainbridge Park, with more space for active recreation uses (petanque, volleyball, etc.) along the southeastern portion of the open space. Three of

the five workshop groups preferred this general layout. Each of these three groups had open space south of the covered structure to serve as seating when the pavilion is utilized as a stage. An open space buffer or vegetation would shield the residences immediately to the south from park uses.

Workshop Theme 1

Workshop Theme 2

Workshop Theme 2 placed the covered structure immediately west of the basketball court in the area presently surrounded by sidewalk. This layout protects a good deal of Bainbridge Park's existing open space, while placing a more limited amount of active recreation facilities on the southern end of the park.

Special City Council Meeting (December 16, 2015)

Following the Community Workshop, staff analyzed the public recommendations for presentation at the December 16, 2015 Special City Council meeting. A handful of citizens attended the meeting and provided additional input to help frame the Bainbridge Park Master Plan. At the meeting, City Council reviewed the results of the Community Workshop and the recommendations from City staff. City Council preferred the park layout reflected in **Workshop Theme 1**, placing the covered structure at the northwest corner of the park.

City Council Meeting (February, 2016)

City Council made final direction on the Bainbridge Park Master Plan, recommending the fence be the highest priority improvement, but requested that gates be removed from the Plan. Council also requested that the future pavilion should architecturally match the existing restrooms and Veteran's Memorial Hall.

Master Plan Recommendations

Focus Area: Community Gathering Space

Covered Structure/Pavilion

City Council and workshop participants expressed strong support for a new small pavilion in Bainbridge Park to provide a dry location for activities during inclement weather, a venue for markets, fairs, parties, and events, and a small stage for music or shows.

The workshop groups were given an option of a larger (30-40 person, 1,200 square feet) or smaller (15-20 person, 400 square feet) pavilion, and all five groups selected the larger structure for their plans. Three of the five groups proposed the pavilion at the northwest corner of the park. One located it at the south end of the park and the other located it in the middle of the park. At the December 16, 2015 Special City Council Meeting, City Council favored placing the structure at the northwest corner of the park for the following reasons:

1. The inside of the pavilion will be visible from Harrison and Laurel Streets to accommodate police monitoring.
2. The entire western half of the park will serve as a lawn for seating or other open space activities.
3. The close proximity to Harrison and Laurel Streets will provide easy access for loading and unloading equipment, food and party supplies for the pavilion.

Sample pavilion designs that received favorable responses from the Community Workshop and City Council meetings

The **Master Plan Park Layout** sites the pavilion at an angle in the corner of the park. This allows for a larger pavilion (shown as 48-feet by 24-feet) without encroaching onto Mendocino County property. The angle of the structure also provides space at the corner of the park for an art installation, discussed later in the Master Plan.

Electricity and water are important amenities for the pavilion to encourage various uses; however, any access to utilities would be secured and available by reservation only. Reservations will be managed by City Hall. Picnic tables will not be permanently installed inside the pavilion to allow flexibility for multiple uses. If after construction it is apparent that the primary use of the pavilion requires picnic tables, the City can evaluate placing permanent picnic tables in the pavilion at that time. Otherwise, users will need to bring or rent their own picnic tables for parties within the Pavilion.

The pavilion was the most popular recommended improvement at the community workshop. At their February 22, 2016 meeting, City Council recommended that the future pavilion architecturally match the style of the existing bathrooms and Veteran's Memorial Hall.

Picnic Tables, Grills and Benches
All five workshop site plans included picnic tables and benches distributed around the open space of the park. Many also included benches next to active uses. Four of the plans included grills in the park. Grills need to be secured overnight to prevent misuse by anyone trying to camp in the park. Picnic tables, grills and benches are proposed throughout the park, as depicted on the **Master Plan Park Layout**.

Focus Area: New Active Recreation Uses

Petanque Courts
Workshop attendees and City Council were strongly in favor of adding playing courts for petanque, a form of lawn bowling played on a hard dirt or gravel surface. There is approximately 12,500 square feet of petanque surface presently located at the C.V. Starr Center. Of those courts, approximately 10,000 square feet are scheduled for removal to accommodate the eventual construction of the proposed gymnasium at the C.V. Starr Center property.

Photos from Fort Bragg's annual Wollenberg Tournament

A single petanque court measures approximately 16 feet by 50 feet (800 square feet). The existing courts at C.V. Starr Center consist of a layer of gravel topped with crushed urchin shells. Petanque courts could also be used for other purposes besides Petanque (for example, the courts located at the C.V. Starr Center are used for the Soroptomists' Labor Day Craft Show).

The Noyo Yoyos, Fort Bragg's local petanque organization, holds the annual Wollenberg Petanque Tournament, simultaneously utilizing 14 separate petanque courts (including those courts slated for removal for potential gymnasium construction). The layouts generated at the community workshop depict petanque areas ranging from one court (16 feet by 50 feet) to three courts (60 feet by 50 feet). City Council recommended the Master Plan include space for three or four petanque courts.

The **Master Plan Park Layout** locates approximately 3,200 square feet of petanque surface west of the proposed basketball expansion. This will provide space for four separate petanque courts.

Focus Area: Improvements to Existing Features

Wiggly Giggly Playground
The playground, the most utilized facility at Bainbridge Park, is busy throughout the day. The ongoing success of the playground relies on continuing maintenance to keep the quality of the facility high. Attendees at the Community Workshop had relatively minor requests for the playground, including that the gates be strengthened, and that the latches on the gates be replaced so that they make less noise when latched. Additionally, the ground mulch composing the floor of the playground area needs regular

upkeep. The mulch must be kept level and even, and bare spots need to be filled to keep the surface safe. As the mulch decays into soil, the excess soil needs to be regularly removed and replaced with fresh mulch. At the December 16, 2015 Special City Council Meeting, City Council recommended the Master Plan include installation of a synthetic surface to replace the mulch in Wiggly Giggly Playground. This will dramatically decrease the regular maintenance required to manage the mulch, but at a very high initial investment. Upgrading the play surface to a synthetic material is considered a low priority.

Shed

The location of the existing utility shed had created issues in the park, providing individuals with a visual barrier that shields illegal activities. However, the City recently installed a chain link fence blocking access to the south side of the shed. Nearby residents report that the shed still serves as a screen for illegal activity occurring on the east side. Providing the Police Department with easier access to security footage (as discussed above) and installing perimeter fencing may help the police to alleviate these issues.

Improve Basketball Court

Four of the five workshop groups and City Council requested an expansion of the basketball court to a regulation size. Enlarging the court requires avoiding the existing water meter located a few feet west of the existing pavement edge. In order to stay clear of the water meter, the court would need to be shifted south approximately ten feet.

The edge of the existing undersized basketball court

City Council received a letter from a citizen living at the end of the alley south of the park. The letter indicated that bouncing basketballs frequently clear the fence and hit his residence. The proposed park layout shifts the park further to the south, potentially leading to more incidents of basketballs clearing the fence. In order to resolve the existing issue and offset any new impacts of moving the basketball court, the Master Plan recommends extending the tall tennis court fence west along the southern edge of the basketball court. The fence addition should correspond with the basketball court expansion.

Improve Tennis Courts

Many local tennis players came to the workshop and they strongly opposed allowing other uses on the tennis courts, especially soccer, in order to protect the playing surface and equipment from damage. CDC staff had received requests to begin allowing soccer or pickle ball on the courts. Presently, kids and adults looking for hard surfaces that could accommodate activities other than tennis are available two blocks to the east of Bainbridge Park at Fort Bragg Middle School.

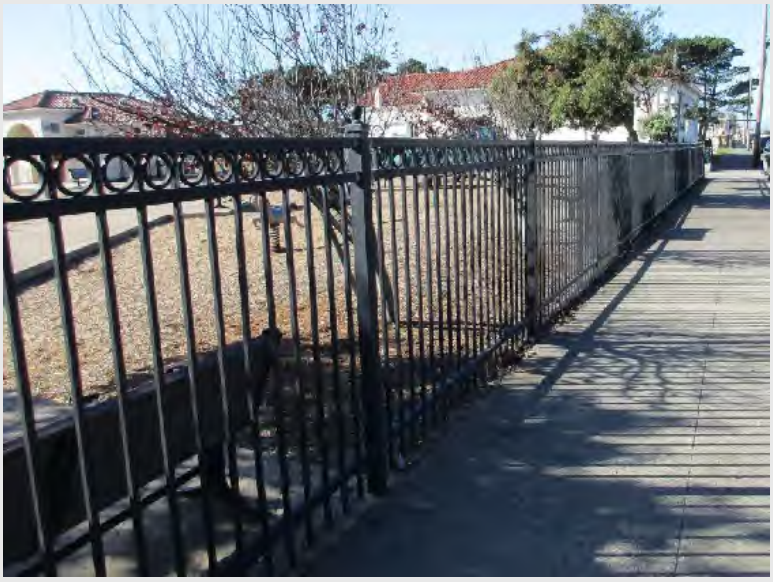
Workshop attendees recommended improvements to the tennis courts, including: replacing the nets, resurfacing the courts, and adding a hitting wall for solo playing. Four of the five workshop layouts left the tennis courts unchanged, just one recommended a hitting wall.

This plan recommends maintaining the limitation of court use to only tennis to protect the long-term quality of the courts.

Focus Area: Pathways and Beautification

Fencing

Fencing was the most controversial potential improvement for the park as it received many votes both in favor and opposed at the Community Workshop. City Council requested that the City of Fort Bragg Police Department direct fencing improvements for the Master Plan, as security and safety were the primary concerns of the citizens in attendance at the Special City Council Meeting. The Police Department recommends surrounding the park with fencing to limit options for ingress and egress, making the park less desirable for transient individuals. The Police Department's recommendation included gated entrances along the north and west boundaries of the park; however, City Council requested that the fencing exclude gates to reduce costs and avoid creating an unwelcoming feeling at the park.



Existing fencing at Wiggly Giggly Playground.

Fencing the park will have the following benefits to safety and security:

1. Emphasizing the boundary of the park with a fence has the potential to increase the sense of security within the park—children inside the park are kept away and separate from vehicular and pedestrian traffic, and the west portion of the park would feel connected to the more regularly-populated east side of the park.
2. Fencing would reduce the amount of ingress and egress points for the park, which could make the park less appealing to those wishing to use the park for illegal activity.
3. Fencing can match the existing fencing around the Wiggly Giggly Playground, creating an aesthetic connection between the east and west sides of the park.

The **Master Plan Park Layout** includes fencing along the western and northern boundaries of the park. City Council requested the fencing generally match the existing fencing at the Wiggly Giggly Playground, but could be simpler and shorter to reduce costs. City Council requested the fencing generally match the existing Wiggly Giggly fence, but recommended considering a slightly shorter height or removal of the decorative top rail to reduce costs.

An agreement (Memorandum of Understanding) between the City of Fort Bragg and Mendocino County will be required to install fencing along the northern property boundary extending all the way to the Veteran's Memorial Hall building, since Mendocino County owns the Veteran's Memorial Hall building and the nearby property. In order to establish the necessary agreement, the City will need to work with the County to establish terms for the ongoing maintenance of the fence. In preliminary conversations with Mendocino County General Services, the County is receptive to enter into such an agreement. Additionally, the City will have to agree to indemnify the County for any claims resulting from the fence. Fencing is part of Phase 1 of the Master Plan.

Public Art

Public art can take many forms, such as a sculpted bike rack or crafted bench. Individual art pieces can dress up park entrances and compliment landscaping. Both the community and City Council expressed strong support for adding public art to Bainbridge Park.

The west half of the park is currently lacking amenities for children compared to the east side of the park, where Wiggly Giggly Playground is located. In order to provide the park with public art while simultaneously drawing youth-oriented elements to the west half of the park, the **Master Plan Park Layout** includes a "storywalk" along the outer perimeter of the park. It is important that the location of storywalk pedestals do not interfere with active users of the park (frisbee, catch, etc.).

Children acting out characters of a storywalk.

A storywalk involves a set of interpretive art pieces that give children an opportunity to move and read outside, promoting literacy and wellness by combining reading with physical activity. For example, a picture book is put, page by page, onto signs and installed along a walking path. Physical activities relating to the pages can be included at various locations, and could include corresponding art pieces (such as a tunnel to crawl through or statue to climb on). Coordination and cooperation with the adjacent Fort Bragg Library is key to promote, manage and create the storywalk. Additionally, a storywalk allows the Fort Bragg Library to engage with a larger community than just those that enter the facility. The Fort Bragg Library is enthusiastic about the development of a storywalk, and has pledged assistance in maintaining and promoting the storywalk with the assistance of the Rotary Club. The pages on the interpretive art pieces could be rotated, keeping the storywalk fresh and new. It may be possible to install additional storywalk pieces beyond the boundaries of Bainbridge Park, with a longer story reaching its conclusion at the Fort Bragg Library and the Wiggly Giggly Playground.

The community and City Council also support a new public art installation at the corner of Harrison and Laurel Streets. By orienting the pavilion at an angle in the corner, ample space is available for art and associated landscaping. The art piece would also serve as a backdrop to the pavilion. The corner art installation should correspond with the fence and pavilion construction.

The **Master Plan Park Layout** also recommends new entry signage at the proposed gates on Harrison and Laurel Streets. The new entry signage should include clear park rules, such as park hours and restrictions on alcohol and smoking, to assist the Fort Bragg Police Department in enforcing the existing park rules. The installation of entry signage should correspond with the construction of the fence.

Landscaping

The trees along the park's Harrison Street frontage are fully mature and near the end of their lives. Most attendees at the community workshop voted strongly in favor of including landscaping improvements in the Bainbridge Park Master Plan, specifically recommending the addition of native trees. City Council recommended the removal of the aging trees along Harrison Street in conjunction with a vegetation plan replacing the existing trees with appropriate species that are drought tolerant and allow visibility beneath the canopy.

Additional, but limited, new landscaping can also compliment the entry signage at Harrison and Laurel Streets, and the proposed art installation at the Bainbridge Park's northwest corner. Any future landscaping should be native and drought tolerant, and of growth habit such that it does not become an attractive nuisance for camping.

Implementation

Phasing

City Council reviewed the various improvements identified for the park, and prioritized their development based on need, community input and costs. Four improvement phases are described below. It is important to note that improvements do not need to occur in order of the prescribed phasing. Availability of funding or shifting community needs may inform these timelines.

Fencing Phase – Top Priority
City Council places the highest priority on fencing for the park. At the recommendation of the Police Department and with input from the community, fencing should help alleviate some of the security issues presently affecting the park. Installation of entrance signage and landscaping are included in this first phase.

The City anticipates collecting Community Development Block Grant Program Income in early 2017 to fund the Fencing Phase of Bainbridge Park improvements. Funding is expected to be approximately $75,000.

Pavilion Phase – High Priority
The community meetings identified development of a pavilion as the most popular improvement of the Master Plan. City Council requested that a new pavilion generally match the architectural style of the existing buildings in the park, which requires a greater investment than a more rustic style structure. Installation of public art at the intersection of Harrison Street and Laurel Street is included in this phase to fill the prominent area created by the placement of the pavilion.

Activity Phase – Mid Priority
The community suggested the Master Plan include improvements to encourage active use of the park. Regular active park use would deter transients from loitering in the park. Development of the petanque courts and the storywalk would invite regular use of the park—particularly during daytime weekday hours when the park presently gets the least amount of use.

Maintenance Phase – Low Priority
The community and City Council identified the need to update or modify existing facilities of the park, including expansion of the basketball court, replacement of trees that are near the end of their lifespans, and resurfacing the playground to decrease maintenance costs. However, there is no imminent need to undertake these improvements, and have been identified as low priorities.

Bainbridge Park Improvement Summary and Priorities

	Park Improvement	Size or Quantity	Approx. Cost
Fencing Phase Top Priority	Perimeter Fencing	350 linear ft.	$30k to $50k
	Entrance Signage	2 signs	$5,000+
	Landscaping	Associated with signs and fence	$5,000+
Pavilion Phase High Priority	Pavilion	24 ft. x 48 ft.	$50,000+
	Corner Art	1 piece	$5,000 to $10,000
Activity Phase Mid Priority	Petanque Courts	4 courts	$15,000
	Storywalk	Storywalk with interactive art	$500 (temporary) $10,000 (with art)
Maintenance Phase Low Priority	Expand Basketball Court	1,400 square ft.	$30,000
	Tree Replacement	Remove 9 trees, plant 10 trees	$20,000
	Resurface Playground	15,000 square ft.	$175,000+

Bainbridge Park Master Plan Process

October 27, 2015

Community Development Committee

CDD Staff brings project framework to Community Development Committee for discussion and review

November 17, 2015

Community Workshop

Community provides input on park improvements, maintenance and operation issues.

CDD Staff aggregates input from stakeholders to share with City Council.

December 16, 2015

Special City Council Meeting

Council reviews stakeholder and workshop input, and provides direction to Staff to prepare Master Plan.

CDD Staff drafts Bainbridge Park Master Plan

February 22, 2016

City Council Meeting

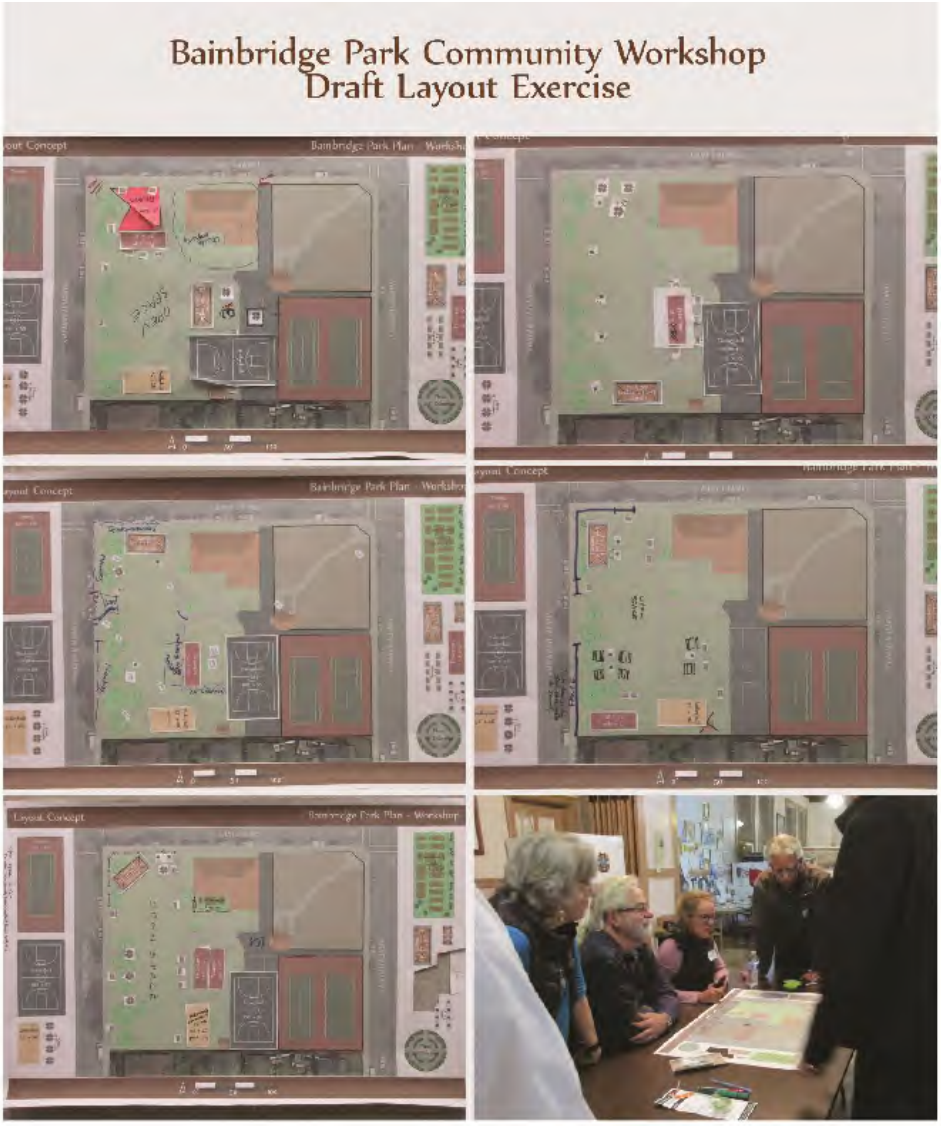
Council reviews Bainbridge Park Master Plan, and provides comments and direction for revision.

CDD Staff revises Bainbridge Park Master Plan based on City council review and direction.

March ??, 2016

City Council Meeting

Council reviews Bainbridge Park Master Plan for approval and adoption.


Bainbridge Park Community Workshop
Draft Layout Exercise

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-473

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Committee Minutes

Agenda Number: 5E.

Receive and File Minutes of September 8, 2016 Special Finance and Administration Committee Meeting

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes
Finance and Administration Committee

Thursday, September 8, 2016 | **10:00 AM** | **Town Hall, 363 N. Main Street**

Special Meeting

MEETING CALLED TO ORDER

Chair Turner called the meeting to order at 10:10 AM

ROLL CALL

Staff Present: City Manager Linda Ruffing, Administative Services Director Scott Schneider and Administrative Assistant Brenda Jourdain

Present: 2 - Doug Hammerstrom and Dave Turner

1. APPROVAL OF MINUTES

1A. 16-354 Approve Minutes of Meeting of June 1, 2016

The minutes were approved as presented.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

3. CONDUCT OF BUSINESS

3A. 16-351 Review Report of Contracts Under $25,000 for April 1, 2016 - August 31, 2016

The Committee reviewed the contracts as outlined in the report prepared for this item and City Manager Ruffing answered any questions.

Public Comment:

Rex Gressett - Talked about the process of contracts.

Committee Discussion:

There was Committee discussion regarding the Welcome Sign completion.

This Report was received and filed.

3B. 16-359 Consider Making Recommendations to City Council Regarding Modifications to the Order of City Council Agenda Items

City Manager Ruffing presented to the committee the summary report prepared by City Clerk June Lemos and answered any questions.

Public Comment:
David Gurney - Commented on the agenda order and public comment.
Casey Browning - Commented on the agenda order of the consent calendar and public comment.
Rex Gressett -Talked about committee meetings online, agenda order and public comment.
Bernie Norvell - Asked about consent calendar history on agenda order.
There was discussion regarding:
*The Committee and staff discussed the City Council meeting agenda order, City code, history and chronology.
* The Committee evaluated the process of if an item gets pulled from the consent calendar, where would it go in the agenda order.
* The Committee evaluated how the agenda order has worked in the past and is this a problem at large because it is seen by some as a concern.
* It was explored how the consent calendar is expedited, how it can work in a more efficient way and the Mayor having disgression on how it is handled at the meeting.
*There was discussion on the history of how many minutes per person is allotted for public comment.
*Staff suggested that the Committee consider putting the staff comments and matters from councilmembers agenda items at the end of the meeting, also moving the consent calendar above the public hearing.
Following a lengthy discussion, the Committee did not make a recommendation to Council regarding how the agenda order should be changed. It was agreed to present this matter to the Council in a staff report that explores the different way the public comment on consent calendar, closed session and non-agenda items can be handled.
The Committee Directed Staff
The recommendation from Committee is that staff will go to council with a full staff report that will include:

- Explain chronologically how the agenda order was created and how it has changed over time.
- Does the Council want to move the consent calendar in the agenda order and if it is moved to the front when will these items be heard on the agenda.
- Request Council direction on whether public comment is permitted on a consent calendar item should it be pulled for Council discussion.
- Whether a member of the public can speak on a consent calendar item before and during the council discussion.
- Explore time limits for public comment.
- Explore options for public comment regarding, if it should be split on agenda verses all up front, placement on agenda, timing relative to consent calendar including how it would be handled and clarification of language “continued if necessary” in agenda.

Place on City Council agenda for September 26th or first meeting of October for full Council direction.

3C. 16-353 Receive Report Regarding Draft Ordinance to Modify Chapter 6.14 [Licensing of Tobacco Sellers] and Chapter 6.18 [Smoking Pollution

Control and Health Protection Regulations] of the Fort Bragg Municipal Code and Provide Direction to Staff

Committee did not have any concerns regarding the draft ordinance as presented.

The consensus by committee is to bring the draft Ordinance to Modify Chapter 6.14 [Licensing of Tobacco Sellers] and Chapter 6.18 [Smoking Pollution Control and Health Protection Regulations] of the Fort Bragg Municipal Code in preparation for the first reading at a future City Council meeting for approval.

3D. 16-345 Receive Oral Update from Staff on Departmental Activities

None.

MATTERS FROM COMMITTEE / STAFF

Next Finance and Administration Committee Meeting is scheduled for October 5th at 3 PM.

ADJOURNMENT

Chair Turner adjourned the meeting at 11:50 p.m.

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-475

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Committee Minutes

Agenda Number: 5F.

Receive and File Minutes of September 28, 2016 Public Works & Facilities Committee Meeting

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes
Public Works and Facilities Committee

Wednesday, September 28, 2016 | **3:00 PM** | **Town Hall, 363 N. Main Street**

MEETING CALLED TO ORDER

Committee Member Turner called the meeting to order at 3:02pm.

ROLL CALL

City staff present: Tom Varga, Scott Schneider, Linda Ruffing, Crystal Prairie.

Committee Member Cimolino was in attendance in place of Committee Member Peters.

Present: 2 - Dave Turner and Michael Cimolino

Absent: 1 - Lindy Peters

1 APPROVAL OF MINUTES

A. Approve Minutes of August 18, 2016

These Committee Minutes were approved for council review

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Doug Kern from Mendocino Land Trust talked about the Electronic Vehicle (EV) charging station item.

2 CONDUCT OF BUSINESS

A. Receive Report and Discuss Potential EV Charging Station Locations

Scott Schneider briefly went over the staff report.

Tom Varga stated the indicated space in the City Hall parking lot may be moved slightly. The location in the Footlighters parking lot will be moved slightly to the south.

Committee Member Cimolino spoke in favor of charging users for use of the EV charging stations.

There was discussion about rates for electrical service, charging a "parking fee" during usage of charging stations, timeline for installation, as well as ticketing for excessive use.

George Reinhart spoke in favor of having one hour free for the charging stations.

B. Receive Report on City's Lease of Skunk Train Parking Lot and Discuss Maintenance, Signage for Timed Parking Zones, and Sublease to North Coast Brewing Company

Discussion of timed parking was put off to the next meeting as Lindy Peters was not present at this meeting.

Scott Schneider brifely went over the staff report.

There was discussion of how many spaces the NC Brewery wanted to lease in the parking lot, as well as big trucks parking in the lot.

Item will come back to the next Public Works Committee meeting in October to get a recommendation regarding the timed parking. Then the item will be brought forward to the Council with recommendations regarding leasing spaces to the North Coast Brewery (separate item) as well as doing repairs on the parking lot.

The item was recommended for full Council review.

This Staff Report was recommended for approval

C. Receive Oral Update from Staff on Departmental Activities

Tom Varga mentioned Chestnut Street is out to re-bid, there may be rain this weekend which will help the water situation, and the Streets and Alley project got put on "hold" and he will get back on to that one ASAP. There are a couple priority alleys that will hopefully get done right away.

This Staff Report was received and filed

3 MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT

Committee Member Turner adjourned the meeting at 4:11pm.

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City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-464

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Minutes

Agenda Number: 5G.

Approve Minutes of November 14, 2016

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes

City Council

THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR AGENCY

Monday, November 14, 2016 | **6:00 PM** | **Town Hall, 363 N. Main Street**

CALL TO ORDER

Mayor Turner called the meeting to order at 6:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 5 - Vice Mayor Lindy Peters, Councilmember Michael Cimolino, Councilmember Scott Deitz, Councilmember Doug Hammerstrom and Mayor Dave Turner

AGENDA REVIEW

Mayor Turner announced that Agenda Item 7F would be continued to the next City Council meeting.

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. 16-435 Presentation of Proclamation Recognizing Heather Paulsen on Receiving the B Corp "Building the Movement" Award

Mayor Turner presented a Proclamation to Heather Paulsen for receiving the Certified B Corporation "Building the Movement Award" this year.

2A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

- Charles Brandenburg asked the Council to discuss what to do regarding the possibility of local undocumented residents being deported or imprisoned.
- Simon Smith thanked Councilmembers Hammerstrom and Deitz for their service on the Council and encouraged the Councilmembers to pursue measures that would protect citizens and visitors in advance of the incoming presidential administration.
- Andy Wellspring urged the City to look into Sanctuary City status and declaring Fort Bragg a hate-free zone.
- Terrence Vaughn said parking lot limitations discourage people from shopping downtown, and he asked that Agenda Item 5D be removed from the Consent Calendar for further discussion.
- Erica Harrold spoke in support of the two-year lease extension for Flockworks, saying it is a fabulous use of space that helps local people learn a new skill or craft.

3. STAFF COMMENTS

City Manager Ruffing thanked the management team for keeping the City running smoothly in her

absence. She acknowledged the Veterans on the City staff, invited the public to a City Dialogue meeting on November 17 at 5PM at Town Hall, and noted that City Hall will be closed for Thanksgiving on November 24 and 25. City Clerk Lemos provided an update on the status of the election, noting that the County Elections Office will certify the results on or before December 6. Police Chief Lizarraga said a benefit dinner for the Public Safety Foundation will be held at Veterans Hall November 19 to provide training and equipment for the two Police K-9s.

3A. 16-447 The City's New Street Sweeper

Public Works Director Varga gave an update on the City's new street sweeper.

4. MATTERS FROM COUNCILMEMBERS

Mayor Turner announced that he was forming an ad hoc committee consisting of himself and Vice Mayor Peters to investigate the Sanctuary City matter. Mayor Turner reported that he spoke at Veterans Hall on Veterans Day. He encouraged people to go outside and look at the Super Moon tonight. Vice Mayor Peters stated he is happy to serve on the Sanctuary City ad hoc committee. He reported smart phone apps were recently discussed at a Mendocino Transit Authority meeting, which would provide more efficient service to transit riders. He encouraged locals to attend the Fort Bragg High School football game Friday. Councilmember Cimolino reported on the first Bee City USA meeting, a Coalition for Gang Awareness & Prevention meeting, and upcoming Community Emergency Response Team training. Councilmember Cimolino also reported on new wood pellet and wool mill operations opening soon in Mendocino County. Councilmember Hammerstrom spoke on the Sanctuary City issue.

5. CONSENT CALENDAR

Mayor Turner requested that Item 5D be removed from the Consent Calendar for further discussion.

Approval of the Consent Calendar

A motion was made by Vice Mayor Peters, seconded by Councilmember Hammerstrom, to approve the Consent Calendar with the exception of Item 5D. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

5A. 16-432 Adopt by Title Only and Waive Second Reading of Ordinance 926-2016 Amending Chapter 6.14 (Licensing of Tobacco Sellers) and Chapter 6.18 (Smoking Pollution Control and Health Protection Regulations) of the Fort Bragg Municipal Code to Modify Tobacco Retailer Licensing Regulations and Smoking Prohibitions to Include Electronic Smoking Device

Enactment No: ORD 926-2016

5B. 16-433 Adopt by Title Only and Waive Second Reading of Ordinance 927-2016 Adding Chapter 9.33 (Cannabis Manufacturing) to Title 9 (Public Peace, Safety and Morals) of the Fort Bragg Municipal Code

This Ordinance was adopted on the Consent Calendar.

Enactment No: ORD 927-2016

5C. 16-444 Adopt City Council Resolution Downgrading the City of Fort Bragg's Water Emergency from Stage 2 to Stage 1

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3949-2016

5E. 16-460 Adopt City Council Resolution Authorizing Expenditure of Asset Forfeiture Funds and Amending the FY 2016-17 Budget (Budget Amendment No. 2017-11) to Purchase Two New 2015 Ford Taurus Vehicles (Amount Not to Exceed $50,000; Transfer from Asset Forfeiture Account No. 167-7999-0799 to Fleet Account No. 522-4550-0742)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3951-2016

5F. 16-450 Approve City Council Letter in Support of Economic Development & Financing Corporation Application to the Intermediary Relending Program

This Council Letter was approved on the Consent Calendar.

5G. 16-458 Receive and File Minutes of August 23, 2016 Community Development Committee Meeting

These Committee Minutes were received and filed on the Consent Calendar.

5H. 16-434 Approve Minutes of October 24, 2016

These Minutes were approved on the Consent Calendar.

6. PUBLIC HEARING

6A. 16-439 Receive Report and Conduct Public Hearing for Disclosure of Accomplishments and Closeout of Activities Funded by Community Development Block Grant (CDBG) 14-CDBG-9731

Special Projects Manager Owen delivered her staff report on the Community Development Block Grant (CDBG) Over-the-Counter (OTC) grant funded loan for Sportz Investment, Inc. and responded to questions from Councilmembers on how loan programs are publicized and announced to the community.

Mayor Turner opened the public hearing at 6:50 PM.

The following members of the public took the podium to express thanks to Special Projects Manager Owen for the work she does in bringing CDBG grants to Fort Bragg: Carol White, George Reinhardt, Gabriel Quinn Maroni, Janet Self, Marianne McGee, Hilary White, Linda Jupiter, Meg Courtney, Terry Vaughn, Chriss Zaida and Will Lee.

Mayor Turner closed the public hearing at 6:58 PM.

The Mayor noted that Owen may be the most knowledgeable person in the state about the complicated CDBG process and thanked her for her hard work, which was echoed by all the Councilmembers.

7. CONDUCT OF BUSINESS

7A. 16-463 Receive Report from Janet Self, Executive Director of Flockworks, and Consider Adoption of Resolution Approving First Amendment to Lease Agreement with Flockworks and Authorizing City Manager to Execute Same

Administrative Services Director Schneider presented a brief staff report on this agenda item. Janet Self, Executive Director of Flockworks, gave a report to the City Council on how Flockworks brought about the transformation of the boys locker room at the gymnasium into an industrial arts work center for print art and letter press work over the last two years. She requested the Council approve a two-year extension of the lease so the organization could move beyond the incubation stage and grow into a valuable community asset. Ms. Self also requested that Flockworks be allowed to use the hallway access to the gymnasium for display space and special projects.
Public Comment: Larry Thomas, Debbie Lennox, Janet Self and Jonathan Plumber spoke in favor of the lease extension.
Discussion: It was generally agreed by the Council to support Flockworks in their endeavors, to approve the lease extension for two more years, and to allow them to utilize the extra space when needed subject to the City's gymnasium reservation policies.

A motion was made by Councilmember Deitz, seconded by Councilmember Hammerstrom, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

Enactment No: RES 3952-2016

7B. 16-443 Receive Recommendation of Public Works & Facilities Committee and Provide Direction to Staff Regarding Electric Vehicle Charging Stations

Administrative Services Director Schneider summarized the staff report. Public Works Director Varga noted that the parking spaces for the EV charging stations located in the Sears Alley on Attachment 1 would need to be moved behind the bus stop in the Footlighters parking lot due to Sears truck loading and unloading activities. Doug Kern of the Mendocino Land Trust spoke to the Council regarding the safety of the EV charging stations.
Public Comment was received from:
- George Reinhardt spoke in support of the project.
- Simon Smith asked if the ADA space would be an EV charging station.

Discussion: All Councilmembers supported moving forward with the project as recommended by the Public Works and Facilities Committee, except that the location of two EV stations should be moved from Sears Alley to Footlighters parking lot.

This Staff Report was approved as amended. Staff was directed to proceed with the project.

7C. 16-440 Receive Recommendation from Community Development Committee to Host a Mural Competition in Fort Bragg and Provide Direction to Staff

Community Development Director Jones outlined the staff report on this agenda item.
Public Comment was received from:
- Carol White spoke in favor of the mural competition.

- George Reinhardt spoke in favor of the competition.
- Jonathan Palmer talked about the submission of entries/artwork and how that process would work.

Discussion: The general consensus of the Council was to support a mural competition, with Council to approve of the mural locations. Local business owners at those locations would decide which mural is to decorate their building. As funding is not yet confirmed for the competition, the Council asked staff to come up with a funding plan to seek grants, consider fundraising opportunities, and to use what is left of the Waste Management Community Benefit Fund. No general fund revenues are to be used.

Council directed staff to proceed with a mural competition as follows:
*** Staff to return to City Council with a funding plan prior to launching the mural competition**
*** The Council does not wish to choose a theme for the competition**
*** Staff will present several suggested locations and the top 20 mural designs to the Council for review**
*** Council will decide on three to four mural locations for the first year of this annual competition**
*** The business owners at those locations will select the design for their buildings out of the top 20**

7D. 16-441 Adopt City Council Resolution Awarding the Contract for the Chestnut Street Corridor Project, City Project No. 2015-04 to Akeff Construction Services of Fort Bragg, Authorizing City Manager to Execute Contract (Amount Not to Exceed $1,379,313.00; Account No. 413-5009-0731 and 413-4950-0731) and Approving Budget Amendment No. 2017-06 for $563,313 Amending the FY 2016/17 Budget to Appropriate from Special Sales Tax - Street Repair, Fund 250 to Account No. 413-4950-0731

Public Works Director Varga presented the staff report on this item. (Note: There was a typographical error at the bottom of page 2, which should have read, "It is recommended to not include...") Varga noted that there were two resolutions recommended for adoption: One to approve the contract with Akeff Construction and one to amend the budget to utilize street sales tax funds to allow for the project's completion.
Public Comment: Terry Vaughn spoke in opposition to the project.
Discussion: Some Councilmembers were concerned with the budget shortfall on this project and requested that staff inform Council of any anticipated budgeting issues for projects in the future.

A motion was made by Councilmember Hammerstrom, seconded by Councilmember Deitz, that the Resolution awarding the project to Akeff Construction be adopted. The motion carried by the following vote:

Aye: 4 - Vice Mayor Peters, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

No: 1 - Councilmember Cimolino

Enactment No: RES 3953-2016 / RES 3954-2016

A motion was made by Councilmember Deitz, seconded by Mayor Turner, that the Resolution approving Budget Amendment No. 2017-06 be adopted. The motion carried by the following vote:

Aye: 3 - Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

No: 2 - Vice Mayor Peters and Councilmember Cimolino

Enactment No: RES 3953-2016 / RES 3954-2016

7E. 16-461 Receive Report and Adopt Resolution Authorizing Execution of a Grant Agreement, Committing Match Funding of $27,368, and Amending the FY 2016-17 Budget (Budget Amendment No. 2017-12) for Purchase of Up To Twenty Body-Worn Cameras and Associated Equipment for the Body-Worn Camera Policy and Implementation Program (Amount Not to Exceed $25,219.00; Account No.110-4200-0381)

Police Chief Lizarraga summarized this agenda item and answered questions from Council regarding the body worn camera program.
Public Comment: Terry Vaughn spoke in favor of the program.

A motion was made by Vice Mayor Peters, seconded by Councilmember Cimolino, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

Enactment No: RES 3955-2016

7F. 16-457 Receive Report and Provide Direction to Staff Regarding Proposed Amendments to Article 3 and Article 4 of the Fort Bragg Municipal Code Title 18, the Inland Land Use and Development Code (ILUDC)

This Staff Report was continued to November 28, 2016.

ITEMS REMOVED FROM CONSENT CALENDAR

5D. 16-445 Adopt City Council Resolution Approving Sublease of a Portion of the Skunk Depot Parking Lot to North Coast Brewing Company and Authorizing City Manager to Execute Same

Administrative Services Director Schneider gave the background on this parking lot sublease with the North Coast Brewing Company.
Public Comment was received from:
- Terry Vaughn asked the Council to hold off on this item until the timed parking issues could be discussed.
- Simon Smith spoke in favor of executing the lease agreement.
- Marianne McGee remarked that all downtown parking should be looked at.
- Will Lee made comments about In Lieu parking fees.

Discussion: There was general agreement that the Council was in favor of the sublease.

A motion was made by Vice Mayor Peters, seconded by Councilmember Deitz, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

Enactment No: RES 3950-2016

2B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

8. CLOSED SESSION

ADJOURNMENT

Mayor Turner adjourned the meeting at 9:41 PM.

_____
DAVE TURNER, MAYOR

_____
June Lemos, City Clerk

IMAGED (_____)

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-476

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Public Hearing

In Control: City Council **File Type:** Resolution

Agenda Number: 6A.

Receive Report, Conduct Public Hearing, and Consider Adoption of: (1) City Council Resolution Adopting Updated Fees for Various Planning and Building Services; (2) Joint City Council/Improvement District Resolution Adopting Updated Fees for Miscellaneous City/District Services; and (3) Resolution Extending Temporary Waiver of In-Lieu Parking Fees

AGENCY:	**City Council/MID**
MEETING DATE:	**November 28, 2016**
DEPARTMENT:	**Administration**
PRESENTED BY:	**L. Ruffing**

AGENDA ITEM SUMMARY

TITLE:
RECEIVE REPORT, CONDUCT PUBLIC HEARING, AND CONSIDER ADOPTION OF THE FOLLOWING:

1. **CITY COUNCIL RESOLUTION ADOPTING UPDATED FEES FOR VARIOUS PLANNING AND BUILDING SERVICES**
2. **JOINT CITY COUNCIL/IMPROVEMENT DISTRICT RESOLUTION ADOPTING UPDATED FEES FOR MISCELLANEOUS CITY/DISTRICT SERVICES**
3. **CITY COUNCIL RESOLUTION EXTENDING TEMPORARY WAIVER OF IN-LIEU PARKING FEES**

ISSUE:
The City of Fort Bragg charges fees to offset the cost of providing various services and those fees are reviewed each year to assure that full cost-recovery is provided consistent with established City Council/Improvement District Board policies. If approved, the updated fee schedule presented herein would take effect on January 1, 2017.

RECOMMENDED ACTION:
Following the public hearing, take the following actions:

1. Motion to adopt City Council resolution adopting updated fees for various Planning and Development services;
2. Motion to adopt joint City Council/Improvement District resolution adopting a fee schedule for miscellaneous City/District services.
3. Motion to adopt City Council resolution extending temporary waiver of in-lieu parking fees to December 31, 2017.

ALTERNATIVE ACTION(S):

1. Conduct the public hearing and make minor modifications to one or more of the resolutions prior to adoption.
2. Conduct the public hearing and direct staff to provide additional analysis or changes to the proposed resolutions for action at a future meeting.

ANALYSIS:
Staff time and other costs incurred in conducting City business (such as processing of development and other applications, inspections, agenda and packet preparation, and most other services) are generally measurable and are provided for the benefit of individuals as opposed to the benefit of the community as a whole. Hence, fees for these activities are not taxes, but rather, they are fees for services. The 2017 fee schedule update includes the following noteworthy changes:

Planning & Development Fees

- Most of the changes to the Planning & Development fees result from increased personnel costs.
- In a few instances, fees will go down—these reductions resulted from recalculation of average staff time associated with permitting activities. Notable fee reductions include a reduction in the cost of a Planning Commission hearing from $1,115 to $760 and reductions in Code Enforcement Fees.
- Staff recommends that the temporary waiver of Parking In-Lieu Fees be extended for one more year to assist new and expanding businesses in the Central Business District. A resolution is presented for the Council to extend the temporary waiver until December 31, 2017 (Attachment 1).
- A new fee of $25 for Administrative Design Review of Public Arts & Murals is proposed rather than charging the full design review fee ($560) for these activities.
- Staff recommends that the Council consider modifying the cost of an appeal of a Planning Commission decision. It is currently $1,000 and staff recommends that it be reduced to $500. Neither of these amounts comes close to covering the costs associated with an appeal—but the Council has chosen to set appeal fees at a level which discourages "frivolous" appeals while not having a "chilling effect" on appellants' ability to pay the filing fee. The fee schedule also includes a Note, as follows:

  > "DDA will be charged for all costs incurred by City in processing an appeal. Appeal fee will be credited to DDA. Council retains authority to reimburse appeal fees."

  This language is consistent with Council policy that developers, rather than taxpayers, should pay for the costs associated with the City's processing of development applications. It is, however, a departure from past practice. The City Attorney's office is reviewing the Processing Agreement Form for developer deposit accounts and some revisions may be made to clarify an applicant's responsibility for covering costs incurred by the City in conjunction with the processing of an appeal.

Fees for Miscellaneous City Services

- The fee structure for Film Permits has been simplified by eliminating much of the verbiage and, instead, relying on a deposit account to recover City costs.
- No changes are proposed for the Old Rec Center Gym use fees.
- A new appeal fee is established for appeals of Code Enforcement actions that is equal to the amount of the Code Enforcement penalty fee.
- Minor changes are proposed to Public Safety and Public Works fees. In Public Works, some fees deemed to be unnecessary are eliminated.
- The AV Tech fee is removed from the Town Hall Fee schedule, as it is not a service we can provide given other demands on the position.
- There are no changes proposed for the Water Conservation penalties.
- Water and Sewer capacity and connection fees are updated based on the Engineering News-Record Construction Cost Index which is 1.61% for 2016. Both of these fee schedules have a Note, as follows:

> "Recently enacted State housing legislations will require the City to establish a separate connection and capacity fee structure for Accessory Dwelling Units. Staff recommends that options be vetted by the Public Works & Facilities Committee and brought forward to City Council for adoption in early 2017."

- Staff recommends that the City's drainage impact fees for new construction remain unchanged at this time. The fee schedule includes a Note, as follows:

> "The City's drainage impact fees were last updated in 2008. Staff proposes that modified drainage fee calculation methodologies be vetted by the Public Works & Facilities Committee and brought forward to City Council for adoption in early 2017."

Following the conduct of a public hearing, staff recommends adoption of the updated fee schedule. To do so, two separate resolutions are necessary as follows:

(1) **Adopt City Council Resolution Adopting Updated Fees for Various Planning and Development Services** (Attachment 2)

Modifications to planning and development fees are described in Government Code section 66014, which requires that the fees not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless the fee is submitted to and approved by a popular vote of two-thirds of those electors voting on the issue.

City staff has conducted an analysis of the planning and development fees collected by the City and the costs reasonably incurred in providing such services. The revised fees are listed in Exhibit "A" of the Resolution Adopting Updated Fees for Various Planning and Development Fees.

Government Code section 66016 establishes the requirements for public notice and a public meeting prior to adoption of new or amended fees. Notice was provided in accordance with these requirements.

(2) Adopt Joint City Council/Improvement District Resolution Adopting a Fee Schedule for Miscellaneous City Services (Attachment 3)

Modifications to fees for miscellaneous City services are governed by Government Code section 66018, which requires that a public hearing be held prior to action on a resolution adopting a new fee or increasing an existing fee. Staff conducted an analysis of the City's miscellaneous services and the costs incurred in providing those services and prepared Exhibit "A" to the Resolution Adopting a Fee Schedule for Miscellaneous City Services.

Since the fees charged for miscellaneous services are limited only to the amount necessary to cover the staff costs to provide the service, the fees are not a source of additional general fund revenues nor are they a "special tax" as described in Government Code section 50076.

A public hearing notice (Attachment 4) was published in accordance with Government Code section 66018, which requires publication twice in a local newspaper, with the first publication at least 10 days prior to the public hearing. Notice was also provided in accordance with Government Code section 66016, which requires that notice be mailed at least 14 days prior to the public hearing to any interested party who files a written request for such notice.

FISCAL IMPACT:

Although the exact fiscal effect of the proposed fee changes cannot be accurately estimated, changes in the fees charged for various planning and development fees as well as miscellaneous city services reflect changes in the cost of providing those services.

CONSISTENCY:

These fee updates are consistent with established City Council policy requiring full cost-recovery for services provided.

IMPLEMENTATION/TIMEFRAMES:
The new fees will become effective on January 1, 2017. The Consolidated Fee Schedule will be updated and distributed to City staff and will be posted on the City's website.

ATTACHMENTS:
1. Proposed City Council Resolution Extending the Temporary Waiver of In-Lieu Parking Fees to December 31, 2017;
2. Proposed City Council Resolution Adopting Updated Fees for Various Planning and Development Services;
3. Proposed Joint City Council/Municipal Improvement District Resolution Adopting a Fee Schedule for Miscellaneous City Services;
4. Public Hearing Notice

NOTIFICATION:
None.

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

RESOLUTION NO. ____*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL EXTENDING THE TEMPORARY WAIVER OF THE PARKING IN-LIEU FEE FOR CHANGES OF USE IN THE CENTRAL BUSINESS DISTRICT

WHEREAS, the City of Fort Bragg adopted updated parking in-lieu fees ("Fees") based on a nexus study completed in 2007; and

WHEREAS, over the past several years, an economic recession has resulted in a reduction of property values and revenues generated by downtown businesses; and

WHEREAS, on July 25, 2011, the City Council adopted Resolution No. 3467-2011 reducing the Fees by 50%; and

WHEREAS, on October 22, 2012, the City Council adopted Resolution No. 3576-2012 to provide a temporary (two year) waiver for payment of the fee that extended through December of 2014; and

WHEREAS, on February 9, 2015, the City Council adopted Resolution No. 3780-2015 to extend the temporary waiver of the parking in-lieu fee until December 31, 2016; and

WHEREAS, the recession, the slow pace of recovery, and internet retailing has resulted in a number of vacant storefronts which continues to impact the economic vitality of the downtown; and

WHEREAS, during the past two years while the Fee waiver was in place, a number of business owners have benefited from the waiver as it has allowed them to expand the hours of operation of restaurants, and to establish new uses in vacant buildings thereby improving the overall vitality of the downtown area; and

WHEREAS, the Fees are voluntary fees that a business owner or property owner can pay in lieu of providing parking onsite as required by the Land Use and Development Code; and

WHEREAS, the Council wants to assist local businesses by extending the temporary waiver of the Fees for businesses that are considered a "change of use" within an existing structure for an additional one year (i.e., until December 31, 2017); and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. Re-imposing the Fees would make it more difficult for financially-challenged businesses to expand their operations in order to become more profitable and thereby contribute to the vibrancy of downtown; and
2. During the current economic recovery, re-imposition of the Fees would result in a new barrier for restaurants that wish to serve lunch and/or expand their hours of operation during the day, and a vibrant downtown depends on excellent lunch options; and
3. Extension of the Fee waiver is consistent with the City's Economic Development Strategy.

WHEREAS, the temporary waiver of the Fee for changes of use within an existing structure is exempt from environmental review under the California Environmental Quality Act

("CEQA") pursuant to Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15273(a)(4) which provides an exception for modifications to fees for the purpose of obtaining funds for capital projects necessary for maintaining service within existing service areas; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a temporary waiver of the Parking In-Lieu Fee for changes of use in the Central Business District until December 31, 2017.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

_____
DAVE TURNER,
Mayor

ATTEST:

_____
June Lemos
City Clerk

RESOLUTION NO. ____*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL ADOPTING UPDATED FEES FOR VARIOUS PLANNING AND DEVELOPMENT SERVICES

WHEREAS, the Fort Bragg Municipal Code, Title 17 (Coastal Land Use & Development Code), Title 18 (Land Use & Development Code), the California Environmental Quality Act Guidelines, Section 15045, and Government Code Sections 65104 and 66014 authorize the establishment of fees in order to recover and defray costs incurred in the processing of applications for planning and subdivision projects, annexations, and building permits, including inspections ("Planning and Development Fees "); and

WHEREAS, the City maintains a comprehensive "Consolidated Fee Schedule" to provide members of the public and City staff with a convenient method for determining fees and charges that apply to certain City services; and

WHEREAS, included in the Consolidated Fee Schedule is a list of fees for Planning and Development Fees; and

WHEREAS, the City has conducted an analysis of its Planning and Development Fees and the costs reasonably incurred in providing those services, the beneficiaries of those services, and the revenues produced by those paying fees and charges for such services; and

WHEREAS, based on the recent analysis of the cost of providing Planning and Development Fees, some of the fees and charges listed on the Consolidated Fee Schedule for such Services are no longer adequate to cover the estimated reasonable cost of providing those services; and

WHEREAS, pursuant to Government Code section 66016, the specific fees to be charged for such services must be adopted by the City Council after providing notice and holding an open and public meeting; and

WHEREAS, the City Council conducted an open and public meeting on November 28, 2016 to receive comments on the proposed fee schedule; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. All notices and publications have been given in accordance with Government Code section 66016; and
2. Information regarding the proposed fee increases, including the cost or estimated cost required to provide the service for which a specific fee is levied, have been made available to the public for at least ten (10) days prior to the public meeting; and
3. The fees collected for providing miscellaneous services are not a source of additional general fund revenues nor are they a “special tax” as described in California Government Code section 50076; and
4. Modifications to current fees, as identified in Exhibit “A” have been reviewed and are found to not exceed the estimated reasonable cost of providing the services for which the fees are levied.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby adopt the fees as shown on Exhibit “A,” attached, showing the fees to be charged for the services described therein; and

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to update the Consolidated Fee Schedule to reflect the fees described in Exhibit "A"; and

BE IT FURTHER RESOLVED that these fees shall become effective upon adoption.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

_____
DAVE TURNER,
Mayor

ATTEST:

_____
June Lemos
City Clerk

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

PLANNING AND DEVELOPMENT FEES		
CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
General Information and Letters		
Address Listing Fee	$20	$30
Assign Street Address	$50	$0
Geographic Information System (GIS) Site Map	$20	
Inclusionary Housing Fees	Determined at time of application	
Parking In-lieu Fees:		
* Existing Commercial Building **	fee waived	
* New Commercial Building	fee waived	
** NOTE: City Council Resolution No. 3780-2015 establishes a temporary moratorium on collection of Parking In-lieu Fees until December 31, 2016.		Staff recommends that the moratorium be extended until Dec 31, 2017.
Research Fee	$45/hour	
Technical Advisory Committee Review (Fee waived for non-profit events)		
* Minor	$580	
* Major	Costs Incurred	
Zoning Letter	$110/hour	$115/hour
Building Permit Fees		
Building Permit Surcharge on Construction Permits	1% of valuation of building permit	
NOTE: Surcharge is not assessed for reroof permits and certain utility permits.		
General Plan Maintenance Fee:		
* Construction Permits	1.5% of total permit valuation	
* Residential Mobile Homes	1.5% of assigned valuation; based on gross floor area x $51/sq. ft.	
* Affordable housing units (as defined by Fort Bragg Municipal Code Title 18)	City Council may grant exemptions upon written request	
Construction & Demolition Waste Recycling Deposit:		
* New construction projects	0.37/sf	
* Remodel or renovation projects of more than 500 sq	0.47/sf	
* Demolition projects of more than 1,000 sq. ft.	0.52/sf	

Updated 11/28/2016

Exhibit A
2017 Fee Schedule

PLANNING AND DEVELOPMENT FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
*	projects that result in removal of 200 sq. ft. or more of asphalt or concrete	0.26/sf	
*	Waste Management Checklist Processing Fee	$35	$40
	NOTE: Waste Recycling Deposits are refunded based on a pro-rated percentage of the recycling target met.		
	Sign Permit		
*	Permanent & Temporary	$40	$45
*	Political (refundable deposit)	$100	
	Planning Commission sign permit (No public hearing required)	$200	
	Planning Permits		
	Pre-Application Analysis & Meeting(s)	Costs Incurred; $550 Deposit	
	Administrative Permits:		
*	Administrative Coastal Development Permit	$890	$1,035
*	Administrative Design Review	$350	$560
	Administrative Design Review of Public Art & Murals		$25
*	Administrative Variance	$550	$560
*	Amendment to Administrative Permit (major/minor)	$500	$560
*	Certificate of Compliance	$715	$770

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

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	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
*	Floodplain Development Permit	$500	$560
*	Limited Term Permits not requiring TAC review	$145	$180
*	Mobile Vending Unit Permit (includes business license fee)	$550	
*	Annual Renewal - Mobile Vending Unit Permit	$500	
*	Minor Use Permit	$700	$815
	Medical Marijuana Cultivation Minor Use Permit	$445	$510
*	Public Hearing (when requested for Administrative Permit	$900	
Amendment to Design Review, CDP, Use Permit (Minor -		$425	$490
Emergency Permit		$525	$565
Permits Requiring Planning Commission Review:			
*	Hearing Cost (in addition to permit fee, below)	$1,115	$760
*	Adult-Oriented Business Permit	$1,400	$1,525
*	Certificate of Appropriateness	$515	Costs Incurred
*	Coastal Development Permit	$890	$1,035
*	Coastal Development Permit for Second Units	$660	$755
*	Design Review	$365	$430
*	Use Permit	$700	$815
*	Cannabis Manufacturing Use Permit		Costs Incurred
*	Variance	$565	$645
Planning Permit Extension			
*	Non-subdivision; does not require a public hearing	$165	$140
*	Non-subdivision; requires a public hearing before Director	$270	$200
*	Non-subdivision; requires a public hearing before the Planning Commission	$1,250	$1,000

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

PLANNING AND DEVELOPMENT FEES			
CATEGORY		2016 FEE	**2017 FEE** only fee changes are noted
Appeal of Planning Commission decision to City Council		$1,000	$500 Note: DDA will be charged for all costs incurred by City in processing appeal. Appeal fee will be credited to DDA. Council retains authority to reimburse appeal fees.
Development Deposit Account Projects			
Annexation		Costs Incurred	
Development Agreement		Costs Incurred	
Environmental Review: Negative Declaration; Environmenta		Costs Incurred	
General Plan Amendment		Costs Incurred	
Local Coastal Plan Amendment		Costs Incurred	
Mitigation Monitoring		Costs Incurred	
Planned Development Permit		Costs Incurred	
Rezoning		Costs Incurred	
Specific Plan		Costs Incurred	
Subdivision			
Subdivision Map:			
*	Extension of Time	$215	$165
*	Final Map	$550 plus $20/parcel	Costs Incurred
*	Improvement Plan, Plan Check, Construction Inspections	Costs Incurred	
*	Minor Subdivision (<5 Parcels)	Costs Incurred	
*	Major Subdivision (>5 Parcels)	Costs Incurred	
*	Parcel Merger	Costs incurred	
*	Parcel Map	$550 plus $20/parcel	Costs Incurred
*	Reversion to Acreage	Costs incurred	

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

PLANNING AND DEVELOPMENT FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
	Certificate of Compliance	$715	
	Lot Line Adjustment	$740	DDA
	Code Enforcement		
	Code Enforcement Fees		
*	**Type 1 Code Enforcement Activity**: sign permit, fence & retaining wall issues, expired permit, overgrown vegetation, lawn parking, inoperable vehicle, broken windows, and other similar code enforcement activities.	$275	$205
*	**Type 2 Code Enforcement Activity**: building maintenance, unsafe dangerous building, nuisance conditions, condition of approval violation, illegal home occupation, blight, and other similar code enforcement activities.	$450	$290
*	**Type 3 Code Enforcement Activity**: illegal second unit, construction without permits, change of use without permit, establishment of an un-permitted use, and other similar code enforcement activities.	$600	$445
*	**Type 4 Code Enforcement Activity**: illegal marijuana cultivation, nuisance conditions such as abandoned buildings that provide setting for illegal activities.	$920	$790
*	**Double Fee for Non-Compliance with Request to Stop Violation.** For code violations not abated within 45 days (or a longer time period as established by the Community Development Director, if warranted by the violation) of the code violation letter.	Double Fee	
	Violations - Penalty fee shall be equal to fee for required application(s) or, where there is not a set fee, $1000	$1,000	

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

PLANNING AND DEVELOPMENT FEES		
CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
NOTE: A penalty fee shall be collected for each violation, regardless of whether abatement involves removal of the violation or submittal of a permit application. When the City imposes a penalty fee, it shall follow the procedures in FBMC Chapter 6.12 which shall provide the property owner with an opportunity to present evidence regarding the violations before payment of the penalty fee is due. The City may require payment of the penalty fee in addition to any remedies provided under FBMC Chapter 6.12.		
NOTE: For applications requiring payment of “costs incurred," a deposit account will be established for the project. The opening deposit will be determined based upon the estimated cost to complete the permitting process. The minimum deposit will be $2,000. Costs for staff time will be based on fully-loaded hourly rates. City Attorney costs will be based on the City’s actual costs incurred and vary depending on which attorney is providing services. Costs of consultants are based on the City’s actual costs incurred in accordance with professional service agreements for said services.		
NOTE: At the discretion of the Director, a deposit account may be required in lieu of a flat fee for any planning permit(s) deemed likely to substantially exceed the City's typical costs in processing the permit.		

RESOLUTION NO. ____-2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL

and

RESOLUTION NO. ID ___-2016

RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT BOARD RESOLUTION ADOPTING A FEE SCHEDULE FOR MISCELLANEOUS CITY SERVICES

WHEREAS, the Fort Bragg City Council and the Fort Bragg Municipal Improvement District No. 1 District Board find it appropriate to charge fees for certain miscellaneous services provided by the City; and

WHEREAS, the City maintains a comprehensive "Consolidated Fee Schedule" to provide members of the public and City staff with a convenient method for determining fees and charges that apply to certain City and Municipal Improvement District services; and

WHEREAS, included in the Consolidated Fee Schedule is a list of fees for miscellaneous services; and

WHEREAS, the City and District have conducted an analysis of their miscellaneous services and the costs reasonably incurred in providing those services, the beneficiaries of those services, and the revenues produced by those paying fees and charges for miscellaneous services; and

WHEREAS, the City and District have a policy of recovering the full costs reasonably incurred in providing miscellaneous services of a voluntary and limited nature, such that those receiving the miscellaneous services pay the associated costs and general taxes are not diverted from general services of a broad nature and thereby utilized to subsidize unfairly and inequitably such miscellaneous services; and

WHEREAS, pursuant to Government Code Section 66018, the specific fees to be charged for such miscellaneous services must be adopted by the City Council and the Municipal Improvement District Board after providing notice and holding a public hearing; and

WHEREAS, the City Council and Municipal Improvement District Board conducted a public hearing on November 28, 2016, following proper notice, to obtain comments on the proposed fee schedule; and

WHEREAS, based on all the evidence presented at the time of the public hearing on this matter, the City Council and the District Board of the Municipal Improvement District No. 1 find as follows:

1. All notices and publications have been given in accordance with Government Code section 6062a; and
2. The fees collected for providing miscellaneous services are not a source of additional general fund revenues nor are they a “special tax” as described in California Government Code section 50076; and
3. Modifications to the current fees, as identified in Exhibit “A”, have been reviewed and are found to not exceed the estimated reasonable cost of providing the services for which the fees are levied.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg

and the Fort Bragg Municipal Improvement District No. 1 do hereby adopt the fees as shown on Exhibit “A”, attached, showing the fees to be charged for the services described therein; and

BE IT FURTHER RESOLVED that the City Clerk/District Clerk is authorized and directed to update the Consolidated Fee Schedule to reflect the fees described in Exhibit "A"; and

BE IT FURTHER RESOLVED that these fees shall become effective upon adoption.

The above and foregoing Resolution was introduced by Council/Board Member _____, seconded by Council/Board Member _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg/District Board of the Fort Bragg Municipal Improvement District No. 1 held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

_____
DAVE TURNER,
Mayor/Chair

ATTEST:

_____
June Lemos
City/District Clerk

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

ANIMAL CARE AND CONTROL FEES & FINES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
	Adoption, Surrender Impoundment and Medical Fees		
	Adoption Fees	Set by MCHS*	
	Protective Custody Hold	Set by County	
	Spay/Neuter Fees	Set by MCHS	
	Vaccinations/Medications/Tests/Microchip	Set by MCHS	
	Veterinary Services	Set by MCHS	
	Feed & Care Fees	Set by MCHS	
	Impound/Redemption Fee - Unaltered		
*	1st Offense	$35	$40
*	2nd Offense	$50	$60
*	3rd and Subsequent Offenses	$100	
	Impound/Redemption Fee - Altered		
*	1st Offense	$10	$20
*	2nd Offense	$25	$40
*	3rd and Subsequent Offenses	$50	$60
	Surrender Fees:		
*	Stray Animals	Set by MCHS	
*	Owner Surrender	Set by MCHS	
	Dog Licenses		
*	Altered	$20	$25
*	Unaltered	$50	$55
*	Duplicate License/Tag	$5	
*	Delinquent Licensing Penalty - altered	Double license fee	
*	Delinquent Licensing Penalty - unaltered	Double license fee	
*	Potentially Dangerous/Vicious Dog License	$100	
	Vicious Potentially Dangerous Animal Hearing Fee	$340	$500
	*Mendocino Coast Humane Society		

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

FILM PERMIT FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
	Permit Processing Fee:		
*	Minor Events (up to 7 days)	$50	
*	Major Events (over 7 days)	$100	
	Event Deposit Account:		
*	~~Minor Events (up to 7 days)~~	~~$5,000~~	text deleted
*	~~Major Events (over 7 days)~~	~~$10,000~~	text deleted
	NOTE: A deposit account will be set up to cover cost of employees & equipment required during filming. Deposit amount will be established by City Manager on a case-by-case basis.		
	~~Employee Rates~~	~~Current straight or overtime hourly rate of employee~~	text deleted
	~~**Equipment Rates (per hour):**~~		text deleted
*	~~Police Car~~	~~$15~~	text deleted
*	~~Public Works Light Vehicle~~	~~$15~~	text deleted
*	~~Public Works Heavy Vehicle (depending on vehicle used~~	~~$25-$80~~	text deleted
	~~Buildings/Parks~~	~~City buildings & parks may be used upon the approval of the City Manager. Use rates shall depend upon the level of use and disruption of the normal course of service to the park.~~	text deleted
	~~NOTE: Equipment must at all times be operated by a City employee.~~		text deleted
	~~**Other Rates:**~~		
*	~~Water~~	~~As established by City Manager~~	text deleted
*	~~Deposit to borrow City-owned Equipment~~	~~See Public Works Fees~~	text deleted
*	~~Other small equipment (not specified herein)~~	~~As established by City Manager~~	text deleted

Exhibit A
2017 Fee Schedule

FINANCE DEPARTMENT FEES			
	CATEGORY	2016 FEE	2017 FEE only fee changes are noted
	Reports, Billing, etc.		
	Audit Reports - Complete Set	$32	$34
	Audit Reports - Subsets	$13	$14
	Replace Lost Accounts Payable Check	$39	$40
	Return Check Fee (Charge for return of bad check from bank or financial institution)	$37	$40
	Budget Document	$54	
	Utility Bill Payment by Phone	$4.50	$5
	Utility Bills - Final Notice Penalty	$45	$55
	Utility Profile Fee (one free in 12-month period)	$20	$42
	Licenses		
	Bingo License (6 month period)	$10	
	Business License Fees:		
*	Initial License	$97	$104
*	Initial License for Home Occupation	$58	$65
*	Change of Name	$13	$16
*	Change of Ownership	$97	$88
*	Change of Business Location	$97	$104
*	Contractor's Business License Fee	0.04% of building permit valuation	
*	Duplicate License	$7	$9
*	Employee Formula:		
	* For the first person employed	$50	
	* For the next five persons employed, per person	$5	
	* For all other persons employed, per person	$2	
*	Flat Rate:		
	* Junk dealer, per year	$75	
	* Pawnbroker, per year	$100	
	* Peddler, including food, regular routes with truck, per year (included in Mobile Vending Permit Fees)	$75	
	* Peddler, solicitor, transient business, peddling goods and wares from a vehicle, or from a temporary location, per day	$20	
*	Gross Receipts Rate:		
	* Below $5,000	$10	
	* From $5,000 to $30,000	$30	
	* From $30,000 to $200,000	above $30,000	
	* Greater than $200,000	above $200,000	
*	License Renewal (Annual)	$77	
*	License Renewal for Home Occupancy (Annual)	$57	
*	Non-Profit Business License	$41	

Exhibit A
2017 Fee Schedule

FINANCE DEPARTMENT FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
*	Small, one-time jobs (under $1,000)	$20	change to (under $2000)
*	Vehicle Delivery Business - Operational Rate, per year	$50	
Flea Market Fees:			
*	Per day	$50	
*	Per month	$100	
*	Per quarter	$250	
*	Per year	$600	
Tobacco Sellers License Fees:			
*	Annual License	$191	$193
*	Change of Business Location	$45	$46
*	Change of Name	$12	$15
*	Change of Ownership	$45	$46
*	Duplicate License	$7	$9

Exhibit A
2017 Fee Schedule

GYM USE FEES		
CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
Basic Use Fee (per hour)	$20	
Daily Use Fee (12 hours)	$100	
Extended Use Fee	Fee established on case-by-case basis by City Manager	
Non-Profit Use Fee (for up to 3 hours of use)	$25	

Updated 11/28/2016

Exhibit A
2017 Fee Schedule

MISCELLANEOUS FEES		
CATEGORY	2016 FEE	**2017 FEE** only fee changes are noted
Appeal Fees		
Appeal of Water Bill	$200	
Appeal Fee for Appeal of Administrative Decision	$500	
Appeal Fee for Code Enforcement Actions		Equal to Code Enforcement Fee
Certification of Documents		
* First Page (includes copy)	$8	$9
* Each Additional Page	$0.15	
Copy Fees Charged to the Public		
Aerial Photographs	Cost of Reproduction + 15%	
Black & White Copies:		
* 8 ½ x 11 & 8 ½ x 14 (per page)	$0.15	
* 11 x 17 (per page)	$0.30	
Color Copies:		
* 8 ½ x 11 & 8 ½ x 14 (per page)	$0.30	
* 11 x 17 (per page)	$0.60	
Engineering Plans		
* Black & White Copies	$3	
* Color Copies	$5	
Electronic Response to Records Request	$5	$0
Letter of Public Convenience or Necessity	$220	$225
Letter of Public Convenience or Necessity - Public Hearing	$615	$740
Publications and Reports	Cost of Printing + 15%	
Transferring Electronic Files to CD (City provides disk)		$20
Transferring Electronic Files to CD (requestor provides disk)	$15	
Zoning Maps, General Plan Maps, Other Maps	Cost of Reproduction + 25%	

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2017 Fee Schedule

Updated 11/28/2016

PLANNING AND DEVELOPMENT FEES		
CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
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Assign Street Address	$50	$0
Geographic Information System (GIS) Site Map	$20	
Inclusionary Housing Fees	Determined at time of application	
Parking In-lieu Fees:		
* Existing Commercial Building **	fee waived	
* New Commercial Building	fee waived	
** NOTE: City Council Resolution No. 3780-2015 establishes a temporary moratorium on collection of Parking In-lieu Fees until December 31, 2016.		Staff recommends that the moratorium be extended until Dec 31, 2017.
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NOTE: Surcharge is not assessed for reroof permits and certain utility permits.		
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Rezoning		Costs Incurred	
Specific Plan		Costs Incurred	
Subdivision			
Subdivision Map:			
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*	Major Subdivision (>5 Parcels)	Costs Incurred	
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*	Parcel Map	$550 plus $20/parcel	Costs Incurred
*	Reversion to Acreage	Costs incurred	

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*	**Type 3 Code Enforcement Activity**: illegal second unit, construction without permits, change of use without permit, establishment of an un-permitted use, and other similar code enforcement activities.	$600	$445
*	**Type 4 Code Enforcement Activity**: illegal marijuana cultivation, nuisance conditions such as abandoned buildings that provide setting for illegal activities.	$920	$790
*	**Double Fee for Non-Compliance with Request to Stop Violation.** For code violations not abated within 45 days (or a longer time period as established by the Community Development Director, if warranted by the violation) of the code violation letter.	Double Fee	
	Violations - Penalty fee shall be equal to fee for required application(s) or, where there is not a set fee, $1000	$1,000	

Exhibit A
2017 Fee Schedule

Updated 11/28/2016

PLANNING AND DEVELOPMENT FEES		
CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
NOTE: A penalty fee shall be collected for each violation, regardless of whether abatement involves removal of the violation or submittal of a permit application. When the City imposes a penalty fee, it shall follow the procedures in FBMC Chapter 6.12 which shall provide the property owner with an opportunity to present evidence regarding the violations before payment of the penalty fee is due. The City may require payment of the penalty fee in addition to any remedies provided under FBMC Chapter 6.12.		
NOTE: For applications requiring payment of “costs incurred," a deposit account will be established for the project. The opening deposit will be determined based upon the estimated cost to complete the permitting process. The minimum deposit will be $2,000. Costs for staff time will be based on fully-loaded hourly rates. City Attorney costs will be based on the City’s actual costs incurred and vary depending on which attorney is providing services. Costs of consultants are based on the City’s actual costs incurred in accordance with professional service agreements for said services.		
NOTE: At the discretion of the Director, a deposit account may be required in lieu of a flat fee for any planning permit(s) deemed likely to substantially exceed the City's typical costs in processing the permit.		

Exhibit A
2017 Fee Schedule

PUBLIC SAFETY FEES			
CATEGORY		2016 FEE	**2017 FEE** only fee changes are noted
Alarm Fees			
~~Alarm Fees - for alarms terminating at Police Department, annually~~		~~$30~~	service no longer available
Alarm Fees - Charge for Excessive False Alarms:			
*	After third false alarm in calendar year	$50	
*	After fourth false alarm in calendar year	$100	
*	After fifth false alarm in calendar year	$200	
*	Reinstatement bond, annually	$500	
Miscellaneous Recordings and Copies			
Audio Tape Recording Copy:			
*	Requestor Provides Tape	$35	
*	City Provides Tape	$36	
Civil Subpoena Appearance Fee		$275 + additional time/rate adjustment	
Conference Room Use (during non-business hours - per hour)		$50	
Fingerprinting		$12	
Photographs (Evidence):			
*	Digital	$27 + cost of photo supplies ($1 per sheet of photo paper or digital CD copy) + postage if mailed	
*	Commercial Film Developing	$54 + charge by commercial film developer + postage if mailed	
Insurance Letter for Crime Report		$25	
Record Clearance Checks		$54	
Video Tape Copy:			
*	Requestor provides tape	$30	
*	City provides tape	$35	
Vehicle Accident Report		$25	
Miscellaneous Storage Fees			
Stored Vehicle Storage Fee (when stored onsite; per day)		$12	
Repossessed Vehicle Release		$15	
Gun Storage Fee (per gun)		$77	$70

PUBLIC SAFETY FEES			
CATEGORY		2016 FEE	2017 FEE only fee changes are noted
Found Property Claimant		$35	
Vehicle Release (for towed vehicle) - normal release		$90	
Vehicle Release (for towed vehicle) - 30 day hold review/release		$115	
Penalties & Violations			
Parking Citation Penalties for Violation:			
Administrative Fee (for cancelling a violation issued when person fails to display their handicap placard)		$25	
*	Blocking a Driveway	$35	
*	Disabled Parking Space w/o Disabled Plate or Placard	$285	
*	Double Parking	$35	
*	No Parking	$35	
*	Off Street Parking Violation	$35	
*	Parked More than 18" from Curb	$35	
*	Parked on Sidewalk	$35	
*	Parking in Alley	$35	
*	Parking Space Markings	$35	
*	Permit Parking Only	$35	
*	Registration Tabs	$35	
*	Red Zone	$35	
*	Timed Parking Zone	$35	
*	Wrong Side of Road	$35	
*	Yellow Loading Zone	$35	
*	72-Hour Continuous Parking (Parking Violation)	$75	
NOTE: Tow Charge when applicable is due to City prior to release of vehicle by local tow company		Amount set by local tow company	
Skate Park Facility Violations:			
*	First Offense	$5	
*	Second Violation within a year	$10	
*	Third or Further Violation within a year	$25	
Licenses			
Bicycle License		$0	
Taxicab Fees:			
*	License Fee, per year:		
	* For first vehicle	$50	
	* Per vehicle additional	$10	
*	Permit Application Fee	$130	
*	Taxi Driver Background Check	$110 + DOJ	
Dance Fees			

PUBLIC SAFETY FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
*	Public dance, per event	$75	
*	Dances at a fixed place of business where alcoholic beverages are sold, annually	$300	
*	Dances at fixed place of business where alcoholic beverages are not sold, annually	$150	
*	Dances, as defined in Section 5.12.080	No fee	

Exhibit A
2017 Fee Schedule

PUBLIC WORKS FEES			
	CATEGORY	2016 FEE	**2017 FEE** only fee changes are noted
	Miscellaneous Development Fees		
	Building Permit for driveway and/or handicap ramp	$65	
	Grading Permit Fee	Actual cost incurred for staff review & approval; $300 deposit	
	~~Construction Cost Estimates~~	~~Actual cost with $30 minimum~~	service no longer available
	Street Furniture Permit Fees:		
*	First Year	$155	
*	Renewal: Subsequent Years	$55	
	Streets and Facility Fees		
	Cost for City-owned Equipment		
*	~~Processing Fee for borrowing City-Owned Equipment~~	~~$80~~	
*	Processing Fee for Parade/Street Closure	$270	
	Deposit to Borrow City-Owned Equipment		
*	Barricades (deposit, per barricade)	30% of cost of borrowed barricades (i.e. number borrowed x $35 x 30%)	
*	36" Reflective Traffic Cone (deposit, per cone)	30% of cost of borrowed cones (i.e. number borrowed x $25 x 30%)	
*	28" Reflective Traffic Cone (deposit, per cone)	30% of cost of borrowed cones (i.e. number borrowed x $15 x 30%)	
*	18" Reflective Traffic Cone (deposit, per cone)	30% of cost of borrowed cones (i.e. number borrowed x $10 x 30%)	
*	12" Reflective Traffic Cone (deposit, per cone)	30% of cost of borrowed cones (i.e. number borrowed x $8 x 30%)	
*	No Parking Tripod (deposit, per tripod)	30% of cost of borrowed cones (i.e. number borrowed x $30 x 30%)	
	D-2 Rate for Hourly Supervision of Contractors Modifying City Water System	Fully loaded staff rate of employee(s) performing work; deposit required	
	Hot Tap Machine Use (per tap; plus preparation cost)	$400 (does not include preparation costs)	
	Pot Holing	Cost incurred	

Exhibit A
2017 Fee Schedule

PUBLIC WORKS FEES			
CATEGORY		2016 FEE	2017 FEE only fee changes are noted
Encroachment Permit Fees:			
*	**Performance Bond**		
	(B		
	* Deposit	$500	
	* For excavation within paved roadway, alley, or easement areas	$2 per square foot	
	* For excavation within unpaved roadway, alley, or easement areas	$1 per square foot	
	* For excavation within parkway or sidewalk area, whether or not improved with concrete sidewalk	$5 per square foot	
	* For all other public improvements	Amount shall be estimated construction cost, as determined by the developer and approved by the City Engineer	
*	Permit Issuance Fee	$80	
*	**Permit (Inspection) Fee**		
	* Annual Encroachment Permit	$100	
	* Driveway - Commercial	$95	
	* Driveway - Residential	$55	
	* Trenching - Less than 50 lineal feet (lf)	$75 + 0.25/lf	
	~~* Trenching - More than 50 lf~~	~~$200~~	
	* Trenching - Additional charge over 100 lf	0.50/lf	
	* Inspection - Repairs & Replacements	$50	
	* Sidewalk Closure (façade work, sidewalk sales, etc.)	$40	$70
	* Miscellaneous Permits (not covered elsewhere; per location)	$100	
	* Parking closure (per day; per space)	$25	
	* Sidewalk, Curb & Gutter, Ramp & Conform Paving	0.25/sf	
	* Street Closure, excluding parades	$150	
	* Street Closure - Recurring, excluding parades	$50	
	* Fine for Working without Encroachment Permit	Double cost of permit	
Waste Water Enterprise Fees			
Backflow Prevention Device Fees:			
*	Annual test fee if performed by City personnel (should the device fail the test, customer is responsible for repairs & would receive one follow-up retest at no charge)	$95	$105

Exhibit A
2017 Fee Schedule

PUBLIC WORKS FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
*	Annual fee for private business who wishes to be listed as a Backflow Prevention Device Tester (upon filing the proper documentation with the City Clerk)	$225	
*	Temporary backflow device for special events	$80	$90
	~~Food Service Establishment Wastewater Discharge Permit Fees:~~		
*	~~Initial Application Fee~~	~~$140~~	
*	~~demonstration by the permittee that fats, oils, and grease collected in grease interceptors, or alternate approved systems, have been recycled for conversion to bio-diesel or other products as approved by the District)~~	~~$90~~	This service is provided by County Env. Health
	Grease Trap/Interceptors:		
*	Initial Application Fee	$130	$155
*	Annual Inspection Fee (this fee may be waived upon demonstration by the permittee that fats, oils, and grease collected in grease interceptors, or alternate approved systems, have been recycled for conversion to bio-diesel or other products as approved by the	$70	$90
	Sanitary Sewer Fees:		
*	Permit and inspection of new connections/alterations to the sanitary sewer system per residential or nonresidential unit (exluding apts > 5 units)	$115	$140
*	Permit and inspection of new connections/alterations to the sanitary sewer system (apartments> 5 units)	$60 + $10 per each unit in excess of 5 units	$140 + $10 per each unit in excess of 5 units
*	~~Alteration of existing sewer installations~~	~~$115~~	
*	Extension of sewer mains or other work required, such as setting manholes or installing pump stations, to extend service to an area or parcel to accommodate a connection	Actual cost of work; $70 for written cost estimate	
	Septic Tank Dump Fees:		
*	Trucks unloading septic tank/chemical toilet effluent from locations within District. Up to first 1500 gallons.	$180	$205
*	Each additional 500 gallons	$35	$30
	Service Calls (if due to customer fault or private line failure):		
*	During Normal Operation Hours	Minimum charge of one hour, hourly rate is based on the current rate of employee, including benefits & overhead	

Exhibit A
2017 Fee Schedule

PUBLIC WORKS FEES			
	CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
*	If After Hours	Minimum charge to cover up to 3 hours, rate is based on three times the current overtime rate of employee, including benefits & overhead. Hourly rate thereafter, rate is based on the current overtime rate of employee, including benefits & overhead	
Treated Wastewater Disposal Fee			
*	Public Agencies	$0.17/gallon	
*	Others	$0.25/gallon	
Water Enterprise Fees			
Water Charges for Voluntary Water Sales (per Hundred Cubic Feet (HCF)		$14.96	
Water Deposit		$150	
Water Hydrant Meter Rental Deposit		$950	
Water Hydrant Meter Rental (per month)		$25	
Water Line Testing and Forms (New)		Costs incurred	
Water Meter Split Evaluation		$55	$65
~~Water Distribution System Permit and Inspection of Connections~~		$70	
Water Turn On/Off at Customer Request		$25	$30
Water Turn On After Hours*		$165	$185
	* After hours is considered after 2:30pm on regular business days and anytime on weekends and holidays		
Greywater Reuse Application Fee			$50

Exhibit A
2017 Fee Schedule

TOWN HALL FEES		
CATEGORY	**2016 FEE**	**2017 FEE** only fee changes are noted
Additional Use Beyond Basic 12 Hours (per hour)	$10	
Basic Use Fee (each 12 hours)	$120	
Non-Profit Use Fee (each 12 hours)	$60	
Custodian Charge (per hour during normal hours of work)	$55	$60
Custodian Charge (per hour; Overtime Rate)	$80	$90
Deposit for Alcohol Use	$500	
Security/Cleaning & Key Deposit	$200	
Sound Equipment Use (per day)	$100	
~~AV Tech (per hour)~~	~~$25~~	

Exhibit A
2017 Fee Schedule

WATER CONSERVATION PENALTIES				No changes proposed for 2017	
CATEGORY			**PENALTY**		
Penalties for Violation:					
Stage 1					
1.	First Offense:				
	a.	Minor Offense	$20 + written warning		
	b.	Major Offense	$100 + written warning		
2.	Second Offense:				
	a.	Minor Offense	$100		
	b.	Major Offense	$500		
3.	Third or Subsequent Offense:				
	a.	Minor Offense	$500		
	b.	Major Offense	$1,000		
Stage 2					
1.	First Offense:				
	a.	Minor Offense	$100		
	b.	Major Offense	$250		
2.	Second Offense:				
	a.	Minor Offense	$250		
	b.	Major Offense	$500		
3.	Third or Subsequent Offense:				
	a.	Minor Offense	$500		
	b.	Major Offense	$1,000		
Stages 3 & 4					
1.	First Offense		$500		
2.	Second Offense		$1,000		
3.	Third or Subsequent Offense				
	The City Manager may instruct staff to shut off the water service to the offending property. Service will not be restored until the water emergency is at an end and all outstanding fines are paid. The fee for restoring service shall be:		$1,000		

Exhibit A
2017 Fee Schedule

WATER CAPACITY CHARGE & CONNECTION FEES - 2017

2016 WATER CAPACITY CHARGE	$4,245.61	
2017 WATER CAPACITY CHARGE	$4,313.95	Based on Engineering News Record CCI - 1.61%

WATER SERVICE CONNECTION FEES

Water Service Type			**Over 50 feet, $/foot**	
	2016	**2017**	**2016**	**2017**
3/4" Single Service	$3,222.96	$3,274.85	$33.11	$33.64
1" Single Service	$3,481.49	$3,537.54	$35.33	$35.90
1" Single Service Split into 2 5/8" x 3/4"	$3,832.73	$3,894.44	$35.84	$36.42
1 1/2" Single Service	$4,129.82	$4,196.31	$31.80	$32.31
2" Single Service Split into 5 5/8" x 3/4"	$5,261.18	$5,345.88	$31.80	$32.31
2" Service Disc Meter Low Demand	$4,726.48	$4,802.58	$31.80	$32.31
2" Service Compound High Demand	$6,354.67	$6,456.98	$31.80	$32.31
3" Service	$9,868.50	$10,027.38	$37.32	$37.92
4" Service	$11,075.32	$11,253.63	$37.32	$37.92
6" Service *	$14,953.58	$15,194.33	$41.02	$37.92
* Fee is a deposit; total cost based on time/materials				

METER ONLY INSTALL

Size	**2016**	**2017**
5/8" x 3/4"	$360.40	$366.20
1"	$524.56	$533.01
1.5"	$926.56	$941.48
2" Disc Meter Low Demand	$1,159.96	$1,178.64
2" Compound	$2,737.67	$2,781.75
3"	$3,200.80	$3,252.33
4"	$4,644.55	$4,719.33
6"	Time & Materials	

METER SPLIT

Size	**2016**	**2017**
2 5/8" x 3/4" meters on existing service	$1,089.33	$1,106.87
Meter split with street crimp in cement sid	$1,419.24	$1,442.09

NOTE: Recently enacted State housing legislation will require the City to establish a separate connection and capacity fee structure for Accessory Dwelling Units. Staff recommends that options be vetted by the Public Works & Facilities Committee and brought forward to City Council for adoption in early 2017.

SEWER CAPACITY CHARGE & CONNECTION FEES - 2017

2016 SEWER CAPACITY CHARGE	**$ 3,336.32**	
2017SEWER CAPACITY CHARGE	**$3,390.33**	**Based on ENR CCI = 1.61%**

SEWER SERVICE CONNECTION FEES

Sewer Only (no Water)

Sewer Service Type			**Over 50 feet, $/foot**	
	2016	**2017**	**2016**	**2017**
4" Lateral, 4' Deep	$2,840.17	$2,885.90	$42.47	$43.15
4" Lateral, 6' Deep	$3,050.84	$3,099.96	$47.50	$48.26
4" Lateral, 8' Deep	$3,588.46	$3,646.23	$59.87	$60.83
4" Lateral, 10' Deep	$4,098.33	$4,164.31	$69.32	$70.44
6" Lateral, 4' Deep	$2,890.00	$2,936.53	$42.54	$43.22
6" Lateral, 6' Deep	$3,188.75	$3,240.09	$48.89	$49.68
6" Lateral, 8' Deep	$3,726.39	$3,786.38	$61.25	$62.24
6" Lateral, 10' Deep	$4,236.24	$4,304.44	$70.70	$71.84

SEWER SERVICE CONNECTION FEES

Combined with Water

Sewer Service Type			**Over 50 feet, $/foot**	
	2016	**2017**	**2016**	**2017**
4" Lateral, 4' Deep	$950.99	$966.30	$25.01	$25.42
4" Lateral, 6' Deep	$1,188.34	$1,207.47	$24.23	$24.62
4" Lateral, 8' Deep	$1,970.80	$2,002.53	$41.51	$42.18
4" Lateral, 10' Deep	$2,489.09	$2,529.16	$52.87	$53.72
6" Lateral, 4' Deep	$1,647.74	$1,674.27	$28.63	$29.09
6" Lateral, 6' Deep	$1,682.56	$1,709.65	$28.63	$29.09
6" Lateral, 8' Deep	$2,611.07	$2,653.11	$43.52	$44.22
6" Lateral, 10' Deep	$2,626.99	$2,669.28	$54.24	$55.11

NOTE: Recently enacted State housing legislation will require the City to establish a separate connection and capacity fee structure for Accessory Dwelling Units. Staff recommends that options be vetted by the Public Works & Facilities Committee and brought forward to City Council for adoption in early 2017.

DRAINAGE FEES

NOTE: The City's drainage impact fees were last updated in 2008. Staff proposes that modified drainage fee calculation methodologies be vetted by the Public Works & Facilities Committee and brought forward to City Council for adoption in early 2017.

LAND USE CLASSIFICATION	FEE PER ACRE
RVH, RM	$4,264
RH, RL	$3,682
RS, RR	$2,325
CN, CO, CBD, CG, CH	$5,043
IH, IL	$5,043
HD	$5,043
PR, PF, OS	$1,748

CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin St.
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Fort Bragg City Council will conduct a public hearing at a regular meeting to be held at 6:00 p.m., or as soon thereafter as the matter may be heard, on **MONDAY, NOVEMBER 28, 2016**, at Town Hall, southwest corner of Main and Laurel Streets (363 N. Main Street), Fort Bragg, California 95437. The public hearing will concern the following item:

Proposed Resolution Adopting a Revised Fee Schedule for Various City Services

The resolution and additional information that will be considered by the City Council will be available for review 72 hours prior to the hearing date at the Office of the City Clerk, City Hall, 416 North Franklin Street, Fort Bragg, California 95437; please call 707-961-2823, ext. 104 to schedule an appointment for review and/or copying during normal business hours.

All interested persons are invited to appear at this meeting to present their comments and be heard as to whether the proposed rates and charges are discriminatory or excessive. Written communications should be received no later than the hearing date.

DATED: November 10, 2016

June Lemos, City Clerk

PUBLISH: November 17, 2016
November 23, 2016

STATE OF CALIFORNIA)
) ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Administrative Services Department; and that I posted this Notice in the City Hall Notice case on November 10, 2016.

June Lemos, City Clerk

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-462

Agenda Date: 11/28/2016 **Version:** 2 **Status:** Business

In Control: City Council **File Type:** Staff Report

Agenda Number: 7A.

Receive Report and Accept Updates to the 2008 Zoning Map

AGENCY:	City Council
MEETING DATE:	November 28, 2016
DEPARTMENT:	CDD
PRESENTED BY:	C. O'Neal

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE REPORT AND AUTHORIZE CORRECTIONS TO THE 2008 ZONING MAP

ISSUE:
The zoning map in current circulation was prepared in 2008 and needs to be updated to reflect approved changes to parcel lines (as a result of subdivisions and lot line adjustments approved over the past eight years) and to correct the boundaries of zoning districts in two locations. The Community Development Department has a large 24x30" full color zoning map on its counter which is used on a daily basis. The map needs to be updated, as customers continually point out their parcel size/shape has changed and it is difficult for customers to use efficiently**.**

RECOMMENDED ACTION:
Direct staff to proceed with update and corrections to the 2008 zoning map.

ALTERNATIVE ACTION(S):
1. No action.
2. Continue using the 2008 version of the zoning map.

ANALYSIS:
Since 2008, the City has processed 24 permits for subdivisions, parcel maps and lot line adjustments. Subdivisions often take several years from the time the permit is submitted to the recording of the final map, so the number of parcels affected during this timeframe is considerably more than those reflected by the 24 permits (Attachment 1). The City obtains Geographic Information Systems (GIS) parcel files from the County of Mendocino periodically upon request. There were over 100 changes to parcel boundaries within the City limits between 2008 and the 2016.

In order to update the zoning map, the zoning layer file was appended to the spatial parcel data, a visual quality control check was performed to ensure that that zoning layers spatially align with the identified zoning districts, and the join was finalized to create a new shape with both spatial and zoning data. Potential discrepancies were checked against other versions of the zoning map and the published land use designations in the Inland and Coastal General Plans published in 2012.

The primary purpose and intention of the update was to show accurate depictions of the legal parcel lines as they are today, not to effectually change any zoning. Two errors in the delineation of zoning districts were identified on the 2008 published map. These errors were verified and corrected on the new 2016 zoning map. Attachment 2 identifies the two parcels with incorrect zoning.

1. Parcel 069-241-39, located at 1211 North Main Street, owned by Baxman Gravel, previously appeared with an Open Space (OS) designation is now correctly identified as Heavy Industrial (IH). Upon close review of the old map, it was evident that this was an error caused by the software and the colors appeared to overlap boundaries in several areas, this narrow parcel was not distinguishable from the OS parcel to the west and the IH parcel to the east due to its size and shape.
2. Parcel 020-510-60, located at 1536/1538 East Oak Street, previously owned by Habitat for Humanity, was rezoned in 2004 (ZON 1-04) from Low Density Residential (RL) to Very High Density Residential (RVH). For an unknown reason, the previously published map incorrectly identified this parcel as High Density Residential. This error has been corrected and the parcel's zoning attribute is now RVH.

Utilizing the Geographic Information System (GIS) to create and display the data means attributing qualitative data to the spatial files which leaves less room for errors like those previously identified. Having this data in the GIS makes updating the map's parcel content more efficient in the future and allows zoning changes to be shown on the map more expeditiously when permits are approved for such a request. Finally, this update and merge into the GIS system is part of a long-term goal of Community Development Department to publish an interactive webmap, which customers could access from the City's webpage, to access commonly requested property data like Assessor Parcel Numbers (APNs), Zoning Districts and definitions, and setbacks.

FISCAL IMPACT:
None.

CONSISTENCY:
Inland General Plan Goal LU-1 states:

> **Goal LU-1. Promote development and conservation of land in Fort Bragg according to the pattern shown on the Land Use Designations Map.**
>
> Policy LU-1.1 Implementation of the Land Use Designations Map: Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use designations, and ensure consistency between the Inland General Plan and the Inland Land Use and Development Code.

Having an up-to-date zoning map improves the quality of customer service when communicating context of zoning and planning to property owners in discussions about potential land use and permits.

IMPLEMENTATION/TIMEFRAMES:
The map was completed over the summer of 2016 and once reviewed and approved by the Council, the updated map will go into circulation immediately.

ATTACHMENTS:

1. Subdivision Permits 2008-2016
2. Zoning Discrepancies on 2008 map
3. 2008 Zoning Map
4. New 2016 Zoning Map

NOTIFICATION:

1. None.

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

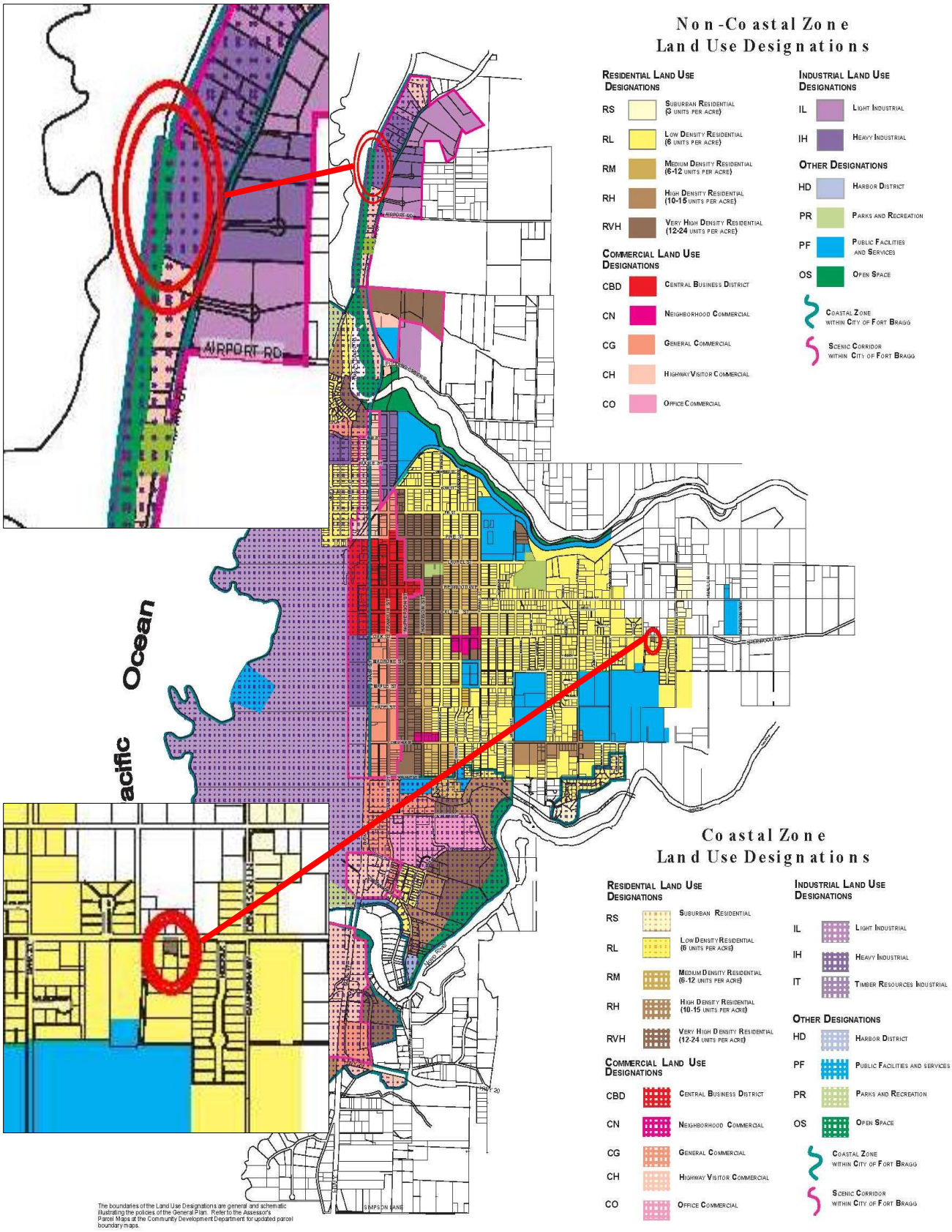
Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

Subdivision Permits 2008-2016

Date Submitted	Project Type	Property Address	APN (S)	Owner	Project Description
5/5/2008	DIV 1-08	791 S Franklin	018-050-54	Larson	Minor Subdivision
8/11/2008	DIV 2-08	Snug Harbor Place	018-440-59	Casey	Minor Subdivision
9/9/2008	LLA 1-08/ CC 1-08	546 S Harrison	018-060-12	Thompson	Lot Line Adjustment
12/30/2008	PAC 1-08	1411 Oak St	020-499-38	Pryor	Major Subdivision
2/12/2009	DIV 3-07	446 S McPherson St	018-051-21	Greenberg	Subdivision
4/12/2010	DIV 1-10/LLA 1-10	1411 Oak St	020-490-38	Pryor	Subdivision
8/12/2010	DIV 1-10/LLA 1-10	Noyo Science Center	018-430-10	City of Fort Bragg	Subdivision/ Lot Line Adjustment
8/5/2011	CC 1-11	436 N McPherson St	008-094-17	Zimmerman	Certificate of Compliance
9/2/2011	ZON 1-11	1250 Del Mar Drive	018-450-41	Patton	Rezone
9/5/2012	LLA 1-12	120 S Main St	008-163-20	Pan	Lot Line Adjustment
4/10/2013	DIV 1-13	365 Cypress St	018-080-73	Perry	Minor Subdivision
11/18/2013	BLA 2-13	825 S Franklin St	018-120-49	Walnut Main Group	Boundary Line Adjustment
3/3/2014	BLA 1-14	1250 Del Mar Drive	018-450-40; 018-450-39	Group II Real Estate	Boundary Line Adjustment
4/14/2014	CDP 2-14/LLA 1-14	1005 S Main St	018-120-44; 018-120-19	Tanti	Lot Line Adjustment
5/27/2014	LLA 2-14	700 S Main St	018-040-44; 018-040-48; 018-040-51	Northstate Investments	Lot Line Adjustment
7/29/2014	LLA 3-14	1250 Del Mar Drive	018-450-40	Group II Real Estate	Lot Line Adjustment
8/8/2014	CC 1-14	142 S Franklin St	008-165-18	Martella	Certificate of Compliance
8/19/2014	LLA 4-14	1120 N Main St	069-242-33; 069-242-04	Baxman Gravel	Lot Line Adjustment
7/7/2015	LLA 1-15	1030 Cedar St & 119 Oak Terrace	008-301-17; 008-264-12	Caito	Lot Line Adjustment
9/3/2015	ZON 1-15	471 S Whipple St	018-052-13	McFadden	Rezone from CN to RL
12/28/2015	LLA 1-16	1201/1211 N Main St	069-241-27-38	Hunt	Lot Line Adjustment
1/8/2016	CC 1-16	123-137 Laurel St	008-056-17	Dertner	Certificate of Compliance
9/15/2016	DIV 2-16	144 N Franklin St	008-164-39	Pyeatt	Minor Subdivision



C. O'Neal

12122016 Zoning Map Update
Attachment 2 -Zoning Discrepancies on 2008 Map

REVISION DATE: July 22, 2008

The following properties are owned by the City of Fort Bragg and are not contiguous to the City limits. They have been annexed to the City and are assigned the General Plan land use classification of Public Facilities.

APN	PURPOSE
018-391-07	Hwy 20 Water Tank (fire station)
019-070-01	Newman Gulch
019-460-21	Waterfall Gulch
019-470-08	
020-270-48	Madsen Hole
020-480-19	Water Treatment Plant/Corp. Yard
020-500-13	

Non-Coastal Zone Land Use Designations

Residential Land Use Designations

- **RS** — Suburban Residential (3 units per acre)
- **RL** — Low Density Residential (6 units per acre)
- **RM** — Medium Density Residential (6-12 units per acre)
- **RH** — High Density Residential (10-15 units per acre)
- **RVH** — Very High Density Residential (12-24 units per acre)

Commercial Land Use Designations

- **CBD** — Central Business District
- **CN** — Neighborhood Commercial
- **CG** — General Commercial
- **CH** — Highway Visitor Commercial
- **CO** — Office Commercial

Industrial Land Use Designations

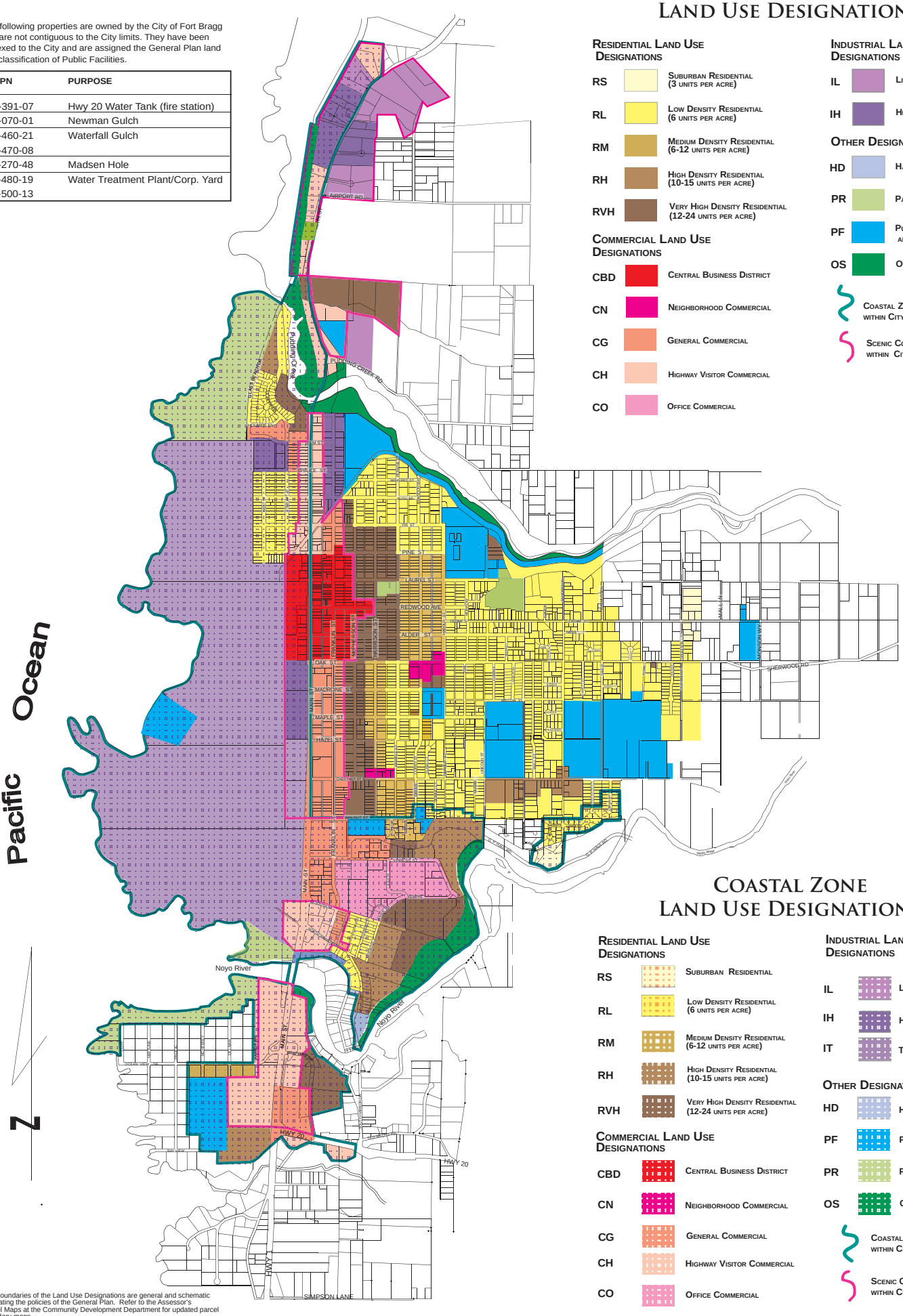
- **IL** — Light Industrial
- **IH** — Heavy Industrial

Other Designations

- **HD** — Harbor District
- **PR** — Parks and Recreation
- **PF** — Public Facilities and Services
- **OS** — Open Space

Coastal Zone within City of Fort Bragg

Scenic Corridor within City of Fort Bragg



Coastal Zone Land Use Designations

Residential Land Use Designations

- **RS** — Suburban Residential
- **RL** — Low Density Residential (6 units per acre)
- **RM** — Medium Density Residential (6-12 units per acre)
- **RH** — High Density Residential (10-15 units per acre)
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Commercial Land Use Designations

- **CBD** — Central Business District
- **CN** — Neighborhood Commercial
- **CG** — General Commercial
- **CH** — Highway Visitor Commercial
- **CO** — Office Commercial

Industrial Land Use Designations

- **IL** — Light Industrial
- **IH** — Heavy Industrial
- **IT** — Timber Resources Industrial

Other Designations

- **HD** — Harbor District
- **PF** — Public Facilities and services
- **PR** — Parks and Recreation
- **OS** — Open Space

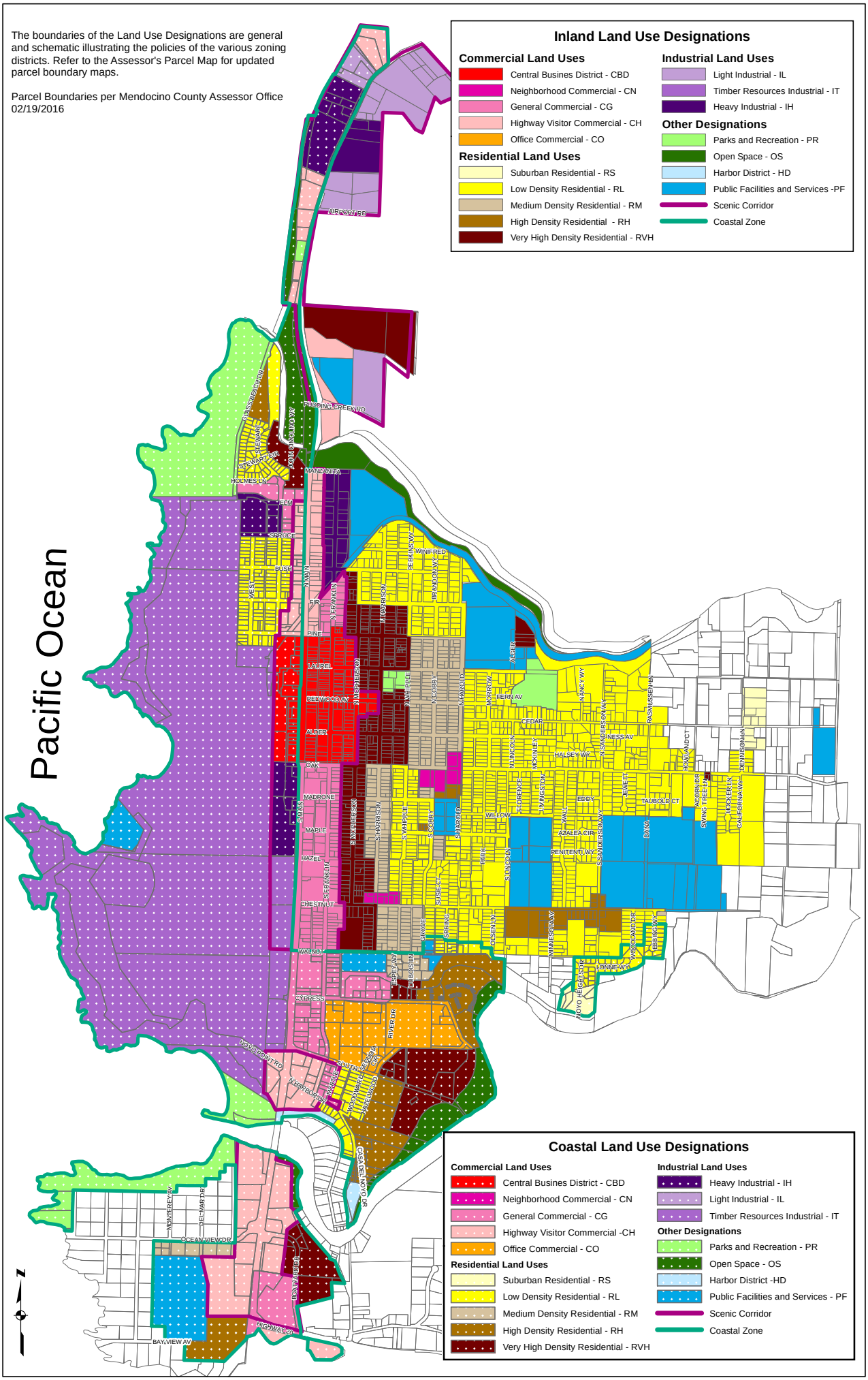
Coastal Zone within City of Fort Bragg

Scenic Corridor within City of Fort Bragg

The boundaries of the Land Use Designations are general and schematic illustrating the policies of the General Plan. Refer to the Assessor's Parcel Maps at the Community Development Department for updated parcel boundary maps.

The boundaries of the Land Use Designations are general and schematic illustrating the policies of the various zoning districts. Refer to the Assessor's Parcel Map for updated parcel boundary maps.

Parcel Boundaries per Mendocino County Assessor Office 02/19/2016



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 16-470

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Staff Report

Agenda Number: 7B.

Receive Report and Provide Direction to Staff Regarding Proposed Amendments to Article 3, Article 4 and Article 7 of the Fort Bragg Municipal Code Title 18, the Inland Land Use and Development Code (ILUDC)

AGENCY:	City Council
MEETING DATE:	November 28, 2016
DEPARTMENT:	CDD
PRESENTED BY:	M. Jones/S. Perkins

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE REPORT AND PROVIDE DIRECTION TO STAFF REGARDING PROPOSED AMENDMENTS TO ARTICLES 3, 4 AND 7 OF THE FORT BRAGG MUNICIPAL CODE TITLE 18, THE INLAND LAND USE AND DEVELOPMENT CODE (ILUDC)

ISSUE:
Every few years, the City updates the Inland Land Use and Development Code (ILUDC) to fix identified problems and to ensure that the ILUDC implements the policy goals of the City Council. On the morning and evening of June 16, 2016, the Community Development Department held two Zoning Code Update Workshops, inviting community members to contribute their ordinance update ideas and concerns. Additionally staff met with the Community Development Committee to review the Land Use and Development Use Tables to identify uses that could potentially be allowed more flexibility within zoning districts.

RECOMMENDED ACTION:
Provide direction to staff regarding proposed amendments to Article 3 and Article 4 of the Fort Bragg Municipal Code Title 18, the Inland Land Use and Development Code (ILUDC).

ALTERNATIVE ACTION(S):
1. No action. Under this alternative, no further actions would be taken to update the Inland Land Use and Development Code.
2. Continue action on the matter and request additional information and/or analysis by staff.

ANALYSIS:
Article 3 of the zoning ordinance provides general land use regulations related to setback, landscaping, parking and sign standards. This chapter also includes the inclusionary housing ordinances, which staff has not reviewed as part of this update as the inclusionary ordinance was adopted in 2009 after much City Council input. If City Council would like to provide direction to change the inclusionary housing ordinance, this would require significant policy discussions. Perhaps the best path forward for any changes to the inclusionary ordinance would be to send this matter to the Community Development Committee for further discussion.

Article 4 addresses standards for specific land uses. This article also includes a large subchapter on adult businesses, which was not reviewed by staff as part of this update. The standards for specific land uses which were addressed include a wide variety of uses - everything from animal keeping to second units.

Article 7 addresses permit application and review authority. Relatively few changes were made to this article. Staff recommends allowing the Director to complete administrative Design Review for certain minor changes to the design of a project and to review variances that involve less than a 25% change in basic development standards administratively.

Staff made a variety of changes to both Article 3 and Article 4 that were focused on the following general goals:

1. Bring the ordinance into compliance with state law. State land use law often changes, and the zoning ordinance must be kept in compliance with current law. For example new state regulations regarding second units have resulted in a complete rewrite of this section.
2. Simplify and Modernize the Standards. The ILUDC includes a fine grain of detail for some regulations that may not make sense for our small town.
3. Provide for More Flexibility. Staff has carefully considered the suitability of each standard and has revised various standards so that they are performance based rather than proscriptive and to provide for more flexibility where that flexibility would not impact either the environment or neighboring uses.
4. Implement Direction Provided by Council. City Council has provided direction in the past to achieve certain policy objectives, such as reducing water use, moving towards native plants in landscaping, encouraging business growth, etc. Staff has sought to partially implement this previous policy direction through proposed changes to Articles 3 and 4.
5. Improve Effectiveness of Ordinance. Staff has also proposed rewording and reorganizing some sections of the ordinance to improve ease of understanding.

Staff has annotated all changes in Article 3 (Attachment 1), Article 4 (Attachment 2) and Article 7 (Attachment 3), using track changes to help City Council and the public track the proposed changes. Additionally, staff has included comments (bubble text) next to each change to help City Council and the public understand the rationale for each proposed change. Please review these attachments to see the proposed changes and the rationale for each change.

FISCAL IMPACT:

All development projects and changes of use that involve an intensification of use must pay permit fees commensurate with the cost to process those fees. Additionally, the General Plan Maintenance fee, which is collected on all Building Permits, is General Fund revenue that funds staff time associated with General Plan and Zoning Ordinance updates.

IMPLEMENTATION/TIMEFRAMES:

Processing of the Inland Land Use and Development Code amendments, its associated environmental review and required public readings will likely take a few more months to complete, with an anticipated completion date of March 2017.

Staff anticipates updating the Coastal Land Use and Development Code (CLUDC) this winter, so that the two ordinances are as similar as possible. The CLUDC, which regulates land use in the Coastal Zone, is updated at less frequent intervals than the ILUDC because the process with the Coastal Commission is time-intensive and lengthy. As the CLUDC has not been updated since 2008, staff will come back to City Council for direction this winter regarding the applicability of ILUDC changes made in 2014 and 2016 to the CLUDC and will submit one Local Coastal Program Amendment to the Coastal Commission which includes all City Council approved changes. The CLUDC update will come forward to the City Council within the next few months and will take approximately 12 months to process with the Coastal Commission.

ATTACHMENTS:

1. ILUCD Article 3 – Site Planning and Project Design
2. ILUCD Article 4 – Standards for Specific Land Uses
3. ILUCD Article 7 – Planning Permit Procedures

NOTIFICATIONS:
None.

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

Article 3

Site Planning and Project Design Standards

Chapter 18.30 STANDARDS FOR ALL DEVELOPMENT AND LAND USES
18.30.010 Purpose
18.30.020 Applicability
18.30.050 Fences, Walls, and Screening
18.30.060 Height Limits and Exceptions
18.30.070 Outdoor Lighting
18.30.080 Performance Standards
18.30.090 Public Improvement Requirements
18.30.100 Setback Requirements and Exceptions
18.30.110 Solid Waste/Recyclable Materials Storage
18.30.120 Underground Utilities

Chapter 18.31 DENSITY BONUSES AND AFFORDABLE HOUSING INCENTIVES
18.31.010 Purpose
18.31.020 Definitions
18.31.030 Density Bonus and Incentives Eligibility
18.31.040 Types of Density Bonuses
18.31.045 Incentives and Waivers/Modifications of Development Standards
18.31.050 Density Bonus and Incentive Procedures
18.31.060 Affordable Housing Regulatory Agreement.

Chapter 18.32 INCLUSIONARY HOUSING REQUIREMENTS
18.32.010 Purpose
18.32.020 Definitions
18.32.030 Inclusionary Housing Applicability and Exempt Projects
18.32.040 Inclusionary Housing Requirements
18.32.050 Alternative Equivalent Action
18.32.060 Inclusionary Housing Phasing, Agreements and Affordability
18.32.070 Inclusionary Housing Incentives
18.32.080 Inclusionary Housing Plan
18.32.085 Inclusionary Housing Regulatory Agreement
18.32.090 Inclusionary Housing Trust Fund
18.32.100 Enforcement of Affordable Housing Requirements

Chapter 18.34 LANDSCAPING STANDARDS
18.34.010 Purpose
18.34.020 Applicability
18.34.030 Definitions
18.34.040 Landscape and Irrigation Plans
18.34.050 Landscape Location Requirements
18.34.060 Landscape Standards
18.34.070 Maintenance of Landscape Areas

Chapter 18.36 PARKING AND LOADING
18.36.010 Purpose
18.36.020 Applicability
18.36.030 General Parking Regulations
18.36.040 Number of Parking Spaces Required
18.36.050 Disabled Parking Requirements
18.36.060 Bicycle Parking
18.36.070 Motorcycle Parking

18.36.080 Reduction of Parking Requirements
18.36.090 Parking Design and Development Standards
18.36.100 Driveways and Site Access
18.36.110 Loading Space Requirements

Chapter 18.38 SIGNS
18.38.010 Purpose
18.38.020 Applicability
18.38.030 Sign Permit Requirements
18.38.040 Exemptions from Sign Permit Requirements
18.38.050 Prohibited Signs
18.38.060 General Requirements for All Signs
18.38.070 Zoning District Sign Standards
18.38.080 Standards for Specific Sign Types
18.38.090 Nonconforming Signs
18.38.100 Violations, Enforcement, Abatement
18.38.110 Judicial Review
18.38.120 Partial Invalidation

Chapter 18.30

STANDARDS FOR ALL DEVELOPMENT AND LAND USES

Sections:

18.30.010 Purpose
18.30.020 Applicability
18.30.050 Fences, Walls, and Screening
18.30.060 Height Limits and Exceptions
18.30.070 Outdoor Lighting
18.30.080 Performance Standards
18.30.090 Public Improvement Requirements
18.30.100 Setback Requirements and Exceptions
18.30.110 Solid Waste/Recyclable Materials Storage

18.30.010 - Purpose

This Chapter expands upon the zoning district development standards of Article 2 by addressing additional details of site planning, project design, and the operation of land uses. The intent of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties, and produces an environment of stable and desirable character, consistent with the General Plan and any applicable specific plan.

18.30.020 - Applicability

The requirements of this Chapter shall apply to all proposed development and new land uses, except as specified in Chapter 18.90 (Nonconforming Uses, Structures, and Parcels), and shall be considered in combination with the standards for the applicable zoning district in Article 2 (Zoning Districts and Allowable Land Uses) and those in Article 4 (Standards for Specific Land Uses). If there is a conflict, the standards in Article 4 shall control.

18.30.050 - Fences, Walls, and Screening

A. Applicability. The requirements of this Section apply to all fences and walls unless otherwise stated.

1. Fences or walls in flood hazard area. A fence or wall in an area subject to flooding identified on a Federal Flood Insurance Rate Map (FIRM) on file in the Department shall require a Building Permit, and shall comply with all requirements of the Director of Public Works in addition to the requirements of this Section.

2. Exemptions. These regulations do not apply to fences or walls required by regulations of a State or Federal agency, or by the City for reasons of public safety.

B. Height limits.

1. General height limit. Each fence, wall, and hedge shall comply with the height limits shown in Table 3-1.

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

Location	Maximum Height
Within front or street side setback	**Open fence:** 6 ft (open fencing must be of a minimum 42-inch wire mesh or equivalent). **View-obscuring fence:** 42 inches (31/2 ft) within a traffic safety visibility area (see Section 18.30.060.E), 6 ft elsewhere. Trellises, arbors and similar entry features are not permitted within a traffic safety visibility area, but are allowed up to 8 ft elsewhere (a height greater than 6 ft requires a Building

Comment [MJ1]: Cyclone fencing is not permitted within the front yard setback.

Comment [MJ2]: Clarifying language.

Location	Maximum Height
	Permit).
Within interior side or rear setback	8 ft with Minor Use Permit approval; 6 ft otherwise.
Outside of required setbacks	8 ft (a height greater than 6 ft requires a Building Permit).

2. Requirements for increased height. Where Table 3-1 allows increased fence height with Minor Use Permit approval, the approval shall be subject to the following requirements.

a. Each fence shall comply with the traffic safety visibility area requirements in Section 18.30.060.E (Height Limits and Exceptions - Height limit at street corners).

b. The review authority may require conditions to address aesthetic issues and neighborhood concerns.

C. Measurement of fence and wall height.

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Comment [MJ3]: These reference image locations and will be replaced with actual images in the final document. There is no need to review or edit these and they appear throughout the document.

1. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence and the top edge of the fence material.

2. The height of fencing atop a wall shall be measured from the base of the wall.

3. In cases where elevation of the finished grade within six feet of the base of the fence differs from one side of the fence to the other (as when a fence is placed at the top of a slope or on a retaining wall), the height shall be measured from the side with the lowest natural grade; except that a safety fence with a height of 48 inches shall be allowed in all cases. See Figure 3-1.

D. Specific fencing and wall requirements.

1. Fencing between different land uses. Fencing between different land uses shall be provided in compliance with Subsection F. (Screening).

2. Outdoor equipment, storage, and work areas. Screening of nonresidential outdoor uses and equipment adjacent to a residential use shall be provided in compliance with Subsection F. (Screening).

3. Retaining walls. Any embankment to be retained that is over 48 inches in height shall be benched so that no individual retaining wall exceeds a height of 36 inches, and each bench is a minimum width of 36 inches.

4. Swimming pools, spas, and similar features. Swimming pools/spas and other similar water features shall be fenced in compliance with Uniform Building Code (UBC) requirements, regardless of the other requirements of this Section.

5. Temporary fencing. Temporary fencing may be necessary to protect construction sites, archaeological resources, ~~or~~ historic resources, trees, rare plants and/or other similar sensitive features during site preparation and construction. This fencing shall be approved administratively by the Director.

E. Prohibited materials. The following fence materials are prohibited unless approved by the Director for animal control, special security needs, or required by a City, State, or Federal law or regulation.

1. Barbed wire, or electrified fence, except within the RR zoning district;

2. Razor or concertina wire in conjunction with a fence or wall, or by itself within any zoning district;

3. Chain link fencing within the front and street side yards and/or visible from the public right-of-way in any zoning district, or a fence of similar material, as determined by the Director; and

4. Chain link fencing or fence of similar material, as determined by the Director: anywhere within the Central Business District.

Comment [SP4]: This would cover corrugated metal or other unique but potentially unattractive fencing.

Comment [MJ5]: See above.

F. Screening. This Subsection establishes standards for the screening and separation of adjoining residential and nonresidential land uses, equipment and outdoor storage areas, and surface parking areas.

1. Screening between different land uses. ~~A commercial or industrial~~ non-residential land use proposed on a site adjacent to a residential zoning district shall provide screening at the parcel boundary as follows, and as directed by the review authority. ~~Other nonresidential uses adjacent to a residential use may also be required by the applicable review authority to comply with these requirements.~~

a. The screen shall consist of plant materials and a solid, decorative fence or wall of masonry or similar durable material, a minimum of six feet in height.

Comment [MJ6]: Sometimes a fence is preferable to a masonry wall. This change would allow the director to require whichever is most appropriate for the situation.

b. The maximum height of the fence or wall shall comply with the provisions of Subsection B. (Height limits).

c. The decorative fence or wall shall be architecturally treated on both sides, subject to the approval of the review authority.

d. A landscaping strip with a minimum width of five feet shall be installed adjacent to a screening wall, except that ~~10~~ five feet of landscaping shall be provided between a parking lot and a screening wall, in compliance with Section 18.34.050.C (Landscape Location Requirements - Parking areas).

Comment [MJ7]: While eight feet is required by 18.34.050C, staff recommends that both sections refer to a five foot landscaping buffer. With relatively narrow lots of 50 feet in width, this requirement has been difficult to achieve and has constrained development for little apparent benefit.

e. The review authority may waive or approve a substitute for this requirement if the review authority first determines that:

i) The relationship of the proposed uses make the required screening unnecessary;

ii) The intent of this Section can be successfully met by means of alternative screening methods;

iii) Physical constraints on the site make the required screening infeasible; or

iv) The physical characteristics of the site or adjoining parcels make the required screening unnecessary.

2. Mechanical equipment, loading docks, and refuse areas.

a. Roof or ground mounted mechanical equipment (e.g., air conditioning, heating, ventilation ducts, back flow devises, and exhaust, etc.), loading docks, refuse storage areas, and utility services (electrical transformers, gas meters, etc.) shall be screened from public view from adjoining public streets and rights-of-way and adjoining areas zoned for residential uses. Utility services are not allowed within any front setback, except for underground installations (i.e., vaults).

b. The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, and architectural style.

3. Outdoor storage and work setbacks. Land uses with outdoor storage of materials, recycling facility-processing centers, waste resource and waste recycling operations, and similar uses shall comply with the screening requirements established by Section 18.42.140 (Outdoor Storage).

4. Outdoor building materials and garden supply areas. Outdoor building materials and garden supply areas shall be screened with fencing, landscaping, walls, or similar material to minimize visibility of the storage area, with the screening plan first approved by the review authority.

18.30.060 - Height Limits and Exceptions

A. Purpose. This Section describes the required methods for measuring the height of structures in compliance with the height limits established by this Development Code, and exceptions to those height limits.

B. Maximum height of structures. The height of each structure shall not exceed the height limit established for the applicable zoning district by Article 2 (Zoning Districts and Allowable Land Uses), except as otherwise provided by this Section, or by Article 4 (Standards for Specific Land Uses).

C. Height measurement. The maximum allowable height shall be measured as the vertical distance from the natural grade of the site to an imaginary plane located the allowed number of feet above and parallel to the grade. See Figure 3-2. The location of natural grade shall be determined by the Director, and shall not be artificially raised to gain additional building height.

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Figure 3-2 - Height Measurement

D. Exceptions to height limits. The following structures and structural features may exceed the height limits of this Development Code as noted:

1. Architectural features. A chimney, cupola, monument, mechanical equipment, or vent may exceed the height limits by a maximum of three feet. A spire, theater scenery loft, tower, or roof-mounted water tank may exceed the height limits by eight feet.

2. Telecommunications facilities. The height of communications facilities, including antennas, poles, towers, and necessary mechanical appurtenances shall comply with Chapter 18.44 (Telecommunications Facilities).

E. Height limit at street corners. Development proposed adjacent to any public or private street or alley intersection, or the intersection of a driveway with a street, in other than the CBD zoning district shall be designed to provide a traffic safety visibility area for pedestrian and traffic safety. See Figure 3-3.

1. Measurement of visibility area. A traffic safety visibility area is a triangle measured as follows, and may include private property and/or public right-of-way.

a. Street intersections. The visibility area shall be defined by measuring 20 feet from the intersection of the front and street side right-of-way lines (i.e., edge of pavement or curb), and connecting the lines across the property.

b. Driveways. The visibility area shall be defined by measuring 15 feet along the driveway from the intersection of the driveway with the street right-of-way line, and 15 feet along the street line, away from the driveway, and connecting the lines across the intervening property.

2. Height limit. No structure, sign, or landscape element shall exceed 42 inches in height within the traffic safety visibility area, unless approved by the Public Works Director, except for trees with their canopy trimmed to a minimum of six feet above grade.

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Figure 3-3 - Required Traffic Safety Visibility Area

18.30.070 - Outdoor Lighting

Outdoor lighting on the site of a multi-family or non-residential structure or use shall comply with the following requirements.

A. An outdoor light fixture shall be limited to a maximum height of 18 feet.

B. Outdoor lighting shall utilize energy-efficient (high pressure sodium, low pressure sodium, hard-wired compact florescent, or other lighting technology that is of equal or greater energy efficiency) fixtures and lamps.

C. Lighting fixtures shall be shielded or recessed to minimize light bleed to adjoining properties, by:

1. Directing each light fixture downward and away from adjoining properties and public rights-of-way, so that no on-site light fixture directly illuminates an area off the site;

2. Ensuring that the light source (e.g., bulb, etc.) is not visible from off the site;

3. Confining glare and reflections within the boundaries of the site to the maximum extent feasible; and

4. Incorporating a cut-off shield to prevent light spill for any light sources over 10 feet high.

D. No lighting on private property shall produce an illumination level greater than one footcandle on any property within a residential zoning district except on the site of the light source.

E. No ~~permanently installed~~ lighting or lighted signs shall blink, flash, or be of unusually high intensity or brightness, as determined by the Director.

F. Up lit ~~L~~lighting shall not be used to illuminate a building's architectural features. ~~except as determined by the review authority.~~ However ~~l~~Lighting may be used to keynote special features such as towers and decorative cornices as determined by the review authority. ~~, but no features should be up-lit. Full lighting of building facades is prohibited.~~

Comment [MJ8]: All blinking signs are prohibited by the code see section 18.38.059. This makes this section consist with that section.

Comment [MJ9]: Simplify language so that we clearly describe what is allowed.

18.30.080 - Performance Standards

A. Purpose. This Section provides performance standards that are designed to minimize various potential operational impacts of land uses and development within the City and promote compatibility with adjoining areas and land uses.

B. Applicability. The provisions of this Section apply to all new and existing land uses, including permanent and temporary uses in all zoning districts, unless an exemption is specifically provided. Uses existing on the effective date of this Section shall not be altered or modified thereafter to conflict with these standards.

C. Combustibles and explosives. The use, handling, storage, and transportation of combustibles and explosives shall comply with Title 24 of the California Code of Regulations.

D. Dust. Please see requirements related to dust control and grading in chapter 17.62. ~~Activities that may generate dust emissions (e.g., construction, grading, commercial gardening, and similar operations) shall be conducted to limit the emissions beyond the site boundary to the maximum extent feasible. Appropriate methods of dust management shall include the following, subject to approval by the Director, Public Works.~~

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~~**1. Scheduling.** Grading shall be designed and grading activities shall be scheduled to ensure that repeat grading will not be required, and that completion of the dust-generating activity (e.g., construction, paving or planting) will occur as soon as possible.~~

~~**2. Operations during high winds.** Clearing, earth-moving, excavation operations or grading activities shall cease when the wind speed exceeds 25 miles per hour averaged over one hour.~~

~~**3. Limiting the area of disturbance.** The area disturbed by clearing, demolition, earth-moving, excavation operations or grading shall be minimized at all times.~~

~~**4. Dust control.** Dust emissions shall be controlled by watering a minimum of two times each day, paving or other treatment of permanent on-site roads and construction roads, the covering of trucks carrying loads with dust content, and/or other dust-preventive measures (e.g., hydroseeding, etc.).~~

~~5. **Revegetation.** Graded areas shall be revegetated as soon as possible, but within no longer than 30 days, to minimize dust and erosion. Disturbed areas of the construction site that are to remain inactive longer than three months shall be seeded and watered until grass cover is grown and maintained.~~

~~6. **Containment.** Appropriate facilities shall be constructed to contain dust within the site as required by the Director, Public Works.~~

Comment [MJ10]: Delete this section as it is covered by 18.62

E. Ground vibration. No ground vibration shall be generated that is perceptible without instruments by a reasonable person at the property lines of the site, except for vibrations from temporary construction or demolition activities, and motor vehicle operations.

F. Hazardous materials. As required by the Safety Element of the General Plan, an applicant for a proposed non-residential project that will involve the generation, use, transportation, and/or storage of hazardous substances shall comply with the following requirements.

1. The applicant shall notify the fire protection authority of all hazardous substances that are to be transported, stored, treated, or that could be accidentally released into the environment on the site.

2. The planning permit application for the project shall include detailed information on hazardous waste reduction, recycling, transportation, and storage, and a plan for emergency response to a release or threatened release of a hazardous material.

3. The site shall be provided with secondary containment facilities and a buffer zone adequate to protect public health and safety on a site with hazardous materials storage and/or processing activities, as required by the review authority.

G. Light and glare. Outdoor lighting shall comply with the requirements of Section 18.30.070 (Outdoor Lighting).

H. Liquid waste. No liquid shall be discharged into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the Regional Water Quality Control Board.

I. Noise. Noise emanating from the site shall comply with the City's noise standards in Municipal Code Chapter 9.44 (Noise).

J. Odor. No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.

K. Radioactivity, electrical disturbance or electromagnetic interference. None of the following shall be emitted:

1. Radioactivity, in a manner that does not comply with all applicable State and Federal regulations; or

2. Electrical disturbance or electromagnetic interference that interferes with normal radio or television reception, or with the function of other electronic equipment beyond the property line of the site; or that does not comply with all applicable Federal Communications Commission (FCC) and other applicable State and Federal regulations.

L. Sediment Control and Stormwater Management. All projects shall comply with Chapter 17.62 and Chapter 17.64 with regard to erosion and sediment control and stormwater runoff management.

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Comment [MJ11]: For consistency.

18.30.090 - Public Improvement Requirements

The development of an approved project shall include the construction of improvements to each public street frontage of the site as required by the review authority, the subdivision improvement requirements in Chapter 18.88 (Subdivision Design and Improvement Requirements), and/or the City's public improvement standards, as applicable. These improvements may include the widening of an existing street, and/or the installation or bike lanes, reinstallation of curb, gutter, and sidewalk; the installation of street trees and other landscaping within the public

right-of-way; the installation of drainage facilities as required by the Director, Public Works, and/or other improvements determined by the review authority to be reasonably related to the needs for pedestrian and vehicle circulation, and community infrastructure demands created by the project.

18.30.100 - Setback Requirements and Exceptions

A. Purpose. This Section provides standards for the location, required size, and allowable uses of front, side, and rear setbacks. Setback standards provide open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation between potentially conflicting activities; and space for privacy, landscaping and recreation.

B. Setback requirements.

1. Minimum setbacks for all structures. Each structure shall comply with the front, interior side, street side, and rear setback requirements of the applicable zoning district, except:

a. Where a different setback requirement is established for a specific land use by Article 4 (Standards for Specific Land Uses);

b. Where a different setback requirement is established by Article 5 (Resource Management); and

c. As otherwise provided by this Section.

No portion of any structure, including eaves or roof overhangs, shall extend beyond a property line, or into an access easement or street right-of-way, except as provided by this Section.

2. Exemptions from setback requirements. The minimum setback requirements of this Development Code do not apply to the following (please see table 3-2 for additional details):

a. A projection into a required setback allowed by Subsection F.;

b. A fence or wall six feet or less in height, when located ~~outside of~~within a front or street side setback;

c. A fence or wall 42 inches in height or less within a front or street side setback when located ~~outside in of~~ the traffic visibility area required by Section 18.30.060.E (Height limit at street corners);

d. A deck, earthwork, step, terrace, and other site design element that is placed directly upon grade and does not exceed a height of ~~18~~ 30 inches above the surrounding grade at any point;

e. A sign in compliance with Chapter 18.38 (Signs);

f. A retaining wall less than 30 inches in height above finished grade. Any embankment to be retained that is over 48 inches in height shall be benched so that no individual retaining wall exceeds a height of 36 inches, and each bench is a minimum width of 36 inches; and

g. An arbor or trellis (i.e., gateway) eight feet or less in height.

C. Measurement of setbacks. Setbacks shall be measured and applied as follows, except that the Director may require different setback measurement methods where the Director determines that unusual parcel configuration makes the following infeasible or ineffective. See Figure 3-4.

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Figure 3-4 - Location and Measurement of Setbacks

1. Front setback. A front setback shall be measured at right angles from the nearest point on the front property line of the parcel (or edge of access easement on a private street) to the nearest point of the wall of the

Comment [MJ12]: For conformance with section 18.30.050 regrading fence heights.

Comment [MJ13]: See above.

Comment [MJ14]: This allows for more flexibility. Anything less than 30 inches in height does not require a railing, and so could be accommodated in the setback. This matches table 3-2 below.

structure, except as provided in following Subsections C.1.a through C.1.e. The front property line is the narrowest dimension of a lot adjacent to a street.

a. Averaging. In a residential zone where 50 percent or more of the parcels on the same block and on the same side of the street are developed with buildings, the front setback required for the applicable zoning ~~district shall not apply, and the required front setback shall instead be not less than~~ may be reduced tothe average depth of the front setbacks of the developed parcels. ~~to a minimum of 12 feet.~~

Comment [MJ15]: This allows us to reduce setbacks where neighboring building are closer to the street than the setback requires. There is no reason to require development further back than ten feet if the average on the block is already less than that.

b. Mapped street with future improvements. If the City has established a plan that identifies a right-of-way for the future construction of a new street or the widening of an existing street, a required front or street side setback shall be measured from the plan line.

c. Infill development within previously approved project. Where the City has established specific setback requirements for individual vacant parcels through the approval of a specific plan, subdivision map, or other entitlement, those setbacks shall apply to continuing development within the approved project instead of the setbacks required by this Development Code.

d. Flag lot. For a parcel with a fee ownership strip extending from a street or right-of-way to the building area of the parcel, the front setback shall be measured from the nearest point of the wall of the structure to the point where the access strip meets the bulk of the parcel; establishing a setback line parallel to the lot line nearest to the public street or right-of-way.

e. Corner lot. The front setback shall be measured from the nearest point of the wall of the structure to the nearest point of the most narrow street frontage property line. If the property lines on both street frontages are of the same length, the property line to be used for the front setback measurement shall be determined by the Director.

2. Side setback. The side setback shall be measured at right angles from the nearest point on the side property line of the parcel to the nearest point of the wall of the structure; establishing a setback line parallel to the side property line, which extends between the front and rear setbacks.

3. Street side setback. The side setback on the street side of a corner parcel shall be measured from the nearest point on the side property line bounding the street, or the edge of an easement for a private road, or the inside edge of the sidewalk whichever results in the greatest setback from the existing or future roadway.

4. Rear setback. The rear setback shall be measured at right angles from the nearest point on the rear property line to the nearest line of the structure, establishing a setback line parallel to the rear property line.

a. The Director shall determine the location of the required rear setback on a double-frontage parcel.

b. Where a parcel has no rear lot line because its side lot lines converge to a point, an assumed line five feet long within the parcel, parallel to, and at a maximum distance from the front lot line, shall be deemed to be the rear lot line for the purpose of determining the depth of the required rear setback.

D. Limitations on the use of setbacks.

1. Structures. A required setback area shall not be occupied by a structure other than those identified by Subsection B.3 as being exempt from the setback requirements of this Chapter.

2. Storage. No front or street side setback shall be used for the accumulation, placement or storage of ~~automobiles~~vehicles, large motor vehicles, non-motorized vehicles (as defined in Section 10.02.010), ~~or other motor vehicles,~~ building materials, scrap, junk or machinery except for the following:

a. ~~Automobiles and trucks~~Vehicles, not in excess of one-ton capacity, regularly in use, that are parked within a designated driveway; ~~and~~

b. Building materials and construction trailers required for construction on the parcel, immediately before and during a construction project which has a valid Building Permit in force; and/or.

c. Trailers, large motor vehicles and non-motorized vehicles stored or parked in a front or street side setback area in any nonresidential zoning district where ~~limited display areas are~~ authorized through Minor Use Permit approval (Section 18.71.060).

3. Parking. See Section 18.36.090.A. (Parking Design and Development Standards - Location of parking).

~~**4. Storage of trailers prohibited.** No trailer shall be stored or parked within any required front or street side setback area in any nonresidential zoning district except where limited display areas are authorized through Minor Use Permit approval (Section 18.71.060).~~

5. Mechanical and utility equipment. See Subsection F.5 (Setback requirements for specific structures - Mechanical Equipment).

6. Exceptions to setback requirements. See section 18.30.100 B 2 for structures that are exempt from setback requirements.

E. Allowed projections into setbacks. An architectural feature attached to a primary structure may extend beyond the wall of the structure and into a required front, side, or rear setback in compliance with Table 3-2. See also Section 18.30.100 B 2 and Figure 3-5. ~~These requirements do not apply to accessory structures, which are instead subject to Section 18.42.160 (Residential Accessory Uses and Structures).~~

TABLE 3-2 - ALLOWED PROJECTIONS INTO SETBACKS

Projecting Feature	Allowed Projection into Specified Setback		
	Front Setback	Side Setback	Rear Setback
Balcony, deck, ~~landing,~~ porch, ~~stairway~~ - Uncovered, unenclosed, and less than 30 in. above grade	25% of setback	May project to property line	
Balcony, deck~~, landing,~~ porch, ~~stairway~~ - Which may be roofed but is otherwise unenclosed	25% of setback to a maximum of 6 ft	20% of side setback	20% of setback
Balcony, deck, ~~landing,~~ porch, ~~stairway~~ - Covered and enclosed	Not allowed in setback		
Balcony, deck, landing, porch, stairway - Uncovered and unenclosed, 30 in. or more above grade	6 ft	30 in ~~(1)~~	6 ft ~~(1)~~
Landing & stairway – covered or uncovered, but not enclosed.	40% of setback	May project to property line	
Bay window, or similar projecting feature	30 in	20% of setback (but no more than 36 inches~~1~~)	30 in
Chimney/fireplace, 6 ft. or less in breadth	30 in	30 in ~~(1)~~	30 in ~~(1)~~
Cornice, eave, awning, roof overhang	30 in	30 in ~~(1)~~	5 ft ~~(1)~~

Notes:

~~(1) Feature may project no closer than 36 inches to any side property line.~~

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Figure 3-5 - Examples of allowed projections into side setback

F. Setback requirements for specific structures:

Comment [MJ16]: This would allow commercial businesses to park boats and other large vehicles in the front setback with a minor use permit. Alternatively, council could consider deleting this exception which would make storage of large vehicles not allowed within the front setback on commercial properties.

Comment [MJ17]: This has been reworded and included as 2c above.

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Comment [MJ18]: Add cross reference for clarity.

Comment [MJ19]: Consider allowing secondary structures the same setback projections.

Comment [MJ20]: A landing and set of stairs typically requires more than 5 feet (which would be 25% of the setback (see above). The landing is usually 4 feet and the stairs an additional four feet, so 8 feet (40% of 20 feet) would be a useable projection into the setback. Alternatively, Council could make landings and stairways permissible within the entirety of the front set back.

1. Accessory structures. See Section 18.42.030 (Agricultural Accessory Structures), and 18.42.160 (Residential Accessory Uses and Structures).

2. Fences. See Section 18.30.050 (Fences and Walls).

3. Decks and other site design elements. A detached deck, freestanding solar device, steps, terrace, or other site design element that is placed directly upon the grade, and that exceeds a height of 30~~18~~ inches above the surrounding grade at any point, shall comply with the setback requirements of this Development Code for detached accessory structures. (Note: a site design element less than 18 inches above grade is exempt.)

4. Swimming pool, hot tub, etc. A swimming pool, hot tub, or spa on a parcel of 10,000 square feet or less shall be set back a minimum of ten feet from side and rear property lines, and shall not be located within a front setback. A swimming pool, hot tub, or spa on a parcel larger than 10,000 square feet shall comply with the setback requirements of the applicable zoning district. All equipment associated with a pool, hot tub and/or spa on any parcel shall comply with the setback requirements of the applicable zoning district.

5. Mechanical equipment. Ground-mounted mechanical equipment located outside of a structure shall comply with the setback requirements of the applicable zoning district. Examples of this equipment include: swimming pool pumps and filters, heating, ventilation, and air conditioning, and similar equipment; and transformers, cable television distribution boxes, and similar utility equipment that is not underground. The Director may approve an exception to this requirement for the installation of propane or oil tanks within a required side or rear setback area, where there is no feasible alternative location that complies with the setback requirements.

18.30.110 - Solid Waste/Recyclable Materials Storage

A. Purpose. This Section provides standards which recognize the City's support for and compliance with the California Solid Waste Reuse and Recycling Access Act (Public Resources Code Sections 42900 through 42911).

B. Applicability. These requirements apply to new multi-family residential and nonresidential development, or changes to existing multi-family residential or nonresidential development that increase gross floor area by 25 percent or more.

C. Extent of storage area required. Solid waste and recyclables storage areas shall be provided in the number, dimensions, types, and locations required by the Department or review authority. Additional storage areas may be required, as deemed necessary by the Director.

D. Enclosure requirements. Storage areas shall be fully enclosed by a six-foot high decorative masonry wall or other solid enclosure that is architecturally compatible with adjacent structures. Gates shall be solid and continuously maintained in working order. A concrete apron shall be installed. Landscaping shall be provided to soften and screen the enclosure in compliance with Chapter 18.34 (Landscaping Standards). See Figure 3-6.

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Figure 3-6 - Solid Waste Enclosure

~~**18.30.120 - Underground Utilities**~~
~~Utility connections to new structures shall be installed underground; except that in a neighborhood where utilities are located overhead, a proposed structure of less than 3,000 square feet may take its service from the existing overhead facilities.~~

Comment [MJ21]: This requirement is very expensive. Consider deleting.

Chapter 18.31

DENSITY BONUSES AND AFFORDABLE HOUSING INCENTIVES

Comment [MJ22]: No changes have been made to this chapter. Please skip to page 32.

Sections:

18.31.010 Purpose
18.31.020 Definitions
18.31.030 Density Bonus Eligibility
18.31.040 Types of Density Bonuses and Incentives Allowed
18.31.050 Density Bonus Procedures

18.31.010 - Purpose

A. This Chapter is intended to implement the requirements of State law (Government Code Sections 65915, et seq.) and the Housing Element of the General Plan, by offering a density bonus and other incentives for the development of housing that is affordable to the types of households and qualifying residents identified in Section 18.31.030 (Density Bonus Eligibility), and for development of senior housing, all as further provided for in Government Code section 65915.

B. This chapter also sets forth density bonus and housing incentives in addition to State law which encourage the development of housing that is affordable to a range of households with varying income levels.

18.31.020 - Definitions

The specialized and technical terms and phrases used in this Chapter are defined in Article 10 (Glossary & Index), under "Affordable and Inclusionary Housing Requirements."

18.31.030 - Density Bonus and Incentives Eligibility

In order to be eligible for a density bonus and/or other incentives as provided by this Chapter, a proposed housing development shall comply with the following requirements, and satisfy all other applicable provisions of this Development Code and State law, except as provided by Section 18.31.040 (Types of Density Bonuses), below.

A. Housing development. In order to qualify for a density bonus and incentives, the housing development shall meet Government Code Section 65915(b) requirements with regard to affordability, household income levels, and senior housing.

B. Minimum project size to qualify for density bonus. The density bonus shall be available only to a housing development o that provides affordable housing in compliance with Section 18.32 (Inclusionary Housing Requirements), or in compliance with State law.

C. Condominium conversion projects. A condominium conversion project is eligible for a density bonus or incentives, if it complies with the eligibility and other requirements in State law (Government Code Section 65915.5).

D. "Sweat equity" developments. A "sweat equity" housing development is eligible for incentives in compliance with Subsection 18.31.045(B5) (Types of Density Bonuses and Incentives Allowed, Incentives for "sweat equity" developments).

E. Donations of Land. The donation of land makes a project eligible for a Density Bonus if it satisfies all of the requirements of Government Code section 65915(g).

18.31.040 - Types of Density Bonuses

The amount of a density bonus and the extent of other incentives allowed for a proposed housing development shall be determined by the Review Authority in compliance with State law and this Section.

A. Amount of Density Bonus. The amount of density bonus provided by the City of Fort Bragg shall comply with State law 65915(f).

B. Additional density bonus. Housing developments that qualify for a density bonus under State law may be eligible for an additional density bonus by the Review Authority, as outlined below:

1. Bonus for preferred design and/or green design. An additional five percent density bonus may be granted to developments with preferred design features and or green/environmentally sustainable design features as determined by the Planning Commission and defined in the General Plan and the Citywide Design Guidelines.

2. Relation to maximum statutory bonus density. Bonus densities under State law are limited to an aggregate amount of 35%. The above local density bonus shall be in addition to, and does not count towards calculating the aggregate statutory density bonus.

3. Bonus or incentives allowed for housing development with child care facility. A housing development that complies with the resident requirements of State law, and also includes a childcare facility on the premises shall be eligible for an additional bonus or incentives, subject to compliance with the requirements as stipulated by Government Code Section 65915(h).

18.31.045 - Incentives and Waivers/Modifications of Development Standards

A. Waivers/Modifications of Development Standard. If a density bonus and/or other incentives cannot be accommodated on a site due to strict compliance with the development standards of this Development Code, the applicant may request and the Council shall modify or waive such development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled, unless the waiver or modification would have an adverse impact as further defined in Government Code Section 65915(e)(1).

B. Incentives for Affordable Housing Projects.

1. Available concessions or incentives. A housing development qualifying for a density bonus under Government Code section 65915(b) shall be entitled to concessions or incentives identified by Government Code Section 65915[k], with the number of incentives as established in Government Code section 65915(d).

2. Preferred or Pre-Approved Council incentives. The City has established a set of preferred incentives by resolution from which developers may select an incentive with certainty of approval by the Council.

3. Applicant specified concessions or incentives. An applicant may submit to the City a request for specific concessions or incentives in compliance with this Section and State law.

4. Required findings to reject concession or incentive. The City shall grant the concession or incentive requested by the applicant unless the Council makes a written finding, based upon substantial evidence, of any of the following:

a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as affordable to very low, low, or median or moderate income households as required; or

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

c. The concession or incentive would be contrary to State or Federal law.

5. Incentives for "sweat equity" developments. A "sweat equity" development in compliance with Section 18.31.030.D (Density Bonus Eligibility, "sweat equity" developments) may be granted incentives only as follows:

a. One incentive will be granted to a development where 100 percent of the units are provided to low income households; or

b. Two incentives may be granted to a development where 100 percent of the units are provided to very low income households.

18.31.050 - Density Bonus and Incentive Procedures

A. Processing requirements. A request for a density bonus and/or incentives shall be evaluated and decided concurrently with the related housing development project and in compliance with Government Code Section 65915.

B. Application Procedures. The project applicant shall submit the following to the Review Authority so that the Review Authority can determine if the project is eligible for a density bonus and/or incentives:

1. A written request specifying how the proposed housing development or senior housing qualifies for a density bonus under 65915(b);

2. A written proposal for specific incentives or concessions under 65915(d);

3. A written request for waiver or modification of incentives under 65915(e);

4. A draft affordable housing agreement consistent with C below and 65915(c); and

5. A project pro forma.

C. Affordable Housing Regulatory Agreement. An Affordable Housing Regulatory Agreement shall be recorded against the relevant property consistent with the requirements of Government Code Section 65915(c). An applicant requesting a density bonus and/or incentives under this ordinance or under State law shall draft, and agree to enter into, an Affordable Housing Regulatory Agreement with the City ("agreement"). The agreement shall include the contents and provisions as described in Subsection 18.32.85 as applicable. The terms of the draft agreement shall be reviewed as appropriate by the City Manager and/or the City Attorney.

D. Control of Affordable Unit Resale. In order to maintain the availability of the for-sale affordable units constructed in compliance with this Chapter, the resale conditions established in Subsection 18.32.060D shall apply. Any abuse in the resale provisions shall be referred to the City Attorney for appropriate action.

18.31.060 - Affordable Housing Regulatory Agreement.

A. Affordable Housing Regulatory Agreement. The applicant shall execute and cause to be recorded a Density Bonus Regulatory Agreement ("agreement") between the City and the developer. The agreement shall be executed by the City Manager, and shall be recorded against the property receiving the Density Bonus.

1. Agreement contents. The agreement shall include at least the following information:

a. Number of dwelling units. The total number of dwelling units approved for the housing development project, including the number of density bonus units;

b. Description and location of units. The location, unit sizes (in square feet), and number of bedrooms of the dwelling units;

c. Use of property. A description of the use of the property stating that the units shall be used to provide housing to qualifying households under the provisions of this Chapter and Government Code 65915(f).;

d. Description of targeted income group. A description of the household income group to be accommodated by the housing development project, and the standards and methodology for determining the corresponding affordability consistent with this Chapter and State law;

e. Non-discrimination clause. The clause shall state that there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, sexual-orientation, national origin or ancestry in the sale, transfer, use, occupancy, or enjoyment of an affordable unit, or any part thereof. Nor shall any developer establish or permit any such practice or

practices of discrimination or segregation with reference to the selection, location, use, or occupancy of purchasers or occupants of the affordable units, or parts thereof;

f. Length of affordability. Description of the affordability restrictions for the affordable dwelling units in compliance with 65915(c), requiring 15 years of continuing affordability;

g. Description of concessions and/or incentives. A description of the additional concessions and/or incentives sought of the City;

h. Remedies for breach of the agreement. A description of the remedies for breach of the Affordable Housing Regulatory Agreement by the owners, developers, and/or successors-in-interest of the development project;

i. Other provisions. Other provisions to ensure successful implementation and compliance with this Chapter.

2. Agreement provisions. The agreement shall include at least the following provisions:

a. Continuing right-of-first-refusal. The developer shall give the City the continuing right-of-first-refusal to purchase any or all of the affordable dwelling units at a sales price for the affordable dwelling unit consistent with the limits established for low, very low, or moderate income households, as published by HUD;

b. Written approval of City required prior to transfer of unit. The deeds to the affordable dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign sell or otherwise transfer any interests for the affordable dwelling units without the prior written approval of the City;

c. Confirmation of price by City. When providing the written approval, the City shall confirm that the sales price of the affordable dwelling unit is consistent with the limits established in Section 18.30.060D1;

d. Occupied by eligible households. The City shall have the authority to enter into other agreements with the developer, or purchasers of the affordable dwelling units, to ensure that the required dwelling units are occupied by eligible households for the minimum time of continued affordability as described in Section 18.31.060 (A) 1f (above);

e. Enforcement of compliance. Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance;

f. Failure to comply. Any default or failure to comply may result in daily penalties, liens, foreclosure, specific performance, or withdrawal of the Certificates of Occupancy;

g. Recovery of all City-related costs. In any action taken to enforce compliance with deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services;

h. Eligible and qualified residents. The affordable dwelling units shall be owner-occupied by eligible moderate or median income households, or by qualified residents in the case of senior housing;

i. Mandatory contents of instrument or agreement. The initial purchaser of each affordable dwelling unit shall execute an instrument or agreement approved by the City which:

i) Restricts the sale of the unit in compliance with this Chapter during the affordability restriction period. If the unit is sold, the City shall be entitled to receive the amount of the sales price which exceeds the maximum sales price (as defined in Section 18.30.060D1) less reasonable costs of the sale plus the value of substantial structural or permanent fixed improvements;

ii) Contains provisions as the City may require to ensure continued compliance with this Chapter and State law; and

iii) Shall be recorded against the parcel(s) containing the affordable dwelling unit(s); and

j. Affordability restriction period. The applicable affordability restriction period shall be in compliance with 65915(c), requiring 15 years of continuing affordability for for-sale units and 25 years of continuing affordability for rental units.

3. Execution of agreement.

a. Timing of approval and recordation. The approval and recordation of the agreement shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of Certificates of Occupancy for the inclusionary dwelling units.

b. Binding on all parties. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

B. Effect of plan and agreement. After the approval of the Density Bonus and the recording of an Affordable Housing Regulatory Agreement, each affordable housing unit shall be constructed as required, and shall be sold and maintained as an affordable unit, in compliance with the plan and agreement.

Chapter 18.32

INCLUSIONARY HOUSING REQUIREMENTS

Sections:

18.32.010 Purpose
18.32.020 Definitions
18.32.030 Inclusionary Housing Applicability
18.32.040 Inclusionary Housing Requirements
18.32.050 Alternative Equivalent Action
18.32.060 Requirements for Inclusionary Units
18.32.070 Inclusionary Housing Incentives
18.32.080 Inclusionary Housing Plan and Housing Regulatory Agreement
18.32.090 Inclusionary Housing Trust Fund
18.32.100 Enforcement of Inclusionary Housing Requirements

18.32.010 - Purpose

This Chapter requires the development of affordable housing in new development projects providing five or more housing units that are intended for sale or rent.

A. This Chapter establishes standards and procedures to implement the inclusionary housing requirements identified in Section 18.32.040 (Inclusionary Housing Requirements).

B. This Chapter is intended to implement the requirements of Government Code Sections 65583 and 65913, and the Housing Element of the General Plan, by increasing the production of residential units affordable to low, moderate and median income households. This Chapter complements the density bonus provisions of Chapter 18.31 and assures that new housing development contributes to attaining the City's housing goals.

18.32.020 - Definitions

The specialized and technical terms and phrases used in this Chapter are defined in Article 10 (Glossary), under "Affordable and Inclusionary Housing Requirements."

18.32.030 - Inclusionary Housing Applicability and Exempt Projects

A. Applicability. The requirements of this Chapter apply to all housing developments proposed with five or more dwelling units or a subdivision proposing five or more lots, except as noted in Subsection C.

B. Conversion of rental project to for-sale project. Residential projects approved as rental developments after the effective date of this Chapter shall be subject to its inclusionary requirements if the project or any of the rental units therein are proposed to convert to for-sale units.

C. Exempt projects. The following residential projects are exempt from the inclusionary housing requirements of this Chapter.

1. Project with vested rights. A residential project for which the City has entered into a development agreement before the effective date of this Chapter, or which otherwise demonstrates a vested right to proceed without complying with this Chapter.

2. Involuntarily damaged or destroyed dwelling unit. Any dwelling unit(s) in existence prior to the effective date of this Chapter that is (are) damaged or destroyed by fire or natural catastrophe so long as the square footage and use of the replacement or repaired structure remain(s) the same.

3. Affordable Housing Units. All affordable units shall be exempt from the inclusionary housing requirement, including those in mixed-income developments, mixed-use developments, sweat equity projects, senior housing projects, housing projects for people with special needs, and other affordable housing units as determined by the director. In order to be exempt from the Inclusionary Housing requirements the affordable housing units shall be affordable for a minimum of 15 years.

4. Small Project. A residential development project with four of fewer dwelling units or a minor subdivision.

5. One-bedroom Residential Units. One-bedroom residential units that are less than 600 square feet shall be exempt from the inclusionary requirement in order to encourage the production of small units.

6. Other exemptions as approved by City Council.

18.32.040 - Inclusionary Housing Requirements

A. Number of inclusionary housing units required for non- subdivision projects with five or more residential units.

1. All developments that include 5 - 10 residential units. All rental and **"**for sale**"** developments of five to ten units must construct 20 percent of residential units to be "affordable by design" as defined in Article 10 (Glossary).

2. Developments that include more than 10 residential units to be sold shall include inclusionary units as follows:

a. If 11 - 20 residential units, the applicant shall construct 10 percent of all new dwellings as inclusionary units, or complete an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.

b. If 21 or more residential units, the applicant shall construct 15 percent of all new dwellings as inclusionary units, or complete an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.

3. Development projects that include more than 10 residential rental units shall comply with requirements below, only if the developer enters into a contract with the City of Fort Bragg and requests and receives one or more incentives or a density bonus;

a. If the project includes 11 - 20 residential rental units, the applicant shall construct 10 percent of all new dwellings as inclusionary units, or an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.

b. If 21 or more residential units for sale, the applicant shall construct 15 percent of all new dwellings as inclusionary units, or an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.

c. As an alternative to constructing inclusionary units, the developer may pay an in-lieu fee that is calculated based on the requirements outlined in subsections 1 & 2 above.

4. Fractional Units. If the calculation of the required number of units results in a fraction of units, the developer must construct the additional inclusionary unit, pay a proportional fraction of the in-lieu fee, or perform an alternative equivalent action approved by the Council in compliance with Section 18.32.050 (Alternative Equivalent Action) for the fraction.

B. Inclusionary requirement for subdivision projects with five or more residential lots.

1. If a proposal involves the major subdivision of a residentially zoned parcel the inclusionary requirement shall be met either through: 1) the construction of inclusionary housing; 2) the donation of net land for the construction of inclusionary housing; or 3) an Alternative Equivalent Action (18.32.050).

a. All major subdivisions that result in the creation of five to ten lots shall be deed restricted such that 20 percent of the lots must include residential units to be "affordable by design" as defined in Article 10 (Glossary).

b. All major subdivisions that result in the creation of 11 to 20 lots shall require: 1) that 10 percent of the net land be donated to the City or its designated agency for the construction of inclusionary units; 2) the construction of 10 percent of the units as inclusionary units; or 3) an approved alternative equivalent action. Land donations must have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of inclusionary units and be served by adequate public facilities and infrastructure.

c. All major subdivisions that result in the creation of more than 20 lots shall require: 1) that 15 percent of the net land be donated to the City or its designated agency for the construction of inclusionary units; 2) the construction of 15 percent of the units as inclusionary units; or 3) an approved alternative equivalent action. Land donations must have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of inclusionary units and be served by adequate public facilities and infrastructure.

2. The satisfaction of the inclusionary requirement for major subdivisions shall be included in and described on the tentative map at the time of application. The description shall include acreage and location of any proposed land donation.

18.32.050 - Alternative Equivalent Action

A developer of a project with residential units may comply with the requirements of Subsection 18.32.040 (Inclusionary Housing Requirements) above by an alternative equivalent action approved by the City Council in compliance with this Section.

A. Scope of alternative proposals. A proposal for an alternative equivalent action may include:

1. Construction of secondary units. For single-family subdivision projects of between 11 and 30 lots, a developer may build small secondary units in lieu of inclusionary units. Two "small secondary units" are equal to one inclusionary unit. Single-family subdivision projects with 30 lots or more may only utilize secondary units as an alternative equivalent action for the first 30 lots of the project; or

2. Donation of vacant land. Land donations for the construction of inclusionary units as part of a subdivision without development or as an alternative equivalent action, must meet the following requirements:

a) Have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of affordable units in an amount equal to at least 15 percent of the units in the residential development;

b) Be served by adequate public facilities and infrastructure; and

c) Be subject to an affordability covenant or deed restriction to ensure continued affordability; or

3. Construction of inclusionary units on another site subject to Council approval; or

4. Payment of an Inclusionary Housing In-Lieu Fee, in an amount as set forth in a resolution of the City Council, which may be amended from time to time to reflect inflation and changed conditions in the City and the region; or

5. Any on site or off site alternative equivalent action recommended by the Community Development Committee and approved by City Council; or

6. A combination of the above strategies, as approved by City Council.

B. Content of proposal. A proposal for an alternative equivalent action shall show how the alternative action proposed will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Subsection 18.32.040 (Inclusionary Housing Requirements). If required by the City, the applicant shall provide or pay for an independent third party review/analysis of the equivalence of the proposed alternative action.

C. Review and approval. A proposal for an alternative equivalent action shall be specified in the Inclusionary Housing Plan submitted with the applications for the residential development. The proposal shall be processed concurrently with the residential development applications except that the review authority for an alternative equivalent action shall be the Council.

D. Criteria for approval. A proposal for an alternative equivalent action to satisfy the requirements of this Chapter may be approved at the Council's discretion, if the Council first determines that the alternative action will further affordable housing opportunities in the City to an equal or greater extent than compliance with the otherwise applicable requirements of Subsection 18.32.040 (Inclusionary Housing Requirements).

18.32.060 - Inclusionary Housing Phasing, Agreements and Affordability

A. Timing and Phasing of Unit Construction. All inclusionary units within a residential project shall be constructed concurrent with, or before, the construction of the market rate dwelling units. If the City approves a phased project, the required inclusionary units shall be provided within each phase of the residential project with their number in proportion to the total number of units in the phase in relation to the total number of units in the project, or phased in another sequence acceptable to the City as approved by the Review Authority. Certificates of Occupancy will be issued for increments of no more than seven market rate units before Certificates of Occupancy are issued for the corresponding inclusionary unit(s).

B. Recordation of Inclusionary Housing Agreement. The recordation of the Inclusionary Housing Regulatory Agreement, as described in Section 18.32.085, shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of any Certificates of Occupancy.

C. Affordability Requirements.

1. For Sale Units. One-half of the required inclusionary units shall be available at sales prices affordable to households whose annual household income does not exceed 100 percent of area median income as defined in Article 10 (Glossary). The remaining one-half of the required inclusionary units shall be available at sales prices affordable to moderate-income households whose annual household income does not exceed 120 percent of area median income with priority given to essential public service employees within the City as defined in Article 10 (Glossary).

2. Rental Units. One-half of the required units shall be available at rents affordable to low-income households whose annual household income does not exceed 80 percent of area median income; and, the remaining half of the inclusionary units shall be available at affordable rents to moderate households whose annual household income does not exceed 120 percent of area median income, with priority for rental given to essential public service employees within the City as defined in Article 10 (Glossary), who meet income eligibility requirements.

D. Continued Affordability. The procedures to maintain the continued affordability of the inclusionary units shall be included in the Inclusionary Housing Plan submitted with the development project application and shall be subject to approval by the City as described in Section 18.32.080.

1. Term of affordability.

a) For-sale inclusionary units shall be affordable for 15 years. If a "for sale" inclusionary unit is resold during this term, the equity accrued shall be apportioned as follows:

i. Equity accrual to the property owner during the first five years shall be limited to equity accrued through the mortgage and down payments (less all outstanding mortgage, taxes and liens); it shall not include market related appreciation. At the resale of an inclusionary unit within the first five years of the term, all market rate equity shall be paid to the City's Housing Trust Fund.

ii. Equity accrual to the property owner who sells an inclusionary unit in years 6 through 15 shall include 10 percent of the market appreciation per year of ownership, after repayment of the mortgage, taxes and any outstanding liens. The remaining market rate equity shall be paid to the City's Housing Trust Fund.

iii. After 15 years the unit will not be an inclusionary housing unit, and resale may proceed without a payment to the City's Housing Trust Fund.

b) Inclusionary Housing Rental Units shall be affordable for 25 years.

2. Resale restrictions. In order to maintain the availability of the for-sale inclusionary units constructed in compliance with this Chapter, resale of the units shall be restricted as follows.

a) Written notice of intent to sell, City option. Resale restrictions shall provide that, before offering an inclusionary unit for sale, the seller shall provide written notice to the Director, by certified mail, of their intent to sell. The City or its designee shall be granted an option to purchase the unit for sale, with a maximum of 60 days to exercise the option, and a maximum of 120 days to conclude the purchase, in addition to the time for exercising the option.

b) Payment of Inclusionary Housing In Lieu fee. If the unit is sold prior to the 15 year term of affordability, the seller shall pay to the City's Housing Trust Fund an Inclusionary Housing Fee in the amount calculated according to section 18.32.060D1a. This fee shall be paid as part of the escrow process for the resale of the unit.

3. Rental restrictions. An inclusionary unit may be leased or subleased to an income qualified eligible renter (per 18.32.060 C.2 Affordability Requirements for Rental Units) upon review of the renter's income qualifications by the Director.

E. Eligibility of households.

1. No household shall be allowed to purchase an inclusionary unit, unless the City or its designee has approved the household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by an inclusionary housing agreement or resale restrictions.

2. The eligibility of potential occupants of inclusionary units shall be determined on the basis of household income at the time of purchase as defined in this Chapter, the relationship between household size and the size of the available units, and any further criteria required by law and/or established by the City Council. The housing developer shall use an equitable selection method established in conformance with the terms of this Chapter and in compliance with State and Federal law. Selection from eligible households shall be based on the affordable housing priorities established below:

a) Priority 1. Essential public service employees as defined in Article 10 (Glossary), City of Fort Bragg employees, or child care workers employed in Fort Bragg. If essential public service employees do not purchase the inclusionary units, the units shall be made available to other eligible Priority 1 applicants, prior to being made available to Priority 2 applicants.

b) Priority 2. Other eligible households who live in Fort Bragg and who are also employed within Fort Bragg City limits. When the list of Priority 2 applicants is exhausted, units may be sold to Priority 3 households.

c) Priority 3. Other eligible households.

F. Annual monitoring.

1. Inclusionary units shall be monitored on an annual basis by the City (or its designee) to ensure that units have not been re-sold to an unqualified owner (on the basis of income).

2. Monitoring may be achieved by a third party, may include self-certification, may involve review of utility records, or may include any other reasonable method of monitoring as approved by the Director.

3. All owners that initially qualified for inclusionary housing retain their right to inhabit their inclusionary housing unit should their income increase above qualifying levels.

G. Discretionary permit and map requirements for projects subject to this chapter.

1. Discretionary permits. Each discretionary permit for a residential project that is subject to this Chapter and approved after the effective date of this Chapter shall contain a condition detailing the method of compliance with this Chapter.

2. Final or Parcel Maps. Each Final or Parcel Map shall have a written notation indicating that compliance with the requirements of this Chapter shall be met for each parcel created by the map, unless the requirements of this Chapter have been satisfied by an alternative equivalent action approved by the City.

H. Requirements for Certificate of Occupancy or Final Building Inspection. A temporary or permanent Certificate of Occupancy shall not be issued, or a Final Building Inspection approved, for any new residential project with more than four dwelling units of a major subdivision until:

1. The developer has satisfactorily completed the requirements of this Chapter (e.g., on-site construction of affordable units or alternative equivalent actions); or

2. The developer has demonstrated to the satisfaction of the Director that an exemption as described in Section 18.32.030 (Inclusionary Housing Applicability and Exempt Projects) is applicable.

18.32.070 - Inclusionary Housing Incentives

A. Authority for incentives. A residential development that complies with the inclusionary housing requirements in Subsection 18.32.040, through the actual construction of inclusionary units, shall be entitled to the following procedures and incentives.

1. Voluntary Pre-Application Review of Requested Incentives.

a. Before the submittal of any formal application for a housing development, the developer may request a pre-application review by the Director or the City Council of requested incentives.

b. Voluntary Pre-application Review shall not bind the Director or City Council, but rather shall be subject to the discretion of the review authority to accept, reject, or modify any preliminary recommendations based upon a full review of the formal application, including all pertinent project information and any CEQA analysis, presented at the public hearing on the application.

2. Priority processing of applications. Project applications that include the construction of inclusionary units shall be expedited by each City department involved with the application.

3. Pre-Approved incentives. The Council has adopted by resolution a set of pre-approved incentives, which may be amended from time to time. Project applicants with projects that include inclusionary housing may select an incentive from this resolution without the need of further approval for the selected incentive.

18.32.080 - Inclusionary Housing Plan

A. Inclusionary Housing Plan. The applicant for a residential project that is subject to this Chapter shall submit an Inclusionary Housing Plan as part of the project application(s), detailing how the provisions of this Chapter will be implemented. The Inclusionary Housing Plan shall include the number and income level of any required inclusionary units, any related occupancy restrictions, any resale or other controls to ensure continued affordability of the inclusionary units, a detailed pro forma if requested by the Director, any requested incentives or waivers, any proposed alternative equivalent action, and any other information necessary to review compliance with the requirements of this Chapter. The Inclusionary Housing Plan shall be considered and acted upon by the review authority at the same time as the residential development that is the subject of the plan.

B. Conditions of approval. Any tentative map, use permit or other permit approving residential development projects subject to this Chapter shall contain conditions sufficient to ensure compliance with the provisions of this Chapter. Such conditions shall include but not be limited to the number of inclusionary units required, the schedule of construction for the inclusionary units, the applicant's manner of compliance with this Chapter, and shall require the execution and recordation of an agreement imposing appropriate resale and other controls to maintain continued affordability of the inclusionary units for the required time.

18.32.085 - Inclusionary Housing Regulatory Agreement

A. Inclusionary Housing Regulatory Agreement. The applicant shall execute and cause to be recorded an Affordable Housing Regulatory Agreement ("agreement") between the City and the developer to implement the provisions of this Chapter and any approved Inclusionary Housing Plan. The agreement once approved and executed by the City Manager shall be recorded against the property containing the inclusionary units.

18.32.090 - Inclusionary Housing Trust Fund

A. Inclusionary Housing Trust Fund established. There is hereby established the City of Fort Bragg Inclusionary Housing Trust Fund (the "Housing Fund"). Inclusionary housing In-lieu fees collected pursuant to this Chapter shall be deposited into the Housing Fund. Separate accounts within the Housing Fund may be created as necessary to avoid commingling as required by law, or as deemed appropriate to further the purposes of the Fund.

B. Use of funds. The City's use of the Housing Fund shall comply with the following requirements.

1. Monies deposited in the Housing Fund along with any interest earnings shall be used solely to increase and improve the supply of affordable housing in the City, including:

   a. The acquisition of property and property rights;

   b. The cost of construction including costs associated with planning, administration, and design, actual building or installation, and any other costs associated with the construction or financing of affordable housing beyond that which is required by this ordinance for a specific development;

   c. Reimbursement to the City for costs if funds were advanced by the City from other sources; and

   d. Reimbursement of developers or property owners who have constructed affordable housing units beyond that which is required by this ordinance for a specific development.

2. To the maximum extent possible, all monies should be used to provide for additional affordable housing and services.

3. No portion of the Housing Fund may be diverted to other purposes by way of loan or otherwise.

18.32.100 - Enforcement of Affordable Housing Requirements

A. Enforcement by City Manager. The City Manager shall enforce the provisions of this Chapter and may initiate revocation of any building permit or development approval in accordance with Section 18.98.070. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including civil action, injunctive relief, and any other proceeding or method allowed by Article 18.98 or other law.

B. Remedies cumulative not exclusive. The remedies available to the City 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.

C. Recovery of costs. In any action to enforce this Chapter, or an Affordable Housing Regulatory Agreement recorded in compliance with this Chapter, the prevailing party in such action shall be entitled to recover its reasonable attorney's fees and related costs.

Chapter 18.34

LANDSCAPING STANDARDS

Sections:

18.34.010 Purpose
18.34.020 Applicability
18.34.030 Definitions
18.34.040 Landscape and Irrigation Plans
18.34.050 Landscape Location Requirements
18.34.060 Landscape Standards
18.34.070 Maintenance of Landscape Areas

18.34.010 - Purpose
This Chapter establishes requirements for landscaping to enhance the appearance of development projects, reduce heat and glare, control soil erosion, conserve water, screen potentially incompatible land uses, preserve the integrity of neighborhoods, improve air quality, and improve pedestrian and vehicular traffic and safety.

18.34.020 - Applicability
The provisions of this Chapter apply to all land uses as follows:

A. New projects. Each new nonresidential and multi-family residential project shall provide landscaping in compliance with this Chapter. All residential development projects shall provide street trees in compliance with Section 18.34.060.B.2.d.(iii.).

B. Existing development. The approval of a Minor Use Permit, Use Permit, Minor Variance, Variance, or application for Design Review for physical alterations and/or a change in use within an existing development may include conditions of approval requiring compliance with specific landscaping and irrigation requirements of this Chapter.

C. Timing of installation. Required landscape and irrigation improvements shall be installed before final building inspection. The installation of landscaping for a residential project may be deferred for a maximum of 90 days in compliance with Section 18.76.060 (Performance Guarantees).

D. Alternatives to requirements. The review authority may modify the standards of this Chapter to accommodate alternatives to required landscape materials or methods, where the review authority first determines that the proposed alternative will be equally or more effective in achieving the purposes of this Chapter. The review authority may also modify the requirements of this Chapter to accommodate an affordable housing project in compliance with Chapters 18.31 (Density Bonuses and Affordable Housing Incentives), and 18.32 (Inclusionary Housing Requirements).

18.34.030 - Definitions
Definitions of certain technical terms and phrases used in this Chapter are under “Landscaping Standards” in Article 10 (Glossary) of this Development Code.

18.34.040 - Landscape and Irrigation Plans
A. Preliminary Landscape Plan. A Preliminary Landscape Plan shall be submitted as part of each application for new development, or the significant expansion (e.g., 25 percent or more of floor area), or redevelopment of an existing use, as determined by the Director.

B. Final Landscape Plan. After planning permit approval, a Final Landscape Plan shall be submitted as part of the application for a Building Permit. A Final Landscape Plan shall be approved by the review authority before the start of grading or other construction, and before the issuance of a Building Permit.

C. Content and preparation.

1. Required information. Preliminary Landscape Plans and Final Landscape Plans shall contain the information required for landscape plans by the Department. However, at a minimum, the plans shall include the following information:

a. Preliminary Landscape Plans. Location of proposed materials, including the identification of ground covers, shrubs, and trees.

b. Final Landscape Plans. Detailed drawings and specifications clearly identifying the name, size, and precise location of all materials~~, as well as the precise location and technical description of the irrigation system and its individual components~~.

Comment [MJ23]: Generally landscaping plans no longer include irrigation as the City has moved towards requiring drought tolerate landscaping.

2. Preparation by qualified professional. Each landscape plan for five or more dwelling units, or a non-residential project submitted in compliance with this Chapter shall be prepared by a California licensed landscape architect, licensed landscape contractor, certified nurseryman, or other professional determined by the Director to be qualified.

D. Review and approval. After initial application, the Director shall review each Preliminary Landscape Plan and Final Landscape Plan to verify its compliance with the provisions of this Chapter. The Director may approve the submittal in compliance with this Chapter, or may disapprove or require changes to a submittal if it is not in compliance.

E. Statement of surety. When required by the Director, security in the form of cash, performance bond, letter of credit, or instrument of credit, in an amount equal to 150 percent of the total value of all plant materials, irrigation, installation, and maintenance shall be posted with the City for a two-year period. The Director may require statements of surety for phased development projects, a legitimate delay in landscape installation due to seasonal requirements (including adverse weather conditions) and similar circumstances where it may not be advisable or desirable to install all approved landscaping before occupancy of the site.

F. Changes to approved landscape plans. The Director may authorize minor changes from the requirements of this Chapter and the approved landscaping plan.

1. For purposes of this Section, minor changes shall be defined as changes to the Final Landscape Plans that ~~are not visible~~ and do not affect the landscaping theme/~~ or~~ character established for the subject development project.

Comment [MJ24]: This is silly. All landscaping changes would be visible. Suggest striking this limitation on director approvals.

2. If the Director determines that a requested change does not comply with the definition of minor in Subsection F.1, above, the requested change may only be approved by the review authority that originally approved the plans.

G. Projects with 2,500 SF or more of Landscaped Area. All projects with 2,500 SF or more of landscaped area must comply with the State of California Model Water Efficient Landscaping Ordinance (Government Code Sections 65595 and 65596). The model ordinance is available from the Community Development Department or can be found online.

18.34.050 - Landscape Location Requirements
Landscaping shall be provided in all areas of a site subject to development with structures, grading, or the removal of natural vegetation, as follows.

A. Setbacks. The setback and open space areas required by this Development Code and easements for utilities and drainage courses shall be landscaped, except where:

1. Occupied by approved structures or paving;

2. They are retained in their natural state, and the review authority determines that landscaping is not necessary to achieve the purposes of this Chapter.

B. Unused areas. Any area of a project site not intended for a specific use, including a commercial pad site intended for future development, shall be landscaped unless retained in its natural state, and the review authority determines that landscaping is not necessary to achieve the purposes of this Chapter.

C. Parking areas. All ~~P~~parking areas shall be landscaped as follows:~~-~~

1. Landscape materials. Landscaping shall be provided throughout the parking lot as a combination of ground cover, shrubs, and trees.

2. Curbing. Areas containing plant materials ~~shall~~ may be bordered by a ~~concrete~~ curb ~~at least six inches high and six inches wide~~when constructed as part of a parking lot. However ~~The review authority may approve~~ alternative barrier designs, to protect landscaped areas from damage by vehicles ~~,~~ and to allow infiltration of parking lot stormwater runoff into landscaped areas, are preferred.

Comment [MJ25]: Clarifies that curbs are not preferred and that infiltration of stormwater into landscaped areas is preferred.

3. Runoff detention, retention, or infiltration. The design of landscaped areas for parking lots shall consider, and may, where appropriate, be required to include provisions for the on-site detention, retention, and/or infiltration of stormwater runoff, which reduces and slows runoff, and provides pollutant cleansing and groundwater recharge. Where landscaped areas are designed for detention, retention, and/or infiltration of stormwater runoff from the parking lot, the following provisions shall apply:

a. Recess landscaped areas. Landscaped areas shall be recessed below the surface of the pavement, to allow stormwater runoff from the parking lot to flow into the landscaped area and infiltrate into the ground.

b. Provide curb cuts. Curb cuts shall be placed in curbs bordering landscaped areas, or else curbs shall not be installed, to allow stormwater runoff to flow from the parking lot into landscaped areas.

4. Perimeter parking lot landscaping. All surface parking areas shall be provided a fence, or landscape buffer between the parking area, and streets and adjoining properties, and the open areas between the property line and the public street right-of-way shall be landscaped.

a. Adjacent to streets and only where allowed by Section 18.36.090 or preexisting conditions.

i) A parking area for a nonresidential use adjoining a public street, where allowed by Section 18.36.090.A (Parking Design and Development Standards - Location) shall be designed to provide a landscaped planting strip between the street right-of-way and parking area equal in depth to the setback required by the applicable zoning district or 15 feet, whichever is more.

ii) A parking area for a residential use, except for a single-family dwelling or duplex, shall be designed to provide a landscaped planting strip between the street right-of-way and parking area equal in depth to the setback required by the applicable zoning district.

iii) The landscaping shall be designed and maintained to screen cars from view from the street to a minimum height of 36 inches, but shall not exceed any applicable height limit for landscaping within a setback.

iv) Screening materials may include a combination of plant materials, earth berms, solid decorative masonry walls, raised planters, or other screening devices which meet the intent of this requirement.

v) Shade trees shall be provided at a minimum rate of one for every 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.

vi) Plant materials, signs, or structures within a traffic safety sight area of a driveway shall comply with Section 18.30.060.E (Height limit at street corners).

b. Adjacent to side or rear property lines. Parking areas for nonresidential uses shall provide a perimeter landscape strip at least ~~eight~~ five feet wide (inside dimension) where the parking area adjoins a

Comment [MJ26]: An eight foot wide landscaping strip is difficult to achieve on small lots of 50 feet in width and still accommodate the parking isles and drive isles. Suggest reducing this requirement to 5 five.

side or rear property line. ~~The requirement for a landscape strip may be satisfied by a setback or buffer area that is otherwise required.~~ Trees shall be provided at the rate of one for each 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.

Comment [MJ27]: This is confusing.

c. Adjacent to structures. When a parking area is located adjacent to a nonresidential structure, a minimum eight-foot wide (inside dimension) landscape strip shall be provided adjacent to the structure, exclusive of any building entries, or areas immediately adjacent to the wall of the structure that serve as pedestrian accessways. The required width of the landscape strip may be reduced by the review authority where it determines that overall site area is insufficient to accommodate allowable structures and required parking.

d. Adjacent to residential use. A parking area for a nonresidential use adjoining a residential use shall provide a landscaped buffer setback with a minimum 10-foot width between the parking area and the common property line bordering the residential use.

i) A solid decorative masonry wall or solid fence~~, except for approved pedestrian access, and landscape buffer~~ shall be provided along the property line to address land use compatibility issues (e.g., nuisance noise and light/glare) as determined by the review authority.

ii) Trees shall be provided at the rate of one for each 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.

5. Interior parking lot landscaping.

a. Amount of landscaping. Multi-family, commercial, and industrial uses shall provide landscaping within each outdoor parking area at a minimum ratio of 10 percent of the gross area of the parking lot. The review authority may grant an exception for small, infill parking lots where compliance with this standard is not feasible without significantly reducing the number of parking spaces. Trees not less than five feet in height and 15-gallon container in size shall be planted throughout the parcel and along any street frontage as required by the review authority. ~~At a minimum, one shade tree shall be provided for every five parking spaces.~~

Comment [MJ28]: This is a prohibitive requirement and unnecessary in Fort Bragg where we never have hot days.

b. Location of landscaping. Landscaping shall be evenly dispersed throughout the parking area, as follows.

~~i) Orchard-style planting (the placement of trees in uniformly spaced rows) is encouraged for larger parking areas.~~

i~~i~~) Parking lots with more than 50 spaces shall provide a concentration of landscape elements at primary entrances, including, at a minimum, specimen trees, flowering plants, enhanced paving, and project identification.

ii~~i~~) Landscaping shall be located so that pedestrians are not required to cross unpaved landscaped areas to reach building entrances from parked cars. This shall be achieved through proper orientation of the landscaped fingers and islands, and by providing pedestrian access through landscaped areas that would otherwise block direct pedestrian routes.

c. Groundwater recharge. ~~The design of parking lot landscape areas shall consider, and may, where appropriate, be required to include provisions for the on-site detention of stormwater runoff, pollutant cleansing, and groundwater recharge.~~ see requirements 1-3 above.

~~**D. Subdivisions.** A new subdivision shall be designed and constructed to provide landscaping as follows.~~

~~**1. Residential subdivisions.** A residential subdivision shall be provided:~~

~~a. Landscaping in the form of one street tree for each 30 feet of street frontage, in the planter strip or other location approved by the review authority, or a windrow elsewhere on the site as authorized by the review authority based on the character of streets in the site vicinity and the location of the site relative to existing development;~~

~~b. Landscaping with irrigation facilities for any common areas or other open space areas within the subdivision; and~~

~~c. Any additional landscaping required by the review authority.~~

~~The species of street trees shall be as required by the review authority, and plantings within a public right-of-way shall comply with the City's standard specifications.~~

~~**2. Nonresidential subdivisions.** Nonresidential subdivisions shall be provided landscaping as required by the review authority.~~

Comment [MJ29]: We have not generally required street trees for every 30 feet of street frontage. This requirement should be moved to the subdivision section of the ILUDC, as it is hidden away here. Thus I suggest deleting it from this section.

Comment [MJ30]: City is moving away from requiring irrigation.

18.34.060 - Landscape Standards

A. Landscape design. The required landscape plan shall be designed to integrate all elements of the project (e.g., buildings, parking lots, and streets) to achieve their aesthetic objectives, desirable microclimates, stormwater runoff infiltration, and minimize water and energy demand.

1. Plant selection and grouping. Plant materials shall be selected for: low water demand and drought tolerance; adaptability and relationship to the Fort Bragg environment, and the geological and topographical conditions of the site; color, form, and pattern; ability to provide shade; and soil retention capability. At least 50 percent of landscaping plants shall be locally native plants. Invasive plants are prohibited.

a. Plants having similar water use shall be grouped together in distinct hydrozones.

b. The protection and preservation of native species and natural areas is encouraged, and may be required by conditions of approval as a result of project review in compliance with the California Environmental Quality Act (CEQA).

c. Fire prevention shall be addressed on sites in any wooded or vegetated area of the City identified by the Fire Department as being fire prone, by reducing fuel between development areas and naturally vegetated areas, as identified by the Director.

2. Minimum dimensions. Each area of landscaping shall have a minimum interior width of eight feet within the residential and commercial zoning districts, and five feet in the industrial zoning districts. These dimensions may be reduced where the review authority determines they are infeasible because of limited site area. Wherever this Development Code requires a landscaped area of a specified width, the width shall be measured within any curb or wall bordering the landscaping area.

3. Height limits. Landscape materials shall be selected, placed on a site, and maintained to not:

a. Exceed a maximum height of 42 inches within a traffic safety visibility area required by Section 18.30.060.E, except for one or more trees with the lowest portion of their canopy maintained at a minimum height of six feet above grade; or

b. Interfere with the proper operation of solar energy equipment or passive solar design on adjacent parcels.

4. Protective curbing. Required landscaping shall be protected with a minimum six-inch high concrete curb or other barrier, except where adjacent to bicycle paths, or where the landscaped area is designed to infiltrate stormwater runoff from adjacent impermeable surfaces, or where otherwise deemed unnecessary by the Director.

5. Safety requirements. Landscape materials shall be located so that at maturity they do not:

a. Interfere with safe sight distances for vehicular, bicycle, or pedestrian traffic;

b. Conflict with overhead utility lines, overhead lights, or walkway lights; or

c. Block pedestrian or bicycle ways.

6. Water features. Decorative water features (e.g., fountains, ponds, waterfalls) shall have re-circulating water systems and shall minimize use of potable water.

B. Plant material. Required landscape shall include trees, shrubs, and ground covers, as follows.

1. Size at time of planting. Plant materials shall be sized and spaced to achieve immediate effect and shall not be less than a 15-gallon container for trees, five-gallon container for specimen shrubs and six-inch pots for mass planting, unless otherwise approved by the review authority on the basis that the alternate size will achieve the desired immediate effect equally well.

2. Trees. Tree planting shall comply with the following standards.

a. Trees shall not be planted under any structure that may interfere with normal growth (for example, an eave, overhang, balcony, light standard or other similar structure).

b. Trees in landscape planters less than 10 feet in width or located closer than five feet from a permanent structure shall be provided with root barriers/root barrier panels.

c. Trees shall be staked ~~in compliance with standards provided by the Department~~.

d. At a minimum, the required landscape shall include the following number of trees:

i) Parking area: refer to Section 18.34.050.C (Parking areas).

ii) Street setbacks: one per 200 square feet of landscaped area.

~~iii) Street trees: one per 30-foot length of right-of-way. The review authority may modify this requirement depending on the chosen tree species and its typical spread at maturity.~~

Comment [MJ31]: Moved to subdivision section.

3. Groundcover and shrubs. The majority of areas required to be landscaped shall be covered with groundcover, shrubs, turf, or other types of plants that are predominantly drought tolerant. At least 50 percent of landscaping plants shall be locally native plants.

a. A minimum of two, five-gallon size shrubs shall be provided for every six feet of distance along street setbacks, or as approved by the Director.

b. Groundcover shall be provided throughout the landscaped area and shall be spaced to achieve full coverage within one year.

c. Artificial groundcover or shrubs shall not be allowed.

d. Crushed rock, redwood chips, pebbles, stone, and similar materials shall be allowed up to 15 percent of the total required landscape area. Artificial or synthetic ground covers are not allowed.

e. Nonturf areas (e.g., shrub beds) shall be top dressed with a bark chip mulch or approved alternative.

4. Turf. Turf shall be limited to ~~50~~ 25 percent of the total landscaped area on the site where the applicant provides calculations approved by the Director that demonstrate that the irrigation requirements will not exceed standard low water usage, and where the turf is required for active play areas. No turf shall be allowed:

Comment [MJ32]: We could reduce the amount of turf allowed and or limit it to active play areas. Turf requires a lot of water.

a. In any area of 10 feet or less in width; or

b. On any slope exceeding 10 percent (25 percent, where other project water-saving techniques compensate for the increased runoff). A level buffer zone of 18 inches shall be provided between bermed turf areas and any hardscape (e.g., any street, walkway, or similar feature).

5. Soil conditioning and mulching.

a. A minimum one-foot depth of uncompacted soil shall be available for water absorption and root growth in each planted area.

b. A soil test for horticultural suitability shall be required at time of landscape installation in each landscaped area. Soil shall be prepared and/or amended to be suitable for the landscape to be installed.

c. A minimum of two inches of mulch shall be added in each nonturf area to the soil surface after planting. Any plant type that is intolerant to mulch shall be excluded from this requirement. Nonporous material shall not be placed under the mulch.

C. Irrigation system requirements. All landscaped areas shall be designed with native plantings such that they do not require an automatic irrigation system, once the plantings are established (after two years). ~~except those approved for maintenance with intentionally unirrigated native plants shall include~~ ~~A~~an automatic irrigation system may be approved by the review authority if: 1) the applicant provides a compelling case to the review authority for an automatic irrigation system; and/or 2) provides irrigation water from an onsite well. If an automated irrigation system is installed it shall comply with the following.

Comment [MJ33]: The City is moving away from allowing irrigation of new landscaping areas with City treated water. These requirements conform with that direction.

1. Water-efficient systems (e.g., drip, mini-spray, bubbler-type, or similar system) shall be used ~~unless infeasible~~. Low-flow sprinkler heads with matched precipitation rates shall be used when spray or rotor-type heads are specified for watering shrubs and ground cover areas. Turf areas shall be sized and shaped so they can be efficiently irrigated. Spray or run-off onto paved areas shall be avoided.

2. Dual or multi-program controllers with separated valves and circuits shall be used when the project contains more than one type of landscape treatment (e.g., lawn, ground cover, shrub, tree areas), or a variety of solar aspects. Soil moisture-sensing devices and rain sensors shall be used on larger projects (50,000 plus square feet of landscaped area) to minimize or eliminate over-watering.

3. Watering shall be scheduled during the early morning, at times of minimal wind conflict and evaporation loss.

4. Sprinkler heads must have matched precipitation rates within each valve zone.

5. Check valves are required where elevation differential may cause low head drainage.

D. Certification of landscape completion. The completion of required landscaping and irrigation improvements shall be certified by the author of the landscape and irrigation plan, through a signed statement submitted to the Director.

18.34.070 ~~–~~Maintenance of Landscape Areas

A. Maintenance required. All site landscaping shall be maintained in a healthful and thriving condition at all times. Irrigation systems and their components shall be maintained in a fully functional manner consistent with the originally approved design and the provisions of this Chapter. Regular maintenance shall include checking, adjusting, and repairing irrigation equipment; resetting automatic controllers; aerating and dethatching turf areas; adding/replenishing mulch, fertilizer, and soil amendments; pruning; and weeding all landscaped areas.

~~**B. Maintenance agreement.** Prior to final building inspection or the issuance of a certificate of occupancy, and prior to the recordation of a final subdivision map where applicable, the applicant shall enter into a landscape maintenance agreement with the City to guarantee proper maintenance in compliance with Subsection A. The form and content of the agreement shall be approved by the City Attorney and the Director.~~

Comment [MJ34]: The City has not entered into such agreements. Should we consider striking this requirement and rely instead on Code Enforcement actions which appear to be sufficient to enforce compliance with landscaping maintenance. See C below.

B~~C~~. **Water waste prohibited.** ~~Water waste in existing developments resulting from i~~Inefficient landscape irrigation leading to excessive runoff, low head drainage, overspray, and other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures is prohibited.

C~~D~~. **Enforcement.** Failure to maintain landscape areas in compliance with this Section shall be deemed a nuisance, and shall be subject to abatement in compliance with the Municipal Code, and/or the applicable planning permit may be revoked.

Chapter 18.36

PARKING AND LOADING

Comment [MJ35]: This chapter was significantly changed in 2014 to reduce overall parking requirements and simplify regulations. Thus not many new changes are proposed at this time.

Sections:

18.36.010 Purpose
18.36.020 Applicability
18.36.030 General Parking Regulations
18.36.040 Number of Parking Spaces Required
18.36.050 Disabled/Handicapped Parking Requirements
18.36.060 Bicycle Parking
18.36.070 Motorcycle Parking
18.36.080 Reduction of Parking Requirements
18.36.090 Parking Design and Development Standards
18.36.100 Driveways and Site Access
18.36.110 Loading Space Requirements

18.36.010 - Purpose

The requirements of this Chapter are intended to ensure that suitable off-street parking and loading facilities are provided for all uses and developments, and that the facilities are properly designed, attractive, and located to be unobtrusive while meeting the needs of the specific use.

18.36.020 - Applicability

A. Off-street parking and loading required. Each land use and structure, including a change or expansion of a land use or structure, shall provide suitable off-street parking and loading facilities in compliance with this Chapter.

B. Timing of improvements. A land use shall not be commenced and a structure shall not be occupied until the parking and loading improvements required by this Chapter are completed and approved by the Director.

18.36.030 - General Parking Regulations

A. Parking and loading spaces to be permanent. Each parking and loading space shall be permanently available, marked, and maintained for parking or loading purposes for the use it is intended to serve; provided that the approval of a Limited Term Permit (Section 18.71.030) may allow the temporary use of a parking or loading space for other purposes.

B. Parking and loading to be unrestricted. A lessee, owner, tenant, or other person having control of the operation of a premises for which parking or loading spaces are required by this Chapter shall not prevent, prohibit, or restrict authorized persons from using the spaces without the prior approval of the Director.

C. Vehicles for sale. ~~No vehicle, trailer, or other personal property shall be parked on private property for the purpose of displaying the vehicle, trailer, or other personal property for hire, rental, or sale, unless the applicable zoning district allows the use, and the person or business at that location is licensed to sell vehicles, trailers, or other personal property. However,~~ Only one vehicle or trailer owned by the lessee, owner, or renter of the property may be displayed for the purpose of sale for a maximum of one month, on parcels that are not authorized car sale lots.

Comment [MJ36]: Note that we have many violators of this requirement, especially at the rite-aid parking lot. Consider deleting or revising as noted to simplify.

D. ~~Recreational vehicle (RV) parking~~Large Motor Vehicle and Non-Motorized Vehicle Parking.

1. The storage (parking for any period longer than 72 hours) of a ~~recreational vehicle (RV) and/or boat~~large motor vehicle or non-motorized vehicle (as defined in Section 10.02.010) in a residential zoning district shall be allowed only when all portions of the ~~vehicle or boat~~large motor vehicle or non-motorized vehicle are located entirely within the property boundaries and do not extend into the setbacks or the public right-of-way. Except that vehicles can be located within required setbacks with approval of a Minor Use Permit.

2. Parking within setback areas shall also comply with Section 18.30.100.D. (Limitations on the Use of Setbacks).

18.36.040 - Number of Parking Spaces Required

Each land use shall ~~be~~ provide~~d~~ the number of off-street parking spaces required by this Section. See Sections 18.36.060, and 18.36.070 for off-street parking requirements for bicycles and motorcycles, respectively.

A. Parking requirements by land use.

1. Number of spaces. The number of off-street parking spaces required for each land use is determined as follows. Rules for the calculation of the required number of spaces are in Subsection A.2, below.

a. Basic space requirement. Each land use shall provide the number of off-street parking spaces required by Table 3-7, except where a greater or lesser number of spaces is required through Minor Use Permit or Use Permit approval in compliance with Section 18.71.060.

b. Use not listed. A land use not specifically listed in Table 3-7 shall provide parking as required by the Director. The Director shall use the requirements in Table 3-7 as a guide in determining the appropriate number of off-street parking spaces required for the use.

c. Use with accessory components. A single use with accessory components shall provide parking for each component. For example, a hotel with a gift shop shall provide the parking spaces required by Table 3-7 for a hotel (e.g., the guest rooms), and for a gift shop.

d. Multi-tenant site. A site with multiple tenants shall provide the aggregate number of parking spaces required for each separate use, except when any land or building under the same ownership or under a joint use agreement is used for two or more purposes with shared parking and no spaces reserved for a particular use. In this instance, the parking shall be provided as required by the analysis below:

i) Determine the minimum amount of parking required for each land use as though it were a separate use, by time period, considering proximity to transit.

ii) Calculate the total parking required across uses for each time period.

iii) Set the requirement at the maximum total across time periods.

e. Expansion of structure, change in use. When a structure is enlarged, or when a change in its use requires more off-street parking than the previous use, additional parking spaces shall be provided in compliance with this Chapter. See also Chapter 18.90 (Nonconforming Uses, Structures, and Parcels). However, if required driveway access for one off-street space eliminates one on-street parking space, the off-street space shall not be required.

f. Excessive parking.

i) The City discourages a land use being provided more off-street parking spaces than required by this Chapter, in order to avoid the inefficient use of land, unnecessary pavement, and excessive storm water runoff from paved surfaces.

ii) The provision of off-street parking spaces in excess of the requirements in Table 3-7 is allowed only with Minor Use Permit approval in compliance with Section 18.71.060, and only when additional landscaping, pedestrian amenities and necessary storm drain improvements are provided to the satisfaction of the review authority.

2. Calculation of required parking.

a. Floor area. In any case where Table 3-7 expresses a parking requirement based on floor area in square feet (for example: 1 space for each 1,000 sf of floor area), the floor area shall be construed to mean gross interior floor area.

b. Rounding of calculations. If a fractional number is obtained in calculations performed in compliance with this Chapter, one additional parking space shall be required for a fractional unit of 0.50 or above, and no additional space shall be required for a fractional unit of less than 0.50.

c. Bench or bleacher seating. Where fixed seating is provided as benches, bleachers, pews, or similar seating, a seat shall be defined as 24 inches of bench space for the purpose of calculating the number of parking spaces required by Table 3-7.

d. Parking based on employees. Whenever parking requirements are based on the number of employees, calculations shall be based on the largest number of employees on duty at any one time.

B. Use of on-street parking - Exception. Available on-street parking spaces cannot be used to meet the parking requirements identified in this Chapter. An exception to this provision may be granted according to the following procedure:

1. Criteria for approval. The Minor Use Permit may be issued if it meets all of the following criteria, in addition to the findings identified in Section 18.71.060:

a. The maximum amount of parking which is feasible shall be provided on-site.

b. The exception shall only be granted in situations where the Director, Public Works has determined that the exception will not result in potentially unsafe conditions for vehicles or pedestrians.

c. The Director of Community Development has determined that the project is located in an area of abundant on-street parking.

2. Annual review. Each Minor Use Permit that grants an exception to off-street parking requirements shall be reviewed annually, and, if the review authority finds that the use of on-street parking spaces is creating a nuisance, the City may initiate proceedings to revoke the Minor Use Permit.

C. Nonconforming parking. A use or structure with nonconforming off-street parking may be physically changed or undergo a change in use in compliance with the following provisions.

1. Residential uses. No additional parking spaces shall be required; provided, the change does not increase the number of dwelling units, nor eliminate the only portion of the site that can be used for the required or existing parking or access.

2. Nonresidential uses.

a. The number of existing parking spaces shall be maintained on the site and additional parking shall be provided in compliance with this Chapter for any additional floor area.

b. If the use of the structure is changed to one that requires more parking than the previous use, only the difference between the number of parking spaces required for the previous use and those required for the new use shall be added.

c. The change shall not eliminate the only portion of the site that can be used for the required or existing parking or access.

3. Waiver by Director. The Director may waive parking requirements when a nonconforming structure is proposed for rehabilitation if the Director determines that the existing structure location, parcel size, or topography renders the requirement unreasonable.

D. Recreational vehicle (RV) parking spaces. Off-street recreational vehicle (RV) parking spaces shall be provided as follows for retail uses, shopping centers, and visitor attractions that are required by this Chapter to provide 40 or more off-street parking spaces.

1. Number of RV spaces required. RV parking spaces shall be provided at a minimum ratio of one RV space for each 40 off-street vehicle parking spaces, or fraction thereof, required by this Chapter.

2. RV stall dimensions. Each RV parking space shall be designed as a pull-through space with a minimum width of 12 feet and a minimum length of 40 feet, with 14 feet of vertical clearance.

3. Modifications by Director. The Director may modify the provisions of this Subsection through a Minor Use Permit granted in compliance with Section 18.71.060.

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE

Land Use Type: Manufacturing Processing and Warehousing	Vehicle Spaces Required	
	Minimum	Maximum
All manufacturing, industrial, and processing uses, except the following.	1 space for each 400 sf of office area; 1 space for each 1,000 sf of floor and/or ground area devoted to other than office use; 1 space for each 5,000 sf of open storage.	1 space for each 200 sf of office area; 1 space for each 500 sf of floor and/or ground area devoted to other than office use; 1 space for each 2,500 sf of open storage.
Media production	1 space for each 400 sf of floor area.	1 space for each 200 sf of floor area.
Recycling facilities		
Heavy or light processing facilities, Large collection facilities	Determined by Use Permit.	Determined by Use Permit.
Scrap/dismantling yards	1 space for each 400 sf of gross floor area, plus 1 space for each 10,000 sf of gross yard area.	1 space for each 200 sf of gross floor area, plus 1 space for each 5,000 sf of gross yard area.
Small collection facilities	Determined by Minor Use Permit.	Determined by Minor Use Permit.
Wholesaling and distribution	1 space for each 1,000 sf of floor area.	1 space for each 300 sf of floor area.

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Recreation, Education, and Public Assembly	Vehicle Spaces Required	
	Minimum	Maximum
Clubs, community centers, lodges, meeting halls, religious facilities, theaters, auditoriums, and places of assembly	1 space for each 250 sf of floor area or 5 seats, whichever would yield more spaces.	1 space for each 100 sf of floor area or 3 seats, whichever would yield more spaces.
Commercial recreation facilities - Indoor	1 space for each 400 sf of floor area.	1 space for each 200 sf of floor area.
Commercial recreation facilities - Outdoor	Determined by Use Permit	Determined by Use Permit
Studios (art, dance, martial arts, music, etc.) Health/fitness facilities Conference/convention and sports/entertainment facilities	1 space for each 300 sf of floor area.	1 space for each 100 sf of floor area.
Library, gallery, and museum	1 space for each 500 sf of floor area.	1 space for each 250 sf of floor area.
Schools (public and private)		

Land Use Type: Recreation, Education, and Public Assembly	Vehicle Spaces Required	
	Minimum	Maximum
Elementary, Junior High, Kindergarten and nursery schools	1 space per employee plus 1 space for each 10 students.	1 space per employee plus 1 space for each 5 students.
High schools	1 space per employee plus 1 space for each 5 6 students.	1 space per employee plus 1 space for each 4 students.
Colleges and universities (including trade, business, and art/music/dancing schools)	1 space per employee plus 1 space for each 4 students.	1 space per employee plus 1 space for each 2 students.
Mobile home		
Outside of mobile home park	1 space for each unit.	-
Within a mobile home park	1 space for each unit, plus 0.5 guest parking space	-
Multi-family housing & Live/work unit	Under two bedrooms: 1 space per unit 2 bedrooms or more: 2 spaces per unit	2.25 spaces per unit.
Organizational house, rooming or boarding house, residential care facility, co-housing	0.5 spaces per bedroom.	1 space per bedroom.
Second dwelling unit	See Section 18.42.170.F	See Section 18.42.170.F
Single-family dwelling	2 spaces;	4 spaces

Notes:

(1) Recreational vehicle parking spaces may also be required. See Section 18.36.040.D (Recreational vehicle (RV) parking spaces).

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
All "Retail Trade" and general retail uses listed in Section 18.22.030, Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.	1 space for each 200 sf of floor area, plus 1 space for each 400 sf of outdoor sales area.
Auto and vehicle sales and rental	1 space for each 400 sf of floor area for the showroom and offices, plus 1 space for each 2,000 sf of outdoor display area, plus spaces as required by this Section for parts sales ("retail trade," above), and vehicle services.	1 space for each 200 sf of floor area for the showroom and offices, plus 1 space for each 1,000 sf of outdoor display area, plus spaces as required by this Section for parts sales ("retail trade," above), and vehicle services.
Bar, cocktail lounge, night club, tavern	1 space for each 5 seats; or 1 space for each 250 sf of floor area, whichever would yield more spaces	1 space for each 3 seats; or 1 space for each 100 sf of floor area, whichever would yield more spaces
Building and landscape materials and furniture stores, Warehouse retail center	1 space for each 1,000 sf of display area.	1 space for each 500 sf of display area
Convenience store	1 space for each 300 sf of floor area.	1 space for each 150 sf of floor area.
Marine-related use (hardware, supplies, rentals, and sales)	1 space for each 500 sf of floor area for the showroom and offices, plus 1 space for each 5,000 sf of outdoor display area, plus spaces as required by this Section for parts sales ("retail trade," above), and services.	1 space for each 300 sf of floor area for the showroom and offices, plus 1 space for each 2,500 sf of outdoor display area, plus spaces as required by this Section for parts sales ("retail trade," above), and services.

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
Restaurant, cafe, coffee shop	1 space for each 100 sf of dining area.	1 space for each 40 sf of dining area.
Service station	1 space for each 300 sf of floor area, plus 2 spaces for each service bay.	1 space for each 200 sf of floor area, plus 4 spaces for each service bay.
Shopping center	1 space for each 400 sf of floor area	1 space for each 200 sf of floor area

Notes:

(1) Recreational vehicle parking spaces may also be required. See Section 18.36.040.D (Recreational vehicle (RV) parking spaces).

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Service Uses	Vehicle Spaces Required	
	Minimum	Maximum
Banks and financial services	1 space for each 300 sf of floor area	1 space for each 150 sf of floor area
Child day care		
Large family day care home	2 spaces; may include spaces provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.	4 spaces; may include spaces provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.
Child/adult day care center	1 space for each employee, plus 1 space for each 10 children.	1 space for each employee, plus 1 space for each 5 children.
Equipment rental	1 space for each 400 sf of floor area; none required for outdoor storage and rental area; provided, sufficient area is provided within the yard to accommodate all customer vehicles entirely on-site.	1 space for each 200 sf of floor area; none required for outdoor storage and rental area; provided, sufficient area is provided within the yard to accommodate all customer vehicles entirely on-site.
Freight terminal	1 space for each 1,000 sf of lot area, plus 1 space for each commercial vehicle.	-
Laundry - Dry cleaning pick-up facilities and Laundromats	1 space for each 400 sf of floor area.	1 space for each 250 sf of floor area.
Lodging	1 space for each unit, plus 1 space for the manager or owner and required spaces for accessory uses.	1.5 spaces for each unit, plus 2 spaces for the manager or owner and required spaces for accessory uses.
Medical Marijuana Dispensary	1 space for each 500 sf of floor space. (Ord. 851 §2, 2005)	1 space for each 250 sf of floor space. (Ord. 851 §2, 2005)
Medical services		
Clinic, laboratory, urgent care, doctor office	1 space for each 300 sf of floor area	1 space for each 200 sf of floor area
Extended care	1 space for each 5 beds or patients the facility is licensed to accommodate.	1 space for each 2 beds or patients the facility is licensed to accommodate.
Hospitals	2 spaces for each bed,	4 spaces for each bed

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Service Uses (Continued)	Vehicle Spaces Required	
	Minimum	Maximum
Mortuaries and funeral homes	1 space for each 300 sf of floor area within the facility or 1 space for each 4 seats in the sanctuary, whichever would yield more spaces.	1 space for each 200 sf of floor area within the facility or 1 space for each 3 seats in the sanctuary, whichever would yield more spaces.
Offices	1 space for each 400 sf of floor area.	1 space for each 200 sf of floor area.
Personal services and personal services - restricted		
All personal service uses except the following	1 space for each 350 sf of floor area	1 space for each 200 sf of floor area
Barber/beauty shops	2 spaces for each barber or beautician	3 spaces for each barber or beautician
Storage		
Cold storage facilities or ice plants	1 space for each 500 sf of floor area.	1 space for each 250 sf of floor area.
Outdoor storage	1 space for each 3,000 sf of lot area.	1 space for each 1,500 sf of lot area.
Personal storage facilities (mini-storage)	4 spaces for the manager's office.	8 spaces for the manager's office.
Warehousing	1 space for each 1,000 sf of floor area.	1 space for each 500 sf of floor area.
Vehicle services (major and minor repair)	4 spaces for each service or wash bay	8 spaces for each service or wash bay
Veterinary clinics, animal hospitals, boarding, or kennels	1 space for each 400 sf of floor area.	1 space for each 250 sf of floor area.
Boarding or kennels separate from other veterinary facilities	1 space per employee, plus 2 spaces.	2 spaces per employee, plus 2 spaces.

18.36.050 - Disabled Parking Requirements
Number of spaces required. Parking for the disabled shall be provided on site in compliance with California Building Code Standards.

Parking spaces required for the disabled shall count toward compliance with the number of off-street parking spaces required by this Chapter.

18.36.060 - Bicycle Parking
Each multi-family project of five or more units and nonresidential land use shall provide bicycle parking in compliance with this Section.

A. Number of bicycle spaces required.

1. Multi-family project. A multi-family project of five or more units shall provide bicycle parking spaces equal to a minimum of 10 percent of the required vehicle spaces, unless separate secured garage space is provided for each unit. The bicycle spaces shall be distributed throughout the project. A minimum number of two bicycle parking spaces shall be provided.

2. Nonresidential project. A nonresidential project (e.g., retail, office, etc.) shall provide bicycle parking spaces equal to a minimum of ten percent of the required vehicle spaces, distributed to serve customers and employees of the project. A minimum number of two bicycle parking spaces shall be provided.

B. Bicycle parking design and devices. Each bicycle parking space shall include a stationary parking device to adequately secure the bicycle, shall be a minimum of two feet in width and six feet in length, with a minimum of seven feet of overhead clearance, and shall be conveniently located and generally within proximity to the main entrance of a structure.

18.36.070 - Motorcycle Parking
A parking lot with 50 or more vehicle parking spaces shall provide motorcycle parking spaces conveniently located near the main entrance to the primary structure and accessed by the same access aisles that serve the vehicle parking spaces in the parking lot.

A. Number of spaces required. A minimum of one motorcycle parking space shall be provided for each 50 vehicle spaces or fraction thereof.

B. Space dimensions. Motorcycle spaces shall have minimum dimensions of four feet by seven feet.

18.36.080 - Reduction of Parking Requirements
A. Shared on-site parking.

1. Where two or more adjacent uses have distinct and differing peak parking usage periods (e.g., a theater and a bank), a reduction in the required number of parking spaces may be allowed through Minor Use Permit approval granted in compliance with Section 18.71.060.

2. Approval shall also require a recorded covenant running with the land, recorded by the owner of the parking lot, guaranteeing that the required parking will be maintained exclusively for the use served for the duration of the use.

B. Reduction of required parking. The Director may reduce the number of parking spaces required by Section 18.36.040 (Number of Parking Spaces Required), through the granting of a Minor Use Permit in compliance with Section 18.71.060, based on quantitative information provided by the applicant that documents the need for fewer spaces (e.g., sales receipts, documentation of customer frequency, information on parking standards required for the proposed land use by other cities, etc.). Parking requirements may be reduced, by the Review Authority, where the project facilitates bicycle use by providing bicycle storage, lockers, changing rooms and showers and/or bicycles for employee use.

C. Central Business District (CBD) Special Parking Combining Zone. The following parking requirements shall apply to areas within the CBD shown on the CBD Special Parking Combining Zone Map, below. An applicant may either comply with the parking requirements identified in Section 18.36.040 (Number of Parking Spaces Required) above, meet the alternative CBD parking requirements identified in Subsection C.2., or pay the parking in-lieu fee identified in Subsection C.3.

1. Exemptions from the off-street parking requirements. The following uses located within the CBD Special Parking Combining Zone are exempt from the off-street parking requirements identified in this Chapter:

a. Replacement of an existing use with a new use determined to be similar by the Director.

b. On the ground floor, any intensification of a commercial use except for bars, cocktail lounges, restaurants, and taverns.

c. Any use with hours of operation exclusively after 5:00 p.m.

d. Residential dwelling units located above ground floor commercial uses.

2. Number of parking spaces required for uses in the CBD Special Parking Combining Zone.

a. Off-street parking for uses in the CBD Special Parking Combining Zone shall comply with the requirements in Table 3-8.

b. A land use not specifically listed by Table 3-8 shall provide parking as required by the Director. The Director shall use the requirements in Table 3-8 as a guide in determining the appropriate number of off-street parking spaces required for the use.

c. In any case where Table 3-8 expresses a parking requirement based on floor area in square feet (for example: 1 space for each 400 sf of floor area), the floor area shall be construed to mean gross interior floor area.

d. A single use with accessory components shall provide parking for each component. For example, a hotel with a gift shop shall provide the parking spaces required by Table 3-8 for a hotel (e.g., the guest rooms), and for the gift shop.

e. If a fractional number is obtained in calculations performed in compliance with this Subsection, one additional parking space shall be required for a fractional unit of 0.50 or above, and no additional space shall be required for a fractional unit of less than 0.50.

TABLE 3-8 - PARKING REQUIREMENTS IN THE CBD BY LAND USE

Land Use Type:	Vehicle Spaces Required
Bars, cocktail lounges, restaurants, and taverns	1 space for each eight seats or 1 space for each 400 sf of floor area, whichever would yield more spaces.
Lodging	
Bed and breakfast inns Hotels or motels	1 space for each unit, plus 1 space for the manager or owner.
Residential dwelling units	1 space for each dwelling unit.
Retail commercial and office uses	1 space for each 600 sf of floor area.

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Figure 3-7 - CBD Special Parking Combining Zone

3. Parking in-lieu fee. Parking requirements in the CBD Special Parking Combining Zone may be waived at the discretion of the approval authority, if the owner of the subject property pays a parking in-lieu fee to the City in compliance with this Subparagraph.

a. In lieu of providing the off-street parking spaces required by this Subsection, these requirements may be satisfied by the payment to the City of an in-lieu parking fee established by the Council and identified in the City's Fee Schedule for both the use of existing structures and for new structures for each required off-street parking space which is not provided.

b. Parking in-lieu fees may be authorized in the CBD Special Parking Combining Zone for changes of use or projects for which provision of sufficient parking on site is not possible. Parking in-lieu fees are discouraged for changes of use or new development that can accommodate required parking on site. The funds shall be deposited with the City in a special fund and shall be used and expended for the purpose of acquiring and developing off-street parking facilities located insofar as reasonable in the general vicinity of the structures for which in-lieu payments were made as well as for meeting parking needs through strategies to reduce parking demand or to improve access to parking.

D. Parking reduction for small recycling collection facilities.

1. A reduction in vehicle parking spaces as provided in Table 3-9 may be allowed within an established nonresidential parking facility to accommodate a small recycling collection facility, when developed in compliance with Section 18.42.150 (Recycling Facilities).

TABLE 3-9 - PARKING REDUCTION FOR RECYCLING

Number of Available Vehicle Parking Spaces	Maximum Reduction (in vehicle spaces)
0-25	0
26-35	2
36-49	3
50-99	4
100+	5

2. A maximum five-space reduction shall be allowed when not in conflict with parking needs of the host nonresidential use.

18.36.090 - Parking Design and Development Standards
Required parking areas shall be designed, constructed, and properly maintained in compliance with the following requirements. Except where noted, the Director may modify the requirements of this Section through Minor Use Permit approval (Section 18.71.060).

A. Location of parking. Parking areas shall be located as follows:

1. Residential. Residential parking shall be located on the same parcel as the uses served. Temporary (overnight) parking is allowed within required setback areas only on a paved driveway.

2. Nonresidential. Nonresidential parking shall be located on the same parcel as the uses served or within 300 feet of the parcel if shared parking or public parking facilities are used to meet parking requirements.

a. Nonresidential parking shall not be located within a required front setback.

b. Parking may be located within a required side or rear setback; provided that it is separated from the side or rear property line by a minimum five-foot wide landscaped area.

c. Parking between the primary structure and the fronting street should be avoided.

3. Within the Downtown. Parking within the Downtown area identified by Subsection 18.36.080.C, Figure 3-7 (CBD Special Parking Combining Zone), shall not be located between a primary building and the fronting street.

B. Access to parking. Access to parking areas shall be provided as follows for all parking areas other than garages for individual dwelling units.

1. Parking areas shall provide suitable maneuvering area so that vehicles enter from and exit to a public street in a forward direction only.

a. Parking lots shall be designed to prevent access at any point other than at designated access drives.

b. Single- and multi-family dwelling units are exempt from this requirement, unless specifically required by conditions of a discretionary permit.

c. This requirement does not apply to alleys, unless so specified in a specific zoning district.

2. A nonresidential development that provides 50 or more parking spaces shall have access driveways that are not intersected by a parking aisle, parking space, or another access driveway for a minimum distance of 20 feet from the street right-of-way, to provide a queuing or stacking area for vehicles entering and exiting the parking area. See Figure 3-8.

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3. A minimum unobstructed clearance height of 14 feet shall be maintained above areas accessible to vehicles within nonresidential developments.

4. The design of parking lots on adjacent parcels may be required to provide for joint use and access, with cross parking easements, to limit access points to public rights-of-way, and encourage motorists to park once to complete multiple tasks.

5. The design of parking lots shall provide for safe pedestrian access, via sidewalks, to and from parked cars, to the street and to the primary entrance of the associated development.

6. Curb cuts for purposes of providing street access to on-site parking spaces on primary commercial streets (see definitions) shall be permitted only by Conditional Use Permit.

7. Curb cuts to provide street access to on-site parking spaces on non-primary commercial and residential streets shall be permitted only where a project site meets at least one of the following conditions:

a. The site has no adjacent side or rear alley having a minimum right-of-way of fifteen feet;

b. The topography or configuration of this site or placement of buildings on the site precludes reasonable alley access to a sufficient number of parking spaces;

c. The average slope of the parcel is at least five percent; or

d. The Director, Public Works determines that a curb cut is appropriate due to traffic, circulation or safety concerns.

C. Access to adjacent sites.

1. Nonresidential developments.

a. Applicants for nonresidential developments are encouraged to provide on-site vehicle access to parking areas on adjacent nonresidential properties to provide for convenience, safety, and efficient circulation.

b. A joint access agreement running with the land shall be recorded by the owners of the abutting properties, as approved by the Director, guaranteeing the continued availability of the shared access between the properties.

2. Residential developments. Shared pedestrian access between adjacent residential developments is also strongly encouraged.

D. Parking stall and lot dimensions.

1. Minimum parking space and driveway dimensions. Each parking stall, driveway, and other parking lot features shall comply with the minimum dimension requirements in Table 3-10, and as illustrated in Figures

3-8 and 3-9. Future adjustments to stall dimensions shall be based on the standards listed in the latest version of the Urban Land Institute's Dimensions of Parking.

TABLE 3-10 - MINIMUM PARKING SPACE CONFIGURATION

Minimum Uni-Stall Requirements	
Width	**Length**
9 ft	18 ft

Angle of Parking (in degrees)	Space Width (in feet)	Curb Length (per vehicle)	Space Depth (from curb)	Driveway Width (in feet)
Parallel	9 ft	23 ft 0 in	9 ft 0 in	12 ft
45	9 ft	12 ft 9 in	19 ft 2 in	14 ft
60	9 ft	10 ft 5 in	20 ft 2 in	19 ft
90	9 ft	9 ft 0 in	18 ft 0 in	23 ft

2. Space width abutting a fence or wall. When the length of a parking space abuts a fence or wall, the required width of the parking space shall be increased by at least one foot.

3. Space length for perpendicular parking abutting a planter. The front two feet of the required length of a parking space may overhang the planter.

4. Compact parking spaces prohibited. Compact parking spaces (a space smaller in size than that required by this Chapter) shall not be allowed. The Director may not modify this prohibition, except to accommodate the planting of trees within a parking lot.

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Figure 3-9 - Parking Space Dimensions

E. Tandem parking. Use of tandem parking (when one space is located directly behind another) shall not be allowed, except for single-family dwellings and duplex units, and only when both spaces are assigned to the same dwelling unit. The Director may grant approval of tandem parking for nonresidential and other multifamily developments through a Use Permit if the applicant demonstrates that the tandem parking is achieved for vehicles owned by residents within a single unit or employees of a single commercial use.

F. Landscaping. Landscaping shall be provided in compliance with Section 18.34 (Landscaping Standards).

G. Lighting. Lighting shall be provided in compliance with Section 18.30.070 (Outdoor Lighting).

H. Striping and identification.

1. Parking spaces shall be clearly outlined with four-inch wide lines painted on the parking surface.

2. The striping shall be continuously maintained in a clear and visible manner in compliance with the approved plans.

3. The re-striping of any parking space or lot other than to maintain existing striping shall require the prior approval of a re-striping plan by the Director, Public Works.

I. Surfacing, wheel stops, stormwater management & landscaping

1. All parking spaces and maneuvering areas shall be surfaced with paving, asphalt, concrete pavement, or comparable material as determined by the Director, Public Works. Permeable paving, permeable asphalt or permeable concrete pavement is preferred, and projects which use permeable paving materials will receive a proportional discount, based on the proportion of site coverage, on the City drainage fee. (Recommended maximum slopes for alternative paving surfaces are 5% for porous asphalt, 6% for porous concrete, and 10% for interlocking pavers.)

2. Required parking areas in the RR, RS, or RL zoning districts may be surfaced with gravel, pavers, or other all-weather surface as determined to be appropriate by the Director of Public Works. However all gravel parking lots shall include a 20 foot long paved driveway, to minimize the introduction of gravel onto the public right of way.

3. All parking and maneuvering areas shall be designed for on-site stormwater infiltration and treatment where feasible. Stormwater management techniques shall include one or more of the following techniques or their equivalent as determined by the City Engineer:

a) Permeable paving over at least 12" of gravel;

b) Site design so that stormwater flows into landscaped strips, islands and/or rain gardens with a soil depth of at least 24;"

c) Stormwater bioretention swales, rain-gardens, or other open water infiltration and conveyance system with a reservoir volume equal to the surface area of the impermeable surfaces times a depth of 6 inches;

d) Rainboxes; and/or

e) Equivalent stormwater retention or infiltration technique as determined by the Director of Public Works.

4. Where stormwater infiltration is infeasible, due to site limitations or use type, parking areas shall be graded so that all surface water flows off site into drainage features to the satisfaction of the Director, Public Works.

5. All grading plans relating to the parking facilities shall be reviewed and approved by the Director, Public Works before any work can commence.

6. Individual wheel stops, of at least six inches in height and width, shall be provided for parking spaces located adjacent to fences, walls, property lines, landscaped areas, and structures. Wheel stops shall be placed to allow for two feet of vehicle overhang area within the dimension of the parking space. Continuous concrete curbing is discouraged in parking lots. If continuous concrete curbing is installed it shall include curb cuts so that stormwater can flow into bioretention swales, islands, tree filter boxes, gravel wetlands or other LID stormwater techniques.

18.36.100 - Driveways and Site Access

Each driveway providing site access from a street, alley, or other public right-of-way shall be designed, constructed, and properly maintained in compliance with the following. The Director may modify the requirements of this Section through Minor Use Permit approval (Section 18.71.060).

A. Number of driveways.

1. Single-family dwellings and duplexes. A single-family dwelling or duplex shall be allowed one driveway from the adjacent alley if feasible except that:

a. A driveway from the Street may be allowed if no alley provides access, or

b. A circular driveway may be allowed on a parcel with 200 feet or more of street frontage without alley access.

2. Multi-family and nonresidential projects.

a. A multi-family or nonresidential development project on a parcel of two acres or less shall be limited to a maximum of two driveways, unless the Director, Public Works determines that more than two driveways are required to accommodate the traffic for the project.

b. Whenever a property has access to more than one street, access shall be generally limited to the lowest volume street where the impact of a new access will be minimized.

3. Shared driveways. The review authority may require development on smaller parcels to be planned with access along one side property line, and consolidated with the access driveway on the adjacent parcel, where practical, to limit the total number of access points on a street segment, and minimize conflicts with traffic flow.

4. Driveways and sidewalks. Driveways shall connect to alleys instead of streets, when possible, in order to minimize the point of conflicts between motor vehicles and pedestrians walking on sidewalks. For this reason, the size of driveways and the number of driveways which cross sidewalks shall be kept to a minimum.

B. Distance from street corners. Each driveway shall be separated from the nearest street intersection as follows, except where the Director, Public Works allows less separation:

1. A minimum of 150 feet from the nearest intersection, as measured from the centerline of the driveway to the centerline of the nearest travel lane of the intersecting street; and

2. For parcels with frontages less than 150 feet, the minimum distance shall be 100 feet.

C. Driveway spacing. Driveways shall be separated along a street frontage as follows.

1. Single-family and duplex residential developments. Driveways shall be separated by at least six feet, unless a shared, single driveway is approved by the Director, Public Works. The six-foot separation shall not include the transition or wing sections on each side of the driveway.

2. Multi-family and nonresidential developments. Where two or more driveways serve the same or adjacent multi-family or nonresidential development, the centerline of the driveways shall be separated by a minimum of 50 feet. The Director, Public Works may approve exceptions to this standard.

D. Driveway dimensions.

1. Single-family dwelling. Each single-family dwelling shall be provided a driveway with a minimum width of 10 feet and a maximum of 23 feet, preferably from an alley. If the driveway connects a garage to an alley, it shall have a minimum length of 10 feet. If the driveway connects to a street, it shall have a minimum length of 23 feet from the back of the sidewalk, or the edge of the right-of-way where there is no sidewalk.

2. Multi-family and nonresidential development.

a. A driveway for a multi-family or nonresidential development which connects to a parking lot of nine or more spaces, shall have a minimum paved width of 11 feet for a one-way driveway and 22 feet for a two-way driveway.

b. A driveway for a multi-family or nonresidential development which connects to a parking lot of eight or fewer spaces shall have a paved width of 10 feet unless additional width is necessary to ensure public safety.

c. If the City anticipates the parking lot will generate higher than normal turnover of vehicles (such as generated by a take-out restaurant) or larger than normal vehicles (such as generated by a warehouse) then the City may require additional width for driveways.

3. Minimum paved length. Where unpaved driveways are otherwise allowed by this Development Code or the review authority, each driveway shall be paved with concrete or asphalt for a minimum length of 20 feet from the public right-of-way.

E. Clearance from obstructions.

1. The nearest edge of a driveway curb cut shall be at least three feet from the nearest property line, the centerline of a fire hydrant, light standard, traffic signal, utility pole, or other similar facility.

2. Street trees shall be a minimum of 10 feet from the driveway access, measured at the trunk.

3. A driveway shall have an overhead clearance of 14 feet in height except within a parking structure, which may be reduced to seven feet, six inches.

F. Traffic safety visibility areas. Structures or landscaping over 42 inches in height shall not be allowed within a traffic safety visibility area, with the exception of trees with the canopy trimmed to a minimum of 6 feet in height. See Section 18.30.060.E.

G. Surfacing.

1. Within the multi-family and nonresidential zoning districts, driveways shall be paved and permanently maintained with permeable or impermeable paving, asphalt, concrete, or approved paving units. Projects that utilize permeable surfaces will receive a proportional discount on their drainage fees based on the total site coverage.

2. Within other zoning districts (e.g., RR, RS, and RL), driveways may be constructed with the use of other all-weather surfacing as determined to be appropriate by the Director, Public Works, where it is first determined that a surface other than asphalt or concrete is consistent with the driveways of similar properties in the vicinity, and that the alternate surface will not impair accessibility for emergency vehicles.

3. A driveway with a slope of 15 percent or more shall be paved with permeable or impermeable asphalt or concrete in all cases

18.36.110 - Loading Space Requirements

Off-street loading spaces shall be provided as required by this Section. The Director may modify these requirements through Minor Use Permit approval (Section 18.71.060), where the Director first determines that the operating, shipping, and delivery characteristics of the use do not require the number or type of loading spaces required by this Section.

A. Number of loading spaces required. Nonresidential uses shall provide off-street loading spaces in compliance with Table 3-11. Requirements for uses not listed shall be determined by the Director based upon the requirements for comparable uses.

TABLE 3-11 - REQUIRED OFF-STREET LOADING SPACES

Type of Land Use	Total Gross Floor Area	Loading Spaces Required

Type of Land Use	Total Gross Floor Area	Loading Spaces Required
Industrial, manufacturing, research and development, institutional, and service uses	5,000 to 10,000 sf.	1
	110,001 + sf.	1 for each additional 10,000 sf plus additional as required by Director.
Office uses	5,000 to 25,000 sf.	1
	25,001 + sf.	1 for each additional 25,000 sf plus additional as required by Director.
Retail commercial and other allowed nonresidential uses	5,000 to 10,000 sf.	1
	10,001 + sf	1 for each additional 10,000 sf plus additional as required by Director.

B. Standards for off-street loading areas. Off-street loading areas shall be provided in compliance with the following.

1. Dimensions. Loading spaces shall be a minimum of 12 feet in width, 40 feet in length, with 14 feet of vertical clearance.

2. Lighting. Loading areas shall have lighting capable of providing adequate illumination for security and safety; lighting shall also comply with the requirements of Section 18.30.070 (Outdoor Lighting).

3. Location. Loading spaces shall be:

a. As near as possible to the main structure and limited to the rear two-thirds of the parcel, if feasible;

b. Situated to ensure that the loading facility is screened from adjacent streets;

c. Situated to ensure that loading and unloading takes place on-site and in no case faces a public street, or is located within a required front setback, adjacent public right-of-way, or other on-site traffic circulation areas;

d. Situated to ensure that all vehicular maneuvers occur on-site. The loading areas shall allow vehicles to enter from and exit to a public street in a forward motion only; and

e. Situated to avoid adverse impacts upon neighboring residential properties and located no closer than 100 feet from a residential zoning district unless adequately screened, and authorized through Design Review approval in compliance with Section 18.71.050.

4. Loading ramps. Plans for loading ramps or truck wells shall be accompanied by a profile drawing showing the ramp, ramp transitions, and overhead clearances.

5. Screening. Loading areas shall be screened from abutting parcels and streets with a combination of dense landscaping and solid masonry walls with a minimum height of six feet.

6. Striping.

a. Loading spaces shall be striped, and identified for loading only.

b. The striping and “loading only” notations shall be continuously maintained in a clear and visible manner in compliance with the approved plans.

7. Surfacing.

a. All loading areas shall be surfaced with permeable paving, asphalt, concrete pavement, or comparable material as determined by the Director, Public Works and shall be graded to dispose of all surface water to the satisfaction of the Director, Public Works.

b. All grading plans relating to the loading facilities shall be reviewed and approved by the Director, Public Works before any work can commence.

Chapter 18.38

SIGNS

Comment [MJ37]: This chapter was also reviewed and modified in 2014, so relatively few new changes are proposed for this chapter.

Sections:

18.38.010 Purpose
18.38.020 Applicability
18.38.030 Sign Permit Requirements
18.38.040 Exemptions from Sign Permit Requirements
18.38.050 Prohibited Signs
18.38.060 General Requirements for All Signs
18.38.070 Zoning District Sign Standards
18.38.080 Standards for Specific Sign Types
18.38.090 Nonconforming Signs
18.38.100 Public Nuisance, Abatement, and Violation
18.38.110 Judicial Review
18.38.120 Partial Invalidation

18.38.010 - Purpose

The regulations established by this Chapter are intended to appropriately limit the placement, type, size, and number of signs allowed within the City, and to require the proper maintenance of signs. The purposes of these limitations and requirements are to:

A. Avoid traffic safety hazards to motorists, bicyclists, and pedestrians, caused by visual distractions and obstructions;

B. Promote the aesthetic and environmental values of the community by providing for signs that do not impair the attractiveness of the City as a place to live, work, and shop;

C. Provide for signs as an effective channel of communication, while ensuring that signs are aesthetically proportioned in relation to adjacent structures and the structures to which they are attached;

D. Safeguard and protect the public health, safety, and general welfare; and

E. Advance community design standards and safety standards as set forth in the Community Design and Safety Elements of the General Plan.

18.38.020 - Applicability

A. Signs regulated. The requirements of this Chapter shall apply to all signs in all zoning districts.

B. Applicability to sign content. The provisions of this Chapter do not regulate the message content of signs (sign copy), regardless of whether the message content is commercial or noncommercial.

C. Definitions. Definitions of the specialized terms and phrases used in this Chapter may be found in Article 10 (Glossary) under "Sign."

18.38.030 - Sign Permit Requirements

A. Sign permit required.

1. Approval required. No sign shall be constructed, installed, or modified, unless a sign permit is first obtained in compliance with this Section, or the sign is allowed without a sign permit by Section 18.38.040 (Exemptions from Sign Permit Requirements).

2. Compliance with standards required. No sign permit shall be approved for an existing or proposed sign unless the sign is in compliance with all applicable requirements of this Chapter.

3. Building Permit required. A Building Permit may also be required for sign construction/installation.

4. Temporary signs. Temporary signs shall comply with Sections 18.38.040.C (Temporary signs), and Section 18.38.080 (Standards for Specific Sign Types).

B. Review authority.

1. Director. The Director shall review all sign permit applications and approve only those that comply with the findings required in Subsection D. (Findings for approval). The Director may also refer a sign permit application to the Commission for review and decision, either for the individual sign permit, or as part of a development project that is otherwise subject to design review. Commission review of a sign permit referred by the Director shall require no additional fee.

2. Conditions of approval. The review authority may require conditions of approval that are deemed reasonable and necessary to achieve the purpose, intent, and objectives of this Chapter to the extent such conditions relate to the shape, location, height, size and materials of the sign; and/or the shape, design, placement, color, style, and quantity of text, illumination, reflected light and logos of a sign.

3. Approval criteria. The approval or non-approval of an application for a sign permit shall be guided by the criteria set forth in this Chapter. If the review authority finds that a proposed sign substantially complies with the standards of this Chapter, the review authority shall approve the sign.

4. Appeal. A decision of the Director or Commission in compliance with this Chapter may be appealed in compliance with Chapter 18.92 (Appeals).

C. Sign permit procedures.

1. Application requirements. An application for a sign permit shall be prepared, filed, and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing).

2. Application contents. Each application shall include all fees required by the City's Fee Schedule, and all of the following:

a. Plans for the sign, drawn to scale, showing the proposed location of the sign in relation to other signs on the site and adjacent properties, structures, and uses;

b. A complete color scheme for the sign, and design drawing of the sign;

c. Sufficient other details of the proposed sign to show that it complies with the provisions of this Chapter;

d. Written permission from the property owner for the placement of the proposed signs on the site;

e. Computation of the total sign area, the area of each individual sign, the height of each sign, and the total number of existing and proposed signs on the site;

f. An accurate indication on the site plan of the proposed location of each present and future sign of any type, whether requiring a permit or not;

g. If a sign permit application is filed for a site where signs exist, the application shall include a schedule for bringing into conformance within five years of the application date, all signs not conforming with the requirements of this Chapter as of the date of application; and

h. Other information as required by the Department.

D. Findings for approval. The approval of a sign permit shall require that the review authority first make all the following findings, as applicable.

1. The proposed signs do not exceed the standards of Sections 18.38.070 (Zoning District Sign Standards) and 18.38.080 (Standards for Specific Sign Types), and are of the minimum size and height necessary to enable pedestrians and motorists to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;

2. That the placement of the sign on the site is appropriate for the height and area of a freestanding or projecting sign;

3. That a flush or projecting sign relates to the architectural design of the structure. Signs that cover windows, or that spill over natural boundaries, and/or cover architectural features shall be discouraged;

4. The proposed signs do not unreasonably block the sight lines of existing signs on adjacent properties;

5. The placement and size of the sign will not impair pedestrian or vehicular safety;

6. The design, height, location, and size of the signs are visually complementary and compatible with the scale and architectural style of the primary structures on the site, any prominent natural features on the site, and structures and prominent natural features on adjacent properties on the same street; and

7. The proposed signs are in substantial conformance with the design criteria in Subsection 18.38.060.E (Design criteria for signs) and the Citywide Design Guidelines for signs.

E. Expiration and extension of sign permit approval.

1. Approval of a sign permit shall expire 12 months from the date of approval unless the sign has been installed, or a different expiration date is stipulated at the time of approval. Before the expiration of a sign permit, the applicant may apply to the Department for an extension of an additional 12 months from the original date of expiration.

2. The expiration date of the sign permit shall be automatically extended to concur with the expiration date of the companion Building Permit or other applicable permits for the project.

18.38.040 - Exemptions from Sign Permit Requirements

The following signs are allowed without sign permit approval, provided that they comply with Section 18.38.060 (General Requirements for All Signs), and any required Building Permit is obtained.

A. Nonstructural modifications and maintenance.

1. Modifications to sign copy on conforming signs, or changes to the face or copy of conforming changeable copy signs;

2. The normal maintenance of conforming signs, except as identified in Subsection 18.38.060.I (Maintenance of signs).

B. Identification signs. Street identification, and house identification signs required to assist emergency responders in finding specific properties and not exceeding two square feet.

C. Temporary signs. The following temporary signs are allowed without a sign permit.

1. Signs posted on private property for ~~less than six months before~~for the sale, lease or rental of the property.

a. Commercial, industrial, and other non-residential zoning districts. Signs posted on private property ~~less than six months before~~ for the sale, lease or rental of the property within commercial, industrial, and other non-residential zoning districts shall be no more than 16 square feet, with a maximum height for freestanding signs of six feet.

Comment [MJ38]: Some properties take longer than six months to sell and the City does not currently require removal of the for sale sign. This change would make the regulations conform with current practice.

b. Residential zoning districts. Signs posted on private property ~~less than six months before~~ for the sale, lease or rental of the property in residential zoning districts shall not be illuminated, shall not exceed one sign per property, and shall be no more than four square feet in area, including riders.

2. Off-site directional signs not more than four square feet in area, including riders, may be located on private property ~~two weeks prior to~~ for the sale, lease or rental of a property, provided that they do not obstruct or impede pedestrian or vehicular traffic, and are not secured to prevent removal. No such sign shall be permitted within a public right-of-way.

3. Signs on property undergoing construction or remodeling may be allowed in all zoning districts in compliance with the following standards:

a. The number, type, placement, and size of signs shall comply with the sign requirements of Section 18.38.070 (Zoning District Sign Standards) for the applicable zoning district.

b. The signs shall be removed prior to final building inspection or the issuance of a Certificate of Occupancy.

4. Signs are allowed 90 days prior to an election and five days after an election so long as the sign is in compliance with the following requirements:

a. In Commercial and Industrial zoning districts, each temporary sign and the total temporary signage on a parcel shall not exceed 32 square feet in area.

b. In Residential districts, no temporary sign shall exceed four square feet in area.

c. No temporary sign shall be located in a public right-of-way.

D. Governmental signs. Signs installed by the City, County, or a Federal or State governmental agency, because of their responsibilities for the protection and promotion of public health, safety, and general welfare, including the following signs:

1. Emergency and warning signs necessary for public safety or civil defense;

2. Traffic signs erected and maintained by an authorized public agency;

3. Legal notices, licenses, permits, and other signs required to be displayed by law;

4. Signs showing the location of public facilities (e.g., public telephones, restrooms, and underground utilities); and

5. Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibility to promote and protect public health, safety, and general welfare.

E. Miscellaneous signs.

1. Address numbers not exceeding 12 inches in height required to assist emergency responders in finding specific properties.

2. Official flags. Flags of national, State, or local governments, or nationally recognized religious, fraternal, or public service agencies; provided, the length of the flag shall not exceed one-fourth the height of the flag pole, and the flag is not used for commercial advertising.

3. Symbols, pictures, patterns, and illumination approved as architectural ornamentation or decoration by the review authority.

4. Signs erected and maintained by a historical agency or non-profit and located on a historical building, including names and dates of buildings and date of construction so long as none of these exceed four square feet.

5. Service station price signs required by State law.

6. Signs or displays located entirely inside of a building.

6. Small, temporary signs, otherwise in conformance with size, number, and duration requirements of this chapter that address non-commercial issues.

7. Banners and flags of 12 square feet or less, without commercial messages that do not interfere with pedestrian access or vehicular traffic within the public right of way (sidewalk and or street).

8. Signs advertising non-profit events that are less than 100 SF and located on private property with the permission of the property owner. Non-profit event signs shall not be displayed for a period of more than 30 days and shall be removed immediately after the event occurs. The advertised non-profit events must be located within the City of Fort Bragg.

18.38.050 - Prohibited Signs
All signs not expressly allowed by this Chapter shall be prohibited. Examples of prohibited signs include the following:

A. Abandoned signs;

B. Animated signs, including electronic message display signs, and variable intensity, blinking, or flashing signs, or signs that emit a varying intensity of light or color;

C. Balloons and other inflatable devices;

D. Billboards;

E. Flags which include commercial messages logos or images, are distracting to drivers, and/or are larger than 30 SF, except as specifically allowed by Subparagraph 18.38.040.E.2. (Official flags);

F. Moving signs, except signs that are stationary but contain moving parts;

G. Obscene signs;

H. Off-premises signs, except as allowed by Subparagraph 18.38.040.C.2. (Offsite directional signs);

I. Pennants and streamers, except in conjunction with an athletic event, carnival, circus, or fair, or as allowed in Subsection 18.38.040.C. (Temporary signs);

J. Pole signs and other freestanding signs over ~~six~~ 14 feet in height;

Comment [MJ39]: 14 feet is allowed in the inland area, 6 feet is allowed in the Coastal Zone.

K. Roof signs;

L. Because of the City's compelling interest in ensuring traffic safety, signs that simulate in color, size, or design, any traffic control sign or signal, or that make use of words, symbols, or characters in a manner that interferes with, misleads, or confuses pedestrian or vehicular traffic; and signs that due to color or motion act as a distraction and safety hazard to drivers;

M. Signs in the form or shape of a directional arrow, or otherwise displaying a directional arrow, except as may be approved by the review authority for safety, convenience and control of vehicular and pedestrian traffic within the premises of the subject use;

N. Signs attached to or suspended from a boat, float, vehicle, or other movable objects parked within a public right-of-way, or in a location on private property that is visible from a public right-of-way, except a sign painted directly upon, magnetically affixed to, or permanently affixed to the body or other integral part of the vehicle;

O. Signs burned, cut, or otherwise marked on or otherwise affixed to a hillside or tree;

P. Signs with reflective material;

Q. Signs in residential zoning districts, except as specifically allowed in this Chapter; and

R. Temporary and portable signs, except as specifically allowed by Subsection 18.38.040.C. (Temporary signs).

S. Signs in the public right-of-way except for the following:

1. Public signs erected by or on behalf of a governmental agency to convey public information, identify public property, post legal notices, or direct or regulate pedestrian or vehicular traffic;

2. Bus stop signs installed by a public transit company;

3. Informational signs of a public utility regarding its lines, pipes, poles, or other facilities. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized work within the public right-of-way; or

4. Temporary signs held by individuals that display non-commercial messages of less than ten square feet.

T. Any sign installed or placed within the public right-of-way other than in compliance with this Section shall be forfeited to the public and be subject to confiscation

In addition to other remedies identified in Chapter 18.98 (Enforcement and Penalties), the City shall have the right to recover from the owner, or person placing the sign, the full costs for sign removal and disposal.

18.38.060 - General Requirements for All Signs
The following rules shall govern the computation of sign area:

A. Sign area measurement. Sign area measurement to determine compliance with the sign area limitations of this Chapter shall occur as follows.

1. Surface area. The surface area of a sign shall be calculated by enclosing the extreme limits of all framing, emblem, logo, representation, writing, or other display within a single continuous perimeter composed of squares or rectangles with no more than eight perimeter lines. See Figure 3-10.

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Figure 3-10 - Sign Area Measurement

2. Sign structure. Supporting bracing or framework that is clearly incidental to the display itself shall not be computed as sign area.

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3. Multi-faced signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces.

4. Three-dimensional objects. The area of a sign consisting of one or more three-dimensional objects (e.g., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), shall be measured as their maximum projection upon a vertical plane. See Figure 3-11.

5. Time and/or temperature device. The area of any time and/or temperature device incorporated into a sign shall not be included in the calculation of total sign area.

B. Sign height measurement. The height of a sign shall be computed as the vertical distance from the lowest point of the base of the sign at normal grade, to the top of the highest attached component of the sign. See Figure 3-11. Normal grade shall be construed to be the lower of either the:

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1. Existing grade before construction; or

2. Newly established grade after construction, exclusive of any berming, filling, mounding, or excavating solely for the purpose of locating the sign.

C. Sign height limitations.

1. Maximum height for freestanding signs. A freestanding sign shall not exceed a height of six feet above normal grade in the residential and PF zoning districts. Freestanding signs shall be limited to 14 feet above normal grade in all other districts.

2. Maximum height for signs on structures. The top of a sign mounted on a structure shall not extend higher than the lesser of:

a. The window sills of the second floor;

b. The top of the wall to which the sign is attached, in the case of a one-story structure; or

c. 20 feet above normal grade.

D. Sign location requirements. Each sign shall be located in compliance with the following requirements, and all other applicable provisions of this Chapter.

1. Each sign shall be located on the same site as the subject of the sign, except as otherwise allowed by this Chapter.

2. No sign shall project over public property, or the public right-of-way, except where the City has granted an encroachment permit in addition to a sign permit.

3. No sign shall be placed so as to interfere with the operation of a door, window, or fire escape.

E. Design criteria for signs. The following design criteria shall be used in reviewing the design of individual signs. Substantial conformance with each of the following design criteria shall be required before a sign permit or Building Permit can be approved.

1. Color. Colors on signs and structural members should be harmonious with one another and relate to the dominant colors of the other structures on the site. Contrasting colors may be utilized if the overall effect of the sign is still compatible with the structure colors and prevailing colors in the surrounding neighborhood (where a theme can be identified).

2. Design and construction.

a. Proposed permanent signs should be designed by professionals (e.g., architects, building designers, landscape architects, interior designers, or those whose principal business is the design, manufacture, or sale of signs), or others who are capable of producing professional results.

b. All permanent signs should be constructed by persons whose principal business is building construction or a related trade including sign manufacturing and installation businesses, or others capable

of producing professional results. The intent is to ensure public safety, achieve signs of careful construction, neat and readable copy, and durability so as to reduce maintenance costs and to prevent dilapidation.

3. Materials and structure.

a. Sign materials (including framing and supports) shall be representative of the type and scale of materials used on the primary onsite structure and on other onsite signs.

b. Materials for permanent signs shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance.

c. The size of the structural members (e.g. columns, crossbeams, and braces) should be proportional to the sign panel they are supporting. In general, fewer larger supporting members are preferable to many smaller supports.

d. The use of individual letters incorporated into the building design is encouraged, rather than signs with background and framing other than the structure's wall(s).

4. Street address. The review authority may require that a sign include the street address of the site, where it determines that public safety and emergency vehicle response would be more effectively served than if the street address were displayed solely on one or more structures on the site.

F. Copy design guidelines. The City does not regulate the message content (copy) of signs; however, the following are principles of copy design and layout that can enhance the readability and attractiveness of signs. Copy design and layout consistent with these principles is encouraged, but not required.

1. Sign copy should relate only to the name and/or nature of the business or commercial center.

2. Permanent signs that advertise continuous sales, special prices, or include phone numbers, etc. should be avoided.

3. Information should be conveyed briefly or by logo, symbol, or other graphic manner. The intent should be to increase the readability of the sign and thereby enhance the identity of the business.

4. The area of letters or symbols should not exceed 40 percent of the background area in commercial districts or 60 percent in residential districts.

5. Freestanding signs should contain the street address of the parcel or the range of addresses for a multi-tenant center.

G. Sign lighting. Sign lighting shall be designed to minimize light and glare on surrounding rights-of-way and properties.

1. External light sources shall be directed and shielded so that they do not produce glare on any object other than the sign, and/or off the site of the sign.

2. The light illuminating a sign shall not be of an intensity or brightness that will interfere with the reasonable enjoyment of residential properties.

3. Sign illumination shall not blink, flash, flutter, or change light intensity, brightness, or color.

4. Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.

5. Neither the direct nor reflected light from primary light sources shall create hazards for pedestrians or operators of motor vehicles.

6. Reflective-type bulbs and incandescent lamps that exceed 15 watts shall not be used so as to expose the face of the bulb or lamp to a public right-of-way or adjacent property.

7. Light sources shall utilize hard-wired fluorescent or compact fluorescent lamps, or other lighting technology that is of equal or greater energy efficiency.

8. Permanently installed illuminated panels, visible tubing, and strings of lights outlining all or a portion of a structure, other than lighting that is primarily for indirectly illuminating architectural features, signs, or landscaping, shall be deemed "signs" subject to this Chapter and shall be counted as part of the allowed sign area. Each line of tubing or lights shall be deemed to have a minimum width of at least six inches for the purpose of area calculation.

H. Maintenance of signs.

1. Each sign and supporting hardware, including temporary signs, shall be maintained in good repair and functioning properly at all times.

2. Any repair to a sign shall be of equal or better in quality of materials and design as the original sign.

3. A sign that is not properly maintained and is dilapidated shall be deemed a public nuisance, and may be abated in compliance with the Municipal Code.

4. When an existing sign is removed or replaced, all brackets, poles, and other supports that are no longer required shall be removed.

5. Unpainted areas shall be painted to match the adjacent portion of the structure or the sign support structure.

18.38.070 - Zoning District Sign Standards
Each sign shall comply with the sign type, area, height, and other restrictions provided by this Section, except as otherwise expressly provided in Section 18.38.080 (Standards for Specific Sign Types).

A. Residential and PF zoning districts. Each sign in a residential or PF zoning district shall comply with the following requirements.

TABLE 3-11 - SIGN STANDARDS RESIDENTIAL AND PUBLIC FACILITY ZONING DISTRICTS

Allowed Sign Types	Maximum Sign Height	Maximum Number of Signs Allowed per Parcel	Maximum Sign Area Allowed per Parcel
Wall or freestanding	Wall signs: below edge of roof; Freestanding: 6 ft	1 of either allowed sign type per street frontage	12 sf maximum each; 24 sf total for all signs

B. Commercial and industrial zoning districts. Each sign in the commercial and industrial zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts) shall comply with the requirements in Table 3-12, in addition to the provisions of Section 18.38.080 (Standards for Specific Sign Types), as applicable.

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Figure 3-13 - Examples of sign types

TABLE 3-12 - SIGN STANDARDS FOR COMMERCIAL AND INDUSTRIAL ZONES

Allowed Sign Types	Maximum Sign Height	Maximum Number of Signs Allowed per Parcel	Maximum Sign Area
Ground-mounted and Ground-floor Signs			
Awning (18.38.080.B.)	Below roof (1)	**Single tenant site or structure:** 3 of any combination of allowed sign types per primary structure frontage. 1 of any allowed sign type per secondary frontage. **Site or structure with two or more tenants:** two of any allowed sign per business frontage.	**Maximum sign area per parcel.** The total sign area on a parcel shall comply with the following requirements. 1. 2 sf for each 3 linear ft of primary building frontage. 2. 0.5 additional sf for each linear foot of secondary building frontage. 3. Each ~~use~~ tenant is allowed a total sign area of at least 25 sf regardless of frontage length. 4. The total sign area per ~~use~~ tenant shall not exceed 100 sf. **Maximum sign area per building frontage.** The total area of all signs on a single structure frontage shall not exceed the total linear feet of that frontage. **Site with 4 or more tenants:** is allowed an additional freestanding identification sign of 0.25 sf for each linear ft of total primary structure frontage, up to 100 sf maximum.
Freestanding (18.38.080.C.)	14 ft		
Projecting, Wall (18.38.080.E., 18.38.080.G.)	Below roof (1)		
Suspended (18.28.080.G.)	Below eave/canopy; at least 8 ft above a walking surface		
Temporary/ Portable	See Sections 18.38.080.A and 18.38.080.F		
Window	See Section 18.38.080.H		
Second Floor Signs			
Awning, Projecting, Wall	Below roof (1)	1 per tenant space	12 sf for each tenant. 1 directory sign not to exceed 12 sf is also allowed to identify upper floor occupants.
Window	See Section 18.38.080.H		
Indoor Signs, and Outdoor Signs Not Visible from a Street			
Awning, Freestanding, Projecting, Suspended, Wall, Window	Below roof (1)	See Section 18.38.080, as applicable	

Notes:

(1) At least one foot below the top of a parapet, the sill of a second floor window, and/or the lowest point of any cornice or roof overhang.

Comment [SP40]: We have received comments from business owners who want to sublease a portion of their space to other tenants. This clarifies that even a small space with two tenants can have two signs.

18.38.080 - Standards for Specific Sign Types

Proposed signs shall comply with the following standards applicable to the specific sign type. Each sign type listed in this Section shall be included in the calculation of the total sign area allowed on a parcel by Section 18.38.070 (Zoning District Sign Standards), unless this Section explicitly provides otherwise. Each sign shall also comply with the sign area, height, and other requirements of Section 18.38.060, and all other applicable provisions of this Chapter. Any non-commercial message may be substituted for the copy on any commercial sign allowed by this Chapter.

A. A-board and other portable sidewalk signs. Each business may display one A-board or other portable sign in compliance with the following standards.

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1. **Limitation on location.** An A-board or other portable sign shall be allowed only on private property.

2. Sign size. Each sign shall not exceed a width of 2 feet 6 inches. Sign height shall be limited to four feet. Sign height shall be measured perpendicular from the sidewalk surface to the highest point of the A-board sign.

4. Sign placement. A portable sidewalk sign shall be placed only on private property within the boundaries of the applicable business's street frontage, and shall be positioned so that it will not:

a. Obstruct required ADA sidewalk clearance;

b. Impede any line of sight for motorists at vehicular public right-of-way intersections, as recommended by the Director, Public Works; or

c. Interfere with people exiting and entering parked cars.

5. Design and construction standards. The review authority shall approve an A-frame sign only if it first determines that the design and appearance of the sign, including any graphics and/or text, will reflect attractive, professional design, and that the sign will be durable and stable when in place.

6. Stabilization. The sign shall be stabilized to withstand wind gusts or shall be removed during windy conditions.

7. Daily removal. The sign shall be removed at the close of business each day.

9. Maintenance. The sign shall be continuously maintained in good condition with no peeling paint or other deterioration.

B. Awning signs. The following standards apply to awning signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

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1. Signs on awnings are limited to ground level or second story occupancies only.

2. Awnings shall not be internally illuminated. Direct exterior lighting may be allowed. Translucent awning materials are prohibited.

C. Freestanding signs. The following standards apply to freestanding signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. Multiple signs shall be separated by a minimum of 75 feet to ensure adequate visibility for all signs. The review authority may waive this requirement where the locations of existing signs on adjacent properties would make the 75-foot separation impractical.

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2. A sign shall not project over public property, vehicular easements, or rights-of-way, and shall not obstruct a traffic safety sight area, as determined by the review authority.

3. To assist emergency response personnel in locating the site, freestanding signs should contain an illuminated street address plate. Numbers should be a minimum of six inches in height. Street address numbers not exceeding six inches in height shall not be included in calculations of allowed sign area.

D. Murals. A mural placed on the wall of a structure may be allowed in any commercial or industrial zoning district subject to Administrative Design Review, and as follows.

Comment [MJ41]: So that design review can occur over the counter unless the proposed mural is controversial in which case the Director can ask the Planning Commission to review the proposed project.

1. A mural without text visible from a public right-of-way may be approved in addition to (not counted as part of) the sign area allowed by Section 18.38.070 (Zoning District Sign Standards); a mural with text shall comply with the sign area limitations applicable to the site.

2. Murals that illustrate the local setting, natural environment, –and history as sources of inspiration are encouraged.

3. The approval of a mural shall require that the review authority first find that the size, colors, and placement of the mural are visually compatible with the structure architecture, and that the mural will serve to enhance the aesthetics of the City.

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E. Projecting signs. The following standards apply to projecting signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. The maximum projection of a sign from a structure wall shall not exceed eight feet or more than two-thirds of the width of the public sidewalk below. Any projection over a public right-of way shall require an Encroachment Permit.

2. The top of a projecting sign shall not exceed the lesser of 14 feet, eave height, parapet height, or sill height of a second floor window. No portion of the sign shall project above the eave line of a sloped roof or the top of the parapet on a flat roof.

3. A projecting sign shall maintain a minimum clearance of eight feet from the bottom of the sign to the finished grade below.

4. Icon signs using shapes or symbols uniquely suited to the business, creative shapes, and three-dimensional signs are encouraged. See Figure 3-19.

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5. Each sign shall be graphically designed for pedestrians, with a maximum area of nine square feet on each sign face, regardless of the length of the building frontage. Within the CBD zoning district, no sign face shall exceed a maximum area of 12.5 square feet.

6. Sign supports shall be well-designed and compatible with the design of the sign.

F. Temporary signs & banners. Temporary signs other than A-boards are allowed subject to the following requirements. A-board signs are instead subject to the requirements of Subsection A.

1. Temporary signs on private property, except as identified in Section 18.38.040.C, shall comply with the following requirements.

a. Time limits. The use of a temporary sign may be allowed only for a licensed business for a period not to exceed 30 days per year. A temporary sign permit may be issued for up to 30 days. A business is only allowed three temporary sign permits per year. This is in addition to the 30 days allowed for a business grand opening temporary sign. Signs advertising a particular event shall be removed within 10 days after the event.

b. The application for a temporary sign permit shall include the dates proposed by the applicant for scheduled banner use.

c. Temporary signs may be authorized by the Director, upon submittal of a sign application, plan for removal, and the fees required by the City's Fee Schedule.

d. Maximum sign area. In a residential zoning district, the combined area of temporary signs shall not exceed three square feet. In a commercial or industrial zoning district, the combined area of temporary signs shall not exceed that permitted for permanent signage in the district in which the sign will be placed.

e. Maximum number of signs. No more than one temporary sign shall be erected on a premise at a time.

f. Sign placement. Temporary signs shall be subject to the same placement and height restrictions as permanent signs for the applicable zoning district, except for inflated and tethered signs.

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g. Inflatable or tethered signs. Inflatable or tethered signs are permitted for special events and may be installed for a period not to exceed five consecutive days, no more than two times per year. These signs may exceed the maximum sign area and sign height standards for the applicable zoning district.

G. Wall signs. The following standards apply to wall signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. A wall sign may be located on any primary or secondary structure frontage.

2. The area of the largest wall sign shall not exceed seven percent of the area of the building facade on which the sign is mounted or painted, including the area of windows, doors, and recesses.

3. A wall sign shall not project more than 12 inches from the surface to which it is attached.

H. Window signs. The following standards apply to temporary and permanent window signs where allowed by Section 18.38.070 (Zoning District Sign Standards).

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1. Maximum sign area. Permanent and temporary window signs shall not occupy more than 20 percent of the total window area.

Comment [MJ42]: We have regularly required that fast food businesses not cover their windows with signage advertising their food. This change is consistent with this practice.

2. Sign location. Signs shall be allowed only on windows located on the ground level and second story of a structure frontage.

3. Sign materials. ~~Signs shall consist of individual letters, logos, or symbols applied to, stenciled on, or etched into the glass surface; however,~~ neon and LCD signs with blinking lights, changing letters, or moving graphics are prohibited. ~~with transparent backgrounds may be hung inside the window glass.~~

Comment [MJ43]: Consistent with the change above. Also with an eye towards more explicitly not allowing blinking and changing lights on neon and LED signs which are very distracting to drivers.

18.38.090 - Nonconforming Signs

A nonconforming sign is any permanent or temporary sign that was legally established and maintained in compliance with the provisions of all applicable laws in effect at the time of original installation but that does not now comply with the provisions of this Development Code.

A. General requirements. A nonconforming sign shall not be:

1. Changed to another nonconforming sign;

2. Structurally altered to extend its useful life;

3. Enlarged;

4. Re-established after a business is discontinued for 30 days; or

5. Re-established after damage or destruction to 50 percent or more of the value of the sign, or its components, as determined by the Building Official.

Any interruption in the use of a nonconforming sign that continues for 60 days or more shall be deemed to be an abandonment of the sign. Subsequent use shall comply with the regulations of this Chapter. Non-occupation or non-operation of the building or business advertised shall be deemed an interruption of the use of the sign.

B. Exceptions. An administrative exception to the requirements of Subsection A. may be granted by the Commission, provided that the Commission shall make the following findings:

1. The new proposed sign is significantly more conforming in height and/or area than the existing sign; and

2. By approving the new sign, the exception will eliminate the existing nonconforming sign.

C. Maintenance and changes. Sign copy and face changes, nonstructural modifications, and nonstructural maintenance (e.g., painting, rust removal) are allowed without a sign permit up to a maximum of 25 percent of the existing total area of the sign. Face changes not including copy, and any nonstructural modifications exceeding 25 percent of the existing total area of the sign, and any structural changes shall comply with all applicable standards of this Chapter.

18.38.100 - Violations, Enforcement, Abatement

A. Signs on vacated buildings. Signs on premises that have been vacated for 60 days or more, and signs on multi-tenant buildings advertising a business that has been vacated for 60 days or more shall be immediately removed by the owner after the expiration of that period. The Director may issue a muni code violation and/or a notice to remove signs and sign standards after the expiration of the 60 day period in conformance with section 18.98.100 of this development code.

B. Violation, abatement, penalties. Any sign within the city that fails to comply with the requirements of this Chapter, other applicable State statute or City ordinance, or for which a permit has not been obtained in compliance with this Chapter, shall be subject to abatement through civil legal proceedings or as an infraction punishable by a fine as set forth in Chapter 18.98 (Enforcement and Penalties).

18.38.110 - Judicial Review

Any permit issued or denied in compliance with this Chapter shall be subject to expedited judicial review to the extent provided by the time limits identified in Code of Civil Procedure Section 1094.6 et seq.

18.38.120 - Partial Invalidation

This Chapter and its various parts are hereby declared to be severable. Should any Section of this Chapter be declared by a court to be unconstitutional or invalid, that decision shall not affect the validity of the Chapter as a whole, or any portion of the Chapter, other than the Section declared to be unconstitutional or invalid.

Article 4

Standards for Specific Land Uses

Chapter 18.40 ADULT ORIENTED BUSINESS REGULATIONS
18.40.010 Intent and Purpose
18.40.020 Definitions
18.40.030 Prohibited Areas and Minimum Proximity Requirements
18.40.040 Adult-Oriented Business Permit Required
18.40.050 Application Requirements
18.40.060 Investigation and Action on Application
18.40.070 Judicial Review of Decision to Grant, Deny, or Revoke
18.40.080 Permit Expiration
18.40.100 Findings
18.40.110 Registration of New Employees
18.40.120 Adult-Oriented Business Development Standards
18.40.130 Display of Permit
18.40.140 Persons Under 18 Prohibited
18.40.150 Transfer of Adult-Oriented Business Regulatory Permits
18.40.160 Permit Revocation
18.40.170 Violations
18.40.180 Applicability to Other Regulations
18.40.190 Conduct Constituting a Public Nuisance
18.40.200 Inspections

Chapter 18.42 STANDARDS FOR SPECIFIC LAND USES
18.42.010 Purpose and Applicability
18.42.020 Accessory Retail and Service Uses
18.42.030 Agricultural Accessory Structures
18.42.040 Animal Keeping
18.42.050 Bed and Breakfast Inns (B&Bs)
18.42.060 Child Day Care Facilities
18.42.070 Drive-Through Facilities
18.42.080 Home Occupations
18.42.090 Live/Work Units
18.42.095 Medical Marijuana Dispensaries
18.42.100 Mixed Use Projects
18.42.110 Mobile/Manufactured Homes and Mobile Home Parks
18.42.120 Multi-Family Projects
18.42.130 Outdoor Displays and Sales
18.42.140 Outdoor Storage
18.42.145 Pipelines and Transmission Lines
18.42.150 Recycling Facilities
18.42.160 Residential Accessory Uses and Structures
18.42.165 Restaurants
18.42.170 Second Units
18.42.180 Service Stations

Chapter 18.44 TELECOMMUNICATIONS FACILITIES
18.44.010 Purpose
18.44.020 Definitions
18.44.030 Applicability
18.44.040 Permit Requirements
18.44.050 Limitations on Location
18.44.060 Facility Design and Development Standards

18.44.070 Operation and Maintenance Standards
18.44.080 Discontinuance and Site Restoration

Chapter 18.40

ADULT ORIENTED BUSINESS REGULATIONS

Comment [MJ1]: Staff has not reviewed or modified any part of this chapter. Council may proceed to page 14 to review standards for specific land uses and proposed changes.

Sections:

18.40.010 Intent and Purpose
18.40.020 Definitions
18.40.030 Prohibited Areas and Minimum Proximity Requirements
18.40.040 Adult-Oriented Business Permit Required
18.40.050 Application Requirements
18.40.060 Investigation and Action on Application
18.40.070 Judicial Review of Decision to Grant, Deny, or Revoke
18.40.080 Permit Expiration
18.40.100 Findings
18.40.110 Registration of New Employees
18.40.120 Adult-Oriented Business Development Standards
18.40.130 Display of Permit
18.40.140 Persons Under 18 Prohibited
18.40.150 Transfer of Adult-Oriented Business Regulatory Permits
18.40.160 Permit Revocation
18.40.170 Violations
18.40.180 Applicability to Other Regulations
18.40.190 Conduct Constituting a Public Nuisance
18.40.200 Inspections

18.40.010 - Intent and Purpose

A. Intent. It is the intent of this Chapter to provide special design guidelines, standards, and development regulations to regulate the time, place, and manner of the operation of Adult-Oriented Businesses in order to minimize the negative secondary effects associated with these businesses including, but not limited to, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of Adult-Oriented Businesses in close proximity to each other or proximity to other incompatible uses, including religious facilities, parks, playgrounds, schools, 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.

B. Purpose. It is, therefore, the purpose of this Chapter to:

1. Establish reasonable and uniform regulations to prevent the concentration of Adult-Oriented Businesses or their close proximity to incompatible uses, while allowing the location of Adult-Oriented Businesses in certain areas; and

2. Regulate Adult-Oriented Businesses in order to promote the health, safety, and general welfare of the citizens of the City.

C. Restriction on content and access not intended. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

18.40.020 - Definitions

Definitions of the technical terms and phrases used in this Chapter are under “Adult Oriented Business” in Article 10 (Glossary).

18.40.030 - Prohibited Areas and Minimum Proximity Requirements

A. IH (Heavy Industrial) and IL (Light Industrial). Subject to the limitations set forth in this Chapter, Adult-Oriented Businesses may be established in the IH and IL zoning districts.

B. Specified distance separation requirements. Notwithstanding the above, no Adult-Oriented Business shall be established or located within certain distances of certain specified land uses or zoning districts as set forth below. No Adult-Oriented Business shall be established or located:

1. Within a 300-foot radius from any existing residential zoning district or use. The distance between a proposed Adult-Oriented Business use and a residential zoning district or use shall be measured from the nearest exterior walls of the facilities housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the two points; or

2. Within 500 feet of any other Adult-Oriented Business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Fort Bragg. The distance between the two Adult-Oriented Business uses shall be measured between the nearest exterior walls of the facilities housing the Adult-Oriented Business use and proposed Adult-Oriented Business use along a straight line extended between the two uses; or

3. Within 500 feet from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, religious facility, or school use is located, or property zoned Open Space (OS) or Public Facilities (PF) along a straight line extended between the two points.

C. Separation requirements also apply to specified uses or districts outside of the City. The above distance limitations shall also apply to residential districts or uses and parks, playgrounds, schools, and church uses or property so designated in the General Plan Land Use Element of an adjacent jurisdiction

18.40.040 - Adult-Oriented Business Permit Required

A. Adult-Oriented Business Permit and Business License required. It shall be unlawful for any person to engage in, conduct, establish, carry on, or to permit to be engaged in, conducted, established, or carried on, in or upon any premises in the City of Fort Bragg, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect both an Adult-Oriented Business Permit and a Business License from the City of Fort Bragg.

B. Not allowed by right. No Adult-Oriented Business may be established within the City of Fort Bragg by right. All persons wishing to establish an Adult-Oriented Business within the City shall first apply for and receive an Adult-Oriented Business Permit in compliance with this Chapter.

C. Applicant to supply sufficient evidence. It is the burden of the applicant for an Adult-Oriented Business Permit to supply sufficient evidence to justify the grant of an Adult-Oriented Business Permit.

18.40.050 - Application Requirements

A. Application submittal. Any person desiring to operate or establish an Adult-Oriented Business within the City of Fort Bragg shall file with the Department an Adult-Oriented Business Permit application on a standard application form supplied by the Department.

B. Required information. All applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.

2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names and current addresses of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names, addresses, and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

4. The notarized signature of the property owner and proof of ownership.

5. A deposit or fee as set forth by the City's Fee Schedule.

6. Signed statement by the applicant verifying that applicant intends to and will comply with all of the adult-oriented business development standards of this Chapter.

7. A description of the Adult-Oriented Business for which the permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of all the owners and lessors of the Adult-Oriented Business site.

8. The address to which notice of action on the application is to be mailed.

9. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

10. A straight-line drawing depicting the building and the portion thereof to be occupied by the Adult-Oriented Business, and:

a. The property line of any residential zoning district or use within 300 hundred feet of the nearest exterior wall of the Adult-Oriented Business;

b. The property line of any other Adult-Oriented Business within 500 feet of the nearest exterior wall of the Adult-Oriented Business for which a Business Permit is requested; and

c. The property lines of any church, school, park, or playground within 500 feet of the nearest exterior wall of the Adult-Oriented Business.

11. A diagram of the off-street parking areas and premises entries of the Adult-Oriented Business showing the location of the lighting system required by this Chapter.

C. Signature of applicant required. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10 percent or greater interest in the business entity shall sign the application.

D. Fictitious name, if applicable. If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of registration of the fictitious name.

E. CEQA compliance. All applicants for an Adult-Oriented Business Permit shall also fill out the City's environmental review package/initial study checklist for purposes of complying with the California Environmental Quality Act (CEQA).

F. Other permits or licenses. The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining an Adult-Oriented Business Permit.

18.40.060 - Investigation and Action on Application
The processing, review, and decision by the City on an Adult-Oriented Business Permit shall be the same as required for a Use Permit by Chapter 18.70 (Permit Application Filing and Processing), Section 18.71.060 (Use Permit and Minor Use Permit), and Chapters 18.72 (Environmental Impact Assessment and Mitigation Monitoring), and 18.76 (Permit Implementation, Time Limits, and Extensions), except as provided by Section 18.40.080 (Permit Expiration). Decisions of the Commission on an Adult-Oriented Business Permit may be appealed to the Council in compliance with Chapter 18.92 (Appeals).

18.40.070 - Judicial Review of Decision to Grant, Deny, or Revoke
A. Court challenge. The time for court challenge to a decision by the Council to grant, deny, or revoke an Adult-Oriented Business Permit is governed by California Code of Civil Procedure Section 1094.6.

B. Transmittal of decision to applicant. Notice of the Council's decision and its findings shall be mailed to the applicant and shall include citation to California Code of Civil Procedure Section 1094.6.

C. Prompt judicial review. The Petitioner may seek prompt judicial review of the Council's action in compliance with California Code of Civil Procedure Section 1094.8.

18.40.080 - Permit Expiration
Any Adult-Oriented Business Permit approved in compliance with this Chapter shall become null and void unless the proposed use is established within 180 days of the date from the approval. As to facilities that are a reuse of existing facilities, the Adult-Oriented Business Permit shall become null and void unless the proposed use is established within 180 days from the date of approval, unless before the expiration date the permittee demonstrates to the satisfaction of the Commission that the applicant has a good faith intent to presently commence the proposed use. The extensions shall not exceed a total of two 180-day extensions.

18.40.100 - Findings
A. Required findings. The Commission or Council shall approve or conditionally approve an application for an Adult-Oriented Business Permit where the information submitted by the applicant or other relevant evidence substantiates all of the following findings:

1. The applicant is over the age of 18 years;

2. The required application fee has been paid;

3. The proposed use complies with the development and design requirements of the underlying zoning district in which it is located and with the applicable development standards of this Chapter;

4. The proposed site is not located within a 300-foot radius from any existing residential zoning district or use. The distance between a proposed Adult-Oriented Business use and a residential zoning district or use shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the two points;

5. That the proposed site is not located within 500 feet of any other Adult-Oriented Business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Fort Bragg. The distance between the two Adult-Oriented Business uses shall be measured between the nearest exterior walls of the facilities housing the Adult-Oriented Business use and proposed Adult-Oriented Business use along a straight line extended between the two uses;

6. The proposed site is not located within 500 feet from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior walls of the facilities housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF) is located, along a straight line extended between the two points;

7. The proposed site is not located within 300 feet of a residential zoning district or use or within 500 feet of a park, playground, religious facility, or school use located in or on property so designated in the General Plan Land Use Element of an adjacent jurisdiction; and

8. Neither the applicant, if an individual, or any of the officers or general partners, if a corporation or partnership, have been found guilty or pleaded nolo contendere within the past four years of a misdemeanor or a felony classified by the State as a sex or sex-related offense.

B. Conditions imposed on the permit. Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.

18.40.110 - Registration of New Employees

A. Employee registration required. As a further condition of approval of every Adult-Oriented Business Permit issued in compliance with this Chapter, every owner or operator of an Adult-Oriented Business shall register every employee with the Police Department within five business days of the commencement of the employee's period of employment at the Adult-Oriented Business.

B. Color photographs and other information required. Each Employee shall be required to provide two recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification. In addition, each new employee shall provide the following information in a form provided by the Police Department:

1. Name, current resident address, and telephone number;

2. Date of birth;

3. Social Security number;

4. Height, weight, color of eyes and hair; and

5. Stage name, if applicable, and other aliases used within the previous two years.

C. Current employee register required. Each owner or operator of an Adult-Oriented Business shall maintain a current register of the names of all employees currently employed by the Adult-Oriented Business, and shall disclose the registration for inspection by any Police Officer for the purposes of determining compliance with the requirements of this Section.

D. Failure to comply. Failure to register each new employee within five days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the Adult-Oriented Business Permit and may be considered grounds for suspension or revocation of the permit.

18.40.120 - Adult-Oriented Business Development Standards

A. Unlawful hours of operation. It shall be unlawful for any operator or employee of an Adult-Oriented Business to allow the adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of the following day.

B. Observation of activities or materials outside prohibited. No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of the establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

C. Outdoor lighting level required. All off-street parking areas and other exterior areas of the Adult-Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light evenly distributed at ground level. The

required lighting level is established in order to provide sufficient illumination of the parking areas, walkways, and outdoor areas serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

D. All areas shall be readily accessible. The operator of an Adult-Oriented Business shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement official.

E. Posting of California Penal Code Section 314 required. The Adult Oriented Business shall post in plain view inside the front portion of the business, a sign, in two inch print which shall reference California Penal Code Section 314 which shall read as follows:

1. Every person who willfully and lewdly either: (1) exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or (2) procures, counsels, or assists any person so as to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view or the view of any number of persons, which is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.

2. Upon the second and each subsequent conviction under Subparagraph 1. above, or upon a first conviction under Subparagraph 1. above after a previous conviction under [California Penal Code] Section 288, every person so convicted is guilty of a felony, and is punishable by imprisonment in State prison. California Penal Code Section 314.

F. Open to view by management. All indoor areas of the Adult-Oriented Business within which patrons are permitted, except restrooms and customer changing rooms, if any, shall be open to view by the management at all times.

G. Additional "Adult Arcade" provisions. Any adult-oriented business which is also an **"**Adult Arcade**"** shall comply with the following additional provisions:

1. The interior of the premises shall be configured so that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms and customer changing rooms. Restrooms and customer changing rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured so that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this Subparagraph shall be direct line of sight from the manager's station.

2. The view area specified in Subparagraph 1. above shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

3. No viewing room or changing room may be occupied by more than one person at any one time.

4. The walls or partitions between viewing rooms or booths, changing rooms, restrooms, and stalls or spaces contained therein shall be maintained in good repair at all times, with no holes between any two of the rooms that would allow viewing from one booth or room into another or that would allow physical contact of any kind between the occupants of any two of the booths or rooms.

5. Customers, patrons, or visitors who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing, shall not be allowed to stand idly by in the vicinity of any video booths, or to remain in the common area of the business, other than the restrooms. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

6. The floors, seats, walls, and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen, or saliva in any of the booths shall be evidence of improper maintenance and inadequate sanitary controls; instances of these conditions may justify suspension or revocation of the Adult-Oriented Business permit.

H. Indoor lighting level required. All interior areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

Location	Minimum Illumination Level (foot-candles)
Adult arcades	10
Bookstores and other retail establishments	20
Modeling studios	20
Motels/Hotels	20 in public areas
Theaters and cabarets	5, except that a minimum of 1.25 shall be required during performances

I. Separate restrooms required. The Adult-Oriented Business shall provide and maintain separate restrooms for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using a restroom for females, and female patrons and employees shall be prohibited from using a restroom for males, except to carry out duties of repair, maintenance, and cleaning of the restroom facilities. The restrooms shall be free from any Adult-Oriented Material. Restrooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment. The foregoing provisions of this Subparagraph shall not apply to an Adult-Oriented Business that deals exclusively with sale or rental of sexually oriented material or merchandise that is not used or consumed on the premises and which does not provide restroom facilities to its patrons or the general public.

J. Additional requirements for live entertainment. The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities, except for businesses regulated by the Alcoholic Beverage Control Commission:

1. No employee, owner, operator, responsible managing employee, manager, or permittee of an Adult-Oriented Business providing live entertainment shall allow any person below the age of 18 years upon the premises or within the confines of the business if no alcoholic beverage is served, or under the age of 21 if alcoholic beverages are served.

2. No entertainer shall dance with or otherwise be within four feet of a patron while performing for compensation or while on the Adult-Oriented Business's premises. This four-foot separation shall be marked by a railing or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).

3. No owner, operator, responsible managing employee, manager, or permittee shall permit or allow at licensed premises any patron to approach within four feet of an entertainer, or permit or allow an entertainer to approach within four feet of a patron.

4. All employees, other than entertainers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.

5. The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

6. The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

7. The Adult-Oriented Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If a separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three-foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence, or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

8. No entertainer, either before, during, or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during, or after performances by the entertainer. This Subparagraph shall only apply to physical contact on the premises of the Adult-Oriented Business.

9. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

K. Security guards required. Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, consistent with the following standards:

1. Adult-Oriented Businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.

2. All Adult-Oriented Businesses shall have a responsible person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. The individual designated as the on-site manager shall be registered with the Police Chief by the owner to receive all complaints and be responsible for all violations taking place on the premises.

3. All Adult-Oriented Businesses shall provide a security system that visually records and monitors the exterior premises of the property including all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the exterior premises of the property, including the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed two by three feet and shall at a minimum be one foot by one and a half feet.

4. Security guards shall be uniformed in 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 State law. No security guard required in compliance with this Subparagraph shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

L. X-rated movies or videos. X-rated movies or videos shall be restricted to persons over 18 years of age. If an establishment that is not otherwise prohibited from providing access to persons under 18 years of age sells, rents, or displays videos or other motion picture media that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, the videos shall be located in a specific section of the establishment where persons under the age of 18 shall be prohibited. All access to sexually oriented material or merchandise shall be restricted to persons over 18 years of age.

M. Disposal in locked garbage receptacles only. Any and all sexually oriented materials or sexually oriented merchandise discarded by an Adult-Oriented Business shall be fully contained within a locked garbage receptacle at all times so that minors are not exposed to sexually oriented materials or sexually oriented merchandise.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business permit approvals, and failure to comply with every requirement shall be grounds for revocation of the permit issued in compliance with these regulations.

18.40.130 - Display of Permit
Each Adult-Oriented Business shall display at all times during business hours the Adult-Oriented Business permit issued in compliance with the provisions of this Chapter for an Adult-Oriented Business in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

18.40.140 - Persons Under 18 Prohibited
It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Oriented Business to employ, or provide any service for which it requires an Adult-Oriented Business permit, to any person who is not at least 18 years of age.

18.40.150 - Transfer of Adult-Oriented Business Regulatory Permits
A. Only at approved address. A permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business permit at any place other than the address of the Adult-Oriented Business stated in the application for the Adult-Oriented Permit.

B. No transfer without permit amendment. A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business permit to another person unless and until the transferee obtains an amendment to the permit from the Commission stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Commission in compliance with Sections 18.40.040 (Adult-Oriented Business Permit Required) and 18.40.050 (Application Requirements), above, accompanies the application with a transfer fee as set forth in the City's Fee Schedule, and the Commission determines in compliance with Sections 18.40.060-100 that the transferee would be entitled to the issuance of an original Adult-Oriented Business permit. The transfer fee shall be paid in lieu of the filing fee required by Section 18.40.050.

C. No transfer when subject to suspension or revocation. No Adult-Oriented Business permit may be transferred when the permittee has been notified that the Adult-Oriented Business Permit has been or may be suspended or revoked.

D. No transfer in violation of this Section. Any attempt to transfer an Adult-Oriented Business permit either directly or indirectly in violation of this Section is hereby declared void, and the Adult-Oriented Business permit shall be deemed revoked.

18.40.160 - Permit Revocation
A. Findings required for revocation. Any Adult-Oriented Business permit issued in compliance with the provisions of this Chapter may be revoked by the City on the basis of any of the following:

1. The business or activity has been conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit or which fails to conform to the plans and procedures described in the application, or which violates the occupant load limits for the building in which the use is located set by the Fire Marshal;

2. The permittee has misrepresented a material fact in the application for permit or in any report required to be filed with the City or has not answered each question in the application truthfully;

3. The permittee has failed to obtain or maintain all required City, County, and State licenses and permits;

4. The permit is being used to conduct an activity different from that for which it was issued;

5. The building or structure in which the Adult-Oriented Business is conducted is hazardous to the health or safety of the employees or patrons of the business or of the general public under the standards set forth in the Uniform Building, Uniform Plumbing, or Uniform Fire Code;

6. The permitted business creates sound levels which violate the Noise Ordinance of the City;

7. The permittee, if an individual, or any of the officers or general partners, if a corporation or partnership, is found guilty or pleaded nolo contendere to a misdemeanor or felony classified by the State as a sex or sex-related offense during the period of the Adult-Oriented Business's operation;

8. The permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business:

a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;

b. Use of the Adult-Oriented Business site as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur;

c. Any conduct constituting a criminal offence which requires registration under Section 290 of the California Penal Code;

d. The occurrence of acts of lewdness, assignation, or prostitution including any conduct constituting violations of California Penal Code Sections 315, 316, 318, or 647(b);

e. Any act constituting a violation of provisions of the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, Sections 311 through 313.4; or

f. Any conduct prohibited by this Chapter.

9. Failure to abide by any action previously imposed by an appropriate City official; and

10. The use for which the approval was granted has ceased to exist or has been suspended for 180 days or more.

B. Notice and public hearing required. Written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the permittee, shall be personally delivered or sent by certified mail to the permittee at least 10 days before the hearing.

1. The Commission shall hold a public hearing on the proposed revocation of the permit.

2. Notice of the public hearing shall be given in compliance with California Government Code Section 65091, as the same may be amended from time to time.

3. In reaching a decision on the proposed revocation, the Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

C. Commission action. The Commission shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Adult-Oriented Business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.

D. Transmittal of Commission decision. The Commission's decision shall be in writing, and shall be hand delivered or mailed to the applicant and mailed to all property owners within 300 feet of the use.

E. Decision within 30 days. The Commission shall make its final decision within 30 days of the public hearing.

F. Appeal of Commission decision. Any interested person may appeal the decision of the Commission to the Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the Council shall have the authority to direct that the Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the Council.

G. De novo public hearing. Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the Council. In reaching its decision, the Council

shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

H. Council action on appeal. The Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum, and upon the conclusion of the public hearing, the Council shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Adult-Oriented Business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located. The Council's decision shall be final and conclusive.

I. No new permit within 12 months after revocation. In the event a permit is revoked pursuant to this Chapter, another adult use development permit to operate an adult business shall not be granted to the permittee within 12 months after the date of the revocation.

18.40.170 - Violations
Any violation of this Chapter shall constitute a public nuisance and any person who violates any section of this Chapter shall be guilty of a misdemeanor and is subject to a fine and/or imprisonment in compliance with the limits set forth in California Government Code section 36901, as it may be amended from time to time, or any other legal remedy available to the City including but not limited to all enforcement options under Municipal Code 6.12.

18.40.180 - Applicability to Other Regulations
The provisions of this Chapter are not intended to provide exclusive regulation of the Adult-Oriented Business uses. These uses shall comply with any and all applicable regulations imposed in other articles of this Development Code, other City ordinances, and State and Federal law.

18.40.190 - Conduct Constituting a Public Nuisance
The conduct of any business within the City in violation of any of the terms of this Chapter is hereby found and declared to be a public nuisance, and the City Attorney or the District Attorney may, in addition or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal, and enjoinment thereof, in the manner provided by law; and shall take other steps and shall apply to other courts as may have jurisdiction to grant relief that will abate or remove the Adult-Oriented Business and restrain and enjoin any person from conducting, operating, or maintaining an Adult-Oriented Business contrary to the provisions of this Chapter.

18.40.200 - Inspections
An applicant or permittee shall permit representatives of the Police Department, Health Department, Planning Department, or other City Departments or Agencies to inspect the premises of an Adult-Oriented Business for the purpose of ensuring compliance with the law and the development standards applicable to Adult-Oriented Businesses, at any time it is occupied or opened for business. A person who operates an Adult-Oriented Business or his or her agent or employee is in violation of the provisions of this Section if he/she refuses to permit the lawful inspection of the premises at any time it is occupied or open for business.

Chapter 18.42

STANDARDS FOR SPECIFIC LAND USES

Sections:

18.42.010 Purpose and Applicability
18.42.020 Accessory Retail and Service Uses
18.42.030 Agricultural Accessory Structures
18.42.040 Animal Keeping
18.42.050 Bed and Breakfast Inns (B&Bs)
18.42.060 Child Day Care Facilities
18.42.070 Drive-Through Facilities
18.42.080 Home Occupations
18.42.090 Live/Work Units
18.42.095 Medical Marijuana Dispensary
18.42.100 Mixed Use Projects
18.42.110 Mobile Homes and Mobile Home Parks
18.42.120 Multi-Family Projects
18.42.130 Outdoor Displays and Sales
18.42.140 Outdoor Storage
18.42.145 Pipelines and Transmission Lines
18.42.150 Recycling Facilities
18.42.160 Residential Accessory Uses and Structures
18.42.165 Restaurants
18.42.170 Second Units
18.42.180 Service Stations

18.42.010 - Purpose and Applicability

A. Purpose. This Chapter provides site planning, development, and/or operating standards for certain land uses that are allowed by Article 2 (Zoning Districts and Allowable Land Uses) within individual or multiple zoning districts, and for activities that require special standards to ensure their compatibility with site features, and existing uses and structures in the site vicinity.

B. Applicability. The land uses and activities covered by this Chapter shall comply with the provisions of the Sections applicable to the specific use, in addition to all other applicable provisions of this Development Code.

1. Where allowed. The uses that are subject to the standards in this Chapter shall be located only where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

2. Planning permit requirements. The uses that are subject to the standards in this Chapter are allowed only when authorized by the planning permit required by Article 2, except where a planning permit requirement is established by this Chapter for a specific use.

3. Development standards. The standards for specific uses in this Chapter supplement and are required in addition to those in Articles 2 (Zoning Districts and Allowable Land Uses), 3 (Site Planning and Project Design Standards), 5 (Resource Management), and Article 6 (Site Development Regulations).

a. The applicability of the standards in this Chapter to the specific land uses listed is determined by Chapter 18.20 (Development and Land Use Approval Requirements).

b. In the event of any conflict between the requirements of this Chapter and those of Articles 2 or 3, the requirements of this Chapter shall control.

18.42.020 - Accessory Retail and Service Uses

This Section provides standards for specific retail sales and service uses, including restaurants, pharmacies, and the sale of retail merchandise, that are accessory to a primary commercial, industrial, or institutional use, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. General standard. ~~There shall be no e~~External evidence of any ~~commercial activity~~accessory retail or service use shall be subordinate to ~~other than~~ the primary use of the site (e.g., ~~no~~ signs, windows with merchandise visible from adjoining streets, etc. shall be limited and subordinate)~~, nor~~ Additionally access to any space used for the accessory retail or service shall be accessed ~~use other than from within~~ through the primary ~~structure~~use entrance.

Comment [MJ2]: This seems overly restrictive. Consider modifications.

B. IL (Light Industrial) zoning district. Accessory retail service uses within the IL zoning district shall be limited to businesses that the review authority determines will manufacture, refine, repair, finish, or store their products or services on-site, will provide adequate parking and street access, and will not generate significant customer traffic.

C. Review and approval requirements. Accessory retail and service uses may require Design Review in compliance with Section 18.71.050. Accessory Retail and service uses require a Minor Use Permit in compliance with Table 2-10 in Section 18.24.030. In order to approve an accessory retail or service use, the review authority shall first find that there will be no adverse effects on adjacent existing or potential residential uses from excessive traffic, noise or other effects of the accessory use.

18.42.030 - Agricultural Accessory Structures

The following standards apply to agricultural accessory structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Timing of installation. An agricultural accessory structure shall only be constructed concurrent with or after the construction of an approved primary structure on the same site, unless:

1. The site is one acre or larger, and the proposed structure is a barn, or other structure used for confining animals and/or housing farm equipment or supplies, or is a noncommercial greenhouse; or

2. Construction in advance of a primary structure is authorized through Minor Use Permit approval.

B. Setback requirements. An agricultural accessory structure shall comply with the setback requirements of the applicable zoning district, except where Section 18.42.040 (Animal Keeping) establishes a greater setback requirement for an animal keeping structure.

18.42.040 - Animal Keeping

Animal keeping within the City shall comply with requirements of this Section, and shall occur only where allowed by Article 2 (Zoning Districts and Allowable Land Uses) and this Section. The provisions of this Section are intended to assist in ensuring that animal keeping does not create adverse impacts on adjacent properties by reason of bright lights, dust, insect infestations, noise, odor, or visual blight.

Comment [MJ3]: This section was updated in 2014. No new changes are recommended at this time

A. Pre-existing uses. Any legally established animal keeping use that became nonconforming upon adoption of this Section shall be permitted to continue subject to Chapter 18.90 (Nonconforming Uses, Structures, and Parcels).

B. Allowable animal keeping activities and permit requirements.

1. Activities and permit requirements. Animal keeping, including related animal husbandry activities (breeding, judging, etc.) is allowed only in compliance with the limitations on use and permit requirements in Table 4-1, and the animal keeping standards in Subsection C. The keeping of imported animals may require approval by the U.S. Department of Agriculture Fish and Wildlife Service, U.S. Department of Public Health, California Department of Fish and Game, and/or the California Department of Food and Agriculture, and the Mendocino County Agricultural Commissioner, in addition to any City approval required by this Section.

Table 4-1 - ALLOWABLE ANIMAL-KEEPING AND PERMIT REQUIREMENTS

Type of Animal	Permit Requirement by Zoning District		
	RR & RS	RL & RM	RH, RVH
Beekeeping	P	P*	MUP
Fowl, poultry, aviary (except roosters)	P	P	MUP
Hogs and swine	P	-	-
Two or fewer horses and cows	MUP	-	-
Household pets	P	P	P
Roosters	MUP	-	-
Other large animals (defined in Table 4-2)	P	MUP	-
Other small animals (defined in Table 4-2)	P	P	P

Key to permit requirements:

P	Permitted animal keeping, no City approval required for the animal keeping activity, provided that it complies with the standards in Subsections C. through F.
P*	Beekeeping, as a permitted use, is limited to one hive per parcel. A Use Permit is required for more than one hive per parcel in residential and commercial zoning districts.
MUP	Minor Use Permit approval required in compliance with Section 18.71.060.
-	Type of animal or activity not allowed.

2. Minor Use Permit review. Where Table 4-1 requires a Minor Use Permit for keeping a specified animal type, the purpose of the discretionary review shall include evaluation of how the proposed animals will be housed and/or confined, and whether the location, size, and design of the area on the site for animal keeping will be adequate to allow compliance with the other standards of this Section without unreasonable effort on the part of the animal manager. In approving a Minor Use Permit in compliance with this Section, the review authority may limit the maximum number of animals allowed on the site as appropriate to the characteristics of the site, the surrounding land uses, and the species of animals proposed.

C. Animal keeping standards. All animal keeping shall comply with the standards in Table 4-2, where allowed by Subsection B., Table 4-1, except that more animals may be allowed by Minor Use Permit.

Table 4-2 - ANIMAL-KEEPING STANDARDS

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum Setbacks (3)	
			From Side/Rear Property Lines	From Streets and Dwellings
Dogs and cats	5 animals total on a site less than 1 acre; 5 of each species on a site	None required	None required	None required

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum Setbacks (3)	
			From Side/Rear Property Lines	From Streets and Dwellings
	of 1 acre or more			
Fowl, poultry, aviary	6 for parcels less than 10,000 SF; 12 per acre for larger parcels	6,000 SF	10 ft	25 ft
Hogs and swine	1 per acre	2 acres	50 ft	100 ft
Horses and cows	2 per acre	1 acre	25 ft	25 ft
Other small animals - Including chinchillas, rabbits, non-poisonous reptiles, rodents, and other non-poisonous small animals.	6 animals total on a site less than 10,000 SF; 20 animals per acre for larger sites, where allowed by Table 4-1.	None	10 ft	25 ft
Other large animals - Emus, goats, llamas, miniature horses and donkeys, ostriches, pot belly pigs, sheep, and similar sized animals.	4 per acre	1 acre	25 ft	25 ft

Notes:

(1) Offspring allowed in addition to maximum number until market-ready.

(2) Minimum lot area required for the keeping of animals.

(3) Minimum setbacks from all property lines for barns, shelters, pens, coops, cages, and other areas and structures where animals are kept in concentrated confinement; but not including areas continuously maintained as pasture. Animals shall not be kept in any required front yard setback except in pasture areas.

D. Maintenance and operational standards. All animal keeping shall comply with all of the following maintenance and operational standards.

1. Odor and vector control. All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Manure shall also not be allowed to accumulate. Each site shall be maintained in a neat and sanitary manner.

2. Containment. All animals shall be effectively contained on the site, and shall not be allowed to run free off the parcel or in a public right-of-way.

3. Waterway protection. The keeping of horses, cattle, hogs or other large animals within 50 feet of any waterway shall first require Director approval of a good housekeeping plan to protect the waterway from the polluting effects of runoff from the animal keeping area. The plan shall provide for regular manure removal, the maintenance of pasture vegetation to minimize the exposure and potential erosion of bare soil, site grading to direct runoff to detention and settling areas rather than the waterway, and/or other measures approved by the Director.

4. Erosion and sedimentation control. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation on any public road, adjoining property, or in any drainage channel or other waterway. In the event sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to abatement.

5. Noise control. Animal keeping shall comply with the Municipal Code Chapter 9.44.

E. Animal husbandry project exception. The keeping or raising of a calf, horse, goat, sheep, hog, chickens, rabbits, birds or other animals (excluding roosters) as a 4-H or Future Farmers of America (FFA) project shall comply with the following requirements.

1. Minimum site area. A minimum of one acre of site area shall be required for the keeping of horses, cows, or other large animals.

2. Setback requirements. The project animals shall be confined in a pen or fenced area that is located no closer than 25 feet to any dwelling other than on the project site; except that a hog or swine shall not be located closer than 100 feet from any dwelling other than on the project site.

3. Maximum number of animals. The number of animals shall comply with the limitations in Subsection C.

4. Maintenance. The animal keeping shall comply with all standards in Subsection D.

F. Kennels and animal boarding. Each kennel and other small animal boarding facility shall comply with the following standards.

1. Minimum site area. An animal boarding facility may be approved only on a parcel of 2 acres or larger.

2. Enclosure within building. All animal boarding (sleeping and night-time confinement) shall occur within an entirely enclosed building.

3. Noise control. The building used for animal boarding shall be insulated, or otherwise constructed and maintained so that no noise from animals within the building is audible to an average person at the property line of the site.

4. Management. A manager of the facility shall be present on the site at all times.

18.42.050 - Bed and Breakfast Inns (B&Bs)
This Section establishes standards for the development and operation of Bed and Breakfast Inns (B&B), where allowed by Article 2 (Zoning Districts and Allowable Land Uses). The intent of these provisions is to ensure the compatibility between the B&B and nearby residential uses.

~~**A. Limitation on number within the RL zoning district.** No bed and breakfast inn shall be allowed within the RL zoning district, except those which existed in the RL zone as of December 2, 2002. These existing B&Bs may be expanded as allowed by Use Permit approval.~~

~~**B. Exterior appearance.** The exterior appearance of an existing structure housing an existing B&B in the RL zoning district shall not be altered from its residential character except for allowed signs, and any structural modifications necessary to comply with California Code of Regulations Title 24. An addition to an existing B&B in the RL zoning district shall require Design Review in compliance with Section 18.71.050, to ensure that the structure is designed consistent with the residential character of the surrounding neighborhood.~~

A~~C~~. Limitation on services provided. Service shall be limited to the rental of bedrooms or suites; and meal/beverage service shall be provided for registered guests only. Separate/additional kitchens for guests are not allowed. Additional services and special events may be allowed only as specifically provided by the Use Permit approval for the facility, where the review authority determines that the type and frequency of the approved services and events will not adversely affect the residential character of the neighborhood, or allow for a use more intensive than typically associated with a B&B within the City.

B~~D~~. Off-street parking. Off-street parking shall be provided at a ratio of one space for each guest room, plus two spaces for the on-site owner/manager of the B&B. Parking shall not be located in the required front and side setbacks; and any night lighting for the parking area shall be limited to the minimum number of fixtures and illumination levels necessary for safety, and shall comply with Section 18.30.070 (Outdoor Lighting).

C~~E~~. Signs. See Chapter 18.38.

Comment [MJ4]: These requirements are not necessary as B&Bs are not allowed in residential districts. The one legal non-conforming B&B will have to comply with that section of the code.

18.42.060 - Child Day Care Facilities

Comment [MJ5]: This section was updated in 2014. No additional edits are required.

A. Applicability. Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) child day care facilities shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by the California Department of Social Services (DSS). DSS Licensing is required for all facilities.

B. Definitions. Definitions of the child day care facilities regulated by this Section are in Article 10 (Glossary) under "Day Care."

C. Standards for large family day care homes. As required by State law, a Minor Use Permit for a large family day care home shall be approved if it complies with the following standards.

1. Location requirements. In order to avoid the concentration of intensive, non-residential land uses in residential neighborhoods, maintain residential character, and compatibility with adjacent residential uses, no large family day care home shall be located within 200 feet of an existing large family day care home, or child day care center. In no case shall a residential property be directly abutted by a large family day care center on two or more sides.

2. Parking, drop-off area.

a. At least two off-street parking spaces shall be provided exclusively for dropping off and picking up children. The driveway may be used to provide the off-street parking required by Section 18.36.040 (Number of Parking Spaces Required) for a single-family dwelling, if the parking will not obstruct any required drop-off and pick up areas nor block any sidewalks or other public access. Alternative parking and drop-off arrangements may be required by the review authority based on traffic and pedestrian safety considerations.

b. A home located on a street with a speed limit of 30 miles per hour or greater shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g., circular driveway).

3. Outdoor activity areas.

a. Any side or rear setback areas intended for day care use shall be enclosed with a fence or wall to separate the children from neighboring properties.

b. Outdoor recreation equipment over eight feet in height shall not be located within a required side setback, and shall be set back a minimum of five feet from a rear property line.

4. Noise. Noise generated from the large family day care home shall not exceed the standards in Municipal Code Chapter 9.44.

5. Additional standards. Each large family day care home shall comply with applicable building and fire codes, and standards adopted by the State and Social Services Department licensing requirements (California Code of Regulations, Title 22, Division 2).

D. Standards for child day care centers.

1. Fencing. Design Review shall be required for any proposed fencing.

2. Parking and loading.

a. Off-street parking shall be provided as required through the Minor Use Permit process, but shall be a minimum of one space per employee on the largest shift, plus one space for each 10 children authorized by the State license. An exception to these off-street parking requirements may be granted if the facility complies with the following criteria:

i) The exception shall be granted only for uses in an existing building, and shall not be granted for any expansion of gross floor area or new construction;

ii) Off-street parking shall be provided on the site in the maximum amount feasible;

iii) The exception shall only be granted in a situation where the City Engineer has determined that the exception will not result in potentially unsafe conditions for vehicles or pedestrians;

iv) Each Minor Use Permit that grants an off-street parking exception shall be reviewed annually, and if it is found that the use of on-street parking spaces by the facility is creating a nuisance, the City may initiate proceedings to revoke the Minor Use Permit.

b. Picking up and dropping off of children shall not create unsafe conditions. Loading and unloading of children from vehicles shall only be allowed in the driveway or in an approved parking area.

3. Noise. Potential noise sources shall be identified during the Minor Use Permit process, and noise attenuation and sound dampening shall be addressed.

18.42.070 - Drive-Through Facilities

This Section establishes standards for the development and operation of drive-through facilities for very limited types of retail or service activities (e.g., ATMs, banks, or pharmacies) where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. General standards.

1. Design objectives. Drive-through facilities shall only be permitted if the design and operation avoids congestion, excessive pavement, litter, and noise.

2. Limitation on location. A drive-through facility shall only be located to the rear of a building. A drive-through facility shall be located within the CBD zone only if the review authority determines that the facility is ancillary to a use that is primarily pedestrian oriented.

B. On-site circulation standards. A drive-through facility shall be provided internal circulation and traffic control as follows.

1. Aisle design.

a. The entrance/exit of any drive aisle shall be a minimum of 50 feet from an intersection of public rights-of-way (measured at the closest intersecting curbs) and at least 25 feet from the edge of any driveway on an adjoining parcel.

b. Drive aisles shall be designed with a minimum 10-foot interior radius at curves and a minimum 10-foot width.

2. Stacking area. A clearly identified area shall be provided for vehicles waiting for drive-up or drive-through service that is physically separated from other on-site traffic circulation.

a. The stacking area shall accommodate a minimum of three cars for each drive-up or drive-through window in addition to the vehicle receiving service.

b. The stacking area shall be located at and before the service window (e.g., pharmacy, teller, etc.).

c. Separation of the stacking area from other traffic shall be by concrete curbing or paint striping on at least one side of the lane.

d. Stacking areas adjacent and parallel to streets or public rights-of-way shall be prohibited.

3. Walkways. An on-site pedestrian walkway shall not intersect a drive-through aisle.

4. Exceptions. The review authority may approve alternatives to the requirements of Subsections B.1 through B.3 where it first finds that the alternate design will, given the characteristics of the site, be equally effective in ensuring on- and off-site pedestrian and vehicular traffic safety and minimizing traffic congestion.

C. Signs. Each entrance to, and exit from, a drive-through aisle shall be clearly marked to show the direction of traffic flow by signs and pavement markings or raised curbs. Signage shall also be provided to indicate whether the drive-through facility is open or closed.

18.42.080 - Home Occupations

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). For home occupations located in single-family residences within Commercial zoning districts, the Director may waive or modify the standards below to allow: 1) uses that are permitted by right within the commercial zoning district as a home occupation; and 2) home occupation operating standards 18.42.080 C & D.

Comment [MJ6]: As single family homes located in commercial districts are likely to be located adjacent to existing commercial businesses, the strict adherence to this regulation seem unwarranted.

A. Business License required. A home occupation shall require a City Business License.

B. Limitations on use. The following are examples of business activities that may be approved as home occupations, and uses that are prohibited as home occupations.

1. Uses allowed as home occupations. The following and other uses determined by the Director to be similar may be approved by the Director in compliance with this Section.

a. Art and craft work (ceramics, painting, photography, sculpture, etc.);

b. Tailors, sewing, etc.; and

c. Office-only uses, including an office for an architect, attorney, consultant, counselor, insurance agent, planner, tutor, writer, etc., and electronic commerce.

2. Uses prohibited as home occupations. The following are examples of business activities that are not incidental to or compatible with residential activities, and are, therefore, prohibited as home occupations:

a. Adult entertainment activities/businesses;

b. Animal hospitals and boarding facilities;

c. Automotive and other vehicle repair and service (body or mechanical), painting, storage, or upholstery, or the repair, reconditioning, servicing, or manufacture of any internal combustion or diesel engines, or of any motor vehicle, including automobiles, boats, motorcycles, or trucks;

d. Contractor's and other storage yards;

e. Dismantling, junk, or scrap yards;

f. Fitness/health facilities (except that one-on-one personal trainers may be allowed);

g. Medical clinics, laboratories, or doctor's offices;

h. Personal services as defined in Article 10 (Glossary), except that licensed massage therapy and physical therapy may be allowed as home occupations in compliance with this Section;

i. On-site sales, except that mail order businesses may be allowed where there is no stock-in-trade on the site;

j. Uses which require explosives or highly combustible or toxic materials;

k. Welding and machine shop operations;

l. Wood cutting businesses; or

m. Other uses the Director determines to be similar to those listed above.

C. Operating standards. Home occupations shall comply with all of the following operating standards.

1. Accessory use. The home occupation shall be clearly secondary to the full-time use of the property as a residence.

2. Location of home occupation activities.

a. RR zoning district. Allowed home occupation activities may be conducted within an approved accessory structure in the RR zoning district, provided that two covered parking spaces are continually maintained.

b. Other zones. All home occupation activities shall be confined completely to one room within the primary dwelling, which shall not occupy more than 25 percent of the gross floor area of the ground floor. Garages or other enclosed accessory structures may be used for home occupation purposes only if required off-street parking spaces are continually maintained. Horticulture activities may be conducted outdoors, but only within the rear one-third of the site.

3. Visibility. The use shall not require any exterior modification to the structure not customarily found in a dwelling, nor shall the home occupation activity be visible from a public right-of-way, or from neighboring residential properties.

4. Signs. There shall be no advertising signs, other than one name plate, not exceeding one square foot in area, and only if attached flush to a wall of the structure.

5. Safety. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of explosive, flammable, or hazardous materials beyond those normally associated with a residential use.

6. Off-site effects. No home occupation activity shall create dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the Director.

7. Outdoor display or storage. There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.

8. Employees. A home occupation shall have no on-site employees other than full-time residents of the dwelling.

9. Client/customer visits. The home occupation shall be operated so as to not require more than eight vehicle trips per day of clients, customers, visitors, and/or service visits to the residence. On-site presence of clients or customers shall be limited to one client or family at a time, and only between the hours of 9:00 a.m. and 8:00 p.m.

10. Motor vehicles. There shall be no motor vehicles used or kept on the premises, except residents' passenger vehicles, and/or one pickup truck, van, or similar vehicle not exceeding 1.5 ton carrying capacity. The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises in a manner different from normal residential usage, except for FedEx, UPS, or USPS-type home deliveries/pick-ups. The Commission may authorize other types and/or additional vehicles with Use Permit approval.

11. Utility service modifications. No utility service to the dwelling shall be modified solely to accommodate a home occupation, other than as required for normal residential use.

D. Home working operations. Small-scale commercial wood and metal working may be authorized by Minor Use Permit as a home occupation, provided that the review authority may require conditions of approval limiting hours of operation, noise levels, and/or any other aspect of the operation, to ensure compatibility with on-site and adjacent residential uses.

18.42.090 - Live/Work Units

Comment [MJ7]: This section was updated in 2014.

A. Purpose. This Section provides standards for the development of new live/work units and for the reuse of existing commercial and industrial structures to accommodate live/work opportunities where allowed by Article 2 (Zoning Districts and Allowable Land Uses). A live/work unit shall function predominantly as work space with incidental residential accommodations that meet basic habitability requirements. The standards of this Section do not apply to mixed use projects, which are instead subject to Section 18.42.100 (Mixed Use Projects).

B. Application requirements. In addition to the information and materials required for a Use Permit application by this Development Code, the review authority may require a Use Permit application for a live/work unit to include a Phase I Environmental Assessment for the site, including an expanded site investigation to determine whether lead based paint and asbestos hazards are present in an existing structure proposed for conversion to live/work. The purpose of this requirement is to assess whether there are any hazardous or toxic materials on the site that could pose a health risk to the residents. If the Phase I assessment shows potential health risks, a Phase 2 Environmental Assessment shall be prepared and submitted to the Department in order to determine if remediation may be required.

C. Limitations on use. The nonresidential component of a live/work project shall only be a use allowed within the applicable zoning district. A live/work unit shall not be established or used in conjunction with any of the following activities:

1. Adult businesses;

2. Vehicle maintenance or repair (e.g., body or mechanical work, including boats and recreational vehicles), vehicle detailing and painting, upholstery, etc.);

3. 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 live/work unit residents, because of the potential of exposure to dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes within the residential (living) portion of the live/work unit.

D. Residential density. Live/work units shall not exceed a maximum density of 15 units per acre.

E. Occupancy requirement. The residential space within a live/work unit shall be occupied by at least one individual employed in the business conducted within the live/work unit.

F. Design standards.

1. Floor area requirements. No more than 40 percent of the floor area shall be reserved for living space as defined under "Live/Work Unit" in Article 10 (Glossary). All remaining floor area shall be reserved and regularly used for working space.

2. Separation and access. Each live/work unit shall be separated from other live/work units or other uses in the structure. Access to each live/work unit shall be provided from a public street, or 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 structure.

3. Facilities for commercial or industrial activities, location. A live/work unit shall be designed to accommodate commercial or industrial uses as evidenced by the provision of flooring, interior storage, ventilation, and other physical improvements of the type commonly found in exclusively commercial or industrial facilities used for the same work activity.

4. Integration of living and working space. The living and work space of the Live/work unit shall be combined within one integrated structure. The living space of a live/work unit shall be accessed only by means

of an interior connection from the work space, and shall have no exterior access except as required by the Building Code.

5. Mixed occupancy structures. If a structure contains mixed occupancies of live/work units and other nonresidential uses, occupancies other than live/work shall meet all applicable requirements for those uses, and proper occupancy separations shall be provided between the live/work units and other occupancies, as determined by the Building Official.

G. Operating requirements.

1. Sale or rental of portions of unit. No portion of a live/work unit may be separately rented or sold as a commercial or industrial space for any person not living in the premises or as a residential space for any person not working in the same unit.

2. Notice to occupants. The owner or developer of any structure containing live/work units shall provide written notice to all live/work occupants and users that the surrounding area may be subject to levels of dust, fumes, noise, or other effects associated with commercial and industrial uses at higher levels than would be expected in more typical residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the applicable zoning district.

~~3~~. On-premises sales. On-premises sales of goods is limited to those produced within the live/work unit, provided the retail sales activity shall be incidental to the primary production work within the unit. These provisions shall allow occasional open studio programs and gallery shows.

4. Nonresident employees. Up to two persons who do not reside in the live/work unit may work in the unit, unless this employment is prohibited or limited by the Use Permit. The employment of three or more persons who do not reside in the live/work unit may be allowed, subject to Use Permit approval, based on an additional finding that the employment will not adversely affect parking and traffic conditions in the immediate vicinity of the unit. The employment of any persons who do not reside in the live/work unit shall comply with all applicable Uniform Building Code (UBC) requirements.

5. Client and customer visits. Client and customer visits to live/work units are allowed subject to any applicable conditions of the Use Permit to ensure compatibility with adjacent commercial or industrial uses, or adjacent residentially-zoned areas.

H. Changes in use. After approval, a live/work unit shall not be converted to either entirely residential use or entirely business use unless authorized through Use Permit approval. No live/work unit shall be changed to exclusively residential use in any structure where residential use is not allowed, where two or more residential units already exist, or where the conversion would produce more than two attached residential units.

I. Required findings. The approval of a Use Permit for a live/work unit shall require that the review authority first make all of the following findings, in addition to those findings required for Use Permit approval by Section 18.71.060 (Use Permit and Minor Use Permit):

1. The proposed use of each live/work unit is a bona fide commercial or industrial activity consistent with Subsection C. (Limitations on use);

2. The establishment of live/work units will not conflict with nor inhibit commercial or industrial uses in the area where the project is proposed;

3. The structure containing live/work units and each live/work unit within the structure has been designed to ensure that they will function predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations; and

4. Any changes proposed to the exterior appearance of the structure will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses.

18.42.095 - Medical Marijuana Dispensaries
Medical Marijuana Dispensaries, as defined in Section 18.100.020, shall be allowed per the requirements of Fort Bragg Municipal Code Chapter 9.30. (Ord. 851 §3, 2005.)

18.42.100 - Mixed Use Projects

Comment [MJ8]: This section was updated in 2014.

This Section provides standards for the design of mixed use projects, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). A mixed use project combines residential and nonresidential uses on the same site, with the residential units typically located above the nonresidential uses (vertical mixed use). Residential units may be also allowed at ground level behind street-fronting nonresidential uses (horizontal mixed use) only under the limited circumstances specified by this Section.

A. Design considerations. A mixed use project shall be designed to achieve the following objectives.

1. The design shall provide for internal compatibility between the residential and non-residential uses on the site.

2. Potential glare, noise, odors, traffic, and other potential nuisance conditions for residents shall be minimized to allow a compatible mix of residential and nonresidential uses on the same site.

3. The design shall take into consideration existing and potential future uses on adjacent properties and shall include specific design features to minimize potential impacts.

4. The design shall ensure that the residential units are of a residential character, and that appropriate privacy between residential units and other uses on the site is provided.

5. Site planning and building design shall provide for convenient pedestrian access from the public street into the nonresidential portions of the project, through such means as courtyards, plazas, walkways, and street furniture.

6. Site planning and building design shall be compatible with and enhance the adjacent and surrounding residential neighborhood in terms of building design, color, exterior materials, landscaping, lighting, roof styles, scale, and signage.

B. Mix of uses. A mixed use project may combine residential uses with any other use allowed in the applicable zoning district where allowed by Article 2 (Zoning Districts and Allowable Land Uses); provided, that where a mixed use project is proposed with a use that is required to have Minor Use Permit or Use Permit approval in the applicable zoning district, the entire mixed use project shall be subject to that permit requirement.

C. Maximum density. The residential component of a mixed use project shall comply with the density requirements of the applicable General Plan designation and zoning district.

D. Site layout and project design standards. Each proposed mixed use project shall comply with the property development standards of the applicable zoning district and the following requirements.

1. Location of units. Residential units shall not occupy ground floor street frontage on the primary street frontage. Residential units are allowed on the first floor of alleys and secondary street frontages. The ground floor street frontage space within a mixed use building shall be reserved for commercial uses, except for a lobby or other feature providing access to the residential units.

2. Parking. In order to encourage the development of residential uses in existing and new commercial areas, the use of shared parking provisions shall be incorporated into mixed use projects in compliance with Section 18.36.080 (Reduction of Parking Requirements).

3. Loading areas. Commercial loading areas shall be located away from residential units and shall be screened from view from the residential portion of the project to the maximum extent feasible.

4. Refuse and recycling areas. Areas for the collection and storage of refuse and recyclable materials shall be located on the site in locations that are convenient for both the residential and nonresidential uses.

E. Performance standards.

1. Lighting. Lighting for commercial uses shall be appropriately shielded to limit impacts on the residential units.

2. Noise. Each residential unit shall be designed and constructed to minimize nonresidential project noise levels, in compliance with the City's Noise Ordinance. Night-time commercial uses shall minimize noise levels, in compliance with the City's Noise Ordinance.

18.42.110 - Mobile/Manufactured Homes and Mobile Home Parks

This Section provides requirements and development standards for the use of mobile homes and manufactured homes as single-family dwellings outside of mobile home parks, and for mobile home parks, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Mobile home outside of a mobile home park.

1. Site requirements. The site, and the placement of the mobile home on the site, shall comply with all zoning, subdivision, and development standards applicable to a conventional single-family dwelling on the same parcel.

2. Mobile home design and construction standards. A mobile home outside of a mobile home park shall comply with the following design and construction standards.

a. The exterior siding, trim, and roof shall be of the same materials and treatment found in conventionally built residential structures in the surrounding area, and shall appear the same as the exterior materials on any garage or other accessory structure on the same site.

b. The roof shall have eave and gable overhangs of not less than 12 inches measured from the vertical side of the mobile home, and the roof pitch shall be no less than 3:12.

c. The mobile home shall be placed on a foundation system, subject to the approval of the Building Official.

d. The mobile home is certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC Section 4401 et seq.), and has been constructed after January 1, 1989.

B. Mobile home park standards. The site for the mobile home park shall comply with the following requirements.

1. Planning and design objectives. The City intends that each mobile home park be designed and landscaped to be compatible with adjacent residential and other uses. These standards are intended to provide a means of achieving an environment of stable, desirable character not out of harmony with the surrounding area.

2. Permit requirements. A mobile home park shall require Design Review in compliance with Section 18.71.050, in addition to the Use Permit approval required by Section 18.21.030 (Residential Zoning District Allowable Land Uses and Permit Requirements).

3. Allowable uses. Use Permit approval for a mobile home park may authorize the following uses in addition to individual mobile homes.

a. Accessory uses, limited to awnings, portable, demountable or permanent carports, fences or windbreakers, garages, porches, and storage cabinets.

b. A golf course, lake, park, playground, riding and hiking trails, equestrian facilities, other similar recreational structures and facilities, clubhouses, community centers, laundries, and similar uses; provided that all of these are not allowed on the individual mobile home lots within the mobile home park.

c. Public utility and public service uses and structures.

4. Standards. This Section identifies standards for mobile home park development, recognizing the dual need for moderately priced housing, and standards that will adequately protect residents of the parks and the City as a whole.

a. Phased development. Development may be in phases, so long as each phase complies with the minimum standards of this Section, and no mobile home is occupied in any phase until at least 10 mobile home lots are developed and improved on a minimum of two acres, and authorized by a permit for occupancy in compliance with Health and Safety Code Section 18505.

b. Density. The Commission shall determine the allowable density for each mobile home park, based on the following criteria:

i) The provision of the space necessary for compliance with this Section;

ii) Individual mobile home lots shall be a minimum of 2,400 square feet; and

iii) In no case shall the density of a mobile home park exceed the maximum density of the General Plan and zoning district designation for the subject site.

c. Building lines. Each structure and mobile home shall have a minimum setback of 15 feet from all exterior property lines; and a minimum setback of 20 feet from the right-of-way of any street adjoining the mobile home park. The resulting setback area shall be landscaped and continually maintained, in compliance with Chapter 18.34 (Landscaping Standards).

d. Parking. Parking shall be provided in compliance with Chapter 18.36 (Parking and Loading).

e. Utilities. All utility distribution facilities (including cable television, communication and electric lines and boxes) within a mobile home park shall be placed underground. The developer is responsible for complying with the requirements of this Subparagraph, and shall make the necessary arrangements with the utility companies for the installation of the required facilities.

f. Tenant storage. A minimum of one 75 cubic foot storage cabinet shall be provided on each mobile home site. Adequate solid waste and recyclable materials storage enclosures shall be provided in compliance with Section 18.30.110.

g. Accessory uses. Accessory uses are those that are incidental to the planned residential use, exist for the sole purpose of service to the residents, are customarily found in multi-family developments, and do not alter the character of the residential use.

i) Any structure used for an accessory use shall meet all requirements for a primary structure.

ii) Allowable accessory uses include a management facility, laundry facility, swimming facilities, recreation room, recreational vehicle storage areas, vending machines, and other uses that, in the opinion of the Commission, are of a similar nature.

iii) A mobile home park may contain accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with Section 18.42.020 (Accessory Retail and Service Uses).

h. Travel trailers. An occupied travel trailer, camper, motor coach, motor home, trailer coach, or any similar vehicle not certified under the National Mobile Home Construction Safety Standards Act of 1974 (42 USC Section 4401 et seq.) shall not be allowed within a mobile home park. Unoccupied trailers and other recreational vehicles may be stored in an approved on-site storage area where authorized by Use Permit.

i. Fencing. A solid masonry wall, fence, or other decorative landscape screening of the maximum height allowed by this Development Code shall be installed as required by the review authority as part of the Use Permit approval for the mobile home park.

j. Landscaping. Landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).

k. Signs. A mobile home park may be allowed one externally illuminated identification sign not exceeding six feet in height or 24 square feet in area. The sign shall be integrated into the mobile home park landscaping, at a location specified in the Use Permit approval.

l. Skirting. Skirting shall be provided along all sides of each mobile home.

m. Internal streets. Internal street design shall comply with City street standards except where superseded by a standard required by State law.

18.42.120 - Multi-Family Projects

Comment [MJ9]: This section was updated in 2014.

New or remodeled multi-family projects shall comply with the standards of this Section, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). For the purposes of this Section, the term "remodeled" means the reconstruction or remodeling of at least 50 percent of the gross floor area of the original structure.

A. Accessory structures. Accessory structures and uses (e.g., bicycle storage, garages, laundry rooms, recreation facilities, etc.) shall be designed and constructed with an architectural style, exterior colors and materials similar to the structures in the project containing dwelling units.

B. Building facades adjacent to streets. A multi-family project of three or more dwelling units shall be designed so that at least 75 percent of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall have at least one pedestrian entry into the structure.

C. Front setback pavement. No more than 40 percent of the front setback area shall be paved for walkways, driveways, and/or other hardcover pavement.

D. Parking location. Off-street parking for a multi-family structure of three or more units shall be located so that it is not visible from the street fronting the parcel. ~~A garage providing parking for a duplex may be located in compliance with the following standards, in addition to the requirements of Chapter 18.36 (Parking and Loading).~~

Comment [SP10]: Duplexes removed from definition of multifamily.

1. Front setback. A garage shall be set back from the front property line at least 10 feet further than the facade of the dwelling, to reduce visual impact from the street.

2. Side setback. When a maintenance easement is granted by the owner of the adjacent parcel to the approval of the Director, a garage may be built to the side property line on that side, but shall be located at least eight feet from the other side property line. Otherwise, a garage shall be set back a minimum of five feet from each side property line.

3. Rear setback. A garage shall be set back a minimum of five feet from a rear property line.

4. Facade width, parking orientation. The front facade of a garage shall not exceed a width of 25 feet. Tandem parking is allowed.

E. Open space. Each multi-family residential project~~, except a duplex,~~ shall include permanently maintained outdoor open space for each dwelling unit (private space), and for all residents (common space), except where the review authority determines that existing public park or other usable public open space is within convenient walking distance, or that the residential units are part of a mixed use project and/or located in a commercial zoning district.

1. Area required. Private and common open space shall be provided as required by Table 4-3.

TABLE 4-3 - MULTI-FAMILY PROJECT OPEN SPACE REQUIREMENTS

Project Size	Minimum Common Open Space Required	Minimum Private Open Space Required

Project Size	Minimum Common Open Space Required	Minimum Private Open Space Required
3 or 4 units	200 sf	100 sf for each unit
5 to 10 units	500 sf	150 sf for each unit with patios
11 and more units	100 sf per unit	100 sf for each unit with balconies

2. Configuration of open space. Required open space areas shall be designed and located as follows. Landscaping shall comply with the requirements of Chapter 18.34 (Landscaping Standards).

a. Common open space. All required open space shall be: easily accessible; continuous, usable site elements; separated from parking areas; safe and secure. Each common open space area shall have a minimum dimension of 12 feet for three and four unit projects, and 20 feet for projects with five or more units.

b. Private open space. Private open space shall be at the same elevation as, and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of eight feet; except that the review authority may authorize different minimum dimensions for upper-floor balconies where the private open space is provided as a balcony or upper floor court.

The review authority may allow required open space to be in different locations and/or with different dimensions where it determines that the alternative approach will provide open space of equivalent utility and aesthetic quality.

3. Maintenance and control of common open space. Required common open space shall be controlled and permanently maintained by the Home Owners Association (HOA). Provisions for control and maintenance shall be included in property covenants of all common interest developments.

F. Outdoor lighting. Outdoor lighting shall be installed and maintained along all vehicular access ways and major walkways, in compliance with 18.30.070 (Outdoor Lighting). The lighting shall be directed onto the driveways and walkways within the development and away from adjacent properties. Lighting of at least one foot candle shall also be installed and maintained within all covered and enclosed parking areas and shall be screened to minimize glare onto public sidewalks. Lighting fixtures/lamps shall be the most energy efficient available. All proposed lighting shall be shown on the required landscape plan.

G. Storage. A minimum of 100 cubic feet of lockable storage area shall be provided for each dwelling outside of the unit, with no dimension less than 30 inches.

H. Universal Design. For projects of more than ten units, one unit shall be designed according to the principles of universal design to ensure handicapped accessibility of the unit.

I. Television antennas. Exterior television antennas, other than satellite dishes less than 39 inches in diameter, are not allowed, except for a single common, central antenna, with underground cable service to each dwelling unit. This restriction shall be included in any property covenants of a common interest development.

J. Window orientation. Where one or more windows are proposed 10 feet or less from a side lot line, or 10 feet from another residential structure on the same site, Design Review shall ensure, to the extent feasible, that the windows are located and/or screened to provide privacy for residents of both structures.

18.42.130 - Outdoor Displays and Sales

A. Applicability. The provisions of this Section apply to temporary and permanent facilities for outdoor display, sales (e.g., garden supply sales, news and flower stands, and similar uses where merchandise is displayed for sale), and outdoor eating areas, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

B. Temporary outdoor displays and sales. See Section 18.71.030 (Limited Term Permit).

C. Permanent outdoor displays and sales. The permanent outdoor display and sale of merchandise is allowed subject to the following standards.

1. The outdoor display of merchandise shall not exceed a height of six feet above finished grade, unless a greater height is allowed through Minor Use Permit approval.

2. Outdoor display and sales areas shall not encroach into required setback areas or the public right-of-way. In zoning districts where no setback area is required, the outdoor sales area shall be set back a minimum of 10 feet from adjoining property lines unless otherwise allowed through Minor Use Permit approval.

3. Displayed merchandise shall occupy a fixed, specifically approved, location that does not disrupt the normal function of the site or its circulation, and does not encroach upon driveways, landscaped areas, required parking spaces, or pedestrian walkways. A display shall not obstruct intersection visibility or otherwise create hazards for pedestrian or vehicle traffic.

4. The outdoor display and sales area shall be directly related to a business occupying a permanent structure on the subject parcel.

5. The Director may require that outdoor sales and activity areas other than vehicle sales lots, produce stands, and nursery product sales be screened from the view of adjoining public rights-of-way by decorative walls, fences, or landscaping.

6. Additional signs shall not be provided for the outdoor display and sales area beyond those normally allowed for the primary use.

D. News and flower stands. See the City's Mobile Vending Unit regulations in the Municipal Code.

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~~**1. Location requirements.** A news or flower stand shall:~~

~~a. Be located parallel and adjacent to the wall of a structure. A freestanding news or flower stand is allowed only as a roofed kiosk;~~

~~b. In the case of a privately owned stand, not be located within the public right-of-way, within three feet of a display window of any structure abutting the sidewalk, or so as to interfere with or restrict the reasonable use of the window for display purposes.~~

~~**2. Design and construction requirements.**~~

~~a. A stand shall be soundly constructed of wood, metal, or other suitable permanent material, and designed in a manner and color to be compatible with the adjacent structures whether the stand is opened or closed. Security doors shall be designed as an integral part of the structure.~~

~~b. Shelving shall not exceed eight feet in height nor two feet in depth.~~

~~**3. Maintenance.** Each news or flower stand shall be maintained in a clean and neat condition and in good repair, at all times.~~

~~**4. Signs.**~~

~~a. The stands shall not be used for advertising or publicity purposes. Signs shall be for identification only, with size and design in compliance with Chapter 18.38 (Signs).~~

~~b. The owners or operators of the outdoor news or flower stand shall display, in a place readily visible to the public, a telephone number and address where the owners may be reached.~~

~~**5. Additional product sales.** In addition to the sale of newspapers, magazines, and other periodicals, for newsstands, and flowers and plants, for flower stands, the owners or operators may sell other related accessory products, not to exceed 10 percent of the total merchandise displayed.~~

Comment [MJ11]: This section has been replaced by the new Mobile Vending Unit regulations of the Muni Code.

E. Outdoor dining areas.

1. An outdoor dining area may be allowed accessory and incidental to a restaurant with indoor eating area on the same site; provided the outdoor eating area shall also comply with the parking requirements of Section 18.36.040 (Number of Parking Spaces Required) for restaurants.

2. Signs shall comply with Chapter 18.38.

18.42.140 - Outdoor Storage
An outdoor storage or work area shall comply with the following requirements, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Enclosure and screening required. Outdoor storage areas shall be entirely enclosed by a solid wall or fence as approved by the review authority with a minimum height of six feet and a maximum height of eight feet.

B. Maximum height of stored materials. The materials within the storage area shall not be higher than the fence, except where authorized by the Use Permit for the storage area.

C. Landscaped setback. In any case where an outdoor storage area abuts a street right-of-way, the required screening wall or fence shall be set back from the right-of-way as required by the applicable zoning district, and the set back area shall be landscaped to the approval of the Director, and in compliance with Chapter 18.34 (Landscaping Standards).

18.42.145 - Pipelines and Transmission Lines
Pipelines and transmission lines shall comply with the following requirements, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Local service facilities. Lines and facilities for local utility service are permitted in all zones.

B. Electric transmission lines. The location of proposed electric transmission lines shall be reviewed by the Commission and approved by the Council prior to right-of-way acquisition.

18.42.150 - Recycling Facilities
This Section establishes standards and procedures for the siting and operation of ~~various types and sizes of~~ commercial recycling facilities, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

~~**A. Reverse vending machines.** Reverse vending machines shall comply with the following standards.~~

~~**1. Accessory use only.** Each machine shall be installed only as an accessory use to an allowed primary use.~~

~~**2. Location requirements.** If located outside of a structure, a machine shall not occupy parking spaces required by the primary use.~~

~~**3. Signs.** Sign area shall not exceed four square feet for each machine, exclusive of operating instructions. The sign area shall be subject to the overall site sign area limitations in Section 18.38.070 (Zoning District Sign Standards).~~

~~**4. Lighting.** Each machine shall be illuminated to ensure comfortable and safe operation if the machine is accessible between dusk and dawn. The light source shall be shielded so that glare and reflections are confined within the boundaries of the site.~~

Comment [MJ12]: Removed from use tables

B. Small collection facilities. A small collection facility shall comply with the following standards.

1. Location requirements. A small collection facility shall:

a. Not be located within 50 feet of any parcel zoned or occupied for residential use; and

b. Be set back at least 10 feet from any public right-of-way, and not obstruct pedestrian or vehicular circulation.

2. Maximum size. A small collection facility shall not occupy more than 350 square feet. ~~nor three parking spaces, not including space that would be periodically needed for the removal of materials or exchange of containers~~.

3. Appearance of facility. Collection containers and site fencing shall be of a color and design that is compatible and harmonious with the surrounding uses and neighborhoods.

4. Operating standards for small collection facilities. Small collection facilities shall:

a. Not use power-driven processing equipment, except for reverse vending machines;

b. Accept only glass, metal, or plastic containers, paper, and reusable items;

c. Use containers that are constructed with durable waterproof materials, secured from unauthorized removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule; and

d. Be screened where determined by the review authority to be necessary because of excessive visibility.

5. Signs. Non-illuminated signs may be provided as follows:

a. Identification signs are allowed with a maximum area of 15 percent for each side of the structure or 12 square feet, whichever is greater. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container;

b. Additional directional signs, consistent with Chapter 18.38 (Signs), may be approved by the Director if found necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.

6. Parking requirements.

a. No additional parking space shall be required for customers of a small collection facility located in the established parking lot of the primary use. One additional space shall be provided for the attendant, if needed.

b. Use of parking spaces by the patrons and the attendant shall not reduce available parking spaces below the minimum number required for the primary use unless a parking study, determined to be acceptable by the Director, shows that existing capacity is not fully utilized during the time the recycling facility would be on the site.

C. Large collection facilities. A collection facility that is larger than 350 square feet, or on a separate parcel not accessory to a primary use, shall comply with the following standards.

1. Location requirements. The facility shall not abut a parcel zoned for residential use.

2. Container location. Any containers provided for "after hours" donation of recyclable materials shall be permanently located at least 100 feet from any residential zoning district, constructed of sturdy materials, have sufficient capacity to accommodate materials collected, and be secured from unauthorized entry or removal of materials.

3. Screening. The facility shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.

4. Setbacks, landscaping. Structure setbacks and landscaping shall be provided as required for the applicable zoning district.

5. Outdoor storage. Exterior storage of material shall be in sturdy containers that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls.

6. Operating standards.

a. The site shall be maintained clean, sanitary, and free of litter and any other trash or rubbish, shall be cleaned of loose debris on a daily basis, and shall be maintained free from rodents and other disease vectors.

b. Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

D. Processing facilities. Processing facilities shall comply with the following standards.

1. Location requirements. The facility shall not abut a parcel zoned or occupied for residential use.

2. Limitation on activities. Allowed activities are limited to baling, briquetting, compacting, crushing, grinding, shredding, and sorting of source-separated recyclable materials and repairing of reusable materials. The facility shall not bale, compact, or shred ferrous metals, other than beverage and food containers. Outbound truck shipments from the site shall not exceed an average of two each day.

3. Maximum size. The facility shall not exceed 45,000 square feet of floor or ground area.

4. Container location. Containers provided for "after hours" donation of recyclable materials shall be permanently located at least 100 feet from any residential zoning district, constructed of sturdy, rustproof materials, have sufficient capacity to accommodate materials collected, and be secured from unauthorized entry or removal of the materials.

5. Screening. The facility shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.

6. Outdoor storage. Exterior storage of material shall be in sturdy containers or enclosures that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls.

7. Operating standards. Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

18.42.160 - Residential Accessory Uses and Structures

Comment [MJ13]: This section was updated in 2014.

This Section provides standards for residential accessory uses and structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). These requirements do not apply to residential second units, which are instead regulated by Section 18.42.170 (Second Units).

A. Limitation on number. Only one residential accessory structure shall be allowed on any parcel in addition to a detached garage, except in the RR and RS zoning districts, and except where a site is two times or more the minimum lot area required for a new parcel in the applicable zoning district.

B. Relationship to primary use. An accessory use and/or structure shall be incidental to the primary residential use of the site, and shall not alter the character of the primary use.

C. Timing of installation. A residential accessory structure shall only be constructed concurrent with or after the construction of the primary structure on the same site, unless:

1. The site is within the RR zoning district, is one acre or larger, and the proposed structure is a garage; or

2. Construction in advance of a primary structure is authorized through Minor Use Permit approval.

D. Attached structures. An accessory structure attached to the primary structure shall comply with all zoning district requirements applicable to the primary structure, including height limits, site coverage, and setbacks; and shall also comply with any applicable requirements of Subsection F.

E. Detached structures. An accessory structure that is detached from the primary structure shall comply with the following standards, except where Subsection F. establishes a different requirement for a specific type of accessory structure.

1. Setbacks.

a. Front setback. An accessory structure shall not be located within a required front setback.

b. Side and rear setbacks. An accessory structure not exceeding 10 feet in height shall maintain side and rear setbacks of at least five feet. An accessory structure with a height greater than 10 feet shall comply with the setback requirements of the applicable zoning district.

c. Separation between structures. An accessory structure shall maintain at least a five-foot separation from other accessory structures and the primary dwelling unit.

d. Double-frontage lot. An accessory structure shall not occupy the front half of a parcel, or either front quarter of a double-frontage lot.

e. Garage accessible from an alley. Where an accessory garage is accessible to vehicles from an alley, it shall be located not less than 25 feet from the opposite side of the alley.

2. Height limit. The height of an accessory structure other than a detached garage shall not exceed 12 feet, except where a greater height is authorized through Minor Use Permit approval. The height limit of a detached garage including any accessory uses, structures, and additions built into or on the detached garage shall not exceed 16 feet, except where a greater height is authorized through Minor Use Permit approval.

3. Coverage and size limitations. Where permitted, the aggregate coverage of accessory structures in required side and rear setbacks shall not exceed 500 square feet. The maximum site coverage for all structures on a parcel shall comply with the requirements of the applicable zoning district.

F. Standards for specific accessory uses and structures. The following requirements apply to the specific types of accessory structures listed, in addition to the requirements of Subsection A., as applicable.

1. Antennas. Antennas shall comply with the requirements of Chapter 18.44 (Telecommunications Facilities).

2. Garages. A garage for a single-family dwelling shall comply with the following requirements. A garage for a multi-family project shall comply with the requirements of Section 18.42.120 (Multi-Family Projects). This limitation does not apply to double lots.

a. Limitation on number. A single parcel shall have only one attached or detached garage, except that this limitation shall not apply in the RR and RS zoning districts, or to a site that is two times or more the minimum lot area required for a new parcel in the applicable zoning district

b. Front setback. Garages shall comply with the garage front setback requirements of the applicable zoning district.

c. Side setbacks. When a maintenance easement is granted by the owner of the adjacent parcel to the approval of the Director, a detached or attached garage may be built to the side property line on that side.~~, but shall be located at least eight feet from the other side property line.~~ Otherwise, a garage shall be set back a minimum of five feet from side property lines.

d. Rear setback. A garage shall be set back a minimum of five feet from the rear property line, except that a garage may be built to the lot line with Minor Use Permit approval.

e. Facade width, parking orientation. The facade of any garage facing a street shall not exceed a width of 25 feet.

3. Greenhouses. An accessory greenhouse may occupy up to 400 square feet for each dwelling unit in the RL and RM zoning districts; and 1,000 square feet or five percent of the parcel area, whichever is smaller, in the RR or RS zoning districts. Accessory greenhouses are not allowed in the RH or RVH zones.

4. Guest houses. Guest houses shall comply with the requirements for second units in Section 18.42.170.

5. Patio covers. A patio cover that is attached to or detached from the primary dwelling, and open on at least three sides, may be located within the required rear setback subject to the following:

a. The five-foot separation from the primary dwelling unit required by Subparagraph E.1.c (Separation between structures), above does not apply;

b. The structure shall comply with the coverage and size limitations of Subparagraph E.3. (Coverage and size limitations), above; and

c. No part of the patio cover shall be closer than 10 feet to a property line.

6. Swimming pools. Non-commercial swimming pools are an allowed accessory use in any zoning district subject to the following requirements:

a. Setbacks. No swimming pool shall be located within a required front or side setback, or within 10 feet of any property line; and

b. Fence or wall. No swimming pool shall be located within three feet of a fence or wall.

7. Tennis and other recreational courts. Non-commercial outdoor tennis courts and courts for other sports, including basketball and racquetball, accessory to a residential use shall comply with the following requirements:

a. Setbacks. No court shall be located within a required setback, or within 10 feet of a property line; and

b. Fencing. Court fencing shall comply with Section 18.30.050 (Fences, Walls, and Screening); and

c. Lighting. Court lighting shall require Minor Use Permit approval, and shall not exceed a maximum height of 20 feet, measured from the court surface. The lighting shall be directed downward, shall only illuminate the court, and shall not illuminate adjacent property, in compliance with Section 18.30.070 (Outdoor Lighting).

8. Workshops, studios, and storage areas. An accessory structure intended as a workshop or studio for artwork, crafts, light hand manufacturing, hobbies and/or storage, is subject to the following standards:

a. Limitation on use. The use of an accessory structure as a studio shall be limited to: non-commercial hobbies or amusements, or comply with Section 18.42.080 (Home Occupations); and

b. Floor area. A workshop studio and/or storage area footprint shall not occupy an area larger than 35 percent of the building footprint of the primary structure.

18.42.165 - Restaurants

The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment.

Comment [MJ14]: This section was updated in 2014

A. Operating standards. Restaurants shall comply with the following operating standards.

1. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City's Food Service Establishment Wastewater Discharge Permit and the City's Municipal Code section regarding Fats, Oil and Grease Control.

2. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

18.42.170 - Second Units – Accessory Dwelling Unit (ADU)

This Section establishes standards for residential second units also known as an Accessory Dwelling Unit (ADU), where allowed by Article 2 (Zoning Districts and Allowable Land Uses). The standards set forth in this Section are intended to be consistent with Government Code Section 65852.2 and~~,~~ and to the extent that any such standards are determined by the review authority or a court of competent jurisdiction to be inconsistent with Government Code Section 65852.2, such standards shall not apply to residential second units. An application for a second unit that complies with the standards of this Section shall be approved ministerially. "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

A. Limitation on location. A ~~second unit~~ADU is ~~not~~ allowed~~-~~ on any parcel that is zoned for residential development and has one primary residence. An ADU shall be exempted from the calculation of the maximum allowable density for the lot on which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designation for the lot. ~~on a parcel where access to the parking required for the second unit is from the same street as the access to the parking for the primary dwelling, and the curb-to-curb width of the street is less than 36 feet. Access from an alley may be approved only if the alley has adequate drainage facilities, and has adequate width and, in the case of a dead-end alley, adequate turnaround area for emergency vehicles~~.

B. Limitation on number of units. No more than one ~~second unit~~ADU shall be approved on a single parcel.

C. Minimum site area. A parcel proposed for an ADU ~~second unit shall be a minimum of 6,000 square feet.~~must be of adequate size to meet the lot coverage requirements of the applicable zoning district after development of the second unit.

D. Relationship to primary use.

1. Size, style. An ~~second unit~~accessory dwelling unit ~~shall~~ may be incidental and subordinate to the primary single-family residential use of the site in terms of size and location ~~and shall not alter the character of the primary structure~~. It can be: 1) a remodeled portion of a primary dwelling unit; 2) attached to a primary dwelling unit; 3) one of the units of a duplex; or 30 a detached unit. An accessory dwelling unit may also be an efficiency unit (Section 17958.1 of Health and Safety Code) or a manufactured home (Section 18007 of the Health and Safety Code).

2. Timing of construction. An accessory dwelling unit ~~second unit~~ may be constructed simultaneously with, or after the primary dwelling. In addition, an existing dwelling that complies with the ~~design~~ standards for second units in Subsection E. may be considered a second unit, and a new primary unit may be constructed which would then be considered the primary dwelling unit.

E. Second unit standards. A second unit shall comply with the following standards.

1. Height limit. A detached accessory dwelling unit ~~second unit~~ shall be limited to 18 feet and one story. A second unit located over a garage may be allowed with a maximum height of 25 feet with Minor Use Permit approval. An attached accessory dwelling unit shall comply with the height limit in the zoning district.

Comment [MJ15]: All of the changes made to this section are to bring it into compliance with new state law.

Comment [MJ16]: As duplexes and second units within primary structures must now be allowed, this edit will make second units that are part of primary structures feasible as some may be on the second floor.

2. Setbacks. An accessory dwelling unit ~~second unit~~ shall comply with the setback requirements of the applicable zoning district, unless the second unit is located in a nonconforming structure as defined by Section 18.90.020. No second unit may be permitted above a garage unless the unit complies with the setback standards of the applicable zoning district.

3. Maximum floor area.

a. The floor area of an accessory dwelling unit ~~second unit~~ shall not exceed 960 square feet.

~~b. For purposes of computing the floor area of a second unit that is detached from the primary unit, all enclosed areas accessed from within the second unit shall be included.~~

~~c. An on-site enclosed storage area, or garage of up to 400 square feet, shall not be included when calculating the floor area of the second unit, provided that no internal doorway or passage connects the storage or garage and the second unit.~~

Comment [MJ17]: Verbiage not needed

4. Separate entrance required. An attached accessory dwelling unit ~~second unit~~ shall have an entrance separate from the entrance to the primary dwelling.

5. Window placement. An accessory dwelling unit ~~second unit~~ that is placed 20 feet or less from a residential unit on the same parcel or an adjacent parcel shall not have windows that directly face windows in the other unit. An accessory dwelling unit ~~second unit~~ that is two stories or located over a garage shall not have windows or balconies that directly face a neighboring yard. This limitation applies only to side yards, not to windows facing alleys.

~~**6. Site coverage.** The maximum site coverage by structures and impervious surfaces shall not exceed 50 percent of the net site area or the maximum coverage allowed by the applicable zoning district, whichever is less.~~

Comment [SP18]: Covered in Article 2 – lot coverage maximums.

F. Off-street parking requirements. At least one off-street paved parking space shall be provided for an accessory dwelling unit~~second unit or carriage house~~ in addition to the parking required for the primary dwelling by Chapter 18.36 (Parking and Loading). The parking space shall comply with the location and design requirements of Chapter 18.36, however tandem parking on an existing driveway is allowed. Additionally, the off-street parking space shall not be required for the ADU in any of the following instances:

1. The accessory dwelling unit is located within one-half mile of public transit;

2. The accessory dwelling unit is located within an architecturally and historically significant historic district;

3. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure;

4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit;

5. When there is a car share vehicle located within one block of the accessory dwelling unit; and/or

6. ~~-~~ If the primary dwelling was legally constructed at a time when off-street parking was not required (before November 22, 1982), off-street parking shall only be required for the accessory dwelling unit~~second unit~~. If feasible, driveway access to required off-street parking shall not eliminate on-street parking spaces. If required driveway access for one off-street space eliminates one on-street parking space; the off-street space shall not be required.

Comment [MJ19]: This is fairly cumbersome. Council might want to consider eliminating the requirement for off-street parking entirely as it seems unfair to include all of these State required exceptions, and then require off street parking in the rare case where one of these exceptions does not apply.

G. Utilities & Fees

1. For an accessory dwelling unit that is constructed entirely within the footprint of an existing primary unit, no new or separate utility connection is required directly between the accessory dwelling unit and the

utility. Additionally, such accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

2. For any other accessory dwelling unit, a new or separate utility connection may be required directly between the accessory dwelling unit and the utility per the Director of Public Works. The connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system.

3. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

18.42.180 - Service Stations

This Section establishes standards for the development and operation of motor vehicle service stations (not including card lock facilities), where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Permit and application requirements. A service station shall require Design Review in compliance with Section 18.71.050, in addition to the planning permit required by Article 2. Each application for a new or remodeled service station shall include a photometric plan identifying all proposed light sources and their illumination levels, to assist in evaluating compliance with the outdoor lighting requirements of Subsection D.5 and Section 18.30.070 (Outdoor Lighting). The City may require an applicant to pay the cost for a lighting consultant engaged by the City to evaluate photometric plans and recommend alternatives to proposed lighting.

B. Limitations on location.

1. Prohibited locations. A service station site shall not abut a residential zoning district or residential use.

2. Separation between stations. A service station shall not be closer than 500 feet to another service station except when both are at the same street intersection. The distance shall be measured in a straight line from the nearest property line of the sites for each service station. No more than two service stations shall be located at the same street intersection.

C. Site requirements. A site proposed for a new service station shall:

1. Bbe located on an arterial street (Main Street and Highway 20) on a site with a minimum of 150 feet of frontage; and.

2. Have a minimum area of 15,000 square feet and a minimum depth of 100 feet.

The Commission may grant an exception to this requirement for a service station within a retail complex site if the Commission determines that the exception improves traffic circulation or reduces traffic. Approval of the exception shall also require that the Commission ensure that the service station is effectively integrated into the architecture and design of the overall retail complex.

D. Site planning standards. The layout of a service station site and its site features shall comply with the following standards.

1. Site access and driveways.

a. Curb cuts for service station driveways shall be separated by a minimum of 30 feet from edge-to-edge.

b. A driveway shall not be located closer than 50 feet to the end of a curb corner nor closer than 25 feet to an interior property line.

c. The width of a driveway shall not exceed 25 feet, measured at the sidewalk.

d. Each pump island shall be provided a stacking area that can accommodate a minimum of three waiting vehicles.

2. Setback requirements.

a. Pump islands shall be located a minimum of 15 feet from any property line to the nearest edge of the pump island.

b. A canopy or roof structure over a pump island shall be a minimum of 10 feet from any property line.

3. Pavement. A service station site shall be paved with a permanent surface of concrete or asphalt material and shall contain drainage facilities in compliance with all Federal, State, and local laws, rules, and regulations. Any unpaved portion of the site shall be landscaped and separated from the paved area by curbs or other barrier approved as part of the Design Review for the site.

4. Landscaping. Landscaping, consisting of trees, ground cover, shrubs, vines, and/or other plant materials approved by the review authority shall be installed, permanently maintained and, if necessary, replaced, in compliance with the following standards, and the requirements of Chapter 18.34 (Landscaping Standards).

a. A minimum of 15 percent of the entire site shall be landscaped.

b. Boundary landscaping is required along all property lines abutting streets, except for driveways.

c. Landscaped areas shall have a minimum width of eight feet, and shall be separated from abutting vehicular areas by a wall or curbing at least six inches higher than the abutting pavement.

d. A corner site shall be provided a planter area of at least 200 square feet at the street corner, except where a building is located at the corner.

e. Additional landscaping may be required by the Commission to screen the service station from adjacent properties.

f. All landscaping on the site shall be placed and maintained to provide safe sight distances for pedestrians and drivers.

5. Lighting. Exterior lights, including canopy, perimeter, and flood shall be stationary, and shielded or recessed within the roof canopy to ensure that all light is directed away from adjacent properties and public rights-of-way. Lighting shall not be of a high intensity so as to cause a traffic hazard, be used as an advertising element, or adversely affect adjacent properties, in compliance with Section 18.30.070 (Outdoor Lighting). Lighting fixtures/lamps shall be the most energy efficient available, including fluorescent, compact fluorescent, low pressure sodium, high pressure sodium, or other lighting technology that is of equal or greater energy efficiency.

6. Signs and banners. Signs, banners, and promotional flags shall comply with Chapter 18.38 (Signs).

7. Solid waste and recyclables storage. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable Federal, State, and local requirements. Outdoor solid waste and recyclable storage areas shall be screened by a solid masonry wall with a height of six feet, or as approved by the review authority. The wall design, materials, and colors shall be compatible with the primary structures on the site, as determined by the review authority.

E. Building design standards. Each new service station shall comply with the following standards.

1. Architectural character. Subject to the requirements of Design Review, service station architecture shall fit with the existing or intended character of the surrounding area as determined by the review authority.

2. Bay orientation. Service bay openings shall not face a public street.

3. Restrooms. Each service station shall maintain one or more restrooms available for use by the general public without charge. Restroom entrances shall be screened from the view of the public right-of-way.

F. Facility operating standards.

1. Restriction on outdoor activities. Outdoor activities on a service station site shall be limited to fueling, replenishing air, water, oil and similar fluids, and the replacement of minor parts (e.g., lamp bulbs, wiper blades, and other similar items) requiring only the use of small hand tools while a vehicle is being serviced at the pump island. Where minor auto repair is permitted by Article 2, all repair activities shall occur entirely within an enclosed structure.

2. Display. There shall be no outdoor display of equipment or merchandise, except as allowed in compliance with Subsection G.1 (Outdoor storage).

3. Vehicle parking. Vehicles shall not be parked on sidewalks, parkways, driveways, or alleys, and shall not be parked on the premises for the purpose of sale.

G. Appurtenant uses. The following appurtenant uses are prohibited unless specifically allowed as part of Use Permit approval.

1. Outdoor storage. One or more outdoor storage and display cabinets or enclosures other than the primary structure may be approved by the review authority, provided that their combined total area shall not exceed 50 square feet. The construction and finish of storage and display cabinets shall be compatible with the primary structures on the site, as determined by the review authority. Outdoor storage and display cabinets may be used only for the display and sale of brake fluid, gasoline additives, oil, transmission fluid, windshield wipers and fluid, and other similar merchandise. The outdoor storage of tires shall be prohibited. No outdoor vending machines are allowed.

2. Tow truck operations. Where tow truck operations are approved as part of a service station by the review authority, no abandoned, disabled, junked, wrecked, or otherwise non-operational motor vehicles shall remain on site for more than five days, and shall be stored entirely within an enclosed structure.

3. Convenience sales - Parking. Where allowed, the sale of beer and wine, other drinks, food, and/or other merchandise shall be provided off-street parking in compliance with Chapter 18.36 (Parking and Loading).

4. Prohibited uses. The following uses are prohibited.

a. The rental, sale, or storage of garden supplies, tools, trailers, travel trailers, vehicles, and other similar materials and merchandise, except the short term storage of vehicles allowed in compliance with Subsection G. 2. (Tow truck operations), above.

~~b. Incidental uses such as pinball or video game machines, pool tables, or laundry facilities.~~

H. Removal of tanks upon cessation or change of use. If, for any reason, a service station ceases to sell gasoline for more than 115 out of 120 days, all gasoline pumps and signs shall be removed from the site and all gasoline storage tanks shall be removed or treated in compliance with Federal and State regulations, subject to the approval of the Fire Department.

18.42.190 - Vacation Home Rentals

Comment [MJ20]: New standards for vacation rentals per City Council direction.

A. Purpose. This section provides requirements and standards for the operation of Vacation Home Rentals. These standards are intended to ensure that Vacation Home Rentals are compatible with and do not adversely impact residential or commercial uses.

B. Applicability. The provisions of this section shall apply to all Vacation Home Rentals. This section does not apply to legally established Hotel/Motel or Bed and Breakfast uses, which are regulated separately.

C. Application Requirements. In addition to the information and materials required for a Minor Use Permit application by this Development Code, the review authority may require additional information to ensure compliance with this section.

D. Limitations on use.

1. Location.

a. Where permitted by Chapter 18.20, Vacation Home Rentals shall be located on second or third floors above a commercial use.

b. A Vacation Home Rental shall only be permitted within a legal dwelling unit, as defined in 18.100.020(D).

2. Operating Standards.

a. The quantity of ~~permits available for~~ Vacation Home Rentals permits shall be determined by Council resolution. Permits application shall be reviewed and approved on a first-come first-served basis. The City shall maintain a waiting list for new permits, once all authorized permits are awarded.

b. Each ~~individual~~ Vacation Home Rental unit shall require a separate permit. The maximum quantity of permits (units) ~~available~~ per property shall be determined by Council resolution.

c. The maximum occupancy permitted for a Vacation Home Rental shall be limited to two persons per bedroom, plus one person (not including children under age 12). The maximum occupancy shall be stated as an approval condition of a permit authorizing a Vacation Home Rental use.

d. The maximum ~~quantity~~ number of vehicles permitted for guests of a Vacation Home Rental shall ~~be limited~~equal ~~to~~ the number of bedrooms in the unit~~, unless additional vehicles are permitted by the review authority for a specific Vacation Home Rental~~. The maximum ~~quantity~~number of vehicles shall be stated as a~~n approval~~ condition of ~~a permit authorizing a~~ the Vacation Home Rental ~~use~~permit.

e. All advertisement listings for Vacation Home Rentals shall ~~state~~include the following:

i) City of Fort Bragg business license number and Minor Use Permit number;

ii) Maximum permitted occupancy, as stated on the approved permit; and

iii) Maximum vehicles permitted, as stated on the approved permit.

f. Vacation Home Rentals shall have a property manager who is available 24 hours per day, 7 days per week during all times that the property is rented or used on a transient basis. Operation of a Vacation Home Rental without a property manager shall be considered a violation of this Section. The name and contact information of the property manager shall be provided to any interested party upon request.

g. A permit authorizing a Vacation Home Rental shall be revoked under any of the following conditions:

i) The City ~~receives any combination of~~ processes three or more ~~substantiated~~ code enforcement cases ~~for a~~against the property ~~as a result of Vacation Home Rental use~~ within a two year period;

ii) The Vacation Home Rental is found to be ~~operating in any way~~ non-compliant with ~~this~~ any portion of the zoning ordinance ~~Development Code~~ or the terms of the permit approving the use;

iii) Failure to maintain a business license for the use; ~~or~~

iv) Abandonment of the use for a period of 12 months or more (~~as~~ demonstrated by a lack of payment of Transient Occupancy Taxes); or

v) Any instance of Transient Occupancy Tax fraud or Transient Occupancy Tax delinquency of more than three months.

h. A permit for a Vacation Home Rental use shall transfer with the sale of the property, provided the new owner ~~continuance of~~complies with all permit ~~approval~~ conditions and ~~compliance with~~ the provisions of this ~~Development Code~~zoning ordinance.

Comment [MJ21]: Consider new grounds for termination of the Use Permit as underreporting of TOT and non-payment of TOT are both problems with vacation rentals

Chapter 18.44

TELECOMMUNICATIONS FACILITIES

Comment [MJ22]: This section was updated in 2014

Sections:

18.44.010 Purpose
18.44.020 Definitions
18.44.030 Applicability
18.44.040 Permit Requirements
18.44.050 Limitations on Location
18.44.060 Facility Design and Development Standards
18.44.070 Operation and Maintenance Standards
18.44.080 Discontinuance and Site Restoration

18.44.010 - Purpose
This Chapter establishes development standards consistent with Federal law to: regulate the placement and design of communication facilities so as to preserve the unique visual character of the City, promote the aesthetic appearance of the City, and to ensure public safety and welfare; pursue additional benefits from the facilities to the public by encouraging the leasing of publicly owned properties where feasible for the development of communication facilities; and to provide the community with full coverage (no service gaps) by the cell phone and telecommunication providers that require cell tower facilities within the City.

18.44.020 - Definitions
The technical terms and phrases used in this Chapter are defined in Article 10 (Glossary) under "Telecommunications Facility."

18.44.030 - Applicability
The location, permit requirements, and other provisions of this Chapter shall apply to all communications facilities within the City, except the following, which are exempt from this Chapter. All communication facilities shall also comply with all applicable requirements of State and Federal law.

A. Replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature that does not increase the number or height of antennas or significantly change or enlarge the ancillary related equipment at the site.

B. An antenna that is one meter (39.37 inches) or less in diameter or diagonal measurement, that is designed:

1. To receive direct broadcast satellite service, including direct-to-home satellite service, as defined by Section 207 of the Telecommunications Act of 1996 Code of Federal Regulations Title 47, and any interpretive decisions thereof issued by the Federal Communications Commission; or

2. For subscribing to a multipoint distribution service.

C. A satellite earth station (SES) antenna of two meters (78.74 inches) or less in diameter or diagonal measurement, located in a commercial or industrial zoning district, that is designed to transmit or receive radio communications by satellite or terrestrial communications antenna. These antennas may require a Building Permit and approval of the placement by the Director to ensure maximum safety is maintained. In order to avoid tripping hazards and the creation of an attractive nuisance, these antennas shall be placed whenever possible, on the top of buildings as far from the edge of rooftops as possible.

18.44.040 - Permit Requirements
A. Use Permit or Minor Use Permit. Use Permit approval is required for all communication facilities subject to this Chapter, except for the following, which shall require Minor Use Permit approval. The Director shall ensure through the Minor Use Permit approval that each of the following facilities complies with all applicable requirements of this Chapter. The Director may also choose to defer action and refer any of the following facilities to the Commission for consideration as a Use Permit application.

1. An antenna that is installed, placed, and maintained under the roofline of an existing structure, or above, behind, and below an existing approved roof screen and does not extend above the highest point of the structure, or is camouflaged within an existing structure so as not to be visible from a public right-of-way or other property.

2. A communication facility in which the antenna is mounted on a mast less than 10 feet high, is not located on a historic structure, and is not visible from a public right-of-way.

3. An amateur and/or citizens band antenna operated by a person holding a license issued by the FCC in compliance with 47 C.F.R. Part 97, and used solely in connection with that license, and which shall be subject to the "minimum practicable regulation to accomplish the local authority's legitimate purpose," in keeping with the order of the FCC known as "PRB-1," FCC 85-506, released September 19, 1985; provided that there shall be no more than one antenna support structure on a single parcel and that the antenna structure complies with the height limits of the applicable zoning district.

B. Application requirements. In addition to the information required for Use Permit or Minor Use Permit application by Chapter 18.70 (Permit Application Filing and Processing) the application for a communication facility shall include:

1. An analysis of the proposed facility in combination with existing adjacent facilities that illustrates that the facility complies with State and Federal health requirements and standards pertaining to electromagnetic and/or radio frequency radiation; and

2. A report, as required by the Police Department, to evaluate the potential for interference (e.g., HF, UHF, VHF, 800 mHz). The applicant shall be responsible for paying any costs incurred by the City, including the costs of retaining consultants, to review and analyze the report.

C. Master Use Permit. A service provider who intends to establish multiple wireless Telecommunications Facilities within the City is encouraged to apply for the approval of all facilities under a Master Use Permit. Under this approach, all proposed facilities may be acted upon by the City as a single application, ensuring feasibility of long range company projections.

D. Communications consultant may be required. In the event that the City needs assistance in understanding the technical aspects of a particular proposal, the services of a communications consultant may be requested to determine the engineering or screening requirements of establishing a specific wireless communications facility. This service will be provided at the applicant's expense.

E. Required findings for approval. The approval of a Use Permit or Minor Use Permit for a communication facility shall require that the review authority first make the following findings, in addition to those required for Use Permit approval by Section 18.71.060 (Use Permit and Minor Use Permit):

1. The communication facility complies with all applicable requirements of this Chapter; and

2. The communication facility will not adversely impact the character and aesthetics of any public right-of-way.

18.44.050 - Limitations on Location

A. Zoning district priorities. A communication facility that requires a Use Permit shall be approved or located only within the PF (Public Facility) zoning district; except that the review authority may approve a facility within a commercial or industrial district if it first determines that the applicant has demonstrated that all PF zoning district options are infeasible, and/or there is no site within a PF district where the communication facility would provide adequate coverage.

B. Co-location required. A new communication facility shall be co-located with existing facilities and with other planned new facilities whenever feasible, and whenever determined by the review authority to be aesthetically desirable. A service provider shall co-locate a new communication facility with non-communications facilities (e.g.,

light standards, water tanks, and other utility structures) where the review authority determines that this co-location will minimize the overall visual impact.

1. A service provider shall exhaust all reasonable measures to co-locate their communications facilities on existing towers or with or within existing ancillary support equipment facilities before applying for a new communication facility site.

2. Each service provider shall provide the City with evidence that they have contacted all other potential providers who have, or who are reasonably likely to be installing facilities within the vicinity of the proposed facility and have offered to participate in a joint installation project on reasonable terms.

3. In order to facilitate co-location, Use Permit conditions of approval for a new facility shall require each service provider to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where determined by the review authority to be feasible and aesthetically desirable.

C. City-owned property. A communication facility shall not adversely affect the public health, peace, safety or welfare. In order to best benefit the citizens of Fort Bragg from this necessary community impact, the Commission shall always consider City-owned sites as the highest priority for the location of communication facilities.

18.44.060 - Facility Design and Development Standards
Each proposed communication facility shall comply with the following standards; except that any standard may be modified or waived by the review authority upon a determination that effective signal reception and transmission will not occur if the facility complies with these standards.

A. Facility placement.

1. Standards for all facilities.

a. A roof-mounted antenna on a structure that complies with applicable height limits shall be set back from the nearest roof edge the equivalent of the height of the tower or a minimum of 10 feet, whichever is greater.

b. A ground-mounted communication facility (including towers and antennas) shall be located as far as possible from all property boundaries, and set back from the property line at a ratio of 1.5 horizontal feet for every one foot of height, where feasible.

c. A tower or antenna shall be set back from any site boundary or public right-of-way by a minimum of 25 feet. No part of any tower shall extend into a required front setback or beyond a property line of the site.

d. Communication facilities other than towers and antennas shall be located either within a structure, underground, in a rear yard (not visible from a public right-of-way) or on a screened roof top area. A ground-mounted facility that is located within a front or side setback or within a public right-of-way shall be underground so that the facility will not detract from the image or appearance of the City.

2. Facilities within commercial and industrial districts. Within an industrial zoning district, a minimum distance of 500 feet shall be provided between towers, and there shall be no more than two towers on a single Assessor's parcel or developed site, unless the towers are located on a public facility as described in A.1, above.

B. Height limitations.

1. All ground mounted communication equipment, antennas, poles, or towers shall be of a minimum functional height.

2. The height of a tower located on the ground shall not exceed 60 feet in the PF zoning district and 40 feet in a commercial or industrial zoning district. The review authority may grant an exception to allow towers of up

to 80 feet where the review authority determines that the increased height is necessary for adequate coverage, and the tower will co-locate service providers.

3. The height of a communications facility located on a structure other than a dedicated support tower shall not exceed 20 feet above the highest point of the structure and shall at no time exceed the height allowed by the subject zoning district.

4. An antenna mounted on the side of a structure shall not extend above the structure's parapet so that it is visible from below against the sky.

C. Colors and materials. All antennas, poles, towers, or equipment, including ancillary support equipment, shall have a non-reflective finish and shall be painted or otherwise treated to match or blend with the primary background and minimize visual impacts. Antennas attached to a structure shall be painted or otherwise treated to match the exterior of the structure or the antenna's background color. All ground-mounted equipment shall be covered with a clear anti-graffiti type material of a type approved by the Director or shall be adequately secured to prevent graffiti.

D. Screening, landscaping. All ground mounted equipment, antennas, poles, or towers shall be sited to be screened by existing development, topography, or vegetation. Ground mounted facilities shall be located within structures, underground, or in areas where substantial screening by existing structures or vegetation can be achieved. Additional new vegetation or other screening may be required by the Director or by the Commission. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

E. Additional screening and landscaping. As part of project review, the Director, the Commission, or the Council (on appeal) may require additional screening and/or landscaping, undergrounding, an alternative color scheme, or relocation of a tower or ancillary equipment to a less obtrusive area of the site where it would have a less prominent visual presence due to slope, topography, size, or relationship to public rights-of-way.

F. Power lines. All power lines to and within a communication facility site shall be underground.

G. Backup power supplies. A backup power supply (i.e., generator) shall be enclosed within a structure and operated in compliance with Section 18.44.060.D (Screening). In any zoning district, ancillary power supplies and fuel storage tanks to support backup power supplies shall require Use Permit approval.

18.44.070 - Operation and Maintenance Standards

A. Contact and site information. The owner or operator of any facility shall submit and maintain current at all times basic contact and site information. The applicant shall notify the City of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include the following:

1. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;

2. Name, address, and telephone number of a local contact person for emergencies;

3. Type of service provided; and

4. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites.

B. Facility maintenance. All communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed by the service provider from any facility or equipment as soon as practicable, and in no instances more than 48 hours from the time of notification by the City.

C. Landscaping maintenance. All trees, foliage, and other landscaping elements on a communication facility site, whether or not used as screening, shall be maintained in good condition at all times in compliance with the approved landscape plan. The facility owner or operator shall be responsible for replacing any damaged, dead, or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall require approval by the Director. The Commission may also require a landscape maintenance agreement.

D. Noise. Each communication facility shall be operated so as to minimize the generation of noise that is audible from off the site. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line.

E. Site inspection required. Each owner or operator of a facility shall routinely and regularly inspect each site to ensure compliance with the standards identified in this Chapter.

F. Exterior lighting. Any exterior lighting shall be manually operated and used only during night maintenance or emergencies, unless otherwise required by applicable Federal law or FCC rules. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Light fixtures shall be low wattage, hooded, and downward directed.

18.44.080 - Discontinuance and Site Restoration

All equipment associated with a communication facility shall be removed within 30 days of the discontinuance of the use and the site shall be restored to its original pre-construction condition, subject to the approval of the Director. The service provider shall provide the City with a notice of intent to vacate a site a minimum of 30 days before site vacation. This removal requirement, and appropriate bonding requirements, shall be included in the terms of a lease for a facility on public property. A private lease for a facility located on private property is encouraged to include terms for equipment removal, since the property owner shall be ultimately responsible for removal of the equipment.

Article 7

Planning Permit Procedures

Chapter 18.70 PERMIT APPLICATION FILING AND PROCESSING
18.70.010 Purpose
18.70.020 Authority for Land Use and Zoning Decisions
18.70.030 Multiple Permit Applications
18.70.040 Application Preparation and Filing
18.70.050 Application Fees
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Chapter 18.71 PERMIT REVIEW AND DECISIONS
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Chapter 18.72 ENVIRONMENTAL IMPACT ASSESSMENT AND MITIGATION MONITORING
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Chapter 18.74 CULTURAL RESOURCE PROTECTION
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18.74.030 Historic Landmark Designation
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18.74.070 Certificate of Appropriateness - Disaster Damage
18.74.080 Adaptive Reuse and Other Rehabilitation Incentives
18.74.090 Duty to Maintain and Repair
18.74.100 Unsafe or Dangerous Condition

Comment [MJ1]: This is the only section of this chapter with recommended changes.

Chapter 18.76 PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS
18.76.010 Purpose of Chapter
18.76.020 Effective Date of Permits
18.76.040 Applications Deemed Approved
18.76.050 Permits to Run with the Land
18.76.060 Performance Guarantees
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18.76.080 Changes to an Approved Project
18.76.090 Resubmittal
18.76.100 Covenants of Easements

Chapter 18.78 SPECIFIC PLANS
18.78.010 Purpose of Chapter
18.78.020 Applicability
18.78.030 Minimum Site Area
18.78.040 Initiation
18.78.050 Preparation and Content
18.78.060 Processing and Review
18.78.070 Adoption of Specific Plan
18.78.080 Implementation and Amendments

Chapter 18.70

PERMIT APPLICATION FILING AND PROCESSING

Comment [MJ2]: No changes proposed to this section. Please skip ahead to page 7.

Sections:

18.70.010 Purpose
18.70.020 Authority for Land Use and Zoning Decisions
18.70.030 Multiple Permit Applications
18.70.040 Application Preparation and Filing
18.70.050 Application Fees
18.70.060 Developer Indemnification
18.70.070 Initial Application Review
18.70.080 Project Evaluation and Staff Reports

18.70.010 - Purpose
This Chapter provides procedures and requirements for the preparation, filing, and initial processing of the planning permit applications required by this Development Code.

18.70.020 - Authority for Land Use and Zoning Decisions
Table 7-1 (Review Authority) identifies the Review Authority responsible for reviewing and making decisions on each type of application required by this Development Code.

18.70.030 - Multiple Permit Applications
A. Concurrent filing. An applicant for a development project that requires the filing of more than one application (e.g., Tentative Map, Use Permit, etc.), shall file all related applications concurrently, together with all application fees required by Section 18.70.050 (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 disapproved by the highest Review Authority designated by this Development Code for any of the applications (e.g., a project for which applications for Zoning Map amendment and a Use Permit are filed shall have both applications decided by the Council, instead of the Commission acting upon the Use Permit as otherwise provided by Table 7-1).

TABLE 7-1 - REVIEW AUTHORITY

Type of Action	Applicable Code Section	Role of Review Authority (1)		
		Director	Planning Commission	City Council
Administrative and Legislative				
Cultural Heritage-Related Actions	18.74	Recommend	Recommend	Decision
Development Code Amendment	18.94	Recommend	Recommend	Decision
General Plan Amendment	18.94	Recommend	Recommend	Decision
Interpretation	18.12	Decision (2)	Appeal	Appeal
Specific Plans and Amendment	18.78	Recommend	Recommend	Decision
Zoning Map Amendment	18.94	Recommend	Recommend	Decision
Planning Permits				

Type of Action	Applicable Code Section	Role of Review Authority (1)		
		Director	Planning Commission	City Council
Planning permits for which an EIR or EIS has been prepared (3)	18.71.050, 18.71.090, 18.71.060	Recommend	Recommend	Decision
Administrative Variance	18.71.070	Decision (2)	Appeal	Appeal
Certificate of Appropriateness (COA)	18.74.050	Decision (2)	Decision	Appeal
Design Review	18.71.050	Decision (2)	Decision	Appeal
Limited Term Permit	18.71.030	Decision (2)	Appeal	Appeal
Minor Use Permit (MUP)	18.71.060	Decision (2)	Appeal	Appeal
Planned Development Permit	18.71.090	Recommend	Decision	Appeal
Sign Permit	18.38	Decision (2)	Appeal	Appeal
Use Permit (UP)	18.71.060	Recommend	Decision	Appeal
Variance	18.71.070	Recommend	Decision	Appeal
Zoning Clearance	18.71.020	Decision (2)	Appeal	Appeal

Notes:

(1) "Recommend" means that the Review Authority makes a recommendation to a higher decision-making body; "Decision" means that the Review Authority makes the final decision on the matter; "Appeal" means that the Review Authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 18.92 (Appeals).

(2) The Director may defer action and refer the request to the Commission, so that the Commission may instead make the decision.

(3) The City Council will be the Review Authority (decision) for any planning permit that requires CEQA or NEPA review at the level of an EIR or EIS.

18.70.040 - Application Preparation and Filing

A. Pre-application conference. A prospective applicant is encouraged to request a pre-application conference with the Director before completing and filing a planning permit application. The purpose of this conference is to generally:

1. Provide the opportunity for an applicant to explain the project proposal to City staff who may review a subsequent application; and

2. Inform the applicant of City requirements as they apply to the proposed project based on information provided by the applicant;

3. Discuss the City's review process, possible project alternatives or modifications;

4. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project;

5. Indicate to the applicant the extent to which the project appears to comply with applicable City regulations, as the project is understood by staff.

Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or disapproval of the application or project by any City staff. Any failure by City staff to identify all required studies or all applicable requirements shall not constitute a waiver of those requirements.

B. Application contents. Each application for a permit, amendment, or other matter pertaining to this Development Code shall be filed with the Director on a City application form, together with required fees and/or deposits, and all other information and materials required by the City's list of required application contents, as identified in the Department handout for the specific type of application. Applicants are encouraged to contact the Director before submitting an application to verify which materials are necessary for application filing.

C. Eligibility for filing. An application may only be filed by the owner of the subject property, or other person 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.

D. Rejection of application. If the Director determines that an application cannot lawfully be approved by the City (e.g., a request for a Zoning Map amendment or Tentative Map could not be granted in the absence of a concurrent General Plan amendment application; or a Use Permit application proposes a use that is not allowable in the subject zoning district, etc.), the Director shall not accept the application for processing.

18.70.050 - Application Fees

A. Fee schedule. The Council shall establish a schedule of fees for the processing of the applications required by this Development Code, hereafter referred to as the City's Fee Schedule. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. Timing of payment. No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit or other requested entitlement, notwithstanding any other provisions of this Development Code.

C. Refunds and withdrawals. Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

18.70.060 - Developer Indemnification

A. Applicant agreement. At the time of submitting an application for a discretionary land use approval, the applicant shall agree as part of the application, to defend (with legal counsel of City's selection), indemnify, and hold harmless the City and its agents, attorneys, employees, and officers, from any action, claim, or proceeding brought against the City or its agents, employees, and officers to attack, set aside, void, or annul a discretionary land use approval of the City, which action is brought within the applicable statute of limitations. The required indemnification provided herein shall include damages awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with the action.

B. City notification of applicant. In the event that an action, claim, or proceeding referred to in Subsection A., above is brought, the City shall promptly notify the applicant of the existence of the action, claim, or proceeding and shall cooperate fully in the defense of the action, claim, or proceeding.

C. City participation in defense. Nothing in this Section shall prohibit the City from participating in the defense of any action, claim, or proceeding if the City elects to bear its own attorney's fees and costs and defends the action in good faith.

18.70.070 - Initial Application Review

A. Review for completeness. 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 (see Section 18.70.040.B - Application contents), and any additional written instructions provided to the applicant in any pre-application conference, and/or during the initial application review period.

1. Notification of applicant. As required by State law (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.

2. Appeal of determination. Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the Director's determination in compliance with Chapter 18.92 (Appeals).

3. Time for submittal of additional information. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur. The time available to an applicant for submittal of additional information is limited by following Subparagraph (A.4).

4. Expiration of application.

a. 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.

b. The Director may grant one 90-day extension.

c. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated fees.

5. Environmental information. After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring).

B. Referral of application. At the discretion of the Director, or where otherwise required by this Development 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.

18.70.080 - Project Evaluation and Staff Reports

A. Staff evaluation. The Director shall review all discretionary applications filed in compliance with this Article to determine whether they comply and are consistent with the provisions of this Development Code, other applicable provisions of the Municipal Code, the General Plan, and any applicable specific plan.

B. Staff report. The Director shall provide a written recommendation to the Commission and/or Council (as applicable) as to whether the application should be approved, approved subject to conditions, or disapproved.

C. Report distribution. Each staff report shall be furnished to the applicant at the same time as it is provided to the Review Authority before action on the application.

Chapter 18.71

PERMIT REVIEW AND DECISIONS

Sections:

18.71.010 Purpose of Chapter
18.71.020 Zoning Clearance
18.71.030 Limited Term Permit
18.71.050 Design Review
18.71.060 Use Permit and Minor Use Permit
18.71.070 Variance and Administrative Variance
18.71.080 Emergency Permit
18.71.090 Planned Development Permit

18.71.010 - Purpose of Chapter

A. Permit review procedures. This Chapter provides procedures for the final review, and approval or disapproval of the planning permit applications established by this Development Code.

B. Subdivision review procedures. Procedures and standards for the review and approval of subdivision maps are found in Article 8 (Subdivision Regulations and Procedures).

C. Application filing and initial processing. Where applicable, the procedures of this Chapter are carried out after those described in Chapter 18.70 (Permit Application Filing and Processing), for each application.

18.71.020 - Zoning Clearance

A. Purpose. Zoning Clearance is the procedure used by the City to verify that a proposed land use or structure complies with the list of activities allowed in the applicable zoning district, and the development standards applicable to the use.

B. Applicability. Where Article 2 (Zoning Districts and Allowable Land Uses) or other provision of this Development Code requires a Zoning Clearance as a prerequisite to establishing a land use, the Zoning Clearance shall be required at the time of Department review of any building, grading, or other construction permit, or other authorization required by this Development Code for the proposed use.

C. Review and approval. The Director shall issue the Zoning Clearance after first determining that the request complies with all Development Code provisions applicable to the proposed use. An approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director.

18.71.030 - Limited Term Permit

A. Purpose. This Section establishes procedures and standards for the granting of Limited Term Permits for short-term activities. Compliance with applicable standards ensures that the establishment, maintenance or operation of the short-term activity would not be detrimental to the public health, safety, and welfare of persons residing or working in the neighborhood of the proposed activity.

B. Minor short-term activities. A Limited Term Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary nature.

C. Limited Term Permit required. Short-term activities shall not be established, operated, or conducted in any manner without the approval and maintenance of a valid Limited Term Permit.

D. Review Authority. Limited Term Permits may be reviewed and approved or disapproved administratively by the Director, in compliance with this Section.

E. Exempt short-term activities. The following short-term activities are allowed without the necessity of obtaining a Limited Term Permit. Short-term activities that do not fall within the following categories shall comply with Subsection F. (Allowed short-term activities).

1. Construction yards - On-site. On-site contractors' construction yards for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.

2. Emergency facilities. Emergency public health and safety needs/land use activities, as determined by the City Manager.

3. Events on sites approved for public assembly. An event on the site of, or within, a golf course, religious facility, school, theater, meeting hall, or other similar facility designed and approved by the City for public assembly.

4. Fund-raising car washes.

a. Car washes on property within a commercial, industrial, or institutional zoning district, limited to a maximum of two days per month for each sponsoring organization.

b. Sponsorship shall be limited to educational, fraternal, religious, 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.

5. Garage sales. Garage sales, not to exceed three per year and two consecutive days.

6. Public property or public right-of-way. Construction and maintenance activities conducted on public property that are authorized by an encroachment permit.

7. Sidewalk sales. Sidewalk sales conducted in the Central Business District.

F. Allowed short-term activities. A Limited Term Permit may authorize the following short-term activities within the specified time limits, but in no event for more than 12 months. Other short-term activities that do not fall within the categories defined below shall instead comply with the planning permit requirements and development standards that otherwise apply to the property.

1. Construction yards - Off-site. Off-site contractors' construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.

2. Events. Art and craft exhibits, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, open-air or drive-in theaters, outdoor entertainment/sporting events, religious revivals, rummage sales, second hand sales, swap meets, and other special events within a 12-month period for up to: 1) ~~five~~ seven consecutive days, ~~or~~ 2) four two-day weekends, 3) one-day event per week, or other similar event timing as determined by the director ~~within a 12-month period~~,. Events are allowed only on non-residentially zoned properties. These activities shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

Comment [MJ3]: Allows for more flexibility in special events. Events, such as Farmer's Market, do not meet the current definition.

3. Location filming. The temporary use of a specific site for the location filming of commercials, movies, videos, etc., for the time specified by the Director, but not to exceed 12 months. This activity shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

4. Model homes. A model home or model home complex may be authorized before the completion of subdivision improvements in compliance with the following standards.

a. The sales office and any off-street parking shall be converted back to residential use and/or removed before the issuance of the Final Occupancy Permit or within 14 days from the sale of the last parcel in the subdivision, whichever first occurs.

b. The model home complex shall be used to sell only units within the subdivision within which the complex is located.

c. Model home permits will be finaled and the model homes will be allowed to be open to the public only after all subdivision improvements are completed and accepted by the City.

d. Model home sign permits will be issued only after all subdivision improvements are completed and accepted by the City.

e. The Review Authority may require other conditions of approval deemed necessary to protect the public health, safety, and general welfare of persons residing or working in the neighborhood.

5. Seasonal sales lots. Seasonal sales activities (e.g., Halloween, Thanksgiving, Christmas, etc.) including temporary residence/security trailers, on non-residentially zoned properties, for up to 30 days. These activities shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

6. Temporary occupancy during construction.

a. Major development projects. Temporary structures and property may be used during the construction phase of an approved major development project (e.g., residential projects with five or more dwelling units or any commercial or industrial project). The structures or property may be used as offices or for the storage of equipment and/or tools, provided the temporary structures are located within the City.

b. Minor development projects. An existing dwelling unit or a temporary structure and property may be used during the construction phase of an approved minor development project (e.g., residential projects with four or fewer dwelling units). The structure or property may be used as a temporary residence, an office, or for the storage of equipment and/or tools.

c. Appropriate conditions. The permit shall contain reasonable and necessary conditions regarding the following matters:

i) Provisions for adequate ingress and egress.

ii) Provisions for the work to be performed on-site.

iii) Provisions for the storage of asphalt, concrete, and dirt at designated sites within the subject property; provided the applicant furnishes a schedule, acceptable to the Director, for the periodic disposal or recycling of these materials.

iv) Provisions designed to minimize potential conflicts between the work to be performed on-site and the ordinary business and uses conducted within the City.

d. Length of permit. The permit may be approved for up to 12 months following the issuance of the companion Building Permit, or upon completion of the subject development project, whichever first occurs.

e. Extension of permit. The permit may be extended by the Director if a written request for extension is submitted at least 14 days before expiration of the permit and reasonable reasons are provided by the applicant to justify the requested extension (e.g., the delay was caused by reasons beyond the control of the applicant). The permit may be extended for up to an additional 12 months.

f. Condition of site following completion. All temporary structures and related improvements shall be completely removed from the subject site following expiration of the Limited Term Permit or within 30 days of completion of the development project, whichever first occurs.

7. Temporary real estate sales offices. A temporary real estate sales office may be established within the area of an approved subdivision, solely for the first sale of homes. An application for a temporary real estate office may be approved for a maximum of 12 months from the date of approval.

8. Temporary structures. A temporary classroom, office, or similar structure, including a manufactured or mobile unit, may be approved for a maximum of 12 months from the date of approval, as an accessory use or as the first phase of a development project.

9. Temporary work trailers. A trailer or mobile home may be used as a temporary work site for employees of a business, provided that:

a. The use is authorized by a Building Permit for the trailer or mobile home, and the Building Permit for the permanent structure;

b. The use is appropriate because:

i) The trailer or mobile home will be in place during construction or remodeling of a permanent commercial or manufacturing structure for a maximum of 12 months, or upon expiration of the Building Permit for the permanent structure, whichever first occurs; or

ii) The applicant has demonstrated that the temporary work site is a short-term necessity for a maximum of 12 months, while a permanent work site is being obtained; and

c. The trailer or mobile home is removed before final building inspection or the issuance of a Certificate of Occupancy for the permanent structure.

10. Similar temporary activities. A temporary activity that the Director determines is similar to the other activities listed in this Subsection, and compatible with the applicable zoning district and surrounding land uses.

G. Development standards. The Director shall establish the following standards based on the type of short-term activity, using the requirements of the applicable zoning district, and Articles 3 and 4 for guidance:

1. Access, floor areas, heights, landscaping, off-street parking, setbacks, signs, utilities, and other structure and property development improvements and features;

2. Measures for removal of the activity and site restoration, to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Development Code; and

3. Limitation on the duration of an approved "temporary structure," to a maximum of 12 months, so that it shall not become a permanent or long-term structure.

H. Application filing and processing. An application for a Limited Term Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Limited Term Permits, and any applicable fees.

I. Project review, notice, and hearing.

1. Director's review. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

2. No public notice or hearing required. No public notice or hearing is required before the Director's decision on a Limited Term Permit.

J. Findings and decision. A Limited Term Permit shall be approved by the Director only after the Director first finds that the requested short-term activity complies with applicable standards in this Section.

K. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on a Limited Term Permit application.

1. Condition of the site following short-term activity. Each site occupied by a short-term activity shall be cleaned of debris, litter, or other evidence of the temporary activity on completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Development Code. Performance security may be required before initiation of the activity to ensure cleanup after the activity is finished.

2. Performance security for temporary structures. Before issuance of a Limited Term Permit the applicant shall provide performance security in a form and amount acceptable to the Director to guarantee removal of all temporary structures within 30 days following the expiration of the Limited Term Permit.

18.71.050 - Design Review

A. Purpose. Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community.

B. Applicability. All new structures, any relocation, exterior addition(s), or changes of or to existing structures, and any other physical improvements shall be subject to Design Review, whether or not a Building Permit is required, unless exempt in compliance with Subsection B.3. (Improvements exempt from Design Review), below. Design Review shall be required in addition to all other planning permit or approval requirements of this Development Code and the Municipal Code.

1. Improvements subject to Design Review by the Commission.

a. The following improvements shall always require Design Review by the Commission:

i) A project resulting in three or more residential dwelling units on a single parcel, including apartments, condominiums, townhouses, and other multi-family residential development projects.

ii) All nonresidential development projects, including:

~~(a) C~~commercial, offices, and industrial structures or additional of more than 250~~120~~ square feet;

~~(b) Marinas and yacht harbors; and~~

~~(c) Cultural, fraternal, quasi-public, religious, social, and similar structures for places of assembly.~~

iii) The aesthetic impact of grading or filling of land.

b. The following improvements shall require Design Review by the Commission only if in conjunction with a development project:

i) Removal of natural ground cover, trees, or vegetation.

ii) Installation of a fence, wall, or retaining wall visible from a public right-of-way.

iii) Landscaping including vegetation, irrigation systems, and low level lighting.

iv) Signs included with plans for any project listed above.

v) Exterior lighting.

2. Improvements subject to Design Review by the Director. The following improvements shall be subject to Design Review by the Director, when constructed as a stand-alone project [e.g. not constructed in

Comment [MJ4]: 120 feet is a very small structure and exempt from obtaining a building permit.

Comment [MJ5]: Not in the inland area

Comment [MJ6]: Included in a above.

conjunction with a development project, otherwise it is subject to review and approval by the Commission as required in 18.71.050(B)(1)]:

a. The construction or rehabilitation/remodeling/addition of any detached accessory structure or garage that exceeds 16 feet in height.

b. The construction of a commercial structure or addition of less than 25~~12~~0 square feet.

c. Removal of natural ground cover, trees, or vegetation;

~~d. Installation of a fence, wall, or retaining wall visible from a public right-of-way;~~

~~e. Landscaping including vegetation, irrigation systems, and low level lighting;~~

f. Signs that do not require Commission review; or

~~g. Exterior lighting; or~~

h. Other work determined by the Director to be substantially similar in scope to improvements subject to Design Review by the Director.

3. Improvements exempt from Design Review. The following improvements are exempt from Design Review:

a. One single-family dwelling on a single parcel, a second unit on a single parcel, a duplex, and/or – any related residential accessory structures of less than 16 feet in height;

b. Structural improvements not visible from a public right-of-way;

d. Installation of a fence, wall, or retaining wall visible from a public right-of-way;

e. Landscaping including vegetation, irrigation systems, and low level lighting;

g. Exterior lighting;

c. Work determined by the Director to be minor or incidental within the intent and objectives of this Section; and

d. Ordinary maintenance and repair of structures, landscaping, and fencing.

C. Application filing and processing. An application for Design Review shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by the information and materials specified in the Department handout for Design Review, and the materials identified in Section D. (Requirements for submittal), below. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

D. Requirements for submittal. Each plan submitted for Design Review shall be drawn to scale with all dimensions shown.

1. Site plans. The site plan shall show the following proposed and existing physical improvements and features:

a. All structures and other improvements on the subject parcel shall be shown demonstrating setback lines and the distance structures are from property lines.

b. The plan shall show the location of all adjoining streets including pavement, curb, and sidewalk.

c. On adjoining parcels the general location of primary and accessory structures, curb cuts, driveways and parking lots.

Comment [MJ7]: The City does not as a rule engage in design review for minor projects such as these, so long as they conform with the City's zoning ordinance design review of these projects should not be necessary.

Comment [MJ8]: See note above.

2. Architectural elevations.

a. Elevations of all sides of new structures shall be shown.

b. If the exterior of an existing structure is to be changed, all existing and proposed elevations of the structure shall be shown.

c. Exterior materials and colors of all proposed and existing structures shall be indicated or generally described. Color and material samples shall be submitted.

d. All mechanical equipment or similar features located above the roof shall be shown.

3. Floor and roof plans. Floor and roof plans for all structures shall be shown.

4. Landscape plans. A detailed landscape plan shall be submitted for the entire site, in compliance with Chapter 18.34 (Landscaping Standards).

5. Sign plans. A detailed sign plan shall be submitted for the entire site, in compliance with Chapter 18.38 (Signs).

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

1. Notice and hearing. The Commission shall conduct a public hearing on an application for a Design Review before a decision on the application. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

Comment [MJ9]: Add hearing requirement for design Review permit heard by Planning Commission. This ensures proper noticing.

F~~E~~. Project review criteria. The Review Authority shall evaluate each application to ensure that the project:

1. Complies with the purpose and requirements of this Section;

2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;

3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;

4. Provides efficient and safe public access, circulation, and parking;

5. Provides appropriate open space and landscaping, including the use of water efficient landscaping;

6. Is consistent with the General Plan, any applicable specific plan; and

7. Complies and is consistent with the City's Design Guidelines.

G~~F~~. Findings and decision. The Review Authority shall approve or disapprove an application for Design Review approval concurrently with the approval or disapproval of any other planning permit (e.g., Use Permit, Minor Use Permit, Variance or Administrative Variance, Zoning Clearance) required for the project, if the Design Review application is filed with the City at the same time. Design Review approval shall require that the Review Authority first find that the project, as proposed or with changes resulting from the review process and/or conditions of approval, complies with all applicable criteria identified in Subsection E. (Project review criteria), above.

1. An application for Design Review may be approved, conditionally approved, or disapproved.

2. The Director shall review construction drawings, final plans, and other similar documents for compliance with the approved Design Review, any conditions of approval, and any approved or required modifications to the approved plans.

3. A Design Review decision shall become effective upon the expiration of 10 days following the decision, unless an appeal is made in compliance with Chapter 18.92 (Appeals).

H~~G~~. Conditions of approval. The Review Authority may require any reasonable and necessary conditions of approval to ensure that the project will comply with the findings required by Subsection F., above. The violation of any condition so imposed shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

I~~H~~. Expiration of Design Review approval.

1. Time limit. Design Review approval in compliance with this Section shall lapse and become void 12 months from the date of approval, unless before the expiration of the 12 months, a Building Permit is issued and construction is commenced and diligently pursued towards completion.

2. Exceptions. The only exception to the above is Commission Design Review approval for a period not to exceed two years in a case where it is anticipated that the time for project development will exceed 12 months.

3. Extension of approval. Design Review approval may be extended by the Director for an additional period of 12 months; provided no changes in conditions or requirements have occurred before the expiration of 12 months from the date of the original approval, and an application for an extension is filed with the Department at least 30 days before the date of expiration.

J~~I~~. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following the decision on an application for Design Review.

18.71.060 - Use Permit and Minor Use Permit

A. Purpose. A Use Permit or Minor Use Permit provides a process for reviewing uses and activities that may be appropriate in the applicable zoning district, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.

B. Applicability. A Use Permit or Minor Use Permit is required to authorize proposed land uses identified by Article 2 (Zoning Districts and Allowable Land Uses) as being allowable in the applicable zoning district subject to the approval of a Use Permit or Minor Use Permit.

C. Review Authority.

1. Use Permits. Use Permits shall be approved or disapproved by the Commission.

2. Minor Use Permits. Minor Use Permits shall be approved or disapproved by the Director.

a. The Director may choose to refer any Minor Use Permit application to the Commission for hearing and decision.

b. A Minor Use Permit application shall only be issued if there is evidence that the project is eligible for a California Environmental Quality Act (CEQA) exemption in compliance with State law and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring). Projects that are otherwise eligible for a Minor Use Permit, but are not eligible for a CEQA exemption, shall be processed as a Use Permit.

D. Application filing and processing. An application for a Use Permit or Minor Use Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall include the information and materials specified in the Department handout for Use Permits, and the following information.

1. Fiscal and economic analysis. An application for a Big Box Retail project as defined in Article 10 (Glossary) shall include a fiscal and economic analysis.

2. Traffic Study. A traffic study shall be required for uses determined by the Director or Director of Public Works to be high trip generators.

a. The traffic study shall identify both cumulative and project-specific traffic impacts.

b. All traffic impacts shall be reduced, to the maximum extent feasible, through compliance with applicable development standards and/or conditions of approval.

It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

1. Use Permit.

a. Notice and hearing. The Commission shall conduct a public hearing on an application for a Use Permit before a decision on the application. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Minor Use Permit. Before a decision on a Minor Use Permit, the public notice shall be provided in compliance with Chapter 18.96 (Public Hearings), and as follows.

a. Public notice. The notice shall state that the Director will decide whether to approve or disapprove the Minor Use Permit application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96, and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision. An application for a Use Permit or Minor Use Permit may be approved subject to conditions, or disapproved by the Review Authority. The Review Authority shall approve a Use Permit or Minor Use Permit only after first finding all of the following:

1. The proposed use is consistent with the General Plan and any applicable specific plan;

2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

5. The proposed use complies with any findings required by Section 18.22.030 (Commercial District Land Uses and Permit Requirements).

G. Conditions of approval. In approving a 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 the findings required by Subsection F. (Findings and decision), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Use Permit or Minor Use Permit.

18.71.070 - Variance and Administrative Variance

A. Purpose. The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. Applicability. A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

C. Review Authority.

1. Variance. A Variance application shall be reviewed, and approved or disapproved by the Commission.

2. Administrative Variance. An Administrative Variance application shall be reviewed, and approved or disapproved by the Director.

a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of ~~10~~ 25 percent:

i) Distance between structures;

ii) Parcel dimensions (not including area);

iii) Setbacks;

iv) On-site parking, loading, and landscaping;

v) Sign regulations (other than prohibited signs);

vi) Lot coverage; and/or

vii) Floor area ratio.

b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

Comment [MJ10]: The 10% threshold is very small. 10% of a ten foot setback is one foot. No enough to be meaningful as a consequent virtually all variance requests must go to the Planning Commission.

D. Application filing and processing. An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. Variance. The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Administrative Variances. Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

a. Initial notice. The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Notice and conduct of hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision.

1. General findings. The Review Authority may approve a Variance or Administrative Variance only after first making all of the following findings.

a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;

b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-site parking Variance. The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off-site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the Review Authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection F.1. above.

a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and

b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. Reasonable accommodation. The Review Authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1)

G. Conditions of approval. In approving a Variance or Administrative Variance, the Review Authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection F. (Findings and decision), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

18.71.080 - Emergency Permit

A. Purpose. This Section provides procedures for the issuance of Emergency Permits deemed necessary to perform work to resolve problems resulting from a situation falling within the term “emergency” as defined in Article 10 of this Development Code (Glossary).

B. Applicability. When immediate action by a person or public agency is required to resolve an emergency, requirements to obtain the otherwise appropriate development permit may be waived by the Director upon receiving

notification of the emergency, identification of the type of work required to resolve the emergency, and the location of work to be performed.

C. Review Authority. The Director shall have the discretion to grant Emergency Permits in compliance with this Section, provided that the City Manager may choose to assume all responsibilities delegated to the Director pertaining to the issuance of emergency permits.

D. Method and content of notification. Notification of the emergency to the Director shall be by letter or facsimile, if time allows, or by telephone or personal contact, if time does not allow. The person notifying the Director shall report to their best knowledge:

1. The nature and location of the emergency;

2. The cause of the emergency, insofar as this can be established;

3. The remedial, protective, or preventive work required to resolve the emergency;

4. The circumstances during the emergency that appeared to justify the proposed courses of action; and

5. The probable consequences of failing to take the actions necessary to resolve the emergency.

E. Verification.

1. The Director shall verify that an emergency does exist insofar as time allows.

2. The Director and the person or public agency that made the notification shall document the facts related to the emergency.

F. Public notice. The Director shall provide public notice of the proposed emergency actions, by use of radio, television, or print media, as determined to be appropriate by the Director based on the nature of the emergency.

G. Required findings, conditions.

1. Findings. Before granting the Emergency Permit, the Director shall first find that:

a. An emergency exists that requires action more quickly than allowed by City procedures customarily required for the processing of appropriate development permits;

b. Public comment has been considered regarding the emergency and the proposed actions, if time allows;

c. The work is consistent with the nature of the emergency; and

d. The work authorized by the permit qualifies for emergency exemption under CEQA.

2. Conditions of approval. If granted, an Emergency Permit shall be subject to reasonable and necessary terms and conditions, including the following.

a. Language clearly indicating that the work accomplished under an Emergency Permit is considered temporary until the appropriate development permit is issued for the work;

b. An expiration date for the Emergency Permit; and

c. A condition specifying the need to apply for the appropriate development permit once the emergency is resolved, or within 90 days following the date of issuance, whichever first occurs.

The violation of any condition of approval shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Reporting.

1. The Director shall report, in writing or orally, to the Council at each regular meeting of the Council while an Emergency Permit is in effect. The report shall state the nature of the emergency, the progress of the work to resolve the emergency, and any other pertinent information.

2. Copies of any written report shall be available at the Council meetings and shall be mailed to all persons who have requested notification and associated reports in writing.

I. Time limits. An approved Emergency Permit shall be valid for a maximum of 60 days following the date of issuance; provided that the permit shall expire and become void seven days following the date of issuance if it is not properly exercised, or if the emergency ceases to exist.

J. Normal permits required. The responsible person or public agency shall apply for the appropriate development permit otherwise required by this Development Code within 90 days following the date of issuance of the Emergency Permit or once the emergency is resolved, whichever occurs first. Failure to file the necessary applications and obtain the development permits normally required by this Development Code shall result in enforcement action in compliance with Chapter 18.98 (Enforcement and Penalties). During the processing of the appropriate development permit applications, all work required to remedy the emergency may continue until the emergency is satisfactorily resolved.

18.71.090 - Planned Development Permit

A. Purpose. The Planned Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned Development Permit application may be filed and processed only under the following circumstances.

1. Minimum site area. A Planned Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than five acres.

2. Timing of permit. No Building or Grading Permit shall be issued on a site for which a Planned Development Permit is proposed until the Planned Development Permit has been approved in compliance with this Section.

3. Scope of approval.

a. Planned Development Permit approval may adjust or modify, where determined by the Review Authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.), provided that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article 2.

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter 18.31 (Density Bonuses and Affordable Housing Incentives).

C. Application filing and processing. An application shall be filed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Commission action), below.

D. Review Authority. A Planned Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

1. Application review. Each Planned Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned Development Permit only after first finding that:

a. The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district;

b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned Development Permit;

c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;

d. The development authorized by the Planned Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment.

e. The project complies with all applicable provisions of the City's Design Guidelines;

f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;

g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;

h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;

i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and

j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection F.1.

G. Time limit and expiration.

1. A Planned Development Permit may specify a development completion period acceptable to the Review Authority.

2. If a time limit is not specified in the permit, the completion period shall not exceed two years.

3. If project construction has not commenced within the required time limit, the Planned Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned Development Permit amendment.

1. Commission action on requested changes. Any requested change in the Planned Development Permit, other than those allowed by Subparagraph 3., below, shall be submitted to the Review Authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval.

2. Added conditions. The Review Authority may, as a condition of approval, impose added changes or conditions on the Planned Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned Development Permit and this Section.

3. Minor changes by Director. Minor changes in the Planned Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Subparagraph 18.76.080 (Changes to an Approved Project).

I. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for Planned Development Permit approval.

Chapter 18.72

ENVIRONMENTAL IMPACT ASSESSMENT AND MITIGATION MONITORING

Comment [MJ11]: This section was updates in 2014. No changes are recommended.

Sections:

18.72.010 Purpose of Chapter
18.72.020 Authority
18.72.030 Guiding Principles
18.72.040 Applicability
18.72.050 Exemptions from CEQA
18.72.060 Review Authority
18.72.070 Time Limits
18.72.080 Review and Determination Procedures
18.72.090 Negative Declarations & Mitigated Negative Declarations
18.72.100 Draft Environmental Impact Reports
18.72.110 Final Environmental Impact Reports
18.72.120 Standards of Adequacy
18.72.130 Findings
18.72.140 Notice of Determination
18.72.150 Environmental Compliance and Monitoring Program
18.72.160 Fees and Deposits
18.72.170 Appeal

18.72.010 - Purpose of Chapter

This Chapter implements the requirements of the California Environmental Quality Act (CEQA) by providing the City, as lead agency, with criteria, objectives, principles, and procedures for applying the requirements of CEQA to proposed projects, including the preparation and processing of Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports (EIR), and other environmental review documents for projects that are subject to CEQA. The basic purposes of CEQA, and the provisions of this Chapter are to:

A. Inform government decision makers and the public about the potential environmental effects of proposed activities;

B. Identify ways that potential environmental damage may be avoided or significantly reduced;

C. Prevent significant, avoidable environmental impacts by requiring changes in projects, either by the adoption of alternatives or the imposition of mitigation measures; and

D. Disclose to the public why a project was approved if that project could cause significant environmental effects.

18.72.020 - Authority

These guidelines are adopted to implement the California Environmental Quality Act of 1970, California Public Resources Code Section 21082 et seq., referred to in this Chapter as "CEQA," and Title 14, Chapter 3, Sections 15000, et seq., of the California Code of Regulations, referred to in this Chapter as the "CEQA Guidelines."

18.72.030 - Guiding Principles

The following principles shall serve as a guide for all applications submitted to the City for review and approval and determined to be projects under CEQA:

A. Timing of review. Environmental considerations shall be dealt with at the earliest point possible by emphasizing the use of an initial study. Any potentially adverse effects that are properly mitigated through re-design may preclude more extensive environmental review.

B. Extent of review. The least extensive environmental review consistent with the purpose of this Chapter shall be utilized (e.g., an Environmental Impact Report would not be required if a Negative Declaration can legitimately

be prepared). In this way, sufficient environmental protection would be afforded while minimizing the project review period.

C. Mitigation measures. The primary goal of the environmental review process shall be to incorporate mitigation measures in the project proposal to be considered by the Review Authority where necessary and appropriate to reduce the potential for significant environmental impacts.

D. Mitigation monitoring.

1. Where mitigation of environmental impacts is required, the mitigation measures shall be monitored over time to ensure that the steps taken are adequate for the intended purpose, in compliance with Section 15097 of the CEQA Guidelines.

2. An applicant for a project for which mitigation monitoring is required shall be responsible for all costs associated with the monitoring program, in compliance with Section 18.72.160 (Fees and Deposits).

18.72.040 - Applicability
These implementation measures are intended to augment CEQA and the CEQA Guidelines. This Chapter is not intended to replace CEQA, and **full compliance with CEQA is required regardless of the provisions of this Chapter.**

A. City actions. These guidelines shall apply to all City actions in the implementation of CEQA.

B. Conflicting provisions. In the event of any conflict between the provisions of this Chapter, and CEQA or the CEQA Guidelines, **CEQA and the CEQA Guidelines shall prevail.**

18.72.050 - Exemptions from CEQA
A proposed project shall be exempt from CEQA if it is exempt by State statute (statutorily exempt), categorical exemption, general rule, or by rejection or disapproval of the project, in compliance with CEQA Guidelines Section 15061. Statutory exemptions include ministerial projects, as defined in CEQA Guidelines Section 15369. See also Section 18.72.080.C (Statutorily and categorically exempt projects).

18.72.060 - Review Authority
Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports. Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports shall be reviewed and approved or disapproved by the same body (Planning Commission or City Council) that has the project approval authority (see Section 18.70.030, Table 7-1).

18.72.070 - Time Limits
Time limits governing the preparation and review of CEQA documents are in CEQA Guidelines Sections 15100 through 15112.

A. Time limits for City action. The City shall complete and approve a Negative Declaration and a Mitigated Negative Declaration in not more than 180 days; and complete and certify an EIR in compliance with CEQA Guidelines Section 15108. The time limits may be waived when a project must comply with both CEQA and the National Environmental Policy Act (NEPA), or the applicant has requested or consented to a waiver of the time limits.

B. Suspension of time limits. An unreasonable delay by an applicant in meeting requests by the City necessary for the preparation of a Negative Declaration or an EIR shall suspend the running of the time limits identified in Subsection A., above, for the period of the unreasonable delay. Alternatively, the City may disapprove a project application, in accordance with Section 15109 of the CEQA Guidelines.

18.72.080 - Review and Determination Procedures
A. Application content and completeness. Each application shall contain sufficient information to allow a determination of whether environmental review is required and, if so, the type of environmental document that shall be prepared. An application without this information shall be deemed complete in compliance with Section 18.70.070 (Initial Application Review).

1. **Project description.** A planning permit application filed in compliance with Section 18.70.040 (Application Preparation and Filing) shall include a detailed project description, for City use in the preparation of an initial study to evaluate the potential environmental impacts of the project in compliance with CEQA Guidelines Section 15063(a).

2. **Additional information.** The City may require an applicant to supply additional data and information necessary for making an environmental determination, in compliance with CEQA Guidelines Section 15063(e).

B. Preliminary determination. Upon receipt by the City of an application for project approval, or a proposal for a public project, the Director shall make a preliminary determination as to whether environmental review in compliance with this Chapter is required, and what type of environmental document shall be required. The Director shall report the determination either to the applicable City department, if the project is ministerial or otherwise exempt from CEQA, or to the applicant or applicant's representative.

C. Statutorily and categorically exempt projects. A project identified by the CEQA Guidelines as statutorily or categorically exempt (CEQA Guidelines Sections 15260 through 15285, or 15300 through 15332, respectively) is not subject to the provisions of this Chapter, unless it conforms to an exception to a categorical exemption listed in Section 15300.2 of the CEQA Guidelines. If the proposed project requires notice of a public hearing or other notice in compliance with other provisions of this Development Code, the notice shall also include a statement that the project is statutorily or categorically exempt, as applicable. Following the approval of a project that has been determined to be exempt, the City may also file a Notice of Exemption in accordance with Section 15062 of the CEQA Guidelines. The City shall file a Notice of Exemption for any project for which the City received comments or letters in opposition to the project from the public.

D. Initial study. An initial study shall be prepared by the Department in compliance with CEQA Guidelines Section 15063, to determine the required level of environmental review (e.g., Negative Declaration, Mitigated Negative Declaration or EIR). If an EIR is required, the Director may waive the requirement for an initial study.

E. Environmental determination. In determining whether the proposed project may have a significant effect on the environment, and therefore what level of environmental review is required for the project (ND, MND or EIR), the Director shall make a determination based on the Initial Study and in compliance with CEQA Guidelines Sections 15063 through 15065, 15070, 15081.5 and CEQA Appendix G.

18.72.090 - Negative Declarations (ND) & Mitigated Negative Declarations (MND)

A. Notice of intent. If the Director determines that a Negative Declaration or Mitigated Negative Declaration shall be prepared, a notice of intent to adopt a Negative Declaration (or a Mitigated Negative Declaration) shall be published, posted and/or mailed in compliance with CEQA Guidelines Section 15072.

B. Contents. A Negative Declaration or a Mitigated Negative Declaration shall include the elements required in CEQA Guidelines Section 15071.

C. Public review period. Public review for a proposed Negative Declaration or Mitigated Negative Declaration shall comply with CEQA Guidelines Section 15073.

D. Recirculation of Negative Declaration or Mitigated Negative Declaration. If, after the City gives notice of its intent to adopt a ND or MND, and prior to its adoption, the ND or MND is substantially revised (as defined in Section 15073.5(b) of the CEQA Guidelines), the ND or MND must be recirculated in accordance with Section 15073.5(a) of the CEQA Guidelines, unless recirculation is not required pursuant to Section 15073.5(c) of the CEQA Guidelines, or unless revisions to the project require the preparation and certification of an EIR, pursuant to Section 15073.5(d) of the CEQA Guidelines.

E. Required findings. In adopting a Negative Declaration or Mitigated Negative Declaration, the Review Authority shall first determine that the project will not have a significant adverse effect on the environment and make required CEQA findings pursuant to Section 15074(b) of the CEQA Guidelines.

F. Hearing and adoption.

1. Action on Negative Declarations and Mitigated Negative Declarations.

a. Before making a determination on a project, the Review Authority shall consider the ND or MND in conjunction with a hearing on the project permit application.

b. The Review Authority shall either adopt the ND or MND, or return it to the Department for further study.

c. The applicant shall address any adverse impacts identified by the Review Authority and may revise the project to mitigate the impacts, subject to, or in accordance with, the procedures for substituting or deleting mitigation measures that are found to be infeasible or otherwise undesirable, as described in Section 15074.1 of the CEQA Guidelines.

d. When a Review Authority adopts a MND, it shall also adopt a program for monitoring or reporting on the mitigation measures identified in the MND, in accordance with Section 15097 of the CEQA Guidelines and Section 18.72.150(E).

G. Notice of Determination. Following project approval, a Notice of Determination shall be prepared and signed by the Director, and shall be filed with the County Clerk and with the Office of Planning and Research, if required by CEQA Guidelines Section 15075. See also Public Resources Code Sections 21080.4 and 21152(a).

18.72.100 - Draft Environmental Impact Reports

A. Notice of Preparation. Immediately after determining that an EIR is required for a project, the Director shall send a Notice of Preparation (NOP) to each responsible agency by certified mail and to the State Clearinghouse in compliance with CEQA Guidelines Section 15082.

B. Preparation and adequacy.

1. Preparation of Draft EIR. When an EIR is required, it shall be prepared by a consultant under contract to the City or by City staff, with the applicant paying for all costs of EIR preparation. If the EIR is to be prepared by a consultant, the City shall request EIR proposals under established City criteria and select a qualified consultant from respondents.

2. Administrative review. The Director shall review an administrative Draft EIR and either determine that it is adequate and authorize preparation of the Draft EIR, or determine that the administrative Draft EIR is inadequate and return it to the preparer for additional work.

C. EIR contents. Each EIR prepared by or for the City shall include discussion of all topics required by CEQA Guidelines Sections 15120, 15122 through 15131. The EIR shall be prepared in compliance with Sections15140 through 15148. Data and conclusions may be drawn from other reports accepted by the City and appropriately referenced within the EIR in compliance with CEQA Guidelines Sections 15150 and 15148. The EIR shall address all potential environmental impacts.

D. Distribution and review. The City shall provide for notice and public review of the Draft EIR in compliance with CEQA Guidelines Section 15087.

E. Public hearing. A public hearing is not required by CEQA, however it is preferred for all Draft EIRs. If a public hearing is held for consideration of a Draft EIR, the following applies:

1. The hearing shall occur during the public review period.

2. Notice of the public hearing shall be provided in compliance with CEQA Guidelines Section 15087(c).

18.72.110 - Final Environmental Impact Reports

A. Response to comments. Upon completion of the public review period, the Director shall collect all comments on the Draft EIR and provide them to the City's consultant or City staff. All comments (including late comments received prior to certification of the EIR) and appropriate responses shall be included in the Final EIR in compliance with CEQA Guidelines Section 15088.

B. Review. If requested by the Director, the EIR preparer shall submit for review an administrative draft of the Final EIR. The Director shall either determine that it is adequate and authorize preparation of the Final EIR, or determine that it is inadequate and return it to the preparer for further analysis. (CEQA Guidelines Section 15084)

C. Contents of Final EIR. A Final EIR shall contain the information described in Section 15132 of the CEQA Guidelines.

D. Certification of Final EIR.

1. No action shall be taken to approve a project that requires an EIR until the Review Authority has certified that the Final EIR has been prepared in compliance with CEQA, that it has been reviewed and considered by the Review Authority, and that it represents the City's independent judgment and analysis.

2. A public hearing is preferred for certification of a Final EIR and may be held in conjunction with the hearing on the project application(s).

3. If a public hearing is held in conjunction with the certification of an EIR, the notice of the public hearing shall be provided in compliance with CEQA Guidelines Section 15087(c).

E. Distribution of Final EIR. Copies of the Final EIR shall be placed in the City Clerk's office, public library, and in other locations designated by the Director.

18.72.120 - Standards of Adequacy

A. Sufficient degree of analysis. An EIR should be prepared with a sufficient degree of analysis to provide the Review Authority with the information which enables them to consider all of the potential environmental consequences in compliance with CEQA Guidelines Section 15151.

B. Responsibility for adequacy. The draft and Final EIRs shall reflect the City's independent judgment in compliance with CEQA Guidelines Section 15084.

C. Determination of Inadequacy of EIR. If the Review Authority determines that the Final EIR is inadequate, it shall be returned to the City's consultant or City staff for further processing.

D. Recirculation of EIR. If, after the City gives notice of availability of a Draft EIR for public review, and prior to its certification, significant new information (as defined in Section 15088.5(a) of the CEQA Guidelines), is added to the EIR, the EIR must be recirculated in accordance with Section 15088.5 of the CEQA Guidelines, unless recirculation is not required pursuant to Section 15088.5(b) of the CEQA Guidelines, or unless only partial recirculation of the EIR is required, pursuant to Section 15088.5(c) of the CEQA Guidelines.

18.72.130 - Findings

Before the Review Authority acts on a project for which an EIR has been certified, it shall certify that it has reviewed and considered the information identified in the EIR, and it shall determine whether the project would or would not have a significant effect on the environment.

A. Required findings. The Review Authority shall not approve or carry out a project where the certified EIR identifies one or more significant environmental effects, unless the Review Authority makes one or more of the required findings, supported by written evidence, in compliance with CEQA Guidelines Section 15091.

B. Statement of Overriding Considerations. The Review Authority may approve a project which may result in significant adverse impacts on the environment only if the Review Authority first adopts written findings clearly identifying the social and economic benefits that outweigh the possibility of environmental damage and issues a Statement of Overriding Considerations in compliance with CEQA Guidelines Section 15093.

18.72.140 - Notice of Determination and Disposition of EIR

A. After the approval or disapproval of a project for which a Final EIR has been certified, the Director shall file a Notice of Determination with the County Clerk in compliance with CEQA Guidelines Section 15094. If the project requires discretionary approval from a State agency, the Notice of Determination also shall be filed with the Office of Planning and Research.

B. Following certification of an EIR, the Director shall comply with the filing, distribution and retention requirements for the certified EIR, as described in Section 15095 of the CEQA Guidelines.

18.72.150 - Environmental Compliance and Monitoring Program

A. Purpose. This Section establishes procedures for the environmental compliance and monitoring of project conditions imposed as a result of the certification of an EIR or a Mitigated Negative Declaration with mitigation measures based on project conditions of approval, in compliance with CEQA Guidelines Section 15097. (Also see Public Resources Code Section 21081.6.)

B. Negative Declaration. A project with a Negative Declaration that includes no mitigation measures or project conditions does not require an environmental compliance and monitoring program, as long as the plans, specifications, actual construction, use, or operation comply with all applicable City standards and requirements.

C. Mitigated Negative Declaration. A project with a Mitigated Negative Declaration shall be processed as follows.

1. Before the application is submitted to the Review Authority for final action, the Director shall prepare a list of all proposed conditions of approval, including those required to reduce to levels of insignificance any identified environmental impacts, and conditions required to ensure project compliance with applicable City codes, policies, and regulations.

2. Each condition shall be written so that it is either time specific, quantifiable, or dependent upon further approval by the Community Development Director and shall specify the City department or other agency responsible for monitoring compliance.

3. A copy of the proposed conditions, along with the staff report shall be provided to the applicant.

4. Following final City action to approve or conditionally approve the application, the applicant shall sign a copy of the approving action indicating full understanding of, and agreement to comply with all of the conditions and required mitigation measures, including any modifications or additional conditions required by the Review Authority.

D. EIR. A project that requires an EIR shall be processed as follows:

1. The Draft EIR shall include a proposed environmental compliance measure prepared in compliance with CEQA Guidelines Section 15126.4, with conditions including those required to reduce to levels of insignificance any identified environmental impacts, and conditions required to ensure project compliance with all applicable City codes, policies, and regulations.

2. The proposed conditions of approval shall be incorporated into the Draft EIR in a chapter or section clearly identified as containing recommended or proposed conditions of approval.

3. Each condition shall be written so that it is either time specific or quantifiable, and shall specify the City department or other agency responsible for monitoring compliance.

4. The conditions shall be part of the public and agency review process.

5. The Final EIR shall include the chapter or section with the conditions revised for the final document.

6. Following final City action to approve or conditionally approve the application, the applicant shall sign a copy of the approving action indicating full understanding of, and agreement to comply with all of the conditions and mitigations, including any modifications or additional conditions required by the Review Authority.

E. Mitigation Monitoring and Reporting Program. For a project with an MND or EIR that includes mitigation measures, the lead agency shall implement a Mitigation Monitoring and Reporting Program in compliance with CEQA Guidelines Section 15097 and as defined below:

1. Following Adoption of an MND or certification of an EIR, but prior to project approval, the Review Authority shall adopt a Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA Guideline Section 15091 (d).

2. The Community Development Department shall take lead responsibility for administering the mitigation monitoring and reporting requirements associated with MNDs and EIRs certified by the Review Authority.

3. The Project proponent shall take lead responsibility for implementation of all mitigation measures in a Project MMD or EIR, including but not limited to those that are special conditions of a permit approval.

4. Non-compliance with required Mitigation Measures shall be subject to all enforcement mechanisms available to the City under Chapter 18.98 - Enforcement and Penalties.

F. Compliance with conditions. No certificate, license, or permit for use or occupancy shall be issued by the City until the Director has verified that the project is in compliance with all applicable conditions.

1. If conditions are scheduled for compliance in phased intervals, the next phase shall not commence until the Director has determined that all approved conditions have been satisfied for the previous phases.

2. If a permit condition requires a regular or periodic report, the permit holder shall be responsible for submittal of the appropriate report before the specified date.

3. If the City requires the services of a qualified professional in order to determine compliance with conditions or reporting requirements, the permit holder shall reimburse the City for all of the costs associated with obtaining the required services.

G. Reimbursement of monitoring costs. The permit holder shall be required to reimburse the City for all costs associated with the environmental compliance and monitoring program.

H. Failure to comply. In addition to the enforcement provisions identified in Chapter 18.98 (Enforcement and Penalties) and the Municipal Code, failure to comply with all project conditions, including making payments to reimburse the City for expenses incurred in the implementation of the environmental compliance and monitoring program, shall result in the City commencing any or a combination of the following measures:

1. Issuing a Stop Work Order halting all activities until all conditions have been satisfactorily completed;

2. Seeking injunctive relief from a court of competent jurisdiction;

3. Filing a lien against the property in the amount of any moneys owed;

4. Issuing a Stop Work Order and seeking injunctive relief ordering restoration of the environment, damages, and court costs incurred in the event of damage to the environment for which mitigation measures were expressly incorporated into the project; and/or

5. Refusing to allow the construction, use, occupancy, or issuance of a Business License for any project not in compliance with its conditions of approval.

18.72.160 - Fees and Deposits

Fees for the estimated cost for the preparation and/or processing, and reproduction of an Initial Study, Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report, Mitigation Monitoring and Reporting Program, notices, related environmental documents, other essential administrative costs, and deposits covering the cost of environmental document preparation, shall be payable to the City in a Developer Deposit Account in accordance with the City's Fee Schedule.

18.72.170 - Appeal

A determination or decision relating to this Chapter may be appealed in compliance with Chapter 18.92 (Appeals).

Chapter 18.74

CULTURAL RESOURCE PROTECTION

Sections:

18.74.010 Purpose of Chapter
18.74.020 Applicability
18.74.030 Historic Landmark Designation
18.74.040 Certificate of Appropriateness - Requirements
18.74.050 Certificate of Appropriateness - Review and Approval
18.74.060 Certificate of Appropriateness - Proposed Demolition
18.74.070 Certificate of Appropriateness - Disaster Damage
18.74.080 Adaptive Reuse and Other Rehabilitation Incentives
18.74.090 Duty to Maintain and Repair
18.74.100 Unsafe or Dangerous Condition

18.74.010 - Purpose of Chapter

A. Purpose. This Chapter provides procedures and requirements that are intended to protect sites and structures identified by the community as culturally and/or historically significant, that contribute to Fort Bragg's character and identity, and that should be preserved and/or restored.

B. Benefits to be derived from historic preservation activities. The following benefits are intended to be illustrative of those available to property owners who participate in historic preservation activities:

1. State Historic Building Code. Use of the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC), rather than the Uniform Building Code (UBC).

2. Secretary of the Interior's Standards for Rehabilitation. Use of the Secretary of the Interior's Standards for Rehabilitation.

3. Waiver of standards. Waiver of Development Code standards (e.g., reduced off-street parking), in compliance with Section 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).

4. Approval of a land use not otherwise allowed. The approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts, in compliance with Section 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).

5. Mortgage Program tailored for rehabilitation. The Department of Housing and Urban Development's Federal Housing Administration (FHA) has a flexible loan program that helps developers, investors, and families at all income levels to buy and restore properties in urban and rural historic districts. The program operates through FHA approved lending institutions, and the loans are insured by the FHA.

6. Federal Financial Assistance for rural buildings. The U.S. Department of Agriculture's Rural Housing Service offers funds for the acquisition, construction, rehabilitation, or repair of homes and apartment-style housing for low and moderate-income people in rural areas.

7. Federal Tax Incentives. Federal tax incentives for historic preservation for the rehabilitation of income-producing (commercial, industrial, or rental residential) structures included on the National Register of Historic Places (or those within a National Register district) through the State Historic Preservation Officer (SHPO).

8. Financial Assistance from the National Trust Forum. The National Trust Forum offers financial assistance in the form of grants and loans.

9. State Tax Incentives. California property tax abatement incentives were first enacted in 1972 and are available for use by owner-occupied residential and commercial structures (also known as the Mills Act).

18.74.020 - Applicability

A. Compliance with chapter. No person shall alter the exterior of, construct improvements to, or demolish any historic structure except in compliance with the provisions of this Chapter, which shall include the analysis required by the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring) to determine historic significance, and the effects of the proposed alterations.

B. Historic resource defined. For purposes of this Chapter, the term "historic resource" is defined as a structure or site listed in the National Register of Historic Places (either individually or as contributing to a district), a property designated as a landmark or monument, a property contributing to a district listed in the National Register of Historic Places or a landmark district, or a property identified in an intensive-level historic resources survey as qualifying for a historic designation (either individually or as part of a district).

C. Definition of other terms and phrases. The terms and phrases used in this Chapter are defined in Article 10 (Glossary).

D. Responsibility to maintain. The owner or person in control of a historic resource (e.g., structure or site) has the responsibility to maintain the resource in good repair in compliance with Section 18.74.090 (Duty to Maintain and Repair), below.

18.74.030 - Historic Landmark Designation

The Council may designate an improvement, natural feature, or site as a historic landmark and any area within the City as a historic district in compliance with this Section, based on the Council's evaluation of the age of the subject structure(s), distinguishing characteristics, distinct geographical area, familiar visual feature(s), significant achievement, and/or other distinctive features.

A. Procedure. The designation of a historic landmark or district on Fort Bragg's Historic Register, or the removal of a historic landmark or district from the register, shall comply with the procedures established by this Development Code for amendments (Chapter 18.94), including public notice and hearings in compliance with State law, a recommendation by the Commission, and a final decision by the Council.

B. Permit issuance during nomination process. No permit for any improvement or structure within a proposed historic district or relative to a nominated historic landmark shall be issued while the nomination process is pending.

C. Initiation of nomination process.

1. Either the City or a property owner(s) may initiate a program for nomination of a historic resource (Program CD-6.1.6).

2. Initiation shall comply with the procedures established by this Development Code for amendments in compliance with Chapter 18.94 (Amendments).

3. The nomination/amendment, if approved, would result in a Historic District designation.

D. Placement on the Historic Register. The nominated district, site, or structure shall be placed on the Historic Register after being officially accepted by the Council, and the designation shall be recorded for each affected parcel in the Office of the County Recorder.

E. Removal from the Historic Register.

1. A designated local historic resource may only be removed from the Historic Register in the following cases:

   a. When a Certificate of Appropriateness has been approved for demolition; or

   b. After five years of being designated, the property owner may submit a de-nomination statement outlining reasons for removal from the Register. The de-nomination request shall be processed in compliance with the procedure for nomination listed above. The de-nomination statement shall provide written proof and documentation that the findings used to designate the structure were largely in error, or

that new information has been discovered, material to the decision to designate the resource, which was not discovered through the exercise of due diligence at the time of the original designation.

2. If delisting a designated resource is proposed, the lead agency shall conduct environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), as they relate to historic resources.

18.74.040 - Certificate of Appropriateness - Requirements

A. Purpose. A Certificate of Appropriateness (COA) is intended to protect structures, improvements, natural features, objects, and areas of architectural, cultural, economic, historic, political, and social importance from unnecessary and/or inappropriate alteration, demolition, or removal.

B. Applicability.

1. COA required. A COA is required for the alteration, demolition, moving, or removal of any landmark or structure designated on the City's Historic Register, any individual historic resource, or any contributing historic resource within a historic district, and for any alteration, demolition, moving, or removal of any potential historic resource identified through the City's review of a land use and/or development permit application or CEQA review, by the City, any agent of the City, or a private party.

2. Activities exempt from a COA. Activities that are exempt from the requirements for a COA are interior remodeling and ordinary repair and maintenance activities that do not alter the physical features or architectural appearance of the exterior of a historic resource.

3. A COA shall:

a. Be required in addition to and processed concurrently with any other permits required by this Development Code; and

b. Accompany any permit or any work otherwise altering the exterior architectural features or appearance of the resource.

4. Alteration defined. For the purposes of this Chapter, the term **"**alteration**"** shall be defined as any act or process, through private or public action, that changes the specified character defining a historic resource or significant physical features or architectural appearance of the exterior of a historic resource, including additions, new construction, reconstruction, or removal of any resource.

5. Changes in character defined. For the purposes of this Chapter, the phrase **"**changes in character" shall be defined to include modification of the exterior of a structure, architectural detail, surface paving, the addition of new structures, the cutting or removal of trees, landscaping and other natural features, the disturbance of archaeological sites or areas, and the placement or removal of any significant objects (e.g., fences, landscaping, and accessories, light fixtures, plaques, signs) affecting the significant visual or historical qualities of the property.

6. Waiver of development standards. When approving a COA, the Review Authority may allow, as a form of incentive, a waiver of specified development standards for a designated historic resource, in compliance with Section 18.74.080 C. (Types of incentives allowed).

C. Application preparation and filing. A COA application shall be filed with the Department. The application shall include plans and specifications showing the proposed change in architectural appearance, color and texture of materials, the proposed architectural design of the structure, and any additional information identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director. The application shall also show the relationship of the proposed work to the surrounding environs. A COA application may propose discreet alterations of a historic resource or may propose a long-term plan of rehabilitation and preservation of a particular resource.

D. Application for demolition. An application for demolition of a historic resource, a structure within a historic district, or for new construction on a historic resource property shall include plans and specifications for the

proposed new structure or addition and shall include information pertaining to landscaping, massing, relationship to site and streetscape, scale, and signs. The application shall be accompanied by any additional information identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director for an informed evaluation of the proposed work.

E. Within a historic district.

1. Both individual resources and contributing resources are subject to all Certificates of Appropriateness findings and requirements.

2. Non-contributing resources are not subject to the requirements of this Section, but will be reviewed to ensure that proposed development on the non-contributing property will not degrade the historical character of the historic district.

F. CEQA. The review and approval of a COA shall require environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), as they relate to historic resources.

18.74.050 - Certificate of Appropriateness - Review and Approval
A public hearing shall be scheduled for a COA as soon as practicable after receipt of the application.

A. Public notice and hearing required. Notice of the public hearing shall be given at least 10 days before the hearing by mailing to the property owner of record and all owners of property within 300 feet of the exterior boundaries of the subject site, and by publication in a newspaper of general circulation within the City in compliance with Chapter 18.96 (Public Hearings).

B. Review and approval.

1. Authority of the Commission. The Commission may approve or disapprove a COA, in whole or in part. Notice of the Commission's decision shall be sent to the applicant and owners and occupants of the subject property within 10 days of the date of the decision.

2. Authority of the Director.

a. The Director may approve a COA for a proposal for minor architectural elements and details, paint or other colorings or finishes, minor site improvements, or signs.

b. The Director may also approve fences, replacement in-kind of windows, doors, roofs, or exterior materials, or proposals which are determined by the Director to be ordinary maintenance or repair, and which are conducted in a manner that preserves the archaeological, cultural, and historic value of the historic resource through conformance with any applicable prescriptive standards and/or design guidelines adopted by the City, and/or the guidelines of the Secretary of the Interior's Standards for Rehabilitation.

c. Director approval of a COA shall first require making all of the findings required by Subsection D. (Findings for Certificate of Appropriateness).

d. Minor changes or modifications to a COA can be approved by the Director, even if the Director was not the Review Authority.

e. The Director may defer action and refer a COA application to the Commission for a hearing and final decision.

3. Criteria for review.

a. In evaluating a COA application, the Review Authority shall use any applicable design guidelines and the Secretary of the Interior's Standards for Rehabilitation and shall consider the factors (e.g., the existing and proposed architectural style, arrangement, color, design, materials, and texture to be used) with regard to the original distinguishing architectural characteristics of the historic resource.

b. In addition, the Director may require that the proposed work be reviewed by a preservation architect.

c. Wherever feasible, the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC) shall be used in allowing any alteration to a historic resource.

C. Investigation for COA. The Review Authority may require the applicant to furnish material evidence, including detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection D. (Findings for Certificate of Appropriateness), below.

D. Findings for Certificate of Appropriateness.

1. Alterations, generally. A COA shall be issued for a proposed alteration only if the Review Authority first finds that:

a. The proposed work will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the historic resource and its site;

b. The proposed work conforms to any prescriptive standards and design guidelines adopted by the City for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the historic resource; and

c. In the case of construction of a new improvement upon a historic resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing historic resources within the same historic district.

2. Alterations found not to be adverse. The effect of alteration on a historic resource that would otherwise be found to be adverse may be considered not adverse for the purpose of this Section when the alteration is:

a. Limited to the rehabilitation or restoration of improvements; and

b. Conducted in a manner that preserves the archaeological, cultural, and historic value of the historic resource through conformance with any prescriptive standards and design guidelines adopted by the City for that historic resource, historic resource property, or historic district, and to the Secretary of the Interior's Standards for Rehabilitation.

E. Conditions for Certificate of Appropriateness. The Review Authority may approve a COA subject to any condition deemed reasonable, necessary, or desirable to effect the purposes of this Chapter. The conditions shall be covenants running with the land.

F. Period of validity of Certificate of Appropriateness.

1. A COA shall become void unless construction is commenced within 24 months from the date of approval.

2. A COA may be extended by the Director for an additional 24 months by applying to the Department a minimum of 30 days before expiration of the COA.

3. A COA may be extended only once, and a new COA is required thereafter.

4. If the project is not completed within 24 months after the expiration of the last Building Permit, a new COA shall be required to complete the work.

18.74.060 - Certificate of Appropriateness - Proposed Demolition
The following requirements shall apply in cases involving the proposed demolition of a historic resource, in addition to all other applicable provisions of this Chapter.

A. Research required. Appropriate archival research shall be conducted to determine the cultural and historic significance of any historic resource proposed for demolition in compliance with this Section. All costs associated with the research effort shall be paid for by the project proponent.

B. Required findings. Following a public hearing conducted in compliance with Chapter 18.96 (Public Hearings), the Commission shall approve a COA for the demolition of a historic resource only in conjunction with the concurrent approval of a proposed replacement project, and only after first making all of the following findings:

1. The historic resource cannot be remodeled, rehabilitated, or reused in a manner that would allow:

   a. A reasonable use; or

   b. A reasonable rate of return.

2. The repair and/or renovation of the historic resource are not feasible or the Building Official has determined that the structure represents an imminent safety hazard. (Program CD-6.2.3)

3. Disapproval of the application will diminish the value of the subject property so as to leave substantially no value.

C. Justifiable hardships. Personal, family, or financial difficulties, loss of prospective profits and Building Code violations shall not justify the issuance of a COA in compliance with Subsection D. (Economic hardship), below.

D. Economic hardship.

1. Only in cases of economic hardship. Demolition that is not in compliance with the findings required by Subsection B., above, may be approved only in cases of economic hardship.

2. Economic hardship defined. A substantial cost to the property owner that is patently unreasonable in comparison to the benefit conferred to the community should the owner be limited to following the guidelines for preserving or protecting the subject property.

3. Required findings. In order to approve demolition on the basis of economic hardship, the Commission shall first find all of the following:

a. The sale or rental of the property is impractical when compared to the cost of holding the property for uses allowed in the subject zoning district;

b. An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or impractical;

c. Disapproval would substantially diminish the value of the property;

d. Disapproval would unreasonably damage the owner of the property in comparison to the benefit conferred on the community;

e. All means involving City sponsored incentives (e.g., amendments to this Development Code, Building Code modifications, financial assistance, and/or grants) have been explored to relieve the economic hardship;

f. Without approval of the proposed construction, demolition, exterior alteration, remodeling, or removal, the reasonable use of or return from a designated landmark or property within a historic district will be denied to a property owner; and

g. In the case of a proposed demolition, the Director shall make an additional finding that the designated landmark cannot be remodeled or rehabilitated in a manner that would allow a reasonable use of or return from the property to the owner.

E. Effect of demolition.

1. If approval of a COA will result in the demolition of a historic resource, the applicant shall be required to memorialize the resource proposed for demolition in compliance with the standards of the Historic American Building Survey (HABS).

2. The documentation may include an archaeological survey, floor plans, measured drawings, photographic records, or other documentation specified by the Commission. (Program CD-6.2.2)

3. When appropriate, the Commission may require that a memorialization of the resource be incorporated into the proposed redevelopment of the site including the following:

a. Book or pamphlet;

b. Photographic display;

c. Small museum or exhibit;

d. Use of original architectural fixtures; and/or

e. Other methods deemed appropriate by the Commission.

F. 120-day waiting period. If the COA is approved, the demolition shall be allowed only after the 120-day waiting period has expired in order to allow interested parties time to purchase and move the historic resource.

18.74.070 - Certificate of Appropriateness - Disaster Damage
A COA is required to add to, alter, demolish, reconstruct, repair, replace, or restore a disaster-damaged historic resource in compliance with this Development Code, except where the Building Official determines that an unsafe or dangerous condition exists in compliance with Section 18.74.100 (Unsafe or Dangerous Condition), below.

18.74.080 - Adaptive Reuse and Other Rehabilitation Incentives
A. Purpose.

1. The rehabilitation incentives provided by this Section are intended to encourage the maintenance, preservation, and rehabilitation of historic resources in the City, recognizing that maintaining and rehabilitating a historic resource places increased burdens on the affected property owner.

2. These rehabilitation incentives are intended to reduce those burdens so that property owners will be encouraged to invest in maintaining the City's historic resources.

B. Applicability.

1. Upon designation of a structure or improvement as a designated historic resource, the property owner may apply to the City for guidance and assistance in rehabilitating the resource.

2. The application for rehabilitation incentives is considered the necessary planning permit; the applicant need not submit additional applications for other permits required by this Development Code, but shall comply with any City requirements for a Building Permit, Grading Permit, etc.

C. Types of incentives allowed. The Commission or Council may grant any or all of the following rehabilitation incentives.

1. Adaptive reuse, including the approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts;

2. Mills Act Agreements;

3. Permit fee waivers; and/or

4. Reduction and/or substantial modification in the development standards of this Development Code.

D. Application content. Applications shall include the information required by the Director.

E. Review and approval of rehabilitation incentives.

1. Hearing and action.

a. The Review Authority shall hold a public hearing to determine the eligibility of a property for rehabilitation incentives and shall, by resolution, approve or disapprove any incentives.

b. The action of the Commission on a Mills Act agreement shall be a written recommendation to the Council. The Council has final approval authority in Mills Act decisions.

c. Public notice for the hearing shall comply with State law and Chapter 18.96 (Public Hearings).

2. Required findings for approval. The Review Authority may recommend or grant rehabilitation incentives, only after first making all of the following findings:

a. Findings for all incentives.

i) Each incentive to be granted serves to compensate the property owner for the increased burden, in terms of maintenance and expense, that the rehabilitation would entail;

ii) No approved incentive would impair the aesthetic, architectural, or historic integrity of the resource; and

iii) No proposed incentive would be detrimental to the public health, safety, or general welfare.

b. Findings for adaptive reuse. In addition to the above findings, the Review Authority shall first make the following findings before granting approval of an adaptive reuse:

i) The change of use would occupy no more floor area than the original use;

ii) The proposed use would not significantly impair the physical character of the area in which it is located; and

iii) The change of use would result in substantial restoration of the significant and architectural features or exterior architectural appearance of the resource, and/or will result in a maintenance plan that will ensure the upkeep and continued maintenance of the resource over the expected life of the project.

3. Conditions of approval. In approving rehabilitation incentives, the Review Authority may impose any conditions of approval deemed reasonable and necessary to ensure compatibility between the new use and the surrounding area.

18.74.090 - Duty to Maintain and Repair

A. Responsibility to maintain and repair. The owner, occupant, or other person in actual charge of a historic resource shall keep in good repair all of the exterior portions of the improvement, structure, and all interior portions whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature and any other specifically designated features of the property.

B. Failure to maintain. If periodic maintenance and upkeep is not done, and the resource falls into disrepair, the fact that it is in disrepair may not be used as justification for demolition or any other alteration which would cause adverse effect as defined in this Chapter.

18.74.100 - Unsafe or Dangerous Condition

A. Imminent hazard. In the case of damage to a structure that is the result of an isolated incident, the Director may approve a COA for a structure for which there is a threat of imminent hazard as determined by the Building Official, without public notice.

B. Widespread damage. In the case of widespread damage to structures throughout the City (e.g., from an earthquake), the Director shall stay all notices to demolish designated or potential historic resources, including all structures in designated or potential districts, until a structural engineer with expertise in the restoration of historic structures has evaluated the nature and extent of the damage to each structure, and recommended steps to stabilize each structure.

C. Evaluation of damage. The City shall isolate damaged structures to allow persons with appropriate expertise to further evaluate the damage.

D. Action in case structure cannot be stabilized. In cases where a structural engineer with expertise in the restoration of historic structures has determined that the structure cannot be stabilized, the Director may issue a COA for the demolition of one or more structures.

Chapter 18.76

PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

Sections:

18.76.010 Purpose of Chapter
18.76.020 Effective Date of Permits
18.76.040 Applications Deemed Approved
18.76.050 Permits to Run with the Land
18.76.060 Performance Guarantees
18.76.070 Time Limits and Extensions
18.76.080 Changes to an Approved Project
18.76.090 Resubmittal
18.76.100 Covenants of Easements

18.76.010 - Purpose of Chapter
This Chapter provides requirements for the implementation or "exercising" of the permits required by this Development Code, including time limits and procedures for granting extensions of time.

18.76.020 - Effective Date of Permits
The approval of a planning permit shall become effective on the 11th day following the date of application approval by the appropriate Review Authority, where no appeal of the Review Authority's action has been filed in compliance with Chapter 18.92 (Appeals).

18.76.040 - Applications Deemed Approved
A planning permit application for a parcel that is deemed approved by operation of law in compliance with State law (Government Code Section 65956) shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the applicant before a Building Permit is issued or a land use not requiring a Building Permit is established.

18.76.050 - Permits to Run with the Land
An Administrative Variance, Design Review, Minor Use Permit, Planned Development Permit, Use Permit, or Variance approval that is granted in compliance with Chapter 18.71 (Permit Review and Decision) shall be deemed to run with the land through any change of ownership of the subject site, from the effective date of the permit, except in any case where a permit expires and becomes void in compliance with Section 18.76.070 (Time Limits and Extensions), below. All applicable conditions of approval shall continue to apply after a change in property ownership.

18.76.060 - Performance Guarantees
A. Deposit of security.

1. As a condition of approval of an Administrative Variance, Design Review, Minor Use Permit, Use Permit, or Variance, upon a finding that the City's health, safety, and welfare warrant, the Review Authority may require the execution of a covenant to deposit security, and the deposit of security in a reasonable amount to ensure the faithful performance of one or more of the conditions of approval of the Administrative Variance, Design Review, Minor Use Permit, Use Permit, or Variance in the event that the obligor fails to perform.

2. The security shall, as required by law or otherwise at the option of the City, be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.

3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director of Public Works in conjunction with the Director.

Any security required in compliance with this Section shall be payable to the City.

B. Release of security. Upon satisfactory compliance with all applicable provisions of this Section, the security deposit shall be released.

C. Failure to comply.

1. Upon failure to perform any secured condition, the City may perform the condition, or cause it to be done, and may collect from the obligor, and surety in case of a bond, all costs incurred, including administrative, engineering, legal, and inspection costs.

2. Any unused portion of the security shall be refunded to the obligor after deduction of the cost of the work.

3. To the extent that the Director can demonstrate that the obligor willfully breached an obligation in a manner that the obligor knew, or should have known, would create irreparable harm to the City, the entire amount of the bond or deposit may be withheld.

4. The Director's determination may be appealed to the Council by the obligor by filing an appeal with the City Clerk within 10 days after the decision to withhold the bond, in compliance with Chapter 18.92 (Appeals).

18.76.070 - Time Limits and Extensions

A. Time limits.

1. Unless a condition of approval or other provision of this Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below.

2. The permit shall not be deemed "exercised" until the permittee has substantially commenced the approved activity or has actually commenced the allowed use on the site in compliance with the conditions of approval.

3. After it has been exercised, a planning permit shall remain valid and run with the land in compliance with Section 18.76.050 (Permits to Run with the Land), as long as a Building Permit is active for the project, and after a final building inspection or Certificate of Occupancy has been granted.

4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within 24 months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit shall be exercised before the expiration of the Tentative Map, or the permit shall expire and become void.

B. Extensions of time. Upon written request by the applicant, the Director may extend the time for an approved planning permit to be exercised.

1. Filing and review of request.

a. Time for filing. The applicant shall file a written request for an extension of time with the Director before the expiration of the permit, together with the filing fee required by the City's Fee Schedule.

b. Evidence to be provided. The Director shall determine whether the applicant has made a good faith effort to exercise the permit. The burden of proof is on the applicant to establish, with substantial evidence, that circumstances beyond the control of the applicant (e.g., demonstrated problems with completing the acquisition of the parcel, poor weather during periods of planned construction, etc.) have prevented exercising the permit.

c. Public hearing. If the original approval required a public hearing, the Director shall hold a public hearing on a proposed extension of time, after providing notice of the public hearing in compliance with Chapter 18.96 (Public Hearings).

2. Action on extension request. A permit may be extended as follows for no more than two additional 12-month periods beyond the expiration of the original approval, provided the Director first finds that there have been no changes in the conditions or circumstances of the site or project so that there would have been grounds for disapproval of the original project.

a. Director's action. Upon good cause shown, the first 12-month extension may be approved, approved with modifications, or disapproved by the Director, whose decisions may be appealed to the Commission, in compliance with Chapter 18.92 (Appeals).

b. Commission action. One subsequent 12-month extension may be approved, approved with modifications, or disapproved by the Commission, whose decisions may be appealed to the Council in compliance with Chapter 18.92 (Appeals).

C. Effect of expiration. After the expiration of a planning permit in compliance with Subsection A.1., no further work shall be done on the site until a new planning permit and any required Building Permit or other City permits are first obtained.

18.76.080 - Changes to an Approved Project

Development or a new land use authorized through a planning permit granted in compliance with this Development Code shall be established only as approved by the Review Authority, and in compliance with any conditions of approval, except where a change to the project is approved as follows.

A. Application. An applicant shall request a proposed change in writing, and shall also furnish appropriate supporting information and materials explaining the reasons for the request. A change may be requested either before or after construction, or establishment and operation of the approved land use.

B. Public hearing. If the original project approval required public notice and a hearing, public notice shall be provided, and the Review Authority shall conduct a public hearing on the requested changes in compliance with Chapter 18.96 (Public Hearings).

C. Changes approved by the Director.

1. The Director may authorize one or more changes to an approved site plan, architecture, or the nature of the approved land use where the Director first finds that the changes:

a. Are consistent with all applicable provisions of this Development Code;

b. Do not involve a feature of the project that was a basis for or subject of findings in a Negative Declaration or Environmental Impact Report for the project;

c. Do not involve a feature of the project that was specifically addressed or was the subject of conditions of approval for the project or that was a specific consideration by the Review Authority (e.g., the Director, Commission, or Council) in the project approval; and

d. Do not result in an expansion of the land use.

2. The Director may choose to refer any requested change to the original Review Authority for review and final action.

D. Changes approved by original Review Authority. A proposed change that does not comply with the criteria in Subsection C. shall only be approved by the original Review Authority for the project through a new permit application processed in compliance with this Development Code.

18.76.090 - Resubmittal

A. Resubmittal after disapproval with prejudice.

1. The Review Authority may disapprove an application for a discretionary planning permit, or amendment, on the grounds that two or more similar applications for the same parcel have been disapproved in the past two years, or that another cause exists for limiting the re-filing of the application.

2. For a period of 12 months following the date of the disapproval with prejudice of a discretionary planning permit or amendment, no application for the same or substantially similar planning permit or amendment shall be filed for the same site, except where the Director determines that substantial new evidence or proof of changed circumstances warrants further consideration.

B. Resubmittal after disapproval without prejudice. There shall be no limitation on subsequent applications for a site where a project was disapproved without prejudice.

C. Director's determination, appeal. The Director shall determine whether a new application is for a planning permit, or amendment that is the same or substantially similar to a previously approved or disapproved permit or amendment, and shall either process or reject the application in compliance with this Section. The Director's determination may be appealed to the Commission, in compliance with Chapter 18.92 (Appeals).

18.76.100 - Covenants of Easements

A. Applicability. When necessary to achieve the land use goals of the City, the City may require a property owner holding property in common ownership to execute and record a Covenant of Easement in favor of the City, in compliance with State law (Government Code Section 65870 et seq.) A Covenant of Easement may be:

1. Required to provide for emergency access, ingress and egress, landscaping, light and air access, open space, parking, or for solar access; and

2. Imposed as a condition of approval by the Review Authority.

B. Form of covenant. The form of the Covenant shall be approved by the City Attorney, and the Covenant of Easement shall:

1. Describe the real property subject to the easement and the real property to be benefitted by the easement;

2. Identify the City approval or planning permit granted that relied on or required the Covenant; and

3. Identify the purposes of the easement.

C. Recordation. A Covenant of Easement shall be recorded in the County Recorder's Office.

D. Effect of covenant. From and after the time of its recordation, a Covenant of Easement shall:

1. Act as an easement in compliance with Civil Code Section 801 et seq., except that it shall not merge into any other interest in the real property. Civil Code Section 1104 shall be applicable to the conveyance of the affected real property; and

2. Impart notice to all persons to the extent afforded by the recording laws of the State.

Upon recordation, the burdens of the Covenant shall be binding on, and the Covenant shall benefit all successors-in-interest to the real property.

E. Enforceability. A Covenant of Easement shall be enforceable by the successors-in-interest to the real property benefitted by the Covenant, and the City. Nothing in this Section creates standing in any person, other than the City, and any owner of the real property burdened or benefitted by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.

F. Release of covenant. A Covenant of Easement may be released by the Director, or by another appropriate Review Authority in the event of an appeal, at the request of any person, including the City, or an affected property owner.

1. Process for release. The release of a Covenant of Easement shall require that the Review Authority first:

a. Conduct a noticed public hearing in compliance with Chapter 18.96 (Public Hearings); and

b. Find that the Covenant on the site is no longer necessary to achieve the land use goals of the City.

2. Recordation. A notice of the release of the Covenant of Easement shall be recorded by the Director in the County Recorder's Office.

3. Fees. The applicant for a release of a Covenant of Easement shall pay the fee for the processing of the release established by the City's Fee Schedule.

Chapter 18.78

SPECIFIC PLANS

Sections:

18.78.010 Purpose of Chapter
18.78.020 Applicability
18.78.030 Minimum Project Area
18.78.040 Initiation
18.78.050 Preparation and Content
18.78.060 Processing and Review
18.78.070 Adoption of Specific Plan
18.78.080 Implementation and Amendments

18.78.010 - Purpose of Chapter
This Chapter provides procedures for the preparation, processing, review, adoption, and amendment of specific plans.

18.78.020 - Applicability
A. When required. When required by the Council, the General Plan, or this Development Code to systematically implement the General Plan for any part of the City, a specific plan shall be prepared, processed, approved, and implemented in compliance with this Chapter.

B. Review Authority. An application for a specific plan shall be considered by the Commission, and approved or disapproved by the Council.

C. Effect of specific plan. The regulations provided by an adopted specific plan shall replace those of the applicable zoning district, and the development standards and design guidelines identified in the specific plan shall take precedence over the general standards contained in this Development Code and any City adopted design guidelines.

18.78.030 - Minimum Site Area
The minimum site area for a specific plan shall be five acres. The site may be one lot under single ownership or a combination of adjoining parcels subject to a unified planning concept.

18.78.040 - Initiation
A specific plan may be initiated by a resolution by the Council, or by the filing of an application with the Department by the owner or authorized agent of property for which the specific plan is sought. If the property is under more than one ownership, all of the owners or their authorized agents shall join in filing the application.

18.78.050 - Preparation and Content
The draft specific plan shall include detailed information in the form of text and diagram(s), organized in compliance with State law (Government Code Section 65451).

A. Preparation. A specific plan shall be prepared in the same manner as a general plan, pursuant to Government Code Section 65453. Therefore, a specific plan shall be prepared in accordance with the procedural requirements set forth in Government Code Sections 65351 through 65354.5, which govern the preparation, referral and consultation requirements for a general plan.

B. Required information. At a minimum, the following information shall be provided (see also Government Code Section 65451):

1. **Proposed land uses.** The distribution, location, and extent of land uses proposed within the area covered by the specific plan, including open space areas;

2. Infrastructure. The proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, potable water, sewers, solid waste disposal, utilities, coastal access to surrounding developed and undeveloped areas if located within the Coastal Zone, and other essential facilities proposed to be located within the specific plan area and needed to support the proposed land uses;

3. Land use and development standards. Standards, criteria, and design guidelines by which development would proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;

4. Implementation measures. A program of implementation measures, including financing, methods, programs, regulations, and public works projects, necessary to carry out and provide:

a. Development and conservation standards and criteria, infrastructure, and land uses;

b. Public services, facilities and utilities, based on a nexus between development exactions being imposed and the development-induced needs being met by those exactions;

c. Orderly phasing of the development; and

d. Other measures needed to protect the health, safety, and well-being of the community.

5. Relationship to General Plan. A discussion of the relationship of the specific plan to the goals, policies, and objectives of the General Plan; and

6. Additional information. The specific plan shall contain additional information deemed to be necessary by the Director based on the characteristics of the area to be covered by the plan, applicable goals, policies, and objectives of the General Plan, or any other issue(s) determined by the Director to be relevant.

B. Costs to be borne by the applicant. The specific plan, and all environmental studies required as a result of the specific plan, shall be paid for by the applicant who may be repaid by future developers of other portions of the specific plan area on a pro rata basis.

18.78.060 - Processing and Review
A draft specific plan shall be processed in the same manner as required for general plans by State law, and as follows:

A. Public meetings required for City-initiated specific plans.

1. Before preparation of the draft specific plan, the City shall hold at least one public meeting to identify potential community impacts and concerns relating to the proposed plan concept.

2. Before consideration of the draft specific plan by the Commission and Council, the City shall hold at least one public meeting to review the plan with the local community.

3. Public notice of the public/neighborhood meetings is required in compliance with Chapter 18.96 (Public Hearings).

B. Application filing. The following shall apply if the specific plan is initiated by the filing of a specific plan application:

1. An application for a specific plan shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing).

2. The application shall be accompanied by the information identified in the Department handout for specific plan applications and Section 18.78.050 (Preparation and Content), above.

C. Environmental review. The draft specific plan shall be subject to environmental review as identified in Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring).

D. Staff report. A written staff report shall be prepared for the draft specific plan which shall include detailed recommendations and proposed findings necessary for adoption of the plan.

E. Public hearings. A proposed specific plan shall be subject to public hearings before both the Commission and Council before its adoption, as follows:

1. Commission.

a. The Director shall schedule a public hearing on the proposed specific plan.

b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

c. After the 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 disapprove the proposed specific plan, based on the findings identified in Section 18.78.070 (Adoption of Specific Plan), below.

2. Council.

a. After receipt of the Commission's recommendation, the City Clerk shall schedule a public hearing on the proposed specific plan.

b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

c. After the public hearing, the Council may adopt the specific plan, disapprove the plan, or adopt the plan with modifications, with appropriate findings in compliance with Section 18.78.070 (Adoption of Specific Plan), below; provided, any substantial modifications to the plan that were not previously considered by the Commission shall be first referred to the Commission for its recommendation, in compliance with State law (Government Code Section 65356).

18.78.070 - Adoption of Specific Plan

A. Council's action. The Council may adopt a specific plan only after first finding that:

1. The proposed specific plan is consistent with the General Plan;

2. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc. as identified in the proposed specific plan), will ensure that future development will not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and base zoning district in which the property is located;

3. The proposed specific plan will:

a. Ensure quality development by encouraging greater creativity and aesthetically pleasing designs for the individual components of the development and the development as a whole;

b. Ensure the timely provision of essential public services and facilities consistent with the demand for the services and facilities; and

c. Promote a harmonious variety of housing choices and commercial and industrial activities, if applicable; attain a desirable balance of residential and employment opportunities; and result in a high level of amenities and the preservation of the natural and scenic qualities of open space.

4. The subject site is:

a. Physically suitable for the proposed land use designations;

b. Physically suitable for the type and density/intensity of development being proposed;

c. Adequate in shape and size to accommodate the proposed development; and

d. Served by streets adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.

B. Adoption. The specific plan shall be adopted by ordinance, or by resolution of the Council, in compliance with State law (Government Code Section 65453).

18.78.080 - Implementation and Amendments

A. Development within specific plan area. After the adoption of a specific plan, all proposed development and new land uses within the area covered by the specific plan shall be consistent with the specific plan. No project, Tentative Map, Parcel Map for which a Tentative Map was not required, Conditional Use Permit, Design Review Permit, or amendment to this Development Code may be approved/adopted within an area covered by a specific plan unless it is first found to be consistent with the specific plan.

B. Specific plan fee. The Council may impose a specific plan fee on development permits within the specific plan area, in compliance with State law (Government Code Section 65456).

C. Amendments.

1. An adopted specific plan may be amended through the same procedure specified in Government Code Section 65358, which governs amendments to a general plan.

2. The specific plan may be amended as often as deemed necessary by the Council, in compliance with State law (Government Code Section 65453).

City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 16-474

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Report

Agenda Number: 7C.

Receive Oral Report from Sanctuary City Ad Hoc Committee

AGENCY:	City Council
MEETING DATE:	November 28, 2016
PRESENTED BY:	City Council Sanctuary City Ad Hoc Committee

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE ORAL REPORT FROM SANCTUARY CITY AD HOC COMMITTEE

This will be an Oral Report

AGENDA ITEM NO. 7C

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 16-469

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Resolution

Agenda Number: 7D.

Receive Recommendation from Finance & Administration Committee and Consider Adoption of Joint City Council/ Improvement District Resolution Approving Implementation of Corrective Action Plan to Address Prior Year Cost Allocation Errors

AGENCY:	**City Council/MID**
MEETING DATE:	**November 28, 2016**
DEPARTMENT:	**Finance**
PRESENTED BY:	**V. Damiani**

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE RECOMMENDATION FROM FINANCE & ADMINISTRATION COMMITTEE AND CONSIDER ADOPTION OFJOINT CITY COUNCIL/IMPROVEMENT DISTRICT RESOLUTION APPROVING IMPLEMENTATION OF CORRECTIVE ACTION PLAN TO ADDRESS PRIOR YEAR COST ALLOCATION ERRORS

ISSUE:
While developing the FY2016-17 budget, an accounting error was discovered that in prior years resulted in an over-allocation of non-personnel overhead costs to the Water and Wastewater Enterprises. The Council/District Board directed staff to determine the extent of the error and to return with a corrective action plan. The proposed corrective action plan is brought forward for Council/District Board consideration and approval.

RECOMMENDED ACTION:
Adopt resolution accepting and implementing corrective action plan to address prior year cost allocation errors.

ALTERNATIVE ACTION(S):
Provide alternative direction to staff.

ANALYSIS:
While developing the FY 2016-17 budget, an accounting error was discovered that in prior years resulted in an over-allocation of non-personnel overhead costs to the Water and Wastewater Enterprises. At the Budget workshop held on May 25, 2016, staff was directed to determine the extent of the over-allocation with the intent that the General Fund repay the Enterprise Funds.

City staff subsequently determined that the over-allocation error began in FY 2011. Over-allocations from FY 2011 to Fiscal Year 2016 to the Water Enterprise equal approximately $1,426,506 and to the Wastewater Enterprise approximately $1,919,261. The methodology used to calculate the over-allocations as well as the resulting figures have been reviewed by the City's external auditors, JJACPA Inc., and have been found to be reasonable and accurate. The results of the auditor's findings are presented in the attached Agreed Upon Procedures report.

In the course of reviewing the extent of the over-allocation error, a second error was discovered by the City's outside auditors which resulted in an under-allocation of costs from the General Fund to the Enterprise funds in prior years. The auditors noted that although the Enterprise Funds participate in the benefit of certain City facilities, they do not participate in the cost. It was noted that no rent has been charged to either the Water or Wastewater enterprise funds for proportionate use of City Hall, Town Hall or the Corporation Yard. Rather than attempt to calculate back rent for use of the facilities it was recommended that the City transfer a proportionate share of each facility's book value to the enterprise funds. Book value is comprised of the facility's historical cost as well as accumulated depreciation. The amount of fixed assets to be transferred from the General Fund to the Water and Wastewater enterprise funds has been calculated at 25% or $579,331 each, which is representative of the under-allocated amount.

Thus far, the City Council/District Board has taken the following steps to remedy the cost allocation error:

- Appropriated $2M in FY 2016-17 Budget for repayment
- Suspended utility rate increases for FY 2016-17
- Corrected the allocation methodology moving forward

In addition to the remedies previously authorized by the City Council/District Board, the proposed corrective action plan includes a transfer of fixed assets and an interfund loan to complete the correction of prior year allocation errors. The complete corrective action plan is summarized below:

Summary of Over Allocation
Amounts Owed and Repayment Plan
As of 8/15/2016

	Water	Wastewater	Total
Amounts Owed	$1,426,506	$1,919,261	$3,345,767
Initial Cash Payment	847,175	1,152,825	2,000,000
Fixed Assets Transferred	579,331	579,331	1,158,662
5 Yr Interfund Loan		187,105	187,105
Total Repayment	$1,426,506	$1,919,261	$3,345,767

1. As mentioned previously, the Council/District Board budgeted $2M in the FY 2016-17 budget for cash payments.

2. The fixed assets transfer includes transfer of 25% of shared buildings to each of the two Enterprise Funds. The shared buildings to be proportionately transferred are City Hall, Town Hall and the Corporation Yard. Details of the proposed assets transfer are attached.

3. The General Fund and the Wastewater Enterprise will enter into an interfund loan for the balance of $187,105 with a term of 5 years at the LAIF interest rate of 0.55%. The proposed interfund loan document and amortization schedule are attached.

On October 5, 2016, the Finance & Administration Committee reviewed the proposed corrective action plan for the cost-allocation errors and recommended that it be approved by the City Council/District Board.

FISCAL IMPACT:
$2 million in cash to be transferred from the General Fund to the Water and Wastewater Enterprises. $1.2 million in fixed assets to be transferred from the General Fund to the Water and Wastewater Enterprises. $187,105 plus interest of approximately $2,700 to be repaid to the Wastewater Enterprise Fund from the General Fund over a term of 5 years.

IMPLEMENTATION/TIMEFRAMES:
All accounting transfers to be completed prior to mid-year budget review. Interfund loan to be executed prior to July 1, 2017.

ATTACHMENTS:

1. Proposed Resolution Approving Implementation of Corrective Action Plan
2. Agreed Upon Procedures Report – Cost Allocation Application Review (JJACPA)
3. Schedule of Fixed Assets to be Transferred
4. Proposed Interfund Loan Agreement and Amortization Schedule

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

RESOLUTION NO. ___*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL

and

RESOLUTION NO. ID___*-2016*

RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT BOARD

APPROVING IMPLEMENTATION OF CORRECTIVE ACTION PLAN TO ADDRESS PRIOR YEAR COST ALLOCATION ERRORS

WHEREAS, while developing the FY 2016-17 budget, an accounting error was discovered that, in prior years, resulted in an over-allocation of non-personnel overhead costs from the General Fund to the Water and Wastewater Enterprises; and

WHEREAS, at the May 25, 2016 budget workshop, the Fort Bragg City Council/ Fort Bragg Municipal Improvement District Board directed staff to determine the extent of the over-allocation with the intent that the General Fund repay the Enterprise Funds; and

WHEREAS, City staff determined that the error began in FY 2011 and, since then, resulted in a total over-allocation in the amount of $3,345,767; and

WHEREAS, the City's external auditors, JJACPA Inc., reviewed staff's determination and issued an Agreed Upon Procedures Report including findings and recommendations; and

WHEREAS, the City's external auditors, JJACPA Inc., found a second allocation error that resulted in an under-allocation of facility costs from the General Fund to the Water and Wastewater Enterprises; and

WHEREAS, on October 25, 2016, the Finance & Administration Committee reviewed the Agreed Upon Procedures Report and the proposed corrective action plan and recommended that the plan be implemented.

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg City Council and Fort Bragg Municipal Improvement District Board, do hereby approve the corrective action plan to address prior year cost allocation errors; and

BE IT FURTHER RESOLVED that the corrective actions are comprised of: (1) transferring $2,000,000 in cash from the General Fund to the Enterprise Funds; (2) transferring $1,158,662 in fixed assets from the General Fund to the Enterprise Funds; and (3) executing an interfund loan between the General Fund and Wastewater Enterprise Fund in the amount of $187,105 at an annual rate of .55% and a term of 5 years, to be effective July 1, 2017.

The above and foregoing Resolution was introduced by Council/Board Member _____, seconded by Council/Board Member _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg/District Board of the Fort Bragg Municipal Improvement District No. 1 held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

DAVE TURNER,
Mayor/Chair

ATTEST:

June Lemos
City Clerk/District Clerk

CITY OF FORT BRAGG, CALIFORNIA

Agreed Upon Procedures

Cost Allocation Application Review

Joseph J Arch, CPA JJACPA, Inc.

9/14/2016

City of Fort Bragg
Agreed Upon Procedures
Cost Allocation Application Review

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JJACPA, Inc.
A Professional Accounting Services Corp.

INDEPENDENT ACCOUNTANT'S REPORT ON
APPLYING AGREED-UPON PROCEDURES

We have performed the agreed-upon procedures enumerated in Attachment A, which were agreed to by the City solely to assist you in obtaining information regarding specific cost allocation calculations. Management of the City is responsible for the accounting records pertaining to the City's compliance pursuant to any Federal, State or Local regulation for which this information may pertain. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in Attachment A either for the purpose for which this report has been requested or for any other purpose.

The scope of this engagement was limited to performing the agreed-upon procedures as set forth in Attachment A. Attachment A also identifies the findings noted as a result of the procedures performed.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion as to the appropriateness of the results summarized in Attachment A. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the City and its management and is not intended to be, and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

September 14, 2016

JJACPA, Inc.

JJACPA, Inc.
Dublin, California

7080 Donlon Way, Suite 204, Dublin, CA 94568 Phone: (925) 556-6200 fax: (925) 556-6201
www.jjacpa.com

Attachment A—Agreed-Upon Procedures Engagement

1) Review the cost allocation procedures performed by the City in prior years and report on our findings. The period identified by the Finance Director has been determined to be fiscal year beginning July 1, 2010 through the fiscal year ended June 30, 2016

   Procedures and Findings: The City's Finance Director prepared various schedules detailing the differences caused by prior year cost allocations. These schedules presented a particular methodology that included certain assumptions based upon the amounts recorded and schedules used for the allocations.

   The assumptions used included General Fund allocations for support departments were fully allocated, except for City Attorney costs, which were allocated at 50%, to other funds for non-payroll expenditures. The following General Fund departments were used for the allocations:

   City Attorney, Council, City Manager, City Clerk, Human Resources, Finance, Community Development and Non-departmental.

   The results indicated the following:

   All departments included above were appropriately shown in the Finance Director prepared schedules.

   The methodology used in prior year schedules appeared to be based upon budgeted amounts instead of adjusted at year end based upon actual results. In addition, allocating full cost to other funds is not an accurate basis by which these allocations should be recorded because it does not account for the General fund's participation in the allocation formula.

   We also reviewed the methodology developed as a result of these variances and concur with the changes that were made to these allocations and the policy developed. Further, the adjustment to actual at fiscal year-end will make the projections more accurate on a year by year basis and be more reflective of each fund's participation in the expenditures.

2) Review the schedules and documents prepared by the Finance Director indicating an over-allocation to the City's enterprise funds in prior years. The period identified by the Finance Director has been determined to be fiscal year beginning July 1, 2010 through the fiscal year ended June 30, 2016.

Attachment A, continued—Agreed-Upon Procedures Engagement

Procedures and Findings: The City's Finance Director prepared various schedules detailing the differences caused by prior year cost allocations. These schedules presented as Appendix B were validated and traced to entries recorded in the City's general ledger to establish the reliability of the schedules. The results indicated the following:

Upon tracing amounts recorded to the Water and Wastewater Funds, all amounts were accurate and traced to the schedules in Appendix B without exception.

Further tracing indicated amounts for use of City facilities had not been charged to either the Water or Wastewater Funds. The fixed assets to be transferred accounted for 25% of shared buildings to each of the two Enterprise Funds. The shared buildings to be proportionately transferred are City Hall, Town Hall and the Corporation Yard, all of which are utilized by Water and Wastewater personnel and operations. The amounts were recalculated and we are recommending the loan be reduced by a like amount for each fund or $579,331 per fund.

We further recommend the City's overhead allocation allow for a "true up" at fiscal year end to account for actual results rather than a budgetary allocation This will also aide in future budgets to reflect an estimate projected on actual amounts rather than budgetary estimates.

Appendix B

Finance Director Prepared Schedules

FY 10-11 SALARY & BENEFIT ALLOCATION PERCENTAGES								
	Fund Personnel Expenditures	Salary & Benefits Allocation *	Sub-Total Fund Salary & Benefit Cost	Salary & Benefit Cost Credited to WW from Water	Sub-Total Fund Salary & Benefit Cost	% of Allocated Cost	Revised %	True Up
GF					3,257,154		59%	
RDA		245,663	245,663		245,663	12%	4%	
RDA Housing		77,146	77,146		77,146	4%	1%	
Fleet		78,653	78,653		78,653	4%	1%	
Water Enterprise		751,077	751,077	240,372	991,449	38%	18%	149,613
Wastewater Enterprise	649,423	404,943	1,054,367	(240,372)	813,996	41%	15%	122,834
Gas Tax		35,768	35,768		35,768	2%	1%	
	649,423	1,593,250	2,242,674	(240,372)	2,002,302	100%		

Revised Totals	649,423	1,593,250	2,242,673	-	5,499,828

Total Budgeted Payroll	5,259,456.00
GF	3,257,154.04

Non-Salary General Fund Costs to be Allocated
(LINKED to Finance Master Exp WB)

Legal (50%)		65,000
Council		20,300
GF - City Manager		4,550
GF - City Clerk		6,360
HR		11,300
Finance		81,415
Comm Dev		7,275
Non-Dept		522,615
		718,815
	13%	
Public Works		111,125
		829,940

SALARY & BENEFIT ALLOCATION PERCENTAGES

Total Budgeted Payroll	5,668,083.00
GF	3,537,637.97

	Fund Personnel Expenditures	Salary & Benefits Allocation	Sub-Total Fund Salary & Benefit Cost	Salary & Benefit Cost Credited to WW from Water	Sub-Total Fund Salary & Benefit Cost	% of Allocated Cost	Revised %	True Up
GF					3,537,638		62%	
RDA		267,438	267,438		267,438	13%	5%	
RDA Housing		80,299	80,299		80,299	4%	1%	
Fleet		114,267	114,267		114,267	5%	2%	
Water Enterprise		462,148	462,148	171,682	633,830	30%	11%	159,870
Wastewater Enterprise	741,538	464,755	1,206,293	(171,682)	1,034,611	49%	18%	260,959
	741,538	1,388,907	2,130,445	0	2,130,445	100%		
Revised Totals	741,538	1,388,907	2,130,445	0	5,668,083			

Non-Salary General Fund Costs to be Allocated

Legal (total less $30k)	170,000
Council	7,200
GF - City Manager	3,750
GF - City Clerk	3,850
HR	18,950
Finance	71,400
CDD	9,175
Non-Dept (excluding transfers, OPEB	534,703
& PayGo Retiree Medical Costs)	819,028
GF Retiree Medical PayGo	173,350
Public Works	135,038
	1,127,416
Retiree Medical Benefits	
OPEB FY11/12 Funding	231,000
WW PayGo	71,238
	302,238
	1,429,654

SALARY & BENEFIT ALLOCATION PERCENTAGES

Total Budgeted Payroll	5,617,548.00
GF	3,495,029.15

	Fund Personnel Expenditures	Salary & Benefits Allocation	Sub-Total Fund Salary & Benefit Cost	Salary & Benefit Cost Credited to WW from Wat	Sub-Total Fund Salary & Benefit Cost	% of Allocated Cost	Revised %	True Up
GF					3,495,029		62%	
CVSC		51,604	51,604		51,604	2.43%	1%	
RDA		189,269	189,269		189,269	8.92%	3%	
RDA Housing		71,666	71,666		71,666	3.38%	1%	
Fleet		106,059	106,059		106,059	5.00%	2%	
Water Enterprise		492,069	492,069	181,770	673,839	31.75%	12%	182,912
Wastewater Enterprise	720,541	491,311	1,211,852	(181,770)	1,030,082	48.53%	18%	279,613
	720,541	1,401,978	2,122,519	-	2,122,519	97.57%		
Revised Totals	720,541	- 1,401,978	- 2,122,519	- -	- 5,617,548	- 1		

Non-Salary General Fund Costs to be Allocated	
Legal	160,000
Council	28,700
GF - Admin	48,450
GF - City Clerk	4,360
Finance	13,350
CDD	16,950
Public Works Admin	43,672
Non-Dept (excluding transfers)	1,209,388
	1,524,870

SALARY & BENEFIT ALLOCATION PERCENTAGES

Total Budgeted Payroll	6,087,026.00
GF	3,842,843.95

	Fund Personnel Expenditures	Salary & Benefits Allocation	Sub-Total Fund Salary & Benefit Cost	Salary & Benefit Cost Credited to WW from W	Sub-Total Fund Salary & Benefit Cost	% of Allocated Cost	Revised %	True Up
GF					3,842,484		63%	
CVSC		38,342	38,342		38,342	1.71%	1%	
RDA		189,749	189,749		189,749	8.46%	3%	
RDA Housing		-	-		-	0.00%	0%	
Facilities Maint		79,515	79,515		79,515	3.54%	1%	
IT	90,094	10,999	101,093		101,093	4.50%	2%	
Fleet	82,864	22,763	105,627		105,627	4.71%	2%	
Water Enterprise		494,171	494,171	178,375	672,546	29.97%	11%	167,386
Wastewater Enterprise	735,974	499,712	1,235,686	(178,375)	1,057,311	47.11%	17%	263,147
	908,932	1,335,251	2,244,182	-	2,244,182	98.29%		
Revised Totals	172,958	1,335,251	2,244,182	-	6,086,666	1		

Non-Salary General Fund Costs to be Allocated	
Legal	160,000
Council	28,700
GF - Admin	48,450
GF - City Clerk	4,360
Finance	13,350
CDD	16,950
Public Works Admin	43,672
Non-Dept (excluding transfers)	1,199,388
	1,514,870

SALARY & BENEFIT ALLOCATION PERCENTAGES

Total Budgeted Payroll	6,193,091.00
GF	4,173,190.70

	Fund Personnel Expenditures	Salary & Benefits Allocation	Sub-Total Fund Salary & Benefit Cost	Salary & Benefit Cost Credited to WW from Wat	Sub-Total Fund Salary & Benefit Cost	% of Allocated Cost	Revised %	True Up
GF					4,173,191		67%	
CVSC		-	-		-	0.00%	0%	
						0.00%	0%	
RDA Housing		-	-		-	0.00%	0%	
Facilities Maint		82,249	82,249		82,249	4.07%	1%	
IT	95,789	18,859	114,648		114,648	5.68%	2%	
Fleet	83,933	21,376	105,309		105,309	5.21%	2%	
Water Enterprise		489,085	489,085	178,034	667,119	34.75%	11%	150,560
Wastewater Enterprise	722,272	506,336	1,228,608	(178,034)	1,050,575	50.29%	17%	237,101
	901,994	1,117,906	2,019,900	-	2,019,900	100.00%		
Revised Totals	901,994 -	1,117,906 -	2,019,900 -	- -	6,193,091 -	1		

Non-Salary General Fund Costs to be Allocated

Legal	177,000
Council	18,700
GF - Admin	59,750
GF - City Clerk	4,875
Finance	16,250
CDD	17,600
Public Works	107,710
Non-Dept (excluding transfers	1,005,812
	1,407,697
	1,397,697

SALARY & BENEFIT ALLOCATION PERCENTAGES

Total Budgeted Payroll	6,395,350.00
GF	4,378,384.16

	Fund Personnel Expenditures	Salary & Benefits Allocation	Sub-Total Fund Salary & Benefit Cost	Salary & Benefit Cost Credited to WW from Wa	Sub-Total Fund Salary & Benefit Cost	% of Allocated Cost	Revised %	True Up
GF					4,378,384		68%	
CVSC		-	-		-	0.00%	0%	
						0.00%	0%	
RDA Housing		-	-		-	0.00%	0%	
Facilities Maint		80,575	80,575		80,575	3.99%	1%	
IT	98,539	27,740	126,279		126,279	6.26%	2%	
Fleet	86,570	23,296	109,866		109,866	5.45%	2%	
Water Enterprise		464,078	464,078	183,768	647,846	33.84%	10%	148,058
Wastewater Enterprise	755,570	480,598	1,236,168	(183,768)	1,052,400	50.46%	16%	240,515
	940,679	1,076,287	2,016,966	-	2,016,966	100.00%		
Revised Totals	940,679	1,076,287	2,016,966	-	6,395,350			

Non-Salary General Fund Costs to be Allocated	
Legal	170,000
Council	10,000
GF - Admin	48,930
GF - City Clerk	5,425
Finance	33,200
CDD	7,800
Public Works	162,642
Non-Dept (excluding transfers & allocations)	1,033,591
	1,471,588
	1,461,588

FORT BRAGG GENERAL FUND FIXED ASSETS
BUILDINGS AND IMPROVEMENTS 910.160.163

ACQUISITION/ REMODEL	DESCRIPTION	DATE IN SERVICE	USEFUL LIFE (S/L)	COST BASIS	NBV FY16	Accumulated Depreciation	Water Proportionate Share 25%	Wastewater Proportionate Share 25%
1921/45/03	CITY HALL INC REHAB		30	464,643.00	(0)	(464,643)	116,160.75	116,160.75
1959	CORPORATION YARD		30	200,000.00	-	(200,000)	50,000.00	50,000.00
1912/1989	TOWN HALL		20	400,000.00	-	(400,000)	100,000.00	100,000.00
2008-2009	City Hall Remodel 4/1/09	4/1/2009	30	711,241.70	539,358	(171,883)	177,810.43	177,810.43
2009-2010	Town Hall Parapets	12/18/2009	30	221,397.18	173,120	(48,277)	55,349.30	55,349.30
3/1/2015	Town Hall Remodel	3/1/2015	30	320,042.13	300,879	(19,163)	80,010.53	80,010.53
	TOTALS			**2,317,324.01**	**1,013,357.14**	**(1,303,966.87)**	**579,331.00**	**579,331.00**

INTERFUND LOAN AGREEMENT BY AND BETWEEN THE FORT BRAGG GENERAL FUND AND THE FORT BRAGG WATER ENTERPRISE FUND

In accordance with Resolution No. 3720-2014 of the Fort Bragg City Council approving and adopting an Interfund Loan Policy, the following Agreement is hereby approved as of June 30, 2017, between the Fort Bragg General Fund, as borrower and the Fort Bragg Wastewater Enterprise Fund, as lender, as authorized by Resolution No. XXXX-XXXX of the Fort Bragg City Council.

Date of Loan: July 1, 2017

Amount: $187,105.10

Annual Interest Rate: 0.55%

Term: Commencing July 1, 2017 and maturing June 30, 2022.

Payments: Borrower will make payments as set forth in Schedule I in the amount of $187,105.10 plus interest. Any unpaid balance as of June 30, 2022, shall be immediately due and payable in full.

Collateral: Any and all undesignated fund balance or other reserves available, excluding the operating reserve, shall be paid in accordance with Schedule I, and applied first to repay accrued interest and then to the principal balance outstanding.

Right to Prepay: Borrower has the right to make payments of principal at any time before they are due.

Feasibility Analysis: The Wastewater Enterprise Fund has sufficient funds to loan to the General Fund, as demonstrated by its current cash balance. The General Fund expects to repay the loan from undesignated fund balances and reserves, which are expected to be $1,050,329 as of June 30, 2017. These balances and reserves are sufficient to cover the debt service requirement of this loan.

This agreement may be amended with the consent of the Fort Bragg City Council, provided the amendments are consistent with the City's Interfund Loan Policy.

ACKNOWLEDGED:

_____	_____
City Manager	Fund Manager

Amortization Schedule - Interfund Loan
From Fund 710 to Fund 110 (Resolution XXXX-XXXX)
Purpose: Repayment of prior year over-allocations of overhead costs

Loan Amount	$ 187,105.10
Annual Interest Rate	0.55%
Loan Period In Years	5
No. of Pymts/Year	4
Start Date of Loan	07/01/17
Optional Extra Payments	

Scheduled Payment	$ 9,490.91
Scheduled No. of Pymts	20
Actual No. of Pymts	20
Total Early Pymnts	TBD
Total Interest	$ 2,713.10

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance
1	09/30/17	$ 187,105.10	$ 9,490.91		$ 9,490.91	$ 9,233.64	$ 257.27	$177,871.46
2	12/31/17	177,871.46	9,490.91		9,490.91	9,246.34	244.57	168,625.12
3	03/31/18	168,625.12	9,490.91		9,490.91	9,259.05	231.86	159,366.07
4	06/30/18	159,366.07	9,490.91		9,490.91	9,271.78	219.13	150,094.29
5	09/30/18	150,094.29	9,490.91		9,490.91	9,284.53	206.38	140,809.76
6	12/31/18	140,809.76	9,490.91		9,490.91	9,297.30	193.61	131,512.46
7	03/31/19	131,512.46	9,490.91		9,490.91	9,310.08	180.83	122,202.38
8	06/30/19	122,202.38	9,490.91		9,490.91	9,322.88	168.03	112,879.50
9	09/30/19	112,879.50	9,490.91		9,490.91	9,335.70	155.21	103,543.80
10	12/31/19	103,543.80	9,490.91		9,490.91	9,348.54	142.37	94,195.26
11	03/31/20	94,195.26	9,490.91		9,490.91	9,361.39	129.52	84,833.87
12	06/30/20	84,833.87	9,490.91		9,490.91	9,374.26	116.65	75,459.61
13	09/30/20	75,459.61	9,490.91		9,490.91	9,387.15	103.76	66,072.46
14	12/31/20	66,072.46	9,490.91		9,490.91	9,400.06	90.85	56,672.40
15	03/31/21	56,672.40	9,490.91		9,490.91	9,412.99	77.92	47,259.41
16	06/30/21	47,259.41	9,490.91		9,490.91	9,425.93	64.98	37,833.48
17	09/30/21	37,833.48	9,490.91		9,490.91	9,438.89	52.02	28,394.59
18	12/31/21	28,394.59	9,490.91		9,490.91	9,451.87	39.04	18,942.73
19	03/31/22	18,942.73	9,490.91		9,490.91	9,464.86	26.05	9,477.86
20	06/30/22	9,477.86	9,490.91		9,490.91	9,477.86	13.05	0.00
			$ 189,818.20	$ -	$ 189,818.20	$ 187,105.10	$ 2,713.10	

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City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-468

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Resolution

Agenda Number: 7E.

Receive Recommendation from Finance & Administration Committee and Consider Adoption of Joint City Council/Improvement District Resolution to Amend the FY 2016/17 Budget to Reallocate Funding for the Facilities Maintenance and Repair Internal Service Fund

AGENCY:	**City Council/MID**
MEETING DATE:	**Nov. 28, 2016**
DEPARTMENT:	**Finance**
PRESENTED BY:	**V. Damiani**

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE RECOMMENDATION FROM FINANCE & ADMINISTRATION COMMITTEE AND CONSIDER ADOPTION OF JOINT CITY COUNCIL/IMPROVEMENT DISTRICT RESOLUTION TO AMEND THE FY 2016/17 BUDGET TO REALLOCATE FUNDING FOR THE FACILITIES MAINTENANCE AND REPAIR INTERNAL SERVICE FUND

ISSUE:
When the FY 2016/17 Budget was adopted on June 27, 2016, the City Council requested a reassessment of amounts allocated to the General Fund, Water Enterprise Fund and Wastewater Enterprise Fund from the Facilities Maintenance and Repair Fund in the FY 2016/17 budget. Councilmember Cimolino noted that the Water and Wastewater Enterprises were contributing funding to projects at certain non-shared facilities.

RECOMMENDED ACTION:
Adopt Resolution Approving Budget Amendment No. 2017-13 reallocating funding for the Facilities Maintenance and Repair Internal Service Fund.

ALTERNATIVE ACTION(S):
Provide further direction to staff.

ANALYSIS:

Staff completed the reassessment and found a reasonable basis to increase the General Fund's contribution to the Internal Service Fund by $45,409, with a corresponding $22,704 decrease in contribution for each of the Enterprise Funds. It should be noted that the General Fund contributed a lump sum $400K to the Internal Service Fund in FY 2014-15. This initial outlay was credited to the General Fund projects prior to allocating the remaining costs. Details of the reallocation are presented in the attached summary chart.

FISCAL IMPACT:
Costs will increase for the General Fund and decrease for the Water and Wastewater Enterprise funds in FY 2016/17. A more refined methodology will be used to calculate future annual allocations.

IMPLEMENTATION/TIMEFRAMES:
Immediately upon adoption.

ATTACHMENTS:
1. Proposed Resolution for Budget Amendment
2. Summary of Recalculated Facilities ISF Allocation

NOTIFICATION:
None.

AGENDA ITEM NO. 7E

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

RESOLUTION NO. ___*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL

and

RESOLUTION NO. ID___*-2016*

RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT BOARD

APPROVING BUDGET AMENDMENT NO. 2017-13 TO AMEND THE FY 2016/17 BUDGET TO REALLOCATE FUNDING FOR THE FACILITIES MAINTENANCE AND REPAIR INTERNAL SERVICE FUND BY INCREASING THE GENERAL FUND APPROPRIATION IN THE AMOUNT OF $45,409 (ACCOUNT NO. 110-4392-0397) WHILE DECREASING APPROPRIATED FUNDS FROM THE WATER ENTERPRISE FUND IN THE AMOUNT OF $22,704 (ACCOUNT NO. 610-4611-0397) AND DECREASING APPROPRIATED FUNDS FROM THE WASTEWATER ENTERPRISE FUND IN THE AMOUNT OF $22,704 (ACCOUNT NO. 710-4711-0397)

WHEREAS, on June 27, 2016, the Fort Bragg City Council and Fort Bragg Municipal Improvement District Board adopted the Fiscal Year 2016-17 budget; and

WHEREAS, on June 27, 2016, the Fort Bragg City Council and Fort Bragg Municipal Improvement District Board directed staff to reassess and reallocate the amounts contributed by each the General Fund, Water Enterprise Fund and Wastewater Enterprise fund to the Facilities Maintenance and Repair Internal Service Fund as presented in the Fiscal Year 2016-17 budget; and

WHEREAS, staff completed the requested reassessment and reallocation plan and found a reasonable basis to increase costs to the General Fund while reducing costs to Water Enterprise Fund and Wastewater Enterprise Fund; and

WHEREAS, on October 5, 2016, the Finance & Administration Committee reviewed the reassessment and reallocation plan and recommended the plan for adoption;

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg City Council and Fort Bragg Municipal Improvement District Board, do hereby approve Budget Amendment No. 2017-13 amending the FY 2016/17 Budget to appropriate funds in the amount of $45,409 from the General Fund, decrease appropriations in the amount of $22,704 from the Water Enterprise Fund and decrease appropriations from the Wastewater Enterprise Fund in the amount of $22,704.

The above and foregoing Resolution was introduced by Council/Board Member _____, seconded by Council/Board Member _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg/District Board of the Fort Bragg Municipal Improvement District No. 1 held on the 28th day of November, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

RECUSED:

DAVE TURNER,
Mayor/District Chair

ATTEST:

June Lemos
City Clerk/District Secretary

Facilty & Equipment Internal Service Fund
Cost Allocation - Recalculated

	Total Cost	GF	Water	Wastewater
City Hall	$185,500	92,750	46,375	46,375
City Hall East	$127,000	$127,000	-	-
Fort Building	$0	-	-	-
Town Hall	$0	-	-	-
Fire Station, Main St	$0	-	-	-
Fire Station, Hwy 20	$0	-	-	-
Guest House	$270,000	$270,000	-	-
Police Department	$11,500	$11,500	-	-
Otis Johnson Park	$0	-	-	-
Bainbridge Park	$0	$0	-	-
Noyo Headlands Park	$0	$0	-	-
Pomo Bluffs Park	$0	-	-	-
Noyo Beach	$0	-	-	-
Harbor Lite Trail	$0	-	-	-
General Repairs	$23,000	11,500	5,750	5,750
Total Projects and Maint	$617,000	$512,750	$52,125	$52,125
Allocation Percentages		83%	8%	8%
Overhead Allocated	124,334	103,326	10,504	10,504
Total Cost	**741,334**	**616,076**	**62,629**	**62,629**
General Fund Original Contribution to Reserve	(400,000)	(400,000)		
Allocate remaining reserve draw 50/25/25	(17,232)	(8,616)	(4,308)	(4,308)
FY16-17 Contribution	324,102	207,460	58,321	58,321
As Presented In Adopted Budget		162,051	81,025	81,025
Increaase/(decrease) allocation		45,409	(22,704)	(22,704)

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 16-466

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Staff Report

Agenda Number: 7F.

Receive Report and Provide Direction to Staff Regarding Submittal of Planning Activity for Inclusion in Mendocino Council of Governments' (MCOG) 2017-18 Overall Work Program

AGENCY:	**City Council**
MEETING DATE:	**November 28, 2016**
DEPARTMENT:	**CDD**
PRESENTED BY:	**S Perkins**

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE REPORT AND PROVIDE DIRECTION TO STAFF REGARDING SUBMITTAL OF PLANNING ACTIVITY FOR INCLUSION IN MENDOCINO COUNCIL OF GOVERNMENTS' (MCOG) 2017-18 OVERALL WORK PROGRAM

ISSUE:
The Mendocino Council of Governments (MCOG) allocates a portion of the Local Transportation Funds that it receives each year to fund projects under its Overall Work Program (OWP). OWP projects are of a planning nature and include studies related to transportation needs and technical assistance. In the past, the City has received OWP funding for the following:

1. ADA Transition Plan
2. Central Business District Parking Study
3. Residential Streets Safety Plan
4. Main Street Merge Lane Relocation Study
5. South Fort Bragg Bicycle and Pedestrian Access Plan
6. Bicycle Master Plan
7. Planning for Coastal Trail Improvements Along Glass Beach Drive
8. City of Trails Feasibility Study
9. North Harbor Drive Access Plan

The deadline for applications for funding requests for FY 2017-18 is December 2, 2016.

RECOMMENDED ACTION:
Receive Report and Provide Direction to Staff Regarding Submittal of Planning Activity for Inclusion in Mendocino Council of Government (MCOG) Overall Work Program.

ALTERNATIVE ACTION(S):
Take no action.

ANALYSIS:
The City has received funding from MCOG planning grants for a variety of useful transportation related planning activities over the years. This year provides us with another opportunity to seek funds in support of transportation planning in Fort Bragg. Based on prior years' experience, the City has a very good chance of receiving funding for at least one project. The City's Residential Streets Safety Plan (drafted 2005, last updated 2010) is an excellent candidate for OWP funding. The 2010 plan update resulted in recommendations for traffic calming measures on Fir, Cedar, Chestnut and Harold Streets. The City has implemented the majority of the 2010 plan recommendations, with others presently in the work schedule.

In addition to updating the Residential Streets Safety Plan, staff recommends broadening the scope of the report to include all City streets and retitling the document as the Street Safety Plan (SSP). The SSP would include an updated analysis of vehicular, pedestrian and bicycle circulation and traffic patterns, and recommendations for improved vehicular and pedestrian safety measures, traffic control devices, etc.

The previous plan update process included:

1. Public open house and stakeholder meetings to receive community input;
2. Data collection of traffic and speed counts for streets with safety issues, and project area audits;
3. Analysis of traffic and speed data, field observations and street audits, and community, stakeholder and staff input;
4. Preparation of traffic calming plans for four streets and conceptual citywide traffic calming recommendations;
5. Preparations of a "crosswalk policy" to help guide implementation of crosswalks under varying conditions;
6. Identification of carry-over projects from the original Residential Streets Safety Plan for inclusion in the updated plan; and
7. Composition of the plan for Council review and acceptance.

This planning process would be similar to the previous effort, depending on input received at the initial community input meetings. Community Development Department and Public Works staff would complete the project with possible consulting services from a traffic engineer. Costs are estimated at approximately $65,000. The 2010 plan update required approximately $41,000 in City staff time and approximately $19,000 in consultant fees, all funded by the OWP grant.

FISCAL IMPACT:
The Overall Work Program applications do not require the identification of City matching funds. Therefore, there is no immediate fiscal impact to the City. An update to the existing 2010 Residential Streets Safety Plan is not otherwise funded. Once completed, the new SSP would position the City to receive other transportation grant funding to implement the plan recommendations.

CONSISTENCY:
A 2018 Street Safety Plan would implement General Plan Program C-3.1.1 by identifying circulation problems to set priorities for improvements.

IMPLEMENTATION/TIMEFRAMES:
The Overall Work Program application will be completed and submitted to MCOG by December 2, 2016.

ATTACHMENTS:

None.

NOTIFICATION:

None.

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

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City of Fort Bragg

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Text File

File Number: 16-472

Agenda Date: 11/28/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Staff Report

Agenda Number: 7G.

Receive Presentation on Roundabouts as a Traffic Control Device

AGENCY:	City Council
MEETING DATE:	November 28, 2016
PREPARED BY:	T. Varga
PRESENTED BY:	T. Varga

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE PRESENTATION ON ROUNDABOUTS AS A TRAFFIC CONTROL DEVICE

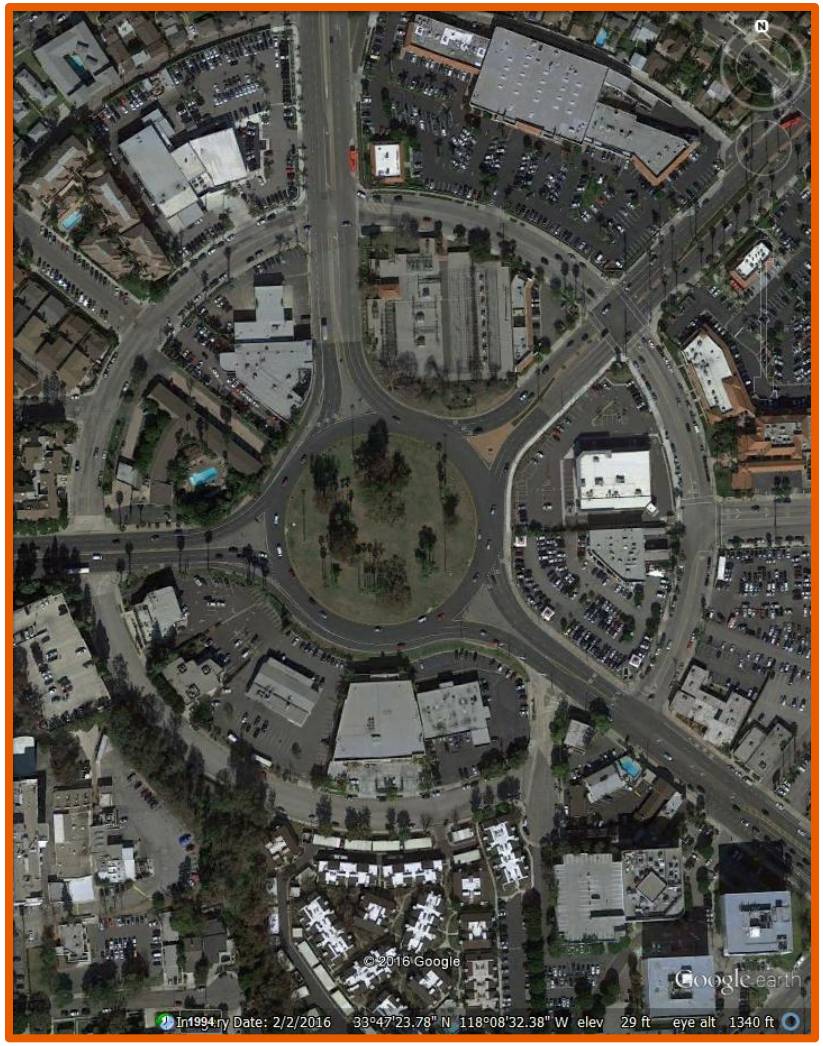
This will be an Oral Report

AGENDA ITEM NO. 7G

ROUNDABOUTS

As a Traffic Control Device

Los Alamitos Traffic Rotary
Long Beach, CA



Los Alamitos Traffic Rotary
Long Beach, CA

Fir & Harrison Streets
Fort Bragg, CA

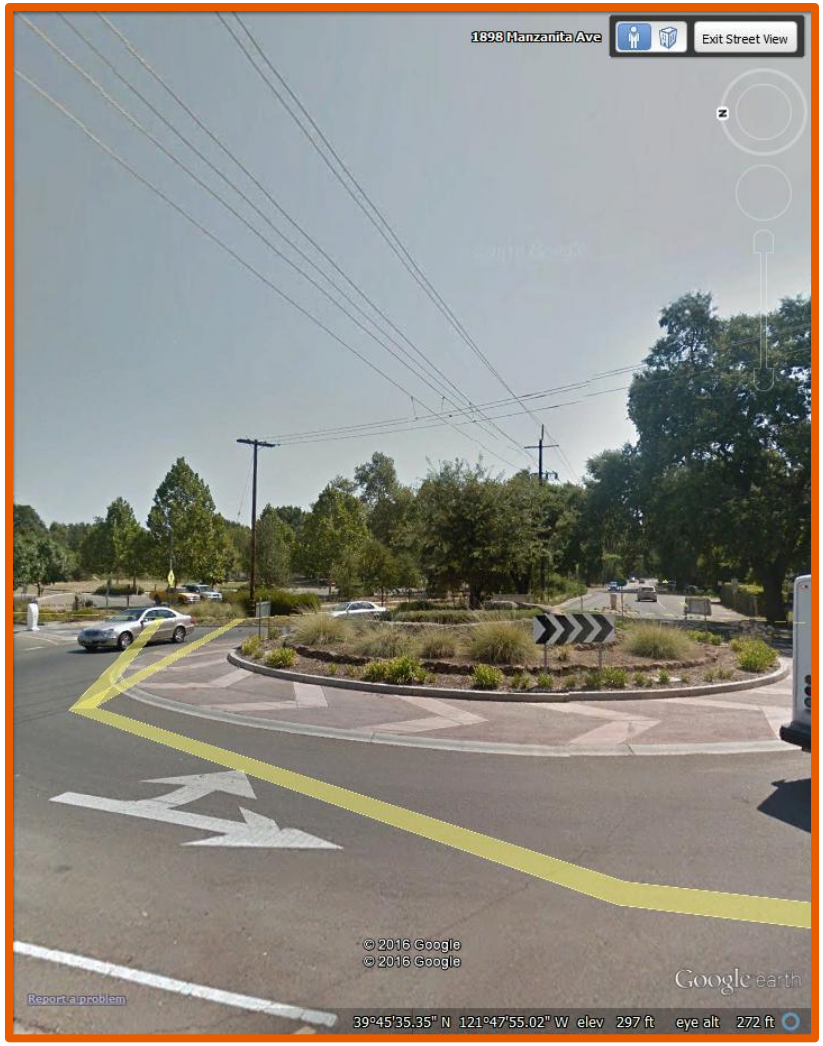
East 8th Ave. & Magnolia Ave. Chico, CA

East 8th Ave. & Magnolia Ave. Chico, CA

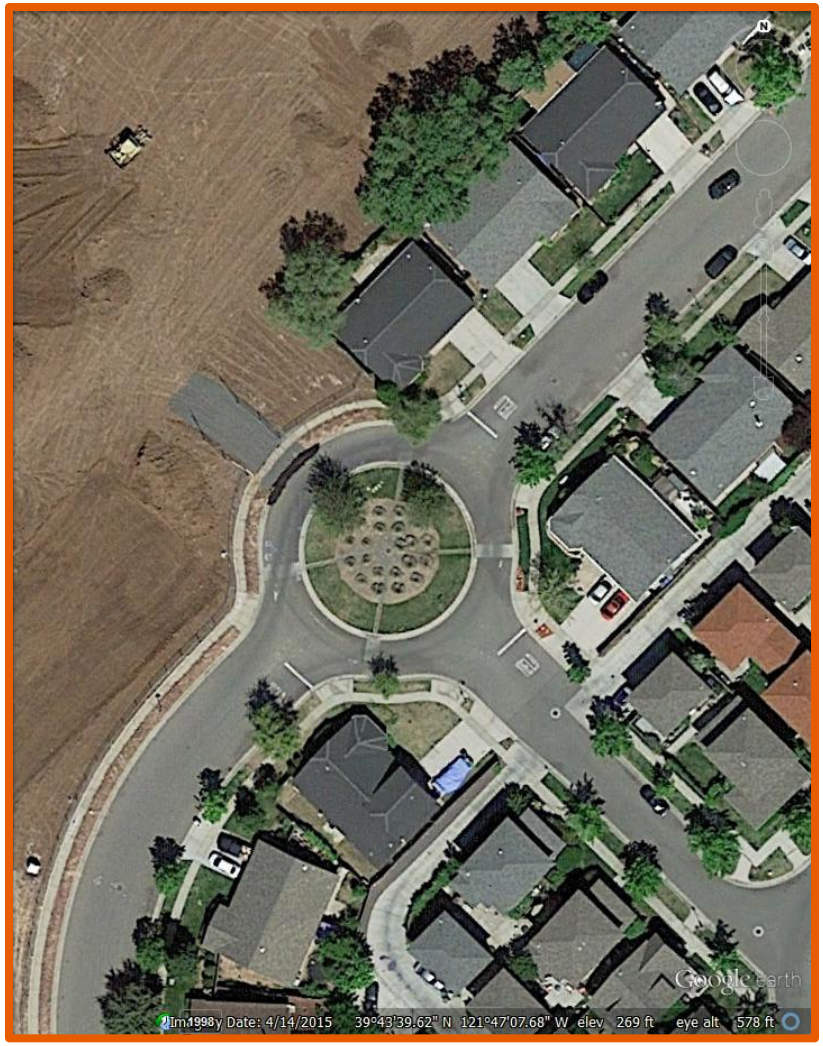
East 8th Ave. Corridor
Chico, CA

Manzanita Blvd.
Chico, CA

Manzanita Blvd.
Chico, CA

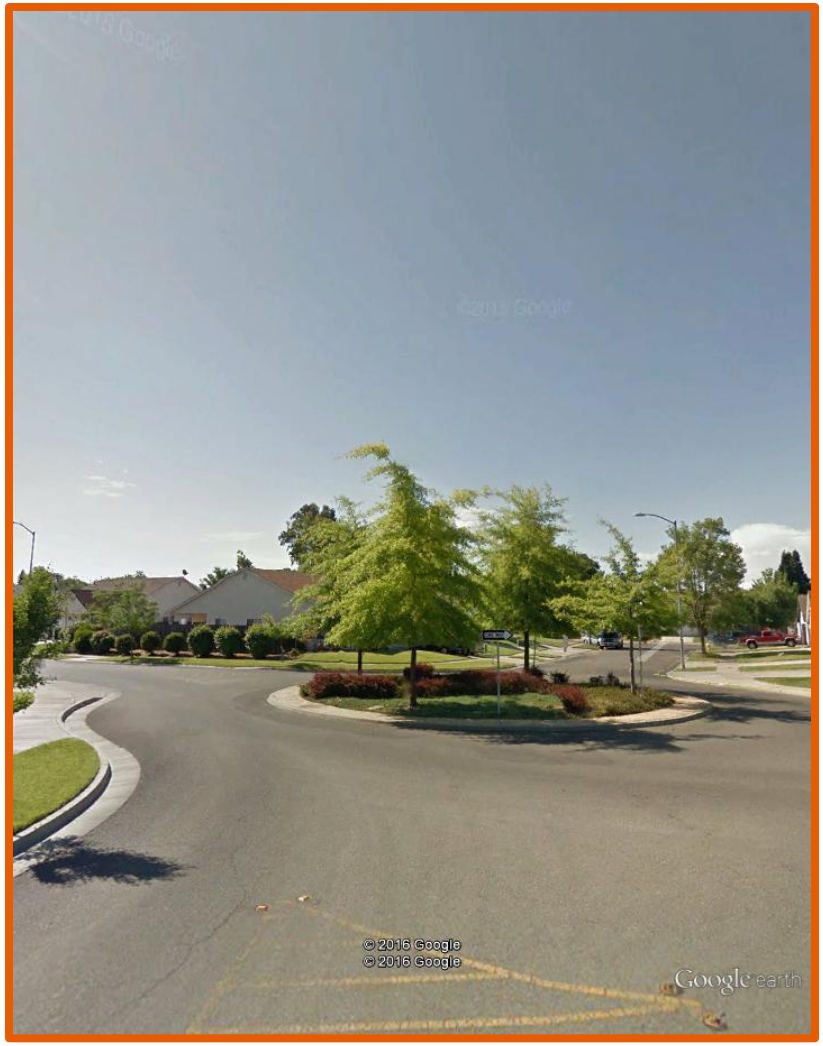


Belgium Ave. & Portugal Dr.
Chico, CA



Belgium Ave. & Portugal Dr.
Chico, CA

Middletown Ave. & St. Laurence Ave. Chico, CA

Middletown Ave. & St. Laurence Ave. Chico, CA

Ravenshoe Way & Cabaret Dr. Chico, CA